

**March 16, 2015**  
**BCC Regular Meeting**  
**Agenda Item #21**

**Historical BCC Minutes**

August 16, 2004  
Regular Meeting

**ITEM 30 - PUBLIC HEARING FOR ADOPTION OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING APPROXIMATELY 48.6 ACRES OF PROPERTY LYING NORTH OF ROBERTS ROAD AND EAST OF COLBERT LANE FROM INDUSTRIAL TO MIXED USE HIGH INTENSITY. OWNER - FLAGLER MARINE CENTER LLC APPLICANT: LANDMAR GROUP/GARY DAVENPORT, ESQ.**

The following information was provided by Walter Fufidio, Planning & Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 30**

CONSENT  PUBLIC HEARING  GENERAL BUSINESS

**SUBJECT:** Public Hearing and Adoption of an Ordinance Amending the Future Land Use Map By Redesignating Approximately 48.6 Acres of Property Lying North of Roberts Road and East of Colbert Lane From Industrial To Mixed Use High Intensity; Owner: Flagler Marine Center LLC Applicant: Landmar Group / Gary Davenport, Esq.

**DATE OF MEETING:** August 16, 2004

**SUBJECT/GOALS/OBJECTIVES:** Landmar Group is the contract purchaser of this property and other properties in the general area of Roberts Road north of S.R. 100. If this amendment is approved, Landmar intends to develop the subject property with approximately 300 condominium units, 100,000 square feet of commercial space and a marina. There are preliminary indications that this property will be developed with surrounding tracts as a master planned community known as Roberts Landing. Discussions with the City of Flagler Beach regarding annexation and contraction of adjacent tracts were not successful.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** The property consists of approximately 48.6 acres on the site of the former Lehigh Cement Company manufacturing plant. The demolition of the former manufacturing facilities is underway and the extension of Roberts Rd. to Colbert Lane is also in progress. To evaluate the possibility of ground contamination from the former manufacturing operation, the Applicant retained Atlas Scientific Technologies, Inc. of Orlando. In a letter dated 2/23/2004, David Knothe, Certified Industrial Hygienist, stated, "...there is not a high probability of an extensive hidden environmental contaminant being associated with the property. A decision for the rezoning of the property to Mixed Use is reasonable on the basis of the environmental data that is available."

On March 8, 2004 the Board voted to transmit this amendment as part of the first amendment cycle of 2004. On June 7, 2004 the Dept. of Community Affairs (DCA) issued its Objections, Recommendations and Comments Report. On June 24, July 6 and July 22 the Applicant filed responses to DCA. DCA was concerned about the effect of the proposed density increase on hurricane evacuation times, with particular reference to Future Land Use Plan Policy 16.1 of the Flagler county Comprehensive Plan.

*The Applicant responded with a report prepared by Lassiter Transportation Group, Inc. indicating that, even with the increase in density, hurricane evacuation time would remain below 8 hours for a Category 1 or 2 storm and 13 hours for a Category 3, 4 or 5 storm. Both DCA and County Staff found the Lassiter report unresponsive to the pertinent issue. On July 6, 2004 the Applicant agreed to participate in a Colbert Lane Corridor Study and to participate in funding its fair share toward intersection and*

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(Item 30 – continued)

capacity improvements as determined by the Study. Staff believes that improvements to Colbert Lane and its intersection with S.R. 100 will mitigate the additional evacuation problems by paying for off-site transportation improvements necessary to maintain safe evacuation time.

Another objection from DCA involved the use of the 6<sup>th</sup> Edition instead of the 7<sup>th</sup> edition of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE).

The Applicant had Lassiter Engineering Group, Inc. calculate project traffic generation using the rates from the newly published 7<sup>th</sup> edition. It was found that using the 7<sup>th</sup> edition instead of the 6<sup>th</sup> edition reduces the number of new external p.m. peak hour trips by less than one-half of one percent.

The final DCA objection involves the Applicant's potable water and wastewater availability analysis. The root of the issue relates to the City of Palm Coast being the utility provider. The City and County Comprehensive Plans establish different level of service criteria. In addition, the City is in the early stages of modeling ground water withdrawals as part of their consumptive use permit (CUP) application. This methodology provides for a service area growth projection in lieu of using a seemingly static committed capacity number. The St. Johns River Water Management District is reviewing the CUP application.

Since the issuance of the DCA Report in early June, Staff has been contacted by representatives for Sea Ray Boats, a major manufacturer and Flagler employer who occupy adjacent property. Through these representatives, Sea Ray has expressed a concern that future residential development in close proximity could generate complaints and possibly lead to operational constraints. Landmar Group has been advised of these concerns and has met with Sea Ray to discuss possible design solutions that can be incorporated into site planning.

**PLANNING BOARD RECOMMENDATION:** The Planning Board conducted a public hearing on this application on January 13, 2004 and voted to recommend approval subject to provision of expert evidence of the environmental suitability of the site for residential use.

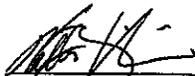
**PARTIES OF RECORD:**

FOR	AGAINST	GENERAL
Don Deal, Lambert Ave., FB	Sarah Owen Florida Wildlife Federation	Sid Ansbacher, Esq. St. Augustine
		Dennis Bayer, Esq. Flagler Beach

**RECOMMENDATION:** Recommend the Board approve Future Land Use Map Amendment Application #2339, 48.6 acres from Industrial to Mixed Use High Intensity finding the request consistent with Chapter 163, F.S. and Rule 9J-5, F. A. C.

**ATTACHMENTS:**

1. Proposed Ordinance;
2. Letter dated 2/23/04 from Dave Knothe to Walter Fufidio
3. Published legal notice;
4. Minutes of January 13, 2004 Planning Board meeting;
5. March 8, 2004 transmittal staff report;
6. DCA Objections, Recommendations and Comments with Applicant responses.

  
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Department Head

Aug-17-2004  
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Date

  
\_\_\_\_\_  
County Administrator

8-9-04  
\_\_\_\_\_  
Date

Reviewed by County Attorney 

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Chairman Darby stated an announcement had been made to people in the chambers for this hearing that it would be an extended period of time before it would be heard so the applicant elected to allow the item to be continued. The people who wished to speak to the issue had left and the County Attorney and County Administrator have requested the opportunity to make stipulations on the public record and to ask the BCC to continue the item to September 7, 2004.

County Administrator Haas stated normally when the BCC had a motion to table to a time certain it did not allow any discussion or debate, but asked the BCC to make a motion to table and continue the item and then allow each side to put the terms and conditions of that agreement on the public record.

**A motion was made by Commissioner Kanbar to table and continue to September 7, 2004. Seconded by Commissioner Hanns.**

Sid Ansbacher, Counsel for Sea Ray, stated Mr. Davenport, himself, as well as, Jim Smith, Walter Fufidio and Patrick McCormack discussed the fact that Florida Statute 163.13184 ordinarily required an action within sixty days. If Sea Ray could not resolve matters with the applicant they would not raise going beyond the 60 days as any basis for an allegation of this matter not being in compliance or consistent with the County Comprehensive Plan or any of Chapter 163.

Gary Davenport, representing Landmar Group, stated he concurred with Mr. Ansbacher's statements relative to the discussion. They were approached by Jim Smith, the County's Development Services Director, whose concern was with the previous hearing and the large number of people from Sea Ray and that there would not be ample opportunity for everyone to be heard. In order to continue to discuss this issue with Sea Ray the applicant had agreed to the continuation conditioned upon the stipulations just made by Mr. Ansbacher.

**Chairman Darby called the question. Motion carried unanimously.**

**RETURN TO AGENDA ORDER**

Chairman Darby stated unless staff knew of another group of people here for another public hearing he intended to move back to Item 24.

There was no response from staff.

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**PUBLIC HEARING**

**ITEM 30 - PUBLIC HEARING AND ADOPTION OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING APPROXIMATELY 48.6 ACRES OF PROPERTY LYING NORTH OF ROBERTS ROAD AND EAST OF COLBERT LANE FROM INDUSTRIAL TO MIXED USE HIGH INTENSITY; OWNER: FLAGLER MARINE CENTER LLC APPLICANT: LANDMAR GROUP/GARY DAVENPORT, ESQ.**

*(Sharon Dunlap, court reporter with Volusia Reporting Company was present for Item 30.)*

The following information was provided by Walter Fufidio, Planning & Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 30**

CONSENT  PUBLIC HEARING  GENERAL BUSINESS

**SUBJECT:** Public Hearing and Adoption of an Ordinance Amending the Future Land Use Map By Redesignating Approximately 48.6 Acres of Property Lying North of Roberts Road and East of Colbert Lane From Industrial To Mixed Use High Intensity; Owner: Flagler Marine Center LLC Applicant: Landmar Group / Gary Davenport, Esq.

**DATE OF MEETING:** October 25, 2004 (continued from August 16, 2004 to Sept. 7, 2004. Meeting cancelled due to hurricane. Re-advertised for 10/25)

**SUBJECT/GOALS/OBJECTIVES:** Landmar Group is the contract purchaser of this property and other properties in the general area of Roberts Road north of S.R. 100. If this amendment is approved, Landmar intends to develop the subject property with approximately 300 condominium units, 100,000 square feet of commercial space and a marina. There are preliminary indications that this property will be developed with surrounding tracts as a master planned community known as Roberts Landing.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** The property consists of approximately 48.6 acres on the site of the former Lehigh Cement Company manufacturing plant. The demolition of the former manufacturing facilities is underway and the extension of Roberts Rd. to Colbert Lane is also in progress. To evaluate the possibility of ground contamination from the former manufacturing operation, the Applicant retained Atlas Scientific Technologies, Inc. of Orlando. In a letter dated 2/23/2004, David Knothe, Certified Industrial Hygienist, stated, "...there is not a high probability of an extensive hidden environmental contaminant being associated with the property. A decision for the rezoning of the property to Mixed Use is reasonable on the basis of the environmental data that is available."

On March 8, 2004 the Board voted to transmit this amendment as part of the first amendment cycle of 2004. On June 7, 2004 the Dept. of Community Affairs (DCA) issued its Objections, Recommendations and Comments Report. On June 24, July 6 and July 22 the Applicant filed responses to DCA. DCA was concerned about the effect of the proposed density increase on hurricane evacuation times, with particular reference to Future Land Use Plan Policy 16.1 of the Flagler county Comprehensive Plan.

