

**Official Minutes of
MARION COUNTY
BOARD OF COUNTY COMMISSIONERS**

August 24, 2005

The Marion County Board of County Commissioners met in a special session in Commission chambers at 9:05 a.m. on Wednesday, August 24, 2005 at the Marion County Governmental Complex located in Ocala, Florida.

Upon roll call the following members were present: Chairman Andy Kesselring, District 1; Vice-Chairman Jim Payton, District 2; Commissioner Stan McClain, District 3; Commissioner Randy Harris, District 4; and Commissioner Charlie Stone, District 5. Also present were Deputy Clerks Tamara Futch and Cindy Bonvissuto, Chief Assistant County Attorney Thomas D. MacNamara, a member of the news media and approximately 100 citizens.

Comprehensive Plan - Deputy Clerk Futch presented Proof of Publication of a display advertisement entitled "Notice of Change of Land Use, Marion County Comprehensive Plan", published in the Star Banner newspaper on August 12, 2005. The Notice stated the Board would consider transmitting proposed future land use map changes to DCA for comment.

The Chairman stated staff would present an overview of the agenda and then accept public comment after staff and applicant completed their presentations.

Schools - Planning Director Dwight Ganoe presented the Board with an updated copy of the current school capacity.

Comprehensive Plan - Principal Planner Massey noted the meeting was to review Large Scale Comprehensive Plan Amendments. Mr. Massey stated DCA would have 60 days to review submitted applications. He stated after that time an adoption public hearing would be scheduled. Mr. Massey stated applications were all located in the SR 200 area. He commented on the main corridors in the study area and stated utility systems were available and there were more than 3000 vacant lots not yet developed south of SR 200. Mr. Massey commented on pending projects in the area such as JB Ranch project and Penn Property which would result in an additional 1200 units.

Commissioner Harris questioned capacity issue for the area including the expansion plan discussed.

Mr. Massey stated proposals helping facilitate needed extensions and expansion of the facilities had been received. He stated the Developers Agreement received on the Penn Project would extend lines to the properties.

Comprehensive Plan - Chairman Kesselring stated a request was received on Case No. 05-L40, Bruce Moore. He stated the case was not going to be heard until later in the day and understood there were several people in the audience regarding the application. Chairman Kesselring requested residents opposed to the land use change be acknowledged noting more than 60 citizens raised their hands. He stated the application would be heard during the afternoon session.

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Comprehensive Plan - Principal Planner Massey stated Application 05-L15 by Frances D. Bliss, TR, Owner, W. James Gooding III, Agent, for a land use change from Urban Reserve to Low Density Residential, on 49.38 acres located on the north side of SW 66th Street and the east side of SW 27th Avenue/CR 475A was requested to be withdrawn by the applicant.

Comprehensive Plan - Principal Planner Massey presented Application 05-L21 by Marion K. Pearsall, Owner, Steven H. Gray, Esq., Agent, for a land use change from Commercial to Medium Density Residential, on 74.3 acres located approximately 1500 feet east of SW 80th Avenue on the south side of SW 103rd Street Road. He stated staff and the Planning Commission recommended approval.

Mr. Gray, NE 1st Avenue, stated the property was under contract and would be developed by Banyan Homes. He presented a proposed Developer's Agreement to the Board. Mr. Gray stated the property was surrounded by medium density residential properties which included Oak Run and Palm Cay on the south boundaries, Oak Run on the east, Woods and Meadows and other subdivisions on the north and Palm Cay project on the West. He stated Banyan Homes was involved with the four laning of a portion of SW 60th Avenue from SW 80th down to the new SW 95th Street. Mr. Gray stated in the Developer's Agreement a full environmental assessment would be provided on the property. He stated a full traffic and environmental analysis would have to be submitted and stated the property had water and sewer provided by Marion County Utilities. Mr. Gray stated the developer was willing to front load sewer funding to assist the County to expand the current utilities plant for the development.

Commissioner Harris questioned school concurrency. Mr. Gray stated age restricting cut cash flow to school systems and stated the developer had not made the decision to age restrict the development. Discussion ensued on pending schools scheduled for the area. Mr. Gray stated construction would not start until 2006 if approved and could phase in at the start of 2007.

Upon call for public comment, James Champion, SW 107th Place, commented on the Planning Commission meeting in July 2005 regarding the application and stated a comment was made by the Chairman stating the only gated communities were Oak Run and On Top of the World. He referred to recorded plats from August 11, 1988, item No. 4 which stated: streets and drainage facilities shown on the plat subdivision were private and not dedicated to the general public of Marion County and no obligation existed on the part of County or any other public body for the improvement of right-of-way and drainage facilities. He continued to read sections of land use public records pertaining to the issue. Mr. Champion stated he would like the County to recognize Palm Cay as a gated community. He stated the entry designated for the project would reduce access to Palm Cay's entrance and suggested accel/decel lanes be installed. He commented on possible access into Palm Cay from the project due to a current access road and suggested the developer add a 6 foot privacy fence to separate the subdivisions and eliminate access to Palm Cay.

