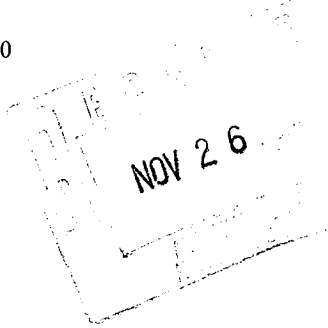


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P/R DS



November 21, 2007

David C. Schwartz, Esquire
Assistant County Attorney
12 SE 1st Street
Gainesville, Florida 32601

Re: City of High Springs vs. Alachua County, Case #01-07-CA-4049
Conflict Resolution Meeting

Dear Mr. Schwartz:

Pursuant to our discussions at the conflict resolution meeting on November 15, 2007, I am submitting the following as conditions that City staff would be willing to present to the High Springs City Commission as a possible resolution to the above-referenced action. Please advise me whether the County would like to go forward with a possible resolution to be presented to the governing boards for consideration.

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CONDITION 1. Requirement for a Structure to House/Shelter the Animals. The application considered by the Board of County Commissioners was for a "private animal shelter." The City believes that an essential element of approval of an application for a private animal shelter, pursuant to section 404.18 of the County Land Development Code, which states "The structure housing the animals shall be completely enclosed and designed to suppress noise," is the construction of a proper building enclosed on all sides and under a roof. It is unreasonable to conclude that open fields with fences constitute completely enclosed structures designed to suppress noise. Despite the fact that noise is not one of the primary concerns with the proposed use, the City still believes that the requirement of a proper structure to actually shelter the animals is appropriate. This structure should have floors made of concrete that has been sealed or some other nonporous material that can be cleaned and disinfected on a regular basis.

CONDITION 2. Requirement to Hook up to Appropriate Utilities. Alachua County's comprehensive plan requires that any new or expansion of a non-residential use

shall be required to connect to a centralized potable water and sanitary sewer system. The High Springs sewer and water lines run directly in front of the applicant's property. Therefore, it is appropriate for the structure referred to in Condition 1 above to be hooked up to the City's sanitary sewer system and water system. This should satisfy the concern about excessive amounts of untreated waste being deposited on the property so near the High Springs municipal water well.

CONDITION 3. Requirement to Cease Burial of Deceased Cats on the Property. The testimony from qualified witnesses (High Springs Public Works Director Laverne Hodge and Alachua County Health Department Representative Paul Myers) at the hearing on August 30, 2007, indicated that the proposed use did pose a potential threat to the City's water supply. Requiring the structure referred to in Condition 1 above, requiring that the structure be connected to appropriate utilities as referred to in Condition 2 above, and restricting the applicant from burying deceased and diseased cats on the property should alleviate this concern. In addition, all, or the majority, of previously buried cats should be removed.

CONDITION 4. Requirement of Applicant to Follow HSUS, or Other Specifically Enumerated Guidelines for the Care and Treatment of the Animals. The Board applied Humane Society of the United States guidelines to determine the number of cats allowed on the site, but totally disregarded many other HSUS guidelines that would provide a safe and clean environment for the animals, including requirements that floors be made of solid material, that the floors slope toward drains for cleaning, that the shelter have drainage and plumbing adequate to handle the load of daily cleaning, as well as many other guidelines relating to how the cats are housed and fed. Testimony and photographic evidence was presented at the hearing on August 30, 2007, which tended to show that the animals were not being handled in a manner that would satisfy HSUS guidelines. In order to ensure that the animal shelter is a safe environment for the animals, some specific guidelines should be a condition of approval of the application, so the appropriate enforcement agency will know what standards of care are applicable to the shelter. In lieu of adopting the care guidelines of HSUS, the City would welcome an evaluation by a qualified person, such as John Snyder, Director of Companion Animals with HSUS, who could recommend appropriate guidelines for operation of the private animal shelter.

CONDITION 5. Requirement of Road Paving from Nearest City Paved Street to Entrance of Applicant's Property. As was discussed at the conflict assessment meeting, High Springs codes and land development regulations would require any applicant

requesting to change the use property from a primarily residential use to a business or other more intensive use would be required to be on an appropriate paved road. Since the applicant's property is located in an enclave of the City of High Springs, and will likely be annexed into the City at some time in the future, this is a requirement that the City of High Springs will not be able to enforce if the applicant's property is annexed into the City with a use that has already been permitted by the County. The County was required by the intergovernmental coordination element of its comprehensive plan to consult with and coordinate with the City of High Springs before taking action on this proposed land use, which did not happen. Therefore, the County should consider the City's land development regulations in approving the application for a special exception, and in evaluation additional conditions that should now be imposed.

CONDITION 6. Requirement to Annex into the City of High Springs. During the hearing on August 30, 2007, one county commissioner specifically asked representatives of High Springs if the City would agree to have the applicant's property annexed into the City if that was a condition of approval of the special exception. Since the protection of the City's municipal water well system is one of the primary concerns associated with this proposed use of applicant's property, the City would prefer to be the agency with authority to ensure that the applicant is in compliance with the conditions of the special exception (i.e. Conditions 1-5 and any other conditions imposed by the County). Therefore, provided appropriate conditions are included with the approval of the special exception, the City of High Springs would welcome annexation of this parcel into the city limits.

The City of High Springs appreciates the concerns raised by the County at the conflict assessment meeting about the applicant agreeing to additional conditions. However, the City does not believe that is a requirement. The County, in approving a special exception, is required to comply with its own comprehensive plan and land development regulations, and further, should have reviewed and complied with the City's comprehensive plan and land use regulations after consultation with the City.

The application for a special exception should either be denied or appropriate conditions should be imposed by the County to comply with its comprehensive plan, land development regulations and other applicable laws. Since this did not happen, the City of High Springs will have no recourse but to proceed with the pending legal action if appropriate conditions are not imposed as part of this conflict resolution process.

Please let me know if County staff wishes to proceed further toward a resolution of this dispute that can be presented to the governing boards of the parties. If the addition of reasonable conditions is not acceptable to the County at this time, it would be appropriate for us to move to the next step of the conflict resolution process and arrange for a joint public meeting of the boards.

Thank you for your attention to this matter. If you have any questions regarding this matter, please call me at 386-454-1212, or leave a message with High Springs City Hall at 386-454-1416, ext. 6.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas G. DePeter". The signature is stylized and cursive.

Thomas G. DePeter
Attorney at Law

cc: City of High Springs