*The Applicant responded with a report prepared by Lassiter Transportation Group, Inc. indicating that, even with the increase in density, hurricane evacuation time would remain below 8 hours for a Category 1 or 2 storm and 13 hours for a Category 3, 4 or 5 storm. Both DCA and County Staff found the Lassiter report unresponsive to the pertinent issue. On July 6, 2004 the Applicant agreed to participate in a Colbert Lane Corridor Study and to participate in funding its fair share toward intersection and capacity improvements as determined by the Study. Staff believes that improvements*

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*to Colbert Lane and its intersection with S.R. 100 will mitigate the additional evacuation problems by paying for off-site transportation improvements necessary to maintain safe evacuation time.*

The second major DCA objection involves the Applicant's potable water and wastewater availability analysis. The root of the issue relates to the City of Palm Coast and County Comprehensive Plans establishing different level of service criteria. In addition, the City employed a service area committed capacity number that was unresponsive to growth.

*The Applicant responded with a more detailed potable water analysis from the City of Palm Coast indicating a 5.5% annual growth rate and \$104m in capital expenditures for utility upgrades.*

Since the issuance of the DCA Report in early June, Staff has been contacted by representatives for Sea Ray Boats, a major manufacturer and Flagler employer who occupy adjacent property. Through these representatives, Sea Ray has expressed a concern that future residential development in close proximity could generate complaints and possibly lead to operational constraints. The Applicant has met with Sea Ray to discuss possible design solutions that can be incorporated into site planning.

Sea Ray has retained the services of Robert Lincoln who conducted a planning analysis of Application #2339. Mr. Lincoln put on the record a number of Comprehensive Plan policy objections, some of which were identified in the June 7, 2004 DCA report. Mr. Lincoln also sites economic planning issues associated with the potential negative impact on Sea Ray Boats and the loss of what he deems a prime industrial property.

The Applicant retained the services of Greg Beliveau of LPG planning consultants. Mr. Beliveau has performed an analysis of Application #2339 vis-à-vis Comprehensive Plan policies. The analysis also contains a discussion regarding styrene and other odors associated with fiberglass boat building. He concludes that the Sea Ray operation poses no immediate health risk and that neither the odor performance standard of the LDC nor FDEP Air Operation Permit No. 0350003-006-AV will be affected by the proposed change of land use.

**PLANNING BOARD RECOMMENDATION:** The Planning Board conducted a public hearing on this application on January 13, 2004 and voted to recommend approval subject to provision of expert evidence of the environmental suitability of the site for residential use.

**PARTIES OF RECORD:**

FOR	AGAINST	GENERAL
Don Deal, Lambert Ave., FB	Sarah Owen Florida Wildlife Federation	Sid Ansbacher, Esq. St. Augustine
		Dennis Bayer, Esq. Flagler Beach

\* We have also received a petition signed by 382 individuals, primarily employees of Sea Ray boats, opposing FLUM #2339. Staff has not conducted any verification of the names appearing on the petition.

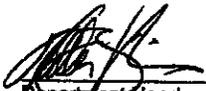
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**RECOMMENDATION:** Recommend the Board approve Future Land Use Map Amendment Application #2339, 48.6 acres from *Industrial* to *Mixed Use High Intensity* finding the request consistent with Chapter 163, F.S. and Rule 9J-5, F. A. C. The Applicant is placed on notice that the rezoning and site plan processes will address compatibility of residential development with existing industrial operations.

**ATTACHMENTS:**

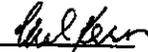
1. Proposed Ordinance;
2. Letter from Robert Lincoln to Walter Fufidio dated 8/16/2004
3. Letter from Greg Beliveau to Walter Fufidio dated 9/02/2004
4. Letter dated 2/23/04 from Dave Knothe to Walter Fufidio
5. Petition received 8/13/2004
6. DCA Objections, Recommendations and Comments
7. Applicant responses to DCA Report
8. Letter from Florida Wildlife Federation dated July 30, 2004
9. Published legal notice;

  
\_\_\_\_\_  
Department Head

10/11/2004  
Date

  
\_\_\_\_\_  
County Administrator

10-13-04  
Date

Reviewed by County Attorney 

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Planning & Zoning Director Fufidio stated this was the second and final reading of an application submitted by LandMar Communities on behalf of Flagler Marine Center LLC to change the designation of 48.6 acres from Industrial to Mixed Use High Intensity. Explained the Mixed Use designation would provide a maximum of 29 acres of residential development at ten units per acre and approximately 19 acres for general commercial use.

Stated the BCC would have to weigh current economic conditions, desired development patterns, infrastructure needs and environmental considerations. Reviewed the above staff report.

Gary Davenport, attorney, stated he represented LandMar Group, Inc., as well as Bob and Carol Million, owners of the property. Reviewed a brief history of this application process.

Stated he wanted to make one point very clear that the Department of Community Affairs raised an issue with compatibility because the applicant followed and complied with the County's comprehensive plan, which said Industrial and Mixed Use High could be located next to each other and site specific issues on compatibility were dealt with at the time of PUD, zoning and site plan. Pointed out the BCC was not approving the development at this meeting, it was simply determining whether Mixed Use High was an appropriate land use designation for this property.

Stated however, since Sea Ray had raised the issue of compatibility the applicant hired an outside land planner, Land Planning Group, who provided a letter that specifically addressed compatibility and made the finding it was not an issue and that the County's comp plan showed it should be addressed at the time of site plan. This was not the time to discuss exactly what use would go in, but he understood that was always a concern for the BCC.

Stated Sea Ray had also raised the odor issue because it was concerned new residents would complain about the smell. The applicant disagreed that was an issue and the file contained a letter from an air quality expert, Terry Cole, which stated state regulations prohibited offsite emissions from this type of manufacturer. If an odor could be smelled outside of the plant boundaries then it was in violation of those regulations. Regardless, the applicant committed to extensive buffering of the property and disclosing to every buyer that he or she was purchasing next to the plant and there might be smells and must agree to accept that condition.

Stated the applicant had satisfied the Planning Director's concerns regarding hurricane evacuation and agreed to improve Roberts Road and connect it to Colbert Lane. He was first developer in this area to commit to the Colbert Lane corridor study and to make his fair share of whatever improvements that needed to be made.

Stated the Planning Director also raised the loss of industrial land and the applicant had been working closely with County staff to address that concern. The Land Planning Group had also addressed this in its report and found that while the County had limited areas in the comp plan designated as industrial the types of uses the County wanted for economic development fit within many land use classifications and did not need to be in an industrial zoning, so it believed there was sufficient industrial land.

Jim Cullis, LandMar Group, Inc., stated he was also the project manager for Grand Haven. Read a letter from the Flagler County Chamber of Commerce in support of the project.

(A copy of the letter is on file in the Board Records Department of the Flagler County Clerk's Office.)

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Spoke on a report from the Flagler County Property Appraiser on anticipated ad valorem tax revenue from the proposed project. There was no reason the County could not benefit from the Marina Village project and have Sea Ray continue to flourish as a strong economic engine.

(A copy of the Property Appraiser's report is on file in the Board Records Department of the Flagler County Clerk's Office.)

Provided a copy of a petition with over 700 signatures from taxpayers in Flagler County, primarily in Grand Haven, that favored the Marina Village project.

(A copy of the petition is on file in the Board Records Department of the Flagler County Clerk's Office.)

Stated he made a proposal to the Flagler County School Board to swap twenty acres within Flagler Beach city limits next to Wadsworth Park for a new elementary school. The advantage of that to the County was to have excess land to expand the park for soccer and play fields through a joint use agreement with the School Board.

Stated the BCC might hear from some people about the Rails to Trails and part of the proposal was to take the trail from Mr. Million's property on the west side of Colbert Lane down the new Roberts Road extension to connect to the sidewalk along SR-100 out to the beach.

Stated Bob and Carol Million, the owners of the property, were present and had invested their money to tear down the Lehigh cement plant, which was the County's biggest eyesore, and all they wanted was a fair return for their money given the investment and risk they had taken. They had not had any offers from anyone to buy the property for industrial use and were now looking for a buyer to give him a fair return.

Stated he was very concerned about the loss of industrial land and had worked with Enterprise Flagler and County staff to locate new industrial properties that were more appropriate for industrial use. They were in negotiations with two landowners of over 700 acres west of US-1, near the highways and the railroad, which was more appropriate for industrial development. As an incoming board member of Enterprise Flagler he pledged to help create an environment that was positive for business relocation.

Stated Palm Coast Plantation had a Mixed Use High designation that had been in the comp plan since Sea Ray came to Flagler County, so whether his project was approved or not the issue of compatibility had to be dealt with.

Stated Dan Goddard was present with the Sea Ray employees for the same reason he was which was to protect the future of his business and the livelihood of his employees. He understood that was a big responsibility because LandMar had over 300 employees in Flagler County and in several years would have over 500.

Stated they had been through almost two years of this process between the application to Flagler Beach and then the County. During that period he did not hear one word from Sea Ray, so he sat down with Mr. Goddard and told him he was concerned about being good neighbors and wanted to do things in the project that addressed those concerns. Explained he offered, without having to, a series of buffers and to set back the homes over 600 feet.

Stated he also worked on the disclosure and everyone who bought in Marina Village would be put on notice that an existing industrial use was located next to it. Sea Ray was undoubtedly one of the best boat companies in the world and he did not see that as a negative to it next door.

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Stated there was no reason this could not be a positive. It was not a decision of either/or and both entities could prosper next to each other. He looked forward to the BCC's vision here and emphasized there were no agreements or discussion whatsoever with the City of Palm Coast to annex the property, but there were some water and sewer issues that had to be fixed. He was happy to be in the County and appreciated the BCC's support and its vote.

Chairman Darby opened the public hearing to comments from those in favor of the application.

Annie Otto, Grand Haven, stated people could believe what the developers said and knew they would be wonderful neighbors.

Rod Kimberly, president of Arthur Rutenberg Homes, stated he was one of the first builders in Grand Haven and all his employees were residents of Flagler County. Asked the BCC to support the project.

Don Cameron, Grand Haven, stated over the years he was impressed with the leadership in Flagler County and Palm Coast. Spoke in support of the project.

Hawk McMillan, Island Estates, stated he was the majority owner of Edgewater Harbor where he purchased a similar industrial park adjacent to Boston Whaler, a sister company to Sea Ray, and they came up with a satisfactory agreement. He believed Mixed Use would work very well and urged the BCC to approve the project.

Bob Million, property owner, stated he was also the president of a fiberglass boat manufacturing company. Assured the BCC it was possible for Sea Ray to build boats and to live side by side without a problem.

Charles Cameron, Flagler Beach, stated he was vice president and director of marine operations for Cline Construction. Four years ago he introduced Mr. Million to the property and suggested he move his boat building operation to Flagler County. Spoke in support of the project.