Chairman Kesselring stated if the application was approved it would still go through several steps before construction could begin. He stated access would not be allowed to Palm Cay if approved.

Mary Notbusch, SW 108th Place, stated her backyard abutted the proposed development. She suggested developing as a retirement community due to surrounding

retirement communities. Ms. Notbusch voiced concern of children coming into Palm Cay and utilizing the pool area without permission.

Commissioner Harris stated per the agreement home sites would be limited to three per acre.

Bill Glass, McIntosh, commented on the taxing system at the State and County level. Commissioner Harris stated school systems were discussed due to the overcrowding issue in the County. Mr. Glass commented on the central sewer system in the area.

In response to Commissioner Harris, Gary Koltz, Utilities Director, stated in regard to utility expansion in the area, Oak Run was under design with Hartman and Associates to expand from current capacity of 900,000 gallons per day to more than a million per day.

Mr. Gray stated access would be blocked to and from Palm Cay and could be added to the Developer's Agreement.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to grant transmittal of the land use change on the basis of staff and Planning Commission recommendations and findings to approve the land use change from Commercial to Medium Density Residential, based on findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. Commissioner Harris stated the motion included prohibition of tying into the surrounding communities and roadways.

Commissioner Payton stated he disagreed with the application and stated the property could be utilized as a commercial node. He commented on the impacted school system and roadways in the area.

In response to Chairman Kesselring, Mr. Massey stated the traffic counts were taken in 2004.

Commissioner Harris commented on the formulas and methods on which the Board required developers to pay for transportation improvements, expansion and construction of utilities, and requirements regarding funding for schools.

In response to Chairman Kesselring, Mr. Massey stated the property was zoned as B2 Community Business. Chairman Kesselring commented on the property not being adequate for a commercial business.

Commissioner Payton stated the project was not in the best interest of the general public and stated an assisted living facility was needed in the area in lieu of additional housing.

Commissioner Harris listed businesses allowed under B2 zoning which were retail sales, bars, boat marine motor sales and service and other types of sales.

The motion was approved by the Board on a vote of 3 - 2, with Chairman Kesselring and Commissioner Payton voting nay.

Comprehensive Plan - Principal Planner Massey presented Application 05-L07 by International Assoc. Development Corp. , Owner, William A. Cobb, Agent, for a land use change from Commercial to Multi-Family Residential High Density, on 39.21 acres located approximately 500 feet east of SR 200 on the north side of SW 106th Place. He stated staff recommended approval and the Planning Commission recommended denial.

Mr. Cobb, NE 41st Terrace, agent for the applicant, stated all four sides of the property were surrounded by existing development. He commented on meetings with the homeowners association in Palm Cay to discuss the project in detail and proposed creating

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a working group of members of the Homeowner's Association in Palm Cay and Oak Run. Mr. Cobb stated issues would be discussed regarding buffering, improvement to the entrance and improvements along the roadway.

In response to Chairman Kesselring, Mr. Cobb stated 12 units per acre was discussed with the developer capping at 450 units.

Terry Sukalski, SW 75th Avenue, stated he represented the Homeowner's Association of Palm Cay. Chairman Kesselring requested a show of hands of those opposed to the amendment, about 100 citizens responded to the Chairman's request. Mr. Sukalski stated residents of Palm Cay were concerned with the proposed project. He stated the first concern was traffic and schools. He stated Palm Cay had 791 homes with approximately 1200 vehicles that used SW 106th Place as the only exit and entrance to the community. He stated if the project was approved it would create an extreme increase in traffic using the one and only entrance to the community and commented on school buses using the entrance for school children. Mr. Sukalski requested age restricted single family housing in lieu of multi-family housing.

In response to Commissioner Harris, County Attorney Gordon Johnston stated the applicant could transfer the request to medium density through a Developer's Agreement to DCA.

Bill Glass, McIntosh, stated he was not against growth but had concerns regarding utilities in the area and infrastructure.

Gary Koltz, Utilities Director, stated DEP 201 guide showed up to 600 gallons a day per home with most homes not generating that amount. Lengthy discussion ensued regarding capacity. Mr. Koltz stated the plant could be expanded by 2008 to 1.5 million per day. Discussion ensued regarding increasing capacity and storage during wet weather.

In response to Chairman Kesselring, Mr. Koltz stated the current facility was being utilized by 4000 units. Mr. Koltz stated most homes in the area were seasonal which would decrease use of the facility.