Gene Murphy, Grand Haven, stated it appeared the make up of Colbert Lane was going to be residential and hoped an amicable agreement could be reached because LandMar's developments were assets to every community where they were located.

Don Deal, Flagler Beach, stated he wanted to preface his comments by saying Sea Ray was an important contributor to the community and the County needed to protect it. If the project moved forward it was very important to put in the covenants and restrictions that there could be styrene odors. Having lived on Lambert Avenue he dealt with those odors for about twenty years and Sea Ray stepped up to the plate whenever there were issues. There was no reason why the development and Sea Ray could not co-exist if the right buffers and landscaping were put into place.

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Chris Deal, Flagler Beach, stated she was glad to see the cement plant torn down because it had been an eyesore since it closed about 35 years ago. Thanked Mr. Million and those responsible for taking it down and hoped the developer built something nice for Flagler County.

Roseanne Stocker, Flagler Beach, urged the BCC to vote in favor of the applicant.

Chairman Darby opened the public hearing to those in opposition to the application.

Sid Ansbacher, attorney representing Sea Ray, stated his firm dealt with LandMar and concurred it was a good member of the community in general, but that was not the issue. The issue was that Sea Ray had been in Flagler County since 1984 and was invited down by ITT to locate in a waterfront industrial park. Mr. Cullis addressed issues of potential replacement of waterfront and water dependent industrial with acreage to the west, which simply made no sense.

Stated as far as proximity was concerned, someone could have the best of intentions and covenant and restrictions or any other agreement, but that did not preclude individual purchasers from asserting that they were impacted. The standard being dealt with was whether the styrene created an objectionable odor, which was by definition a very objective standard. Regarding the Edgewater deal, that did not have the kind of history Sea Ray had, it was a prophylactic step to prevent this sort of problem. Here they were dealing with “a death of a thousand cuts.”

Stated Sea Ray paid nearly \$600,000 several years ago and \$1.2 million within the last year in order to perform certain remedies to minimize air quality impacts on its neighbors to the east-southeast, but that \$2 million addressed subjective standards. The BCC could not believe it could put residential neighbors next to an industrial facility and not have complaints.

Stated Sea Ray was responsible for about 15% of the economic viability and the income stream in Flagler County and within two years it could be 17.8% based on current projections. It might have to decide if it was worth staying with that tipping point.

Pointed out when the BCC dealt with a comp plan amendment it was not dealing with site plan issues but with what was the single most incompatible potential use. If it looked at the site plans to date the condominiums were roughly at the exact same height as the stack, and it did not take a rocket scientist to figure out what the impact would be.

Asked that the BCC as a policy protect the water dependent industry that was already in Flagler County and not approve comp plan amendments to reduce more industrial zoned land.

Robert Lincoln, attorney and planner representing Sea Ray, stated he objected to this amendment because he believed it was not consistent with state rules that governed comp plan amendments. The area for the comp plan amendment was not just the old cement plant or a piece of industrial land, it was an industrial subdivision. Sea Ray's plant was located on several parcels in that industrial subdivision and developed on that land in reliance of the fact it was building in an industrial subdivision where its impacts would be mitigated. Pointed out under the existing industrial land use designation the developer could do commercial development, but it could not do the residential component without this amendment.

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Stated given the location of the plant and the location of the proposed project it did not matter if the buffer was 150 feet or 600 feet the residential condominium units, if the buildings were three to six stories, would have a view of the plant operations.

Stated he would like to talk about the loss of industrial land and read a County staff quote, "The cumulative loss of industrial land within Flagler County should not continue to be approved until the receipt of simultaneous offsetting amendments within the US-1 corridor or south of the airport." He agreed completely with staff, but unfortunately that was the statement it made regarding the 166-acre application to south and not this project. Questioned why there was a difference in that policy as it applied to the adjacent parcel and the parcel in question, because he thought it was the same thing.

Stated this site was unique because it was industrial land that also had deep-water access that made it appropriate for marine activity uses and which were now hard to locate in Florida, but Flagler County had this unique economic development opportunity. Reviewed the summary table from an economic development report of the Northeast Florida Regional Planning Council in regards to Sea Ray. If Sea Ray had to cease its operations not only would the employees lose their jobs there would be a ripple effect throughout the economy.

Stated for a hundred years planners have been trying to avoid situations where heavy industrial uses get located in the middle of a residential enclave and it was terrible policy to create a situation where exactly that would happen. This was not a neutral decision going forward and had serious impacts on Sea Ray's ability to operate, and all those impacts were foreseeable from where the BCC sat at this time.

Stated as a planner, what made sense was to not put the County into a situation where for the next twenty years the BCC was holding hearings on how to mitigate or fix the Sea Ray problem.

Dan Goddard, general manager for the Sea Ray plant in Palm Coast and homeowner in Flagler County, stated as the general manager he had three key responsibilities: 1) to provide stable employment to more than 600 families; 2) to ensure Sea Ray remained a quality employer of choice in Flagler County; and 3) to ensure Sea Ray remained competitive not only in the marketplace, but within the Brunswick family.

Stated he took those responsibilities seriously, which was why he was present to speak in opposition to the proposed amendment to the comp plan. Sea Ray opposed the amendment because it would be a major move towards rezoning a decades old industrial park to mixed use with residential and open the door to the construction of a marina and high intensity residential development directly adjacent to the plant. That would create an incompatible land use that would threaten the facility's ability to operate. This action would be a problem for years to come by placing hundreds of homes, cars and people on the fence line of heavy industry and would create a conflict that simply did not need to exist.

Stated Sea Ray made every effort to be good neighbors by operating within its permits and within acceptable community standards. This proposed amendment threatened their business and their jobs and if the BCC allowed hundreds of people to move onto their fence line the business would be injured. There would be conflicts over noise, lights, traffic and odors. There would be lawsuits and demands placed on the business that would make it uncompetitive and it would start losing the investment dollars to other locations within the company. If it ceased to reinvest and grow the business in Flagler County could fade and die away.

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Asked to remind the BCC what Sea Ray meant to Flagler County and what it was threatening if it approved the proposed amendment. Sea Ray employed more than 600 fulltime employees at the Palm Coast facility and by the end of next year that number would approach 800. These were high skilled, high wage jobs. It was the third largest employer in Flagler County and was moving up that list. Additionally, it generated hundreds of indirect jobs, such as key partnerships with local businesses. In the past three years it had done \$1 to \$1.5 million of business locally each year. It also generated about \$24 million annually in personal income and was responsible for generating nearly 20% of Flagler County's gross county product. It paid more than \$500,000 annually in taxes plus tens of thousands of dollars indirectly from the actions of its employees, which helped pay this county's bills. An excess of 55% of the employees lived and voted in Flagler County and this proposed development threatened that.

Stated Sea Ray moved to Flagler County with the agreement it was moving into an industrial park and that zoning designation allowed it to operate within its permit and within accepted community standards with minimal conflict to the community. Amending the comp plan and ultimately changing the zoning of adjacent property effectively broke that deal made with the County. The County would be changing the rules in midstream and threatening the very ability of Sea Ray to continue to operate in Flagler County.

Stated the comp plan required 3% of the county be designated for industrial development and it was his understanding it was currently at about 1%. If this land was rezoned it only made that figure much worse. Questioned with no industrial property how would businesses come to the area and where would people be employed. Asked if the County really wanted to choke existing industry out of business and ensure no industry located here. Questioned where it would stop and how much could the County afford to lose with regards to adding value to the economy.

Stated Sea Ray supported economic expansion in the County and recognized and respected LandMar's right to do business here. He met with LandMar's representatives and knew they were good and honorable people, but that did not mean this was the right place for the project. It was known it was a bad site because of the incompatibility with existing land use. Sea Ray knew the proposed development would hurt its business and so it strongly objected to the amendment.

Stated in summary Sea Ray opposed the proposed amendment because it was incompatible land use and would hurt its business and its jobs. It might be a good deal for the developer but it was a bad deal for Sea Ray. Asked the BCC to please do the right thing and vote down the proposed amendment. Please don't sink Sea Ray.

Gerald Smith, Sea Ray employee, stated not only was Sea Ray a neighbor but since it had been in Flagler County for many years it was considered part of the family. The employees contribute to the community and would like to be here to stay.

Alan McCoy, Palm Coast, stated he had been a Sea Ray employee since 1986 and it had been a good employer over the years. Sea Ray had done everything it could to maintain and exceed all environmental requirements and good relationships with its neighbors. This was the kind of business partner the County should be looking for and to do all that it could to keep.

Joe Garetti, Palm Coast, stated he had seen this happen before and explained in 1991 he worked for Marlin Yachts which was choked out by the downtown Fort Lauderdale rezoning program and he lost his job. Asked the BCC not to sink Sea Ray.

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(Item 30 – continued)

Herbert Richardson, Palm Coast, stated he moved here in 1970 so he had seen a lot of things change, and he had seen written agreements change. Even with an agreement residents would complain about Sea Ray and make it too expensive for it to stay in Flagler County, and it would lose a major employer.

Louis Paliuca, Palm Coast, stated he had been in Flagler County for two years and one thing he and his wife noticed about Florida was that people liked each other. He was from New York and they had a problem with that. Asked the BCC to vote no and start something that would not end.

Katherine Lopez, Bunnell, stated she was a member of the Economic Development Commission. Asked the BCC to give careful consideration of the economic impact with the adoption of this amendment because it would have a great impact on other industry coming in and the businesses that depend on Sea Ray.

Charles Johnson, Palm Coast, stated he was a proud employee of Sea Ray and a registered voter. Thanked Commissioner McGuire for returning his phone call and Commissioner King for helping him in the past. Hoped all the BCC would help out the "little guys" because Sea Ray had 600 employees, but 3,000 lives would be affected when their families were considered.

Harvey Bonin, Sea Ray employee, stated if the BCC rezoned this land it would open up some liability problems because the developer was not taking an opportunity but creating one. If he lost his job because of this creativity he would point a finger at the developer and the BCC. A job did not need to be lost because a commercial site was rezoned residential.

Tom Graham, Palm Coast, stated he was the operations manager for Sizemore Welding, which had a long established relationship with Sea Ray. He wanted to make sure the BCC was aware that the trickle down effect would impact hundreds of businesses and asked it to consider all of the ramifications.

Dennis Bayer, attorney representing Sea Ray, stated if the BCC continued to element the industrial zoned properties in Flagler County and in ten years realized more industrial land was needed it would be difficult to rezone property back to industrial. He was on the original Long Range Planning Board that determined more than one isolated area of industry was needed to keep the areas around Sea Ray for industrial use to provide a buffer for Sea Ray, to allow it to expand, and to allow other commercial uses that were compatible with the Sea Ray operation.

Stated from his personal experience Sea Ray had always been a good neighbor to the people in Flagler County. But if the BCC approved this land use change and allowed 300 condominium units directly downwind it would create a situation for there to be inherent conflicts. There was a lot of property that was appropriate for residential use, but this was not one of those sites.

Thomasina Jackson, Palm Coast, stated she was glad to work and live in Flagler County. The BCC should focus on the stability of the quality of life and not the potential for bringing tax dollars into the community. Asked the commissioners to remember the struggle they made while raising their families as the Sea Ray employees continued to raise and maintain theirs.

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Chairman Darby closed the public hearing. Invited the applicant's rebuttal.

Mr. Cullis stated he did not argue this was a great marine industry site, but no marine industry had come in and made an effort to develop the site. There were numerous cases throughout Florida of the marine industry coexisting with residential development, so if it could happen successfully in other counties in Florida, and people do not lose their jobs, then he did not see why it could not be done in Flagler County.

Stated Flagler Enterprise floated the idea of creating a joint task force or having a workshop and LandMar would be more than happy to participate in that to get creative ideas on how to address these issues and to work with Sea Ray. Asked the County for some leadership in that role.

Stated in January the Planning Board thought unanimously that this property needed progressive development which was consistent with its vision and in March the BCC felt it was consistent with its vision. LandMar moved forward and brought the best quality project to the table for the BCC's consideration and as far as he was concerned as this went through the process the only people that would lose their jobs over this was the lawyers.

Commissioner Kanbar stated he listened to the discussions from both sides and nobody wanted to lose industrial jobs in Flagler County. The biggest problem he saw was there needed to be coming together of the minds on this issue and he did not think enough had been done by the County to facilitate that. He liked the idea of a joint task force being chaired by Enterprise Flagler, which really should be involved in this because it dealt with both Sea Ray and LandMar, to see if there could be some sort of resolution to be brought forth to the BCC.

Commissioner Hanns stated it had been an interesting meeting. It was always a difficult decision when it affected people's lives, but they could not be afraid of what might or might not happen. It was true Flagler County needed more industrial space, but he felt Flagler County was fortunate to have quite a few good businesses, such as Sea Ray, that did not just provide jobs but provided security, health benefits and pensions. There were businesses that were givers and takers and Sea Ray was a giver, and he was proud it was located in Flagler County.

Stated a county commissioner must be fair to everybody and there might be a need for some communications, and that might not work, but it would be worth the effort.

Chairman Darby agreed this issue needed more time and thought put into it and he was in favor of a workshop or task force. Commented on the original planning for that site as an industrial park and that he empathized with Sea Ray.

Questioned why Sea Ray did not raise any issue with this when the property owner began the demolition of the cement plant and what part did Brunswick play in whether or not Sea Ray stayed in Flagler County. Spoke further.

Provided letters from Chamber of Commerce and Enterprise Flagler regarding this item.

(The letters are on file in the Board Records Department of the Flagler County Clerk's Office.)

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Commissioner Kanbar stated he had discussions with both Mr. Goddard and Mr. Cullis to try to determine what was going on and the most important thing he got out of those discussions was the goodwill that existed between Sea Ray and LandMar and the desire to make this work for both parties. Spoke further on the issue.

**A motion was made by Commissioner Kanbar to have Enterprise Flagler mediate a joint task force of both Sea Ray and LandMar to come back with a recommendation to the BCC.**

**Motion died for lack of a second.**

Commissioner King stated he thought if a good compromise was not made and development was allowed to abut Sea Ray that would be the end of Sea Ray in the long run. The BCC did not need to run industrial business out of Flagler County, but it also needed to work with the developer who had spent a lot of money on this project.

Stated he was not in favor of handing this over to Enterprise Flagler, but was in favor of trying to reach a compromise through the BCC.

Chairman Darby agreed the BCC should be the entity dealing with the negotiation.

Commissioner Hanns stated he was willing to stay and make a decision at this meeting.

Commissioner Kanbar clarified negotiations would be mediated by Enterprise Flagler with the final decision being made by the BCC.

**A motion was made by Commissioner King to go to workshop on this issue.**

**Motion died for lack of a second.**

Commissioner McGuire stated it was not feasible to ask Sea Ray and LandMar to work it out tonight because it was not the best place or proper forum for those discussions and did agree it needed to be done on a workshop with both parties and staff.

**A motion was made by Commissioner McGuire to continue the public hearing and instruct staff to work with LandMar and Sea Ray and then come back for a workshop with the BCC. Seconded by Commissioner Kanbar.**

County Attorney Kern stated he thought this was a wise approach, but the BCC would need to get the consent of the applicant to waive the 60-day requirement and agree to a continuance.

Mr. Cullis stated he would be more than happy to participate in this process and to ask for a continuance and waiving the 60-day limitation.

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Mr. Ansbacher stated Sea Ray agreed if there was a good faith opportunity to reach resolution to waive the 60 days.

**Chairman Darby called the question. Motion carried unanimously.**

*The BCC recessed at 8:35 p.m. and reconvened at 8:45 p.m.*

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**PUBLIC HEARINGS**

**ITEM 24 - PUBLIC HEARING AND ADOPTION OF AN ORDINANCE AMENDING  
THE FUTURE LAND USE MAP BY REDESIGNATING APPROXIMATELY  
48.6 ACRES OF PROPERTY LYING NORTH OF ROBERTS ROAD AND  
EAST OF COLBERT LANE FROM INDUSTRIAL TO MIXED USE HIGH  
INTENSITY; OWNER: FLAGLER MARINE CENTER LLC APPLICANT:  
LANDMAR GROUP/GARY DAVENPORT, ESQ.**

The following information was provided by Walter Fufidio, Planning and Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 24**

CONSENT  PUBLIC HEARING  GENERAL BUSINESS

**SUBJECT:** Public Hearing and Adoption of an Ordinance Amending the Future Land Use Map By Redesignating Approximately 48.6 Acres of Property Lying North of Roberts Road and East of Colbert Lane From Industrial To Mixed Use High Intensity; Owner: Flagler Marine Center LLC Applicant: Landmar Group / Gary Davenport, Esq.

**DATE OF MEETING:** December 20, 2004 (continued from 10-25-04).

**SUBJECT/GOALS/OBJECTIVES:** Landmar Group is the contract purchaser of this property and other properties in the general area of Roberts Road north of S.R. 100. If this amendment is approved, Landmar intends to develop the subject property with approximately 300 condominium units, 100,000 square feet of commercial space and a marina. There are preliminary indications that this property will be developed with surrounding tracts as a master planned community known as Roberts Landing.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** This item was scheduled for public hearing before the Board on several occasions. The adoption hearing was scheduled for August 16, 2004, then September 7, 2004 but each meeting had to be rescheduled due to hurricanes. It was heard on October 25, 2004 at a public hearing in the Agricultural Center wherein the Board moved that the hearing be continued to allow the Applicant and Sea Ray Boats an opportunity to achieve resolution. Sea Ray and its employees have expressed concern that this land use change will create future problems for their continued operation. The two sides have met on multiple occasions. No settlement has been reported to Staff at the time of this writing.

The property consists of approximately 48.6 acres on the site of the former Lehigh Cement Company manufacturing plant. The site was previously selected by McKinna Yachts for a manufacturing facility. McKinna filed United States Army Corps. of Engineers Application # 200105851 (IP-SGT) for the construction of a 5 1/2 acre yacht basin. However, Flagler Marine Center LLC has abandoned plans for a manufacturing center.

To evaluate the possibility of ground contamination from the former manufacturing operation, the Applicant retained Atlas Scientific Technologies, Inc. of Orlando. In a letter dated 2/23/2004, David Knothe, Certified Industrial Hygienist, stated, "...there is not a high probability of an extensive hidden environmental contaminant being associated with the property. A decision for the rezoning of the property to Mixed Use is reasonable on the basis of the environmental data that is available."

On March 8, 2004 the Board voted to transmit this amendment as part of the first amendment cycle of 2004. On June 7, 2004 the Dept. of Community Affairs (DCA) issued its Objections, Recommendations and Comments Report. On June 24, July 6 and July 22 the Applicant filed responses to DCA. DCA was concerned about the effect of the proposed

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density increase on hurricane evacuation times, with particular reference to Future Land Use Plan Policy 16.1 of the Flagler county Comprehensive Plan.

*On July 6, 2004 the Applicant agreed to participate in a Colbert Lane Corridor Study and to participate in funding its fair share toward intersection and capacity improvements as determined by the Study. Staff believes that improvements to Colbert Lane and its intersection with S.R. 100 will mitigate the additional evacuation problems by paying for off-site transportation improvements necessary to maintain safe evacuation time.*

The second major DCA objection involves the Applicant's potable water and wastewater availability analysis. The root of the issue relates to the City of Palm Coast and County Comprehensive Plans establishing different level of service criteria.

*The Applicant responded with a more detailed potable water analysis from the City of Palm Coast indicating a 5.5% annual growth rate and \$104m in capital expenditures for utility upgrades.*

Sea Ray Boats, a major manufacturer and Flagler employer who occupies adjacent Industrial property next to the Intracoastal Waterway has raised a land use compatibility issue. Through representatives, Sea Ray has expressed a concern that future residential development in close proximity could generate complaints and possibly lead to operational constraints. Sea Ray has retained the services of Robert Lincoln who conducted a planning analysis of Application #2339. Mr. Lincoln put on the record a number of Comprehensive Plan policy objections, some of which were identified in the June 7, 2004 DCA report. Mr. Lincoln also sites economic planning issues associated with the potential negative impact on Sea Ray Boats and the loss of what he deems a prime industrial property.

The Applicant retained the services of Greg Beliveau of LPG planning consultants. Mr. Beliveau has performed an analysis of Application #2339 vis-à-vis Comprehensive Plan policies. The analysis also contains a discussion regarding styrene and other odors associated with fiberglass boat building. He concludes that the Sea Ray operation poses no immediate health risk and that neither the odor performance standard of the LDC nor FDEP Air Operation Permit No. 0350003-006-AV will be affected by the proposed change of land use.

**PLANNING BOARD RECOMMENDATION:** The Planning Board conducted a public hearing on this application on January 13, 2004 and voted to recommend approval subject to provision of expert evidence of the environmental suitability of the site for residential use.

**RECOMMENDATION:** Recommend the Board approve Future Land Use Map Amendment Application #2339, 48.6 acres from *Industrial to Mixed Use High Intensity* finding the request consistent with Chapter 163, F.S. and Rule 9J-5, F. A. C. The Applicant is placed on notice that the rezoning and site plan processes will address compatibility of residential development with existing industrial operations.