Mr. Champion stated the entrance to Palm Cay was a private road and commented on the applicant not advising what road would be used for the development.

Vince Lorio, SW 73rd Circle, questioned access to the property and stated the applicant contacted him requesting use of his commercial driveway. He stated it would be a huge impact on his business.

Larry Hoffman, SW 93rd Street Road, stated high density was not consistent with the existing communities. He suggested higher density such as an assisted living facility.

Chairman Kesselring stated looking at the current capacity of 800,000 gallons per day broke down to more than 4500 units, which was close to what was available now.

Mr. Cobb commented on meeting with the County's traffic engineer and was advised the County would most likely require constructing a four lane thoroughfare and stated the development would use SW 106th Place. He commented on a provision in the grant of easement dated October 1986 stating the easement would be exclusive for four years and five months from the date hereof and at the end of the date the easement shall be non-exclusive, stating the applicant now had use of the entrance road to Palm Cay. He stated Venture and Associates was required by the grant of easement to build, maintain and pay the property taxes. Mr. Cobb stated within the agreement it stated in the event the roadway and entrance improvements were not maintained and if the taxes were not paid the easement shall automatically terminate. He stated the taxes were not paid in 1999, 2000 and 2001 and stated Mr. Linhart paid the taxes to protect the property rights. He discussed

the need for affordable housing in the area and discussed plans for the remaining property.

A motion was made by Commissioner Payton, seconded by Commissioner McClain to deny the request, disagreeing with staff based on the development not being compatible with surrounding communities, legal issues regarding an entrance road and the infrastructure would not support the increase. The motion was unanimously approved by the Board.

There was a recess at 11:02 a.m.

The meeting reconvened at 11:13 a.m. with all members present.

Comprehensive Plan - Principal Planner Massey presented Application 05-L66 by James H. Sweeney, III, Owner, John S. Rudianyn, Agent, for a land use change from Rural Land to Commercial, on 42.9 acres located approximately 750 feet east of SW 60th Avenue on the north side of SW 95th Street. He stated staff and the Planning Commission recommended denial.

Chairman Kesselring questioned the expansion of SW 60th Avenue and responsibility. Mr. Gray submitted an aerial map of the property.

Steve Gray, NE 1st Avenue, agent for applicant, stated the parcel was approximately 42 acres which wrapped around a parcel which had limited commercial land use at the intersection of SW 95th Street and SW 60th Avenue. He stated the 95th Street road project was in final design with County Engineers and anticipated the design and permitting would be completed in the first quarter of 2006 and the developer, JB Ranch, was prepared to start construction immediately. Mr. Gray discussed SW 60th Avenue and an existing Developer's Agreement required Banyan Construction to four lanes SW 60th Avenue down to the south boundary of the Penn property. Mr. Gray stated a Developer's Agreement would be submitted and the property owner Mr. Sweeney would agree to front load into the cost of the road according to the proportionate share, which would reduce County funding. Lengthy discussion ensued regarding the proposed project and surrounding property uses. Mr. Gray stated the corridor study indicated a need for additional commercial land. Discussion ensued on current land use.

In response to Chairman Kesselring, Mr. Gray stated the application was reduced to Limited Commercial during a planning meeting.

Commissioner Payton questioned staff regarding SW 80th Avenue expansion. Mounir Bouyounes, Transportation Director, referred to the map showing Commissioner Payton the section the County would handle. In response to Commissioner Payton, Mr. Bouyounes stated funding was available for the project with other developers participating.

Mr. Bouyounes stated if the agreement was approved it would be in the best interest of the public to secure right-of-way on SW 95th Street. Mr. Gray stated the applicant already anticipated generating the additional right-of-way along SW 95th Street.

Mr. Massey stated the intersection was identified in the corridor study and stated additional commercial could be justified if there was documentation on how the intersection was capturing trips. He stated since the existing commercial properties were not developed there was no way to verify how the intersection would work with what was being requested.

Chairman Kesselring stated the underlying land use was currently A1 and the owner would have to request re-zoning of the property.

Discussion ensued regarding the need for commercial in the area.

Upon call for public comment, Bill Glass, McIntosh, commented on utility issues

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regarding SR 200. General discussion ensued regarding utility issues and taxing.

Pat Gabriel, SW 72nd Court, stated she was not opposed to the project. She stated a commercial node was a good idea for the area which would alleviate traffic on SR 200.

Channing Gerber, SW 62nd Court, stated he approved the application and stated it would help cut the cost of fuel to have a store closer to the communities in the area.

Larry Hoffman, SW 93rd Street Road, stated he was in favor of the development for the convenience to area residents. He suggested restricting commercial on the residential side of proposed SW 95th Street between Airport Road and SR 200.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to disagree with staff and the Planning Commission and recommend approval of the application and grant transmittal of the land use change from Rural Land to Commercial.