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**ATTACHMENTS:**

1. Proposed Ordinance;
2. Letter from Robert Lincoln to Walter Fufidio dated 8/16/2004
3. Letter from Greg Beliveau to Walter Fufidio dated 9/02/2004
4. Letter dated 2/23/04 from Dave Knothe to Walter Fufidio
5. Petition received 8/13/2004
6. DCA Objections, Recommendations and Comments
7. Applicant responses to DCA Report
8. Letter from Florida Wildlife Federation dated July 30, 2004
9. Letter from M/M Tobin
10. Letter from Gary B. Davenport to David Haas dated 11/17/04
11. Published legal notice;

  
\_\_\_\_\_  
Department Head  
12/13/2004  
Date

  
\_\_\_\_\_  
County Administrator  
12-15-04  
Date

Reviewed by  
County Attorney Caplan

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Planning and Zoning Director Fufidio reviewed the above staff report.

Chairman Darby asked if Sea Ray's representatives would tell the BCC if they felt any closer to resolution than they did before, what that resolution might be and if there were any "hangovers."

Sid Ansbacher, attorney representing Sea Ray, stated there had been ongoing discussions on site plan and setback issues with Mr. Cullis. They discussed what would be considered the famous paragraph 8 that related to Sea Ray's stack. The first seven items were either agreed to or agreed to be resolved in some manner.

Stated the biggest concern was that the proposed development would have mid-rise, multi-family condominiums that would be seven stories high, which was as high, if not higher, than the stack. The engineers for Sea Ray came up with four alternative designs and prices to retrofit the stack and the lowest price was about \$6 million with an operation and maintenance (O&M) plan close to \$500,000 a year. The annual capital budget was \$380,000 at this facility for maintenance and expansion, so the O&M costs were substantially less than half of what was being proposed.

Stated Paul Katz verbally on behalf of Palm Coast Plantation and Jim Cullis and Gary Davenport in writing on behalf of Landmar came up with several proposals. Those proposals came to about \$1 million in hard money and \$500,000 in guarantees of anything that was below \$3 million. Mr. Haas and Enterprise Flagler came to them with a lecture on grant funds.

Stated there was a shortfall of the \$6 million needed to retrofit the stack to a level the engineers thought brought it sufficiently above what was proposed, but what they had right now in hard and soft monies was \$1.5 million. The overall package they were talking about got them closer to \$4.5 million, so there was a shortfall between the \$1.5 and \$4.5 million, not counting the \$2 million already spent on the old stack that would have to be torn down.

Stated if this was passed tonight Sea Ray would continue to negotiate with Jim Cullis who said he would continue to extend the offer that was before them, but if it could not be resolved in two months they would go to the Division of Administrative Hearings because they had no choice.

Jim Cullis, regional manager of Landmar Group and project manager for Grand Haven, stated he would summarize some of the benefits of this proposal. The Marina Village project, which was located at the old Lehigh Cement plant site south of Grand Haven, would take the Rails to Trails connection, which now terminated at Colbert Lane, all the way to SR-100. It also met a need in the County for a strategic marina site and it was probably the last site in the County for this type of mixed-use development. It provided the School District with an elementary school in Flagler Beach and an expansion opportunity for Wadsworth Park. The property had a total assessed value of \$1.8 million with build out of around \$300 million, so the benefits spoke for themselves.

Stated they had fairly successful and productive discussions with Sea Ray and made a number of commitments. They received a proposal from Sea Ray with eight points, seven of which they agreed to and the one outstanding point was the economics.

Chairman Darby asked if he would address Mr. Ansbacher's statement about being willing to work toward final resolution beyond the decision making tonight and to characterize what the BCC could look forward to as a result of an affirmative decision tonight.

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Mr. Cullis stated it was in everyone's best interest to put in a new emissions system and Landmar's commitment was in writing and would not go away tonight. They would continue to address Sea Ray issues and were confident it would have a positive end. He thought having Sea Ray as a neighbor was a positive thing as it was the best boat company in the country, and he wanted to have a Sea Ray dealership onsite since this was Marina Village. Hopefully a lot of boats would be sold to the residents and they could have a really great partnership.

Chairman Darby opened the public hearing.

Catherine Larson, Palm Coast, spoke in favor of the change in zoning in this case as being the best and highest use of that land to change it from industrial to mixed use residential.

Annie Otto, Palm Coast, stated the best use of the property was what should be considered.

Bob Million, owner of adjacent property, stated he was in favor of a settlement and did not want anything to happen to Sea Ray Boats. The plant had an odor problem that the County was aware of for a long time. When he first bought the property five years ago the BCC passed an odor ordinance, but Sea Ray was exempt from the ordinance, and his opinion and that of his legal advisors was it needed to fix this problem on its own.

Don Deal, Flagler Beach, stated he concurred with Mr. Million. He had lived on Lambert Avenue for about 20 years and the odor had been an issue but Sea Ray did upgrade the facility. This was a unique opportunity to cleanup Flagler County's air quality with others, not just Sea Ray, participating.

Joseph Rickman, Grand Haven, stated they needed to recognize that Palm Coast was a premier place for people to live and enjoy clean air and beautiful nature.

Joanne Ricardi, Flagler Beach, stated she was hearing that there was a lot of incompatibility with an industry in the community that drove an economic engine. She did not see compatibility between Sea Ray when new people moved in that did not like the noises or the smells. The County was going to lose this industry and the BCC needed to be aware of that.

Tom Lawrence, Palm Coast, stated this project would be "eating your cake and having it too" because it would keep Sea Ray and its jobs here, it would reduce the styrene emissions, and the new project would provide positive cash flow to the County and the School District.

Dick Ricardi, Flagler Beach, stated this area needed an industrial park where people who lived here could get a job and at the same time protect the 600 to 800 employees at Sea Ray.

Jerry Columbus, Discovery Homes, stated the County was fortunate to have a person like Mr. Million buying this property and wanting to do something honorable and descent with it.

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Zack Hasan, employee of Sea Ray, stated this project was coming into an area already zoned industrial. Sea Ray had been there for 20 years and had 600 employees with families being supported by this wonderful company.

Dennis Bayer, counsel for Sea Ray, stated he sat on the first Long Range Planning Board that came up with a comprehensive plan designating this part of the County industrial and they did it because of access to the water and access to roads. It was determined at that time that Sea Ray, as well as other types of industrial use, would be appropriate for that location. That was done before the residential growth occurred so they were now dealing with the fact Sea Ray had invested a significant amount of money to keep its operation up and running in Flagler County.

Stated Sea Ray was not out of compliance and its neighbors were watching everything it did, but it just had not happened. Any insinuations to that effect were not well founded.

Stated a developer was going to build an 8-story condominium that was higher than the stack and along with the noise of the second shift in the middle of the night and the delivery trucks that would lead to residential complaints. Recommended preserving the status quo and hopefully the negotiations would bring some closure.

Hap Cameron, Flagler Beach, asked if there was anyway the County could help with either the financing or the improvements. Encouraged the BCC to pass the rezoning.

Gene Murphy, Grand Haven, stated he did not see any incompatibility with industry and residential living together.

Kenneth Fonte, Sea Ray, spoke of Sea Ray being forced to leave because of complaints.

Dan Goddard, general manager of Sea Ray Palm Coast, stated proposals were brought forward, which had been generous, but unfortunately still left them without a solid solution. Sea Ray had spent in excess of \$2 million on the existing ventilation system in direct response to concerns brought forth by its neighbors. A new system that enabled Sea Ray to proactively prepare for a mid-rise development would cost approximately \$8 to \$9 million over a 10-year period, with the previous \$2 million system being of no value. That was not a cost it would be able to absorb.

Stated it was not Sea Ray's intent to make threats of removing its business from Flagler County, but it was a fact that had to be considered when a company was faced with something of this magnitude. Encouraged the BCC to think long and hard before making a decision that could drastically affect the future of Sea Ray's business in the County.

Charles Johnson, Sea Ray, stated you would not buy a home next to the railroad tracks if you did not like the noise. The developer bought the land and now had to live with it.

John Poage, Bright House, stated he was not convinced that Sea Ray would not be unreasonably harmed and did not know how that would be balanced. Two big money interests were backed into corners and hoped the BCC would use its expertise and experience to guide this issue.

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Sherry Lewis, Sea Ray, stated the BCC needed to think about the families this would affect.

David Taylor, Flagler County, stated he was there to support Marina Village because it was a worthwhile project and the County would benefit by the increased values.

There was no further public comment.

Chairman Darby closed the public hearing.

Mr. Cullis thanked the BCC for its time and consideration and did not think anyone should lose his or her job over this proposal. They had \$4.5 million of the \$6 million from the County, Enterprise Flagler, Palm Coast Plantation and the neighbor, Marina Village. It was a good faith effort on their part and asked for the BCC's endorsement.

Chairman Darby stated a question was raised by a few of the speakers as to what the County could do to help this come to a resolution. If they resolved this issue what happened when the project came forward on the north shore that might be of even a higher level than the present project. There was also a question about vehicular compatibility with the residential area and asked if the roads were sufficiently buffered especially during nighttime hours.

County Administrative Hass stated the package put together included \$700,000 from the County through the Community Development Block Grant. Staff discussed perhaps splitting the job creation into two years so it could be doubled to \$1.4 million. In addition, staff proposed the County contribute \$300,000 through the Economic Development Incentive Program (EDIP). That brought the County's contribution to at least \$1 million.

Stated that left it at least \$2 million short and the \$.5 million for O&M. Public money typically did not go for O&M and was something the business would have to "pony up" for itself. He thought to solve the \$2 million gap and the \$.5 million O&M would take some time and staff would need to do some creative research and analysis to try to cover that.

Stated with this item the BCC was not agreeing to anything other than the future land use and was not even agreeing to the zoning because that had to go through another public hearing.

Chairman Darby stated that left open the opportunity for compromise on what the BCC did with similar issue that might come up later and asked how it could guard against that.

County Administrator Haas stated that was part of what the County faced at the negotiating table. Staff had been very cautious and informed both sides they could not do contract zoning and could not agree to something that was subject to a public process.

Stated truck traffic was a concern of Sea Ray and one Mr. Cullis was able to address. Sea Ray Drive, which was a private road, would not be used by anyone other than Sea Ray employees, and the entrance onto Colbert Lane would be agreed to as well through a two party agreement between Sea Ray and Landmar.

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Stated in reference to the buffering, Sea Ray requested sound walls that were 16 to 20 feet high around the perimeter of the plant and along the roadways. Mr. Cullis suggested buffering and having perhaps earthen berms with 8-foot walls on top and thick vegetation, which seemed agreeable through negotiations.

Stated of the eight issues six were agreed to almost immediately, but the bottom line was the money issue.

County Attorney Kern stated the BCC was sitting as a legislative body in this matter so it had very broad policy decisions to make, and the basic policy issue boiled down to compatibility of land uses and if they could be reconciled.

County Administrator Haas stated Sea Ray asked that the item be voted up or down and that it not be deferred. One of the discussion points was that in the event it was approved tonight while the "clock was ticking" for the appeal process, staff would continue to see if they could negotiate the remaining gap that existed. One of the things he told the parties was the concern expressed by Sea Ray that the prevailing winds were out of the southeast and since this development was located to the northwest that concern increased.

County Attorney Kern asked if Mr. Fufidio knew the zoning of the parcel north of this project.

Planning & Zoning Director Fufidio stated right now it was an amalgam of industrial, mixed use/high density, agricultural, and conservation. Palm Coast Plantation came forward with a request for residential/high density that was denied by the Planning Board in October.

Commissioner Kanbar stated his concern was maintaining jobs and increasing the industrial base in the County. Asked if it had been discussed that if this money changed hands to Sea Ray that it guaranteed employment for the employees and guaranteed to grow in the County.

County Administrator Haas stated one of the things in the EDIP ordinance was a business had to perform before it received any money, so those jobs had to be created and then it would be paid.

Commissioner Kanbar stated if the zoning was changed the County would lose 50 acres of industrial land and asked where did it make up those 50 acres so it could create high paying jobs for the citizens. There needed to be a balance.

County Administrator Haas stated staff was looking at an industrial corridor south of Bunnell, along the railroad and U.S. 1, and was in discussions with those property owners.

Commissioner Hanns stated the County for years tried to recruit industry and he thought good industry was corporations such as Sea Ray where employees had benefits and all the things that contributed to having a stable income environment to raise children. Sea Ray was a very good employer and one that should be a model for recruiting new businesses to the area.

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Commissioner O'Connell asked when an emission test was done and the result of the test and if Sea Ray was in compliance.

County Administrator Haas stated Sea Ray was exempt from the County's odor ordinance and staff was not aware of what tests were done.

Commissioner King stated it came down to simply if this was a residential area and Sea Ray came forward with a request to build a boat factory, there was no way this government would approve that because it would be an incompatible mixture.

Stated the developer knew the land he bought was zoned industrial, so if he wanted to be in the residential development business he should have bought property zoned for that use. He would not support the item because he thought it was bad planning to put residential next to industry.

Mr. Ansbacher responded to Commissioner O'Connell that the only emission regulated was styrene and to his knowledge there were four inspections by the Department of Environmental Protection within the last year because of complaints by neighbors and it found nothing wrong.

Commissioner Hanns stated over the years Sea Ray had ample opportunity to purchase that property for expansion and asked if it was interested in that land.

Mr. Ansbacher stated not at this time.

Chairman Darby stated despite the fact there were positive years of financing and low interest rates for commercial expansion nothing had located in that industrial park other than Sea Ray. He was tilting toward the residential use and thought the industrial area was incorrectly located to begin with, but the BCC did not recognize that at the time nor did the ITT planners.

Commissioner Kanbar stated the best use of the land was a mixed use and that was not to negate Sea Ray and what it did for the County because he thought it would be a good neighbor.

**A motion was made by Commissioner Kanbar to approve the Future Land Use Plan Amendment Application #2339 and for staff to work with the developer and Sea Ray to come to an agreement, and to notify the BCC within 60 days of the results. Seconded by Commissioner Hanns.**

Commissioner Hanns asked if the County had an opportunity to rezone a parcel of land on an expedited basis and if this parcel was the only industrial property.

County Administrator Haas stated the process that had to be followed was laid out in the Florida Statutes. Responded this was not the only industrial property.

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Commissioner Hanns stated he did not believe if this was developed into a residential area that Sea Ray would close its doors and leave.

Commissioner King stated the honorable thing to do was to look at Sea Ray and say this was going to have a negative impact, but the BCC was going to do this anyway. If the area around Sea Ray was built up with residential development that was a “death knell” for Sea Ray.

Chairman Darby asked how the BCC was going to be assured if this motion was adopted tonight that the elements of the unresolved issues were going to occur.

County Administrator Haas stated both parties agreed regardless of the outcome tonight to continue discussions and staff would continue to help to solve the problem and bridge the gap.

County Attorney Kern stated it was important to add that there was no guarantee that all these issues would be addressed, but this was the first step and there were many other “bites of the apple” such as the rezoning, PUD and site plan approval.

Commissioner O’Connell stated he did not want to lose the industrial land or Sea Ray. With Palm Coast Plantation coming on board sooner or later the room would fill with people arguing with the BCC about odors and help was available now to hopefully push that off 20 or 30 years.

**Chairman Darby called the question.**

Commissioner King requested a roll call vote.

**Commissioner Hanns voted aye.**

**Commissioner King voted nay.**

**Chairman Darby voted aye.**

**Commissioner Kanbar voted aye.**

**Commissioner O’Connell voted aye.**

**Motion carried 4 to 1, with Commissioner King dissenting.**

(Ordinance 2004-21 is on file in the Finance Department of the Flagler Clerk’s Office.)

*The BCC recessed at 8:10 p.m. and reconvened at 8:25 p.m.*

December 12, 2005  
Special Meeting

**ITEM 6 - APPLICATION #2400 - ADOPTION OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING A 166-ACRE PARCEL LOCATED ON THE EAST SIDE OF ROBERTS ROAD BETWEEN THE FLAGLER BEACH CITY LIMITS AND SEA RAY BOATS. THIS IS A REQUEST TO REDESIGNATE APPROXIMATELY 139.8 ACRES FROM INDUSTRIAL TO RESIDENTIAL LOW - SINGLE FAMILY AND APPROXIMATELY 26.2 ACRES FROM INDUSTRIAL TO CONSERVATION. OWNER: FLORIDA LANDMARK PROPERTIES, INC.; APPLICANT: LANDMAR GROUP**

The following information was provided by Walter Fufidio, Planning and Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 6**

CONSENT  PUBLIC HEARING  GENERAL BUSINESS

**SUBJECT:** Application #2400 - Adoption Of An Ordinance Amending The Future Land Use Map By Redesignating A 166-Acre Parcel Located On The East Side Of Roberts Road Between The Flagler Beach City Limits And Sea Ray Boats. This Is A Request To Redesignate Approximately 139.8 Acres From Industrial To Residential Low - Single Family And Approximately 26.2 Acres From Industrial To Conservation. Owner: Florida Landmark Properties, Inc. / Applicant: Landmar Group

**DATE OF MEETING:** December 12, 2005

**SUBJECT/GOALS/OBJECTIVES:** The requested amendment seeks to redesignate 166 acres lying east of Roberts Road, southeast of Sea Ray Boats and north of Wadsworth Park from *Industrial* to *Residential Low Density* (1-3 units per acre) and *Conservation*. This amendment will enable consideration of future rezoning action(s) for a residential community of not more than 419 dwelling units.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** This amendment request dates back to 2004. During the 2004 second amendment cycle, the Planning Board deferred action until policy direction regarding the Sea Ray Boats facility was established pursuant to the Marina Cove proposal (FLUM # 2339). On March 21, 2005 the Board of County Commissioners approved transmittal of this application as part of Flagler County's first amendment cycle for 2005. On October 3, 2005 the Board deferred adoption to provide additional time for a comprehensive settlement agreement between Sea Ray Boats and surrounding property owners.

On June 17, 2005 DCA issued its Objections, Recommendations and Comments (ORC) Report. The ORC Report included objections based on internal inconsistency - economic diversification; provision of potable water and sanitary sewer service; and land use compatibility with the adjacent Sea Ray manufacturing facilities.

The adoption of Ordinance 2005-17 established interim Industrial siting criteria to address the internal consistency objection. The water and wastewater capacity issue was addressed in correspondence dated July 27, 2005 from Brian Matthews of the City of Palm Coast Utilities describing the need to obtain a temporary increase in [expired] Consumptive Use Permit #1947. The remaining issue is the protection of Sea Ray's existing and future operations.

December 12, 2005  
Special Meeting

(Item 6 – continued)

Negotiations involving a global settlement have been ongoing since early 2005. Parties to these negotiations include Sea Ray Boats, Inc., Landmar Communities (FLUM #2339 and this application), and Florida Waterway Properties, LLC / Great Star Investors VIII LLC (FLUM #2424). The settlement negotiations also involve dismissal of the outstanding consistency challenge involving FLUM #2339 and naming DCA and Flagler County as defendants.

The Applicants have been advised of the need to present an executed settlement agreement or letter of no objection from Sea Ray Boats, Inc. prior to the Board's action. To date, neither has been made available. These are complicated issues involving upward of \$7.5m in capital and recurring costs for a Sea Ray retrofit and future economic development grant applications.

**PLANNING BOARD RECOMMENDATION:** The Planning Board conducted a public hearing on this matter on February 8, 2005 and voted 3-2 to recommend approval, subject to inclusion of the conservation buffer.

**PARTIES OF RECORD:**

FOR	AGAINST
Victor Rugg, Lambert Avenue	Robert Lincoln, Sarasota
Roseanne Staker, Lambert Avenue	

**RECOMMENDATION:** Request the Board adopt Future Land Use Map Amendment application #2400 only upon presentation of an executed Settlement Agreement; this adoption shall only become effective when the Department of Community Affairs issues a final order to find the amendment to be in compliance.

- ATTACHMENTS:**
1. Proposed Ordinance;
  2. Published Legal Notice;
  3. June 17, 2005 ORC Report
  4. Response to ORC Report

  
\_\_\_\_\_  
Department Head  
12/07/2005  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
County Administrator  
12-8-05  
\_\_\_\_\_  
Date

Reviewed by  
County Attorney 

December 12, 2005  
Special Meeting

**(Item 6 – continued)**

Chairman Darby asked staff if there was a settlement agreement.

County Attorney Kern suggested the parties put on the record where they were regarding the settlement agreement. Staff did not have a copy of the settlement agreement.

Chairman Darby invited the applicant to give his presentation.

Jim Cullis, regional manager for the Landmar Group, explained the project and that it was part of the company's overall plan for the Colbert Lane/Roberts Road area.