Commissioner Harris suggested a single ingress/egress shared by the two parcels on the corner of the proposed project.

Mr. Gray stated the property was a common ownership and he would submit a site plan and understood access would be limited to SW 60th Avenue.

Commissioner Harris stated the motion included dedication of right-of-way on both sides and limited commercial. The motion was unanimously approved by the Board.

Comprehensive Plan - Principal Planner Massey presented Application 05-L70 by Rolling Hills Dirt Company Inc., Owner, Miles C. Anderson, PE, Agent, for a land use change from Rural Land to Low Density Residential, on 36.66 acres located approximately 400 feet south of SW 99th Lane on the south end of SW 121st Terrace. He stated staff and the Planning Commission recommended denial.

Chairman Kesselring questioned lot sizes in Rolling Hills. Mr. Massey stated they were 3 to 5 acres in size.

Mr. Anderson, SE 17th Street, representing the applicant, stated the request was for one unit per acre and stated the applicant would reduce the number of lots requested to 18.

In response to Commissioner Payton, Mr. Anderson stated a hamlet would only be allowed if the property was over 40 acres. He stated the access points would be on the north side of the property

Upon call for public comment, Bill Glass, McIntosh, made general comments regarding water, sewer and schools in area.

William Stagg, SW 125th Court Road, stated his property was adjacent to the proposed property. He stated SW 99th Lane which was the access to the nearest paved road was a dirt road and when it rained the road was sometimes impassable. He stated an increase in traffic would do more damage to the road.

Valerie Wienke, SW 128th Avenue, stated she lived at the entrance of Rolling Hills Subdivision with all traffic coming by her home. She stated currently 300 vehicles pass by her home each day and opposed additional traffic in the community. Ms. Winke suggested 10 acre parcels for the property to reduce the amount of traffic it would produce.

Anna Zouck, SW 112th Street Road, stated she was opposed of the application and suggested 1 house per 10 acres.

Chairman Kesselring stated the elementary and middle schools in the area were already over 100% capacity.

Mr. Anderson stated the property was vacant and deteriorating and the project could improve the scenery in the area.

A motion was made by Commissioner Harris, seconded by Commissioner Payton, to deny transmittal of the land use change on the basis of staff and Planning Commission recommendations and findings to deny the land use change from Rural Land to Low Density Residential based on findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

The meeting recessed at 12:13 p.m.

The meeting reconvened at 1:21 p.m. with all members present.

Comprehensive Plan - Principal Planner Massey presented Application 05-L57 by Nagender Reddy, Devender A. Reddy, and Ala S. Reddy, Owners, John P. McKeever, Agent, for a land use change from Rural Land to Commercial, on 6.5 acres located approximately 2000 feet west of SR 200 on the south side of CR 484. He stated staff and the Planning Commission recommended denial.

John McKeever, NE 8th Street, attorney representing applicants, was present. He described the surrounding area and noted the new FEMA maps showed water problems on some of the adjacent properties. Mr. McKeever stated arrangements were made with Craig Hitchcock, developer of an adjoining property, to provide water and sewer. He stated warehousing and/or mini-warehouses would be developed for those individuals who resided here for a portion of the year and desired storage for recreational vehicles.

Upon call for public comment, Bill Glass, McIntosh, stated the requested use appeared to be a wise use of the property.

Rob Utess, SW 100th Lane Road, stated he would like to address projects in general, rather than this particular request. He commented on droughts and concerns for the aquifer. Mr. Utess stated all residents should be connected to a City or County water system.

Mr. McKeever stated a residence located on the property would use more water than the proposed mini-warehouse facility.

A motion was made by Commissioner Payton, seconded by Commissioner Harris, to deny transmittal of the land use change from Rural Land to Commercial based on staff and Planning Commission recommendations and findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, and was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

Comprehensive Plan - Principal Planner Massey presented Application 05-L11 by Frank J. Tona, Owner, David L. MacKay, Agent, for a land use change from Low Density Residential to Medium Density Residential, on 20.34 acres located approximately 600 feet west of SW 60th Avenue on the south side of SW 52nd Street. He stated staff and the Planning Commission recommended approval.

Commissioner Harris commented on previous conversations involving Developer's Agreements and commitments. He questioned whether the applicant had a prepared Developer's Agreement that addressed school capacity, transportation concurrency and other requirements previously discussed.

David MacKay, SW College Road, attorney representing the applicant, stated he did

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not have a Developer's Agreement to proffer at this time, but was prepared to make commitments to enter into such an agreement to address schools and several other issues. Commissioner Harris questioned whether the proposed development was an age restricted community. Mr. MacKay stated it was not.