Stated they had worked for over a year on the settlement with Sea Ray and were at the "final hour" of the agreement. There was one little scientific line of sight issue to work out. Asked the BCC to approve the project so Landmar could move forward knowing that Sea Ray had protected its right to appeal or give them another week to get the settlement agreement done.

County Attorney Kern stated from the date of this hearing the County had ten days to transmit the applications to the State. Suggested an executed settlement agreement signed by all parties be presented to staff within that ten-day period, otherwise staff would not transmit.

Commissioner Kanbar stated it appeared this was at a "photo finish and all parties would cross the finish line together" to get this deal done. Complimented everyone involved in this process.

Mr. Cullis stated this was a three-party agreement so the BCC might want to also hear from Mr. Katz. As a businessman trying to negotiate a very complicated agreement, it was difficult for him to have an approval that put the other party in the driver's seat to make any objection it wanted and to hold the process up. For the BCC the decision was not whether Sea Ray was made happy, it was whether this was the right thing for this piece of property for the County. But he was there to hear the BCC's wishes and to make it work.

Paul Katz, attorney representing Harborview, stated Sea Ray and his client had worked out all of their issues. The issue that remained between Sea Ray and Landmar was a technical issue and he had the greatest confidence that was going to be worked out. Stated he did not want a ten-day trigger and suggested the BCC adopt and transmit what it had because the DCA had forty-five days to review after the submittal.

Dennis Bayer, attorney representing Sea Ray, stated a tremendous amount of progress had been made over the last month in settlement negotiations. He did not object to the BCC adopting both amendments on the agenda, but Sea Ray was reserving its right to request an administrative hearing if the one issue could not be agreed upon. He did not believe that was going to happen and did believe there would be a final agreement with all parties by the end of the week.

Commissioner King stated he was going to support it because all parties saw it the same way.

December 12, 2005  
Special Meeting

**(Item 6 – continued)**

Planning and Zoning Director Fufidio stated there was no stopping it once this was sent to the State. This had to be resolved now and to say that it would be fixed in forty-five days put the BCC on the hook.

Chairman Darby questioned why the testimony from the representatives did not carry the weight for the BCC to react in a positive way. There were no negatives except those exhibited by staff. All of the principles have consented to an answer by Friday.

County Attorney Kern stated if the parties could give staff something by Friday that would conclude the matter, but it could not be ruled on contrary to the ORC Report without being resolved.

County Administrator Haas stated the BCC could not ignore the ORC Report. The concern was when it was transmitted the review process by DCA started and if the agreement fell apart the County would be found in non-conformance with its own comp plan.

Commissioner King asked what the BCC needed to do.

County Attorney Kern stated there needed to be a signed agreement from the parties before this was sent to Tallahassee and that needed to be received within ten days.

County Administrator Haas stated the ten days was also a problem because Sea Ray would “hold all the chips” and the developer would have none.

Mr. Katz stated if this FLUM amendment was adopted by the BCC and sent to the DCA, but if for some reason the agreement was not signed and the DCA needed a signed agreement and it found the County not in compliance, then his client would defend the County.

Commissioner King asked if that was acceptable.

County Attorney Kern stated it was on the record.

Mr. Cullis pointed out that they had been in a year-long dispute and Landmar had paid all the legal bills. Also pointed out in the ORC Report the DCA never said if there was not a settlement agreement with Sea Ray it would not be approved.

**A motion was made by Commissioner King to adopt Application #2400 with the understanding if the deal fell apart and the County ended up in litigation Mr. Cullis illustrated that Landmar would be responsible for the attached litigation.**

December 12, 2005  
Special Meeting

**(Item 6 – continued)**

Chairman Darby asked if the sentence “only upon presentation of an executed settlement agreement” was not included in the motion.

**Commissioner King and Kanbar concurred.**

Chairman Darby opened the public hearing.

Dennis Bayer reiterated if a deal was not reached he would draw the BCC's attention back to the compatibility evidence raised when this issue was before the BCC last December.

There was no further public comment.

Chairman Darby closed the public hearing.

County Administrator Haas stated although the BCC was not a signatory on the tri-party agreement it was a funding partner to the solution. The County had committed that Sea Ray would apply through the Economic Development Incentive Program for funding and also to assist with and administer an application for a CDBG Economic Development Grant.

Mr. Bayer stated one reason Sea Ray did not get involved earlier with the grant application process was it had a universe of other issues that required resolution. It had a much more comprehensive package on the table right now so that was not going to be a problem.

There was no further public comment.

The BCC thanked all parties and staff for working together.

**Chairman Darby called the question. Motion carried unanimously.**

(Ordinance 2005-31 is on file in the Finance Department of the Flagler County Clerk's Office.)

December 12, 2005  
Special Meeting

**ITEM 7 - APPLICATION #2424 - ADOPTION OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING APPROXIMATELY 112.7 ACRES OF PROPERTY LYING EAST OF COLBERT LANE AND NORTH OF STATE ROAD 100; PROVIDING FOR A CHANGE FROM 16.74 ACRES CONSERVATION, 40.61 ACRES INDUSTRIAL, 33.99 ACRES MIXED USE HIGH INTENSITY AND 21.36 ACRES RESIDENTIAL LOW DENSITY RURAL ESTATE TO 16.74 ACRES CONSERVATION, 7.06 ACRES COMMERCIAL LOW INTENSITY AND 88.9 ACRES RESIDENTIAL MEDIUM DENSITY; PROVIDING FOR FINDINGS AND FOR AN EFFECTIVE DATE. OWNER: FLORIDA WATERWAY PROPERTIES, LLC/GREAT STAR INVESTORS LLC; AGENT: B. PAUL KATZ, ESQUIRE**

The following information was provided by Walter Fufidio, Planning and Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 7**

CONSENT \_\_\_ PUBLIC HEARING X GENERAL BUSINESS \_\_\_

**SUBJECT:** Application #2424 - Public Hearing And Adoption Of An Ordinance Amending The Future Land Use Map By Redesignating Approximately 112.7 Acres Of Property Lying East Of Colbert Lane And North Of State Road 100; Providing For A Change From 16.74 Acres Of Conservation, 40.61 Acres Industrial, 33.99 Acres Mixed Use High Intensity And 21.36 Acres Residential Low Density Rural Estate To 17.5 Acres Of Conservation, 7.0 Acres Of Commercial Low Intensity And 88.2 Acres Residential Medium Density. Owner: Florida Waterway Properties, LLC / Great Star Investors VIII, LLC. Agent: B. Paul Katz, Esquire.

**DATE OF MEETING:** December 12, 2005

**SUBJECT/GOALS/OBJECTIVES:** Adoption of this amendment will redesignate approximately 112.7 acres of land in order to provide future land use categories so as to accommodate a condominium community including water dependent uses (boat slips). The Application has been on hold since Summer 2004 awaiting further resolution of the administrative challenge to FLUM #2339 brought by Sea Ray Boats, Inc. The Applicant has reduced their requested density and is participating in a negotiated Settlement Agreement with Sea Ray Boats. Staff's recommendation for approval is subject to receipt of the Settlement Agreement.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** Currently the property is a mixture of different land use classifications. Single-family lots and conservation easements from Palm Coast Plantation flank the northern and eastern boundaries. In June 2004 the Applicant filed SJRWMD #4-035-94242-1 requesting construction of a marina and residential units but withdrew the application prior to issuance.

The Application as received by Flagler County in July 2004 and recommended for denial by the Planning Board on September 14, 2004 would have allowed up to 889 dwelling units. By memorandum dated August 24, 2005 from Paul Katz to Walter Fufidio, the application was amended from Residential High Density (10 units per gross acre) to Medium Density (7 units per gross acre). This has the effect of reducing the maximum allowable density to 621 dwelling units. The Applicant has further proffered a voluntary density cap of 600 units and dedication of a 3.0 acre site on Colbert lane for an Emergency Services Facility. The proffer of the latter was put into the record by the Applicant at the transmittal hearing held on September 19, 2005.

The Department of Community Affairs issued the Objections, Recommendations and Comments (ORC) Report for DCA #05-2 on December 9, 2005. The ORC Report

December 12, 2005  
Special Meeting

(Item 7 – continued)

raised an objection to this application based upon compatibility with Sea Ray Boat's manufacturing facility. The Staff recommendation to the Board proposes adoption upon presentation of an executed Settlement Agreement between Sea Ray, Harborview (FLUM #2424), Roberts' Landing (FLUM #2400) and Marina Cove (FLUM #2339 adopted 12/2004 and currently under appeal).

**PLANNING BOARD RECOMMENDATION:** September 14, 2004 the Planning Board held a public hearing regarding the original application (889 units). The Planning Board unanimously recommended denial of Application #2424 finding the application inconsistent with the standards of Rule 9J-5, F. A. C. and the policies of the Flagler County Comprehensive Plan.

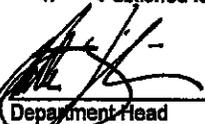
**PARTIES OF RECORD:**

FOR	AGAINST	GENERAL
	Dennis Bayer, counsel for Sea Ray	
	Michael Duggins, John Anderson Highway	

**RECOMMENDATION:** Request the Board adopt FLUM #2424 only upon presentation of an executed Settlement Agreement; this adoption shall only become effective when the Department of Community Affairs issues a final order to find the amendment to be in compliance

**ATTACHMENTS:**

1. Proposed Ordinance
2. Application and supporting materials
3. Planning Board minutes
4. Published legal notice

  
\_\_\_\_\_  
Department Head

12/8/2005  
Date

  
\_\_\_\_\_  
County Administrator

12-8-05  
Date

Reviewed by  
County Attorney JFB 12/8/05

December 12, 2005  
Special Meeting

**(Item 7 – continued)**

Planning and Zoning Director Fufidio reviewed and discussed the above staff report and stated the density was reduced from 10 units per acre to 7 units per acre and capped at 600 units, which was a one-third reduction. There was a proffer from Mr. Katz to dedicate a 3-acre emergency services site and an earlier proffer that should this result in a notice of intent to find the County comp plan not in compliance that his client would bear the cost of defending Flagler County.

Paul Katz, attorney representing the applicant, stated if the County had to defend against the DCA finding of noncompliance his applicant would handle the lawsuit in that defense.

**A motion was made by Commissioner King to approve the application with the caveat that Mr. Katz put on the record. Seconded by Commissioner Kanbar.**

Chairman Darby opened the Public Hearing.

Dennis Bayer, attorney representing Sea Ray, stated if an agreement was not reached Sea Ray was not waiving its rights to challenge on issues of compatibility that it had raised since September 2004 when this went before the Planning Board.

There was no further public comment.

Chairman Darby closed the Public Hearing.

**Chairman Darby called the question. Motion carried unanimously.**

Ernie Caldwell, representing Harborview, stated he appreciated the BCC's comments and patience.

(Ordinance 2005-32 is on file in the Finance Department of the Flagler County Clerk's Office.)

March 21, 2005  
Regular Meeting

**ITEM 27 – TRANSMITTAL OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING A 166-ACRE PARCEL LOCATED ON THE EAST SIDE OF ROBERTS ROAD BETWEEN THE FLAGLER BEACH CITY LIMITS AND SEA RAY BOATS; THIS REQUEST IS TO REDESIGNATE APPROXIMATELY 139.8 ACRES FROM INDUSTRIAL TO RESIDENTIAL LOW-SINGLE FAMILY AND APPROXIMATELY 26.2 ACRES FROM INDUSTRIAL TO CONSERVATION; OWNER: FLORIDA LANDMARK PROPERTIES, INC. – APPLICANT: LANDMAR GROUP C/O GARY B. DAVENPORT, ESQ.**

The following information was provided by Walter Fufidio, Planning and Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA REQUEST ITEM # 27**

CONSENT  PUBLIC HEARING  GENERAL BUSINESS

**SUBJECT:** Public Hearing and Transmittal of an Ordinance Amending the Future Land Use Map By Redesignating a 166-acre parcel located on the east side of Roberts Road between the Flagler Beach city limits and Sea Ray Boats. This is a request to redesignate approximately 139.8 acres from Industrial to Residential Low - Single Family and Approximately 26.2 acres From Industrial To Conservation. Owner: Florida Landmark Properties, Inc. / Applicant: Landmar Group c/o Gary B. Davenport, Esq.

**DATE OF MEETING:** March 21, 2005

**SUBJECT/GOALS/OBJECTIVES:** The requested amendment seeks to redesignate 166 acres lying east of Roberts Road, southeast of Sea Ray Boats and north of Wadsworth Park from *Industrial* to *Residential Low Density* (1-3 units per acre). The Landmar Group is under contract to purchase much of the land in the Colbert Lane / Roberts Rd. area from Florida Landmark Properties. The overall development will be a Mixed Use project to be known as Flagler Commerce Center. The subject Roberts Landing property is proposed for residential use only.

**JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES:** This amendment request was submitted for consideration as part of the second amendment cycle of 2004. Staff requested the Planning Board to continue this item until policy direction regarding the Sea Ray Boats facility and the Countywide need for industrial land was established. The County Commission spoke to these policy questions with the approval of FLUM # 2339, a change to Mixed Use High Intensity on the northwest side of the Sea Ray plant.

During this hiatus, Staff and the Applicant met at length to consider possible design solutions that will avoid or minimize any threat to the current and continued operation of Sea Ray Boats. The requested density of 1-3 units per acre will manifest itself in a PUD of single family and/or townhouses restricted to a maximum of 2 stories or 35 feet in height. This height limitation relative to the Sea Ray emissions stack and the direction of the prevailing winds from the southeast should nullify citizen complaints caused by locating additional residential property in this corridor. In addition, the Planning Board recommended the designation of a 250-foot wide green belt adjacent to Sea Ray together with approximately 15.7 acres of marsh wetland on the east perimeter (Northern Coastal Basin). These areas will be designated as Conservation on the Future Land Use Map. That action will ensure that no homes are built in these areas and reduce the gross density by approximately 79 units (from 498 as requested to 420).

March 21, 2005  
Regular Meeting

(Item 27 – continued)

The property is located within the Urban Services Boundary and will be served by City of Palm Coast Utilities. As of March 10, 2005 the Applicant advised us that they had not entered into a "voluntary" pre-annexation agreement with the City. The amendment will result in a net decrease in traffic volume, potable water consumption and waste water generation.

Based in large part on the Lehigh Cement Plant and its associated rail and water access, this area was once considered prime industrial land. The cement plant closed in 1985 and recent developer requests indicate a desire to transition to residential (FLUM #2249, #2339, and #2424). Notwithstanding this market pressure, comprehensive plan amendments are legislative actions and local government is provided broad latitude to determine the applicability of one land use category versus another. Land uses are considered in light of topographical and soil conditions, the availability of services and facilities, environmental factors and the existing and desired character of the surrounding community. Major issues associated with this request include:

1. The need to protect Sea Ray's existing and future operation. Sea Ray relied upon the Industrial classification to build a world-class manufacturing operation that is one of the leading employers in Flagler County.
2. Our Economic Strategic Plan and leading economic development organizations have warned the County of the dangers of becoming a bedroom community of commuters and argued for a land use pattern and infrastructure that provide a balanced economic base affording our current and future residents multiple employment opportunities. The Board has authorized Staff to work with property owners west of U.S. 1 to initiate Comprehensive Plan amendments that will result in an expansion of industrial land use.
3. The 1998 Storm Surge Atlas appears to indicate the predominate portion of this property lying in Evacuation Level 5 (red). Nevertheless, Figure 6 of the Coastal Management Element indicates the subject site as Level 3 and therefore as being within the Hurricane Vulnerability Zone. Policy 16.1 of the Future Land Use Element and Policy 2.1.01 of the Coastal Management Element both provide a prohibition against density increases unless, "the developer mitigates the additional evacuation problems by paying for off-site transportation improvements necessary to maintain safe evacuation time for a hurricane."

As to #1, the low density and conservation buffers are designed to minimize any potential impact. A proposed road segment connecting Colbert lane to Roberts Rd. will provide a separation between residential and industrial traffic. As to #2, the process is in its early stage. As to #3, given the actual evacuation category and the developer's willingness to participate in the Colbert Lane improvements, this issue appears resolved.

March 21, 2005  
Regular Meeting

(Item 27 – continued)

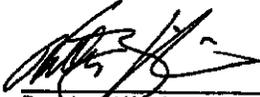
**PLANNING BOARD RECOMMENDATION:** The Planning Board conducted a public hearing on this matter on February 8, 2005 and voted 3-2 to recommend approval, subject to inclusion of the conservation buffer.

**PARTIES OF RECORD:**

FOR	AGAINST
Victor Rugg, Lambert Avenue	Robert Lincoln, Sarasota
Roseanne Staker, Lambert Avenue	

**RECOMMENDATION:** Recommend the Board transmit FLUM #2400 subject to inclusion of the Planning Board's recommendation of 26.2 acres of buffer.

- ATTACHMENTS:**
1. Proposed Ordinance
  2. Application and supporting materials
  3. Planning Board minutes
  5. Published legal notice

  
\_\_\_\_\_  
Department Head

3/11/2005  
Date

  
\_\_\_\_\_  
County Administrator

3-14-05  
Date

Reviewed by  
County Attorney   
3/14/05

March 21, 2005  
Regular Meeting

(Item 27 – continued)

Planning & Zoning Director Fufidio reviewed the above staff report.

Commissioner King stated Mr. Fufidio spoke about a 250-foot buffer in trees and native vegetation and asked if the buffer could be modified.

Planning & Zoning Director Fufidio stated now was the time to make the buffer wider.

Chairman Darby opened the Public Hearing.

Robert Lincoln, attorney and planner representing Sea Ray, stated the buffer was not going to address the fundamental compatibility issues this land use change would create. There would be issues created by the heavy traffic going in and out of the plant and secondary noise and impacts. The history was no matter what they did those land use compatibility issues would come back in the form of pressure on Sea Ray to either discontinue or alter its operations in ways that might make it economically difficult or impossible to remain in Flagler County.

Dennis Bayer, attorney for Sea Ray, reminded the BCC that Sea Ray was the second largest non-governmental employee in Flagler County and played a critical role in the employee base. Since the last time they were before the BCC there were at least two industrial users that sought to buy property in this area but industrial property was not available because it was under contract for residential development. The buffers were great but it came down to the odor and noise issues, and he could assure everyone that Sea Ray was in complete compliance with its permits.

Joann Ricardi, Flagler Beach, suggested Enterprise Flagler find out if in fact Brunswick, the parent company of Sea Ray, had any plans of moving here because if there was no industrial land on the water questioned where it was supposed to locate.

Victor Rugg, Flagler Beach, stated if there was industrial development in this environmentally sensitive area and one 55-gallon drum spilled by accident it would kill all the fish in that canal.

Don Deal, Flagler Beach, stated the County had the opportunity for another upscale, quality Grand Haven-type development that would add to the tax base while creating a wealth of jobs.

Dick Ricardi, Flagler Beach, stated the BCC had a good opportunity to save the industrial land and to bring industry into the County because some people had to work so there had to be jobs.

Jerry Columbus stated this area had valuable and highly desirable residential characteristics and to continue to hold on to it hoping for clean, high tech industry was not realistic.

Rosanne Stocker, Flagler Beach, stated there should not be a lot of other heavy industry where there should be single-family residential.

March 21, 2005  
Regular Meeting

**(Item 27 – continued)**

Maynard Vance, Bunnell, stated the BCC needed to look at the future and could not turn everything into residential lots.

There was no further public comment.

Chairman Darby closed the Public Hearing.

Jim Cullis, Landmar Group, stated in the Marina Village project the closest residence to the smokestack would be over 500 feet away.

Stated another issue discussed was the anti-annexation agreement and no one wanted to be put between the City and County, but this project and the Grand Landings project were started in the County and it was his intention to finish them in the County.

Commissioner Hanns asked how long Landmar had owned this property.

Mr. Cullis stated it had not closed on this piece of property yet because it was contingent on the entitlements. He pledged to work with the County on the property along US-1 and was very interested in doing a commerce park, not necessarily an industrial park, but an office/light industry/manufacturing park, which he thought would be a good asset for the County.

Commissioner Kanbar asked what was the total concession the County worked out with Sea Ray to mitigate any problems, which he knew Mr. Haas had been working on with Landmar.

County Administrator Haas stated he met with Mr. Goddard, Sea Ray general manager, to let him know the County was still interested in filing the grant applications for the proposed fix that fell short of the estimated cost. The capital investment was not the problem, it was the \$400,000 annual operating expense, and there was a narrow window because the incentive package changed when the County passed the 75,000 population threshold. There would still be incentives available but they would not be the same and different matches might be required.

Commissioner O'Connell asked if Mr. Cullis said he would be willing to get involved with the government to form a private/public partnership to help with industrial land on US-1.

Mr. Cullis responded absolutely and was currently working on that with Development Services Director Smith and County Administrator Haas.

**A motion was made by Commissioner O'Connell to approve Item 27. Seconded by Commissioner Kanbar.**

**Chairman Darby called the question. Motion carried, 4 to 1, with Commissioner King dissenting.**