Mr. MacKay presented a conceptual drawing which reflected the overall property owned by the applicant and included adjacent property to the east designated as Professional Office and the intersection at SW 52nd Avenue and SW 60th Street designated as Commercial Land Use. He stated the Conceptual Plan had an Office Park already designed for the Professional Office area currently submitted for preliminary plat approval with the County.

Mr. MacKay stated his client had received a commitment from the City of Ocala for water and sewer. He stated water connection was available at the intersection of SW 52nd Avenue and SW 60th Street, and sewer would be accessed by force main via a lift station located at the back corner of the Commercial area. Mr. MacKay stated the request would increase the number of units from 20 to 58.

Mr. MacKay stated SW 60th Street was 100% designed for four-laning with divided median, sidewalks, curb and gutters, which would be released for bid within the next 45 to 60 days and should be well under construction or completed by the time the application was approved. He stated a portion of the drainage from the proposed site would be accommodated on the Commercial designated portion of the property, which would balance the traffic impact.

Mr. MacKay stated school concurrency requirements would be paid in advance, noting Saddlewood was currently over capacity. He noted a new elementary school on SW 95th Street would begin construction soon. Mr. MacKay stated the middle and high schools served by the proposed site was West Port, noting West Port middle was near capacity and the high school was at 87% capacity. He stated the School Board was in the planning stages of constructing a new middle school which would ultimately result in West Port Middle being converted to add to the High School.

Mr. MacKay stated the proposed design did not provide access to SW 52nd Avenue, which was not a County right of way. He stated at most it was a prescriptive road, but would provide right of way necessary so that at such time as the County chose, or the other owners along the road got together and decided to move forward with dedication of right of way, that there would be right of way there for SW 52nd Street, but as of today it was not a County right of way.

In response to Commissioner Payton, Mr. MacKay commented on reasons for need in area. Mr. Massey stated the request was consistent with the corridor study, noting the intersection was identified as a community center. He stated the staff report analyzed the level of service for SW 60th Street as a two lane road, but should have been considered as a four lane road. Mr. Massey stated capacity was 35,900 as opposed to 15,600. Chairman Kesselring commented on the long range time frame of the corridor study and stated concern with the need and timing of the matter.

Upon call for public comment, Bill Glass, McIntosh, stated it appeared to be a good in-fill project.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to grant transmittal of the land use change from Low Density Residential to Medium Density Residential based on staff and Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible

with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. Commissioner Harris clarified that all motions for approval made by him would include a Developer's Agreement that satisfied all requirements of the County. The motion was approved by the Board on a vote of 3-2, with Chairman Kesselring and Commissioner Payton voting nay.

Comprehensive Plan - Principal Planner Massey presented Application 05-L01 by David and Maureen Squier, Owners and Agents, for a land use change from Urban Reserve and Low Density Residential to Medium Density Residential, on 63.7 acres located approximately 1/4 mile west of SW 60th Avenue on the north and south sides of SW 59th Street. He stated a small portion of the parcel was excluded from the application. Mr. Massey noted the subject site was located directly south of the parcel previously approved. He stated staff and the Planning Commission recommended approval. Commissioner Payton questioned why the portion was excluded from the application. Mr. Massey stated he would defer to the applicant.

Randy Klein, NW 3rd Avenue, attorney representing applicants, stated the reason for excluding the two parcels was that the applicants did not own them at this time, noting they were under negotiations to purchase. He stated access to the subject site would be from the south. Mr. Klein stated his clients were willing to tender a Developer's Agreement addressing all the issues raised as a condition of transmittal, including traffic concurrency. He commented on options for utilities, environmental study and school capacity. Mr. Klein stated the applicants were willing to place a cap at three units per acre.

David Squier, SW 66th Street, applicant, presented a small plat of the area and stated there was currently a 40 foot wide lane, encompassing two acres of the 40 acres, for access. He stated he may be required to widen the lane to 60 feet to provide access. Commissioner Payton questioned whether the applicant would agree to sign an agreement that he would not sell any lots to a national or regional builder. Mr. Squier stated he did not anticipate any vertical construction until the year 2007, which would allow time for the infrastructure. He stated that by limiting availability of the property to local builders could be jeopardizing the quality of construction anticipated.

Upon call for public comment, Bill Glass, McIntosh, questioned whether the development would have sewer. Commissioner Harris stated development could not occur without sewer.

Jeff Baron, 6555 SW 59th Street and Kathy Dale, 6685 SW 59th Street, were present. Mr. Baron presented a diagram in regard to Black Jack Farms. He stated that the applicant petitioned for a paved road on SW 59th Street and in less than six months requested rezoning for the subject property. Mr. Baron stated a majority of the residents voted in favor of the MSTU road assessment. He stated the MSTU Department had not given a clear answer in regard to the length of the road. Mr. Baron stated the road should be paid for by the developer. He commented on traffic impact and noted the property should be designated as low density or no more than one home per acre. Mr. Baron stated the application was not compatible with the surrounding area. Ms. Dale stated surrounding parcels were five to ten acres in size.

Commissioner Payton questioned MSTU involvement. Ms. Dale stated SW 59th Street was a dirt road. Planning Director Dwight Ganoe stated the MSTU Department had requested the Right Of Way Department, Property Management, to review acquisition of easements for a potential 40 foot wide temporary construction easement to construct a

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roadway under the assessment program.

Mr. Klein stated his client was willing to provide easements required by the County to continue paving SW 59th Street and recognized that it would not suffice as legal access for the subdivision, but would engineer around the road that serviced property owners to the west. He stated the applicants would pay their fair share for the paving of SW 59th Street through the property. Mr. Ganoe stated the MSTU Department advised that the proposed road would cut the subject property in half. General discussion ensued in regard to SW 59th Street. Mr. Baron and Ms. Dale stated the road was in bad condition, but was passable.

Cheryl Hanley, SW 65th Avenue, stated her family purchased twenty acres in 1970. She stated the road was a dirt road and was in need of repairs and preferred a single family home development. Ms. Hanley stated she was in favor of the proposed application.

Marveen Hanley, SW 65th Avenue, stated the dirt road was in desperate need of repair. She stated she was in favor of having the road paved and the proposed development.

Commissioner Stone questioned whether the applicants would allow access to property owners through the proposed development. Mr. Squier stated that was correct.

A motion was made by Commissioner Stone, seconded by Commissioner Harris, to grant transmittal of the land use change from Urban Reserve and Low Density Residential to Medium Density Residential based on staff and Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan, subject to a Developer's Agreement. The motion failed by a vote of 4-1, with Chairman Kesselring, Commissioners Payton, McClain, and Harris voting nay.

A motion was made by Commissioner McClain, seconded by Commissioner Payton, to deny transmittal of the land use change from Urban Reserve and Low Density Residential to Medium Density Residential. Commissioner McClain stated the application was infrastructurally challenged and there were several issues of concern regarding the parcel. The motion was approved on a 3-2 vote, with Commissioners Stone and Harris voting nay. Commissioner Harris stated he could have voted either way on the application, and noted concern with ingress/egress. He stated that since he was on the prevailing side of the first motion, he may decide to reconsider at some point.

Comprehensive Plan - Chairman Kesselring stated Applications 05-L71 and 05-L67 were somewhat related and would consider 05-L71 first. Mr. Massey stated he was prepared to present both applications together.

Principal Planner Massey presented Application 05-L71 by Martelli Holdings, Inc., Owner, Miles C. Anderson, PE, Agent, for a land use change from Rural Land to Medium Density Residential, on 64.49 acres located on the east side of SW 80th Avenue and on the south side of SW 73rd Street. He stated staff and the Planning Commission recommended denial.

Mr. Massey presented Application 05-L67 by Kathleen A. Nelson, Owner, Robert Bennett, Agent, for a land use change from Rural Land to Medium Density Residential, on 44 acres located approximately 1000 feet east of SW 80th Avenue on the north side of SW 80th Street. He stated staff and the Planning Commission recommended denial.

Mr. Massey commented on an adjacent subdivision that was platted at a similar

density containing 233 parcels with approximately half undeveloped and was not served by central water and sewer.

Steve Gray, NE 1st Avenue, attorney representing the applicant of 05-L67, stated his client had requested to reverse the applications, noting that the majority of his comments would apply to both parcels. He stated access to SW 80th Avenue was somewhat related to both parcels and both were located outside of the Urban Reserve Area. Mr. Gray commented on Policy 2.18. He stated both could procure water and sewer from On Top of the World, which had capacity and would provide if Marion County Utilities released the area of service. Mr. Gray stated the area was appropriate for a non-age restricted community. Commissioner Harris stated there was no sewer or water services for the proposed development. Mr. Gray stated services were available from On Top of the World development. In response to Commissioner Payton, Mr. Gray stated that Mr. Bennett did not own title to the property and noted that Mrs. Nelson was the owner. Mr. Gray stated he had dealt only with Mr. Bennett.

Upon call for public comment, William Patera, SW 80th Street, requested the Board decline the application. He stated it was an operating horse farm fronting SW 80th Street and connected SR 200 and SW 80th Avenue, which had become a speedway without regard to speed limits or stop signs. In response to Commissioner Payton, Mr. Patera stated he was Ms. Nelson's father and was concerned that his daughter did not voluntarily enter into contract with Mr. Bennett. Mr. Gray stated he was unaware of that situation and commented on water and sewer concerns.

Michael Cooper, NW 3rd Avenue, attorney representing Martelli Holdings, Inc., in regard to Application 05-L71, was present. He commented on the Board's stance in regard to water and sewer, infrastructure in terms of the roads, schools, and environmental concerns, with water and sewer taking the brunt of the discussion. Mr. Cooper stated On Top of the World had the capacity and was willing to undertake the project.

Bill Glass, McIntosh, commented on water and sewer hookup to the On Top of the World system. He stated it was not the best way to manage growth.

A motion was made by Commissioner Payton, seconded by Commissioner McClain, to deny transmittal of the land use change in regard to Application 05-L67 based on staff and Planning Commission recommendations and findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, and was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to deny transmittal of the land use change in regard to Application 05-L71, from Rural Land to Medium Density Residential, based on staff and Planning Commission recommendations and findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, and was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

There was a recess at 2:35 p.m.

The meeting reconvened at 2:42 p.m. with all members present, except Commissioners Payton and Harris.

Comprehensive Plan - Principal Planner Massey stated Applications 05-L41 and 05-

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L42 would be presented together.

Commissioner Harris returned at 2:44 p.m.

Mr. Massey presented Application 05-L41 by Wayne Carlson, Owner, Steven H. Gray, Esq., Agent, for a land use change from Low Density Residential to Medium Density Residential, on 16.1 acres located approximately 1200 feet south of SR 200 at the south terminus of SW 70th Avenue. He stated staff and the Planning Commission recommended approval.

Mr. Massey presented Application 05-L42 by Joylen G. Carlson, Owner, Steven H. Gray, Esq., Agent, for a land use change from Low Density Residential to Medium Density Residential, on 44.4 acres located approximately 1200 feet south of SR 200 at the south terminus of SW 70th Avenue. He stated staff and the Planning Commission recommended approval. Mr. Massey stated both parcels had access to water and sewer facilities and briefly commented on access to the new SW 95th Avenue.

Commissioner Payton returned at 2:45 p.m.

Steve Gray, NE 1st Avenue, attorney representing the applicants, was present. He stated the two parcels would be incorporated into the JB Ranch project as additional units, capped at three units per acre. Mr. Gray stated Developer's Agreements were prepared for both parcels. He stated the JB Ranch Plan, which had already been approved by the Board, would be modified. Mr. Gray stated access to the parcels would be through JB Ranch with limited access off SW 95th Street. He stated water and sewer would be provided through JB Ranch and would be part of the add-on to the JB Ranch Master Plan.

In response to Commissioner Payton, Mr. Gray stated buffering would be continued around the sixty acres.

There was no public comment. A motion was made by Commissioner Harris, seconded by Commissioner Stone, to grant transmittal of the land use changes requested in Applications 05-L41 and 05-L42 from Low Density Residential to Medium Density Residential based on staff and Planning Commission recommendations and findings that the amendments would not adversely affect the public interest, were compatible with surrounding land uses, and were consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. General discussion ensued in regard to stub line installation and over sizing. The motion was approved by the Board on a vote of 4-1, with Chairman Kesselring voting nay.

Comprehensive Plan - Principal Planner Massey presented Application 05-L68 by Grand Meadow Estates, Inc., Owner, David L. MacKay, Agent, for a land use change from Rural Land to Medium Density Residential, on 26.88 acres located on the north side of SW 100th Street opposite of SW 65th Terrace. He stated staff recommended approval and the Planning Commission recommended denial.

David MacKay, SW College Road, attorney representing the applicant, requested that the application be deferred until after Applications 05-L44 and 05-L45 were heard. He stated a letter was submitted to staff several weeks ago requesting the order be changed. Mr. MacKay stated Applications 05-L44 and 05-L45 extended up to the SW 95th Street right of way and noted those properties would have an impact on Application 05-L68.

It was the general consensus of the Board to consider Applications 05-L44 and 05-L45 prior to Application 05-L68. Mr. Gray stated Applications 05-L44 and 05-L45 had separate issues and should be considered individually.

Principal Planner Massey presented Application 05-L44 by Karen C. Zacco and

Mario T. Zacco , Owners, Michael W. Radcliffe, PE, Agent, for a land use change from Rural Land to Medium Density Residential, on 53.70 acres located on the west end of SW 98th Loop. He stated staff recommended approval and the Planning Commission recommended denial.

Chairman Kesselring stated that Applications 05-L44, 05-L45 and 05-L68 would be considered separately, but noted discussion would cover all three.

Principal Planner Massey presented Application 05-L45 by Southeast Consulting Services, Inc., Owner, Michael W. Radcliffe, PE, Agent, for a land use change from Rural Land to Medium Density Residential, on 39.41 acres located approximately 1/4 mile west of SW 60th Avenue and SW 95th Street intersection. He stated staff recommended approval and the Planning Commission recommended denial. Mr. Massey stated 05-L45 had the best access to SW 95th Street.

In response to Commissioner Payton, Mr. Massey stated Application 05-L44 had a request in 2002 that was denied, and Application 05-L68 was denied in 2004. Planning Director Ganoe stated the request regarding 05-L68 was approved by the Board subject to a Developer's Agreement, which was never executed. Commissioner Harris noted that construction of SW 95th Street was not considered at that time.

Steve Gray, NE 1st Avenue, attorney representing the applicants (05-L44, 05-L45), stated he did not handle either of the two cases at the Planning Commission and stated that the roadway agreements had not been completed in regard to right of way for SW 95th Street. He stated issues had been resolved and right of way was obtained from Southeast Consulting for their contribution and participation of the SW 95th Street project. Mr. Gray stated the entrance to Application 05-L45 would be from SW 95th Street. He stated his client was coordinating stub-outs for water and sewer mains.

It was noted for the record that Don Bott did not appear for comment.

Commissioner Harris stated he would address transportation for all three applications. Mr. Gray stated there was an access agreement between Applications 05-L44 and 05-L45, but not in regard to Application 05-L68. Mr. Ganoe commented on requirements of a private road subdivision, unless a waiver was approved to be a public road subdivision. He stated it was not a provision of the Land Development Code.

Upon call for public comment, Herman Brown, SW 98th Street Road, stated Ada Hanlon was unable to stay, but would read a prepared statement from her with Board approval. Mr. Brown stated Ms. Hanlon's concerns in regard to Applications 05-L68 and 05-L44 and provided a copy for the record.

Mr. Brown stated Applications 05-L44, 05-L45 and 05-L68 would impact traffic and schools, if developed as non-age restricted communities.

Channing Gerber, SW 62nd Court, requested Application 05-L68 be denied and commented on compatibility and access. He stated Application 05-L44 was not a compatible use and should be denied as there was no concurrency. Mr. Gerber stated Application 05-L45 should also be denied until concurrency was met. Commissioner Harris stated the Board had the ability to prevent access through Cherrywood Subdivision.

Dr. Marwin Kwint, SW 65th Terrace, presented a three page petition by residents of Prince Rose Estates opposed to the land use change by Application 05-L68.

Commissioner Harris out at 3:20 p.m.

Tim Nichols, SW 67th Court, presented a three page petition from residents of Fox Run Estates in opposition to Application 05-L68, as well as Applications 05-L44 and 05-L45. He stated Medium Density Residential was not compatible with the surrounding

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communities.

Larry Hoffman, SW 93rd Street Road, stated he was speaking for the majority of lot owners in Countryside Farms, adjacent to the subject parcels. He commented on buffering relating to Applications 05-L44 and 05-L68 and concerns of residents.

Commissioner Harris returned at 3:24 p.m.

Dale Hoffman, SW 98th Loop, stated his concerns.

Pat Gabriel, SW 72nd Court, stated she agreed with Mr. Hoffman's comments and stated residents approved buffering proposed between Countryside Farms and Applications 05-L44 and 05-L68. She commented on access and alleviating traffic through Cherrywood, Prince Rose, or other subdivisions.

Carmen Gerber, SW 62nd Court, commented on the developer speaking to residents of Countryside Farms, but not with residents of Cherrywood. She stated she opposed the applications.

Mr. Gray presented the Developer's Agreement in regard to Application 05-L44 and noted he had an agreement for Application 05-L45. He commented on buffering which was specifically set out in the agreement. Mr. Gray stated Section 8 of the Developer's Agreement required fencing to the south and east boundaries to prohibit vehicular connection between existing subdivisions.

Commissioner Payton stated that what happened on one parcel affected another. He stated his objections included the lack of concurrency, road capacity, sewer, and schools. Commissioner Payton commented on the number of complaints received in regard to the developer.

Commissioner Harris stated water and sewer was available and the lack of capacity was not an issue. He stated concurrency issues would be mitigated with SW 95th Street and other improvement plans included in the Transportation Improvement Program (TIP) or no development would occur. Commissioner Harris commented on density and noted the agreement addressed boundaries and school capacity.

A motion was made by Commissioner Harris to grant transmittal of the land use changes in regard to Applications 05-L44 and 05-L45, from Rural Land to Medium Density Residential, based on staff recommendations and findings that the amendments would not adversely affect the public interest, were compatible with surrounding land uses, and were consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan, subject to conditions of buffering as addressed and made a part of the Developer's Agreements, and the prohibition of tying into the roadways through existing subdivisions, transportation ingress/egress limited to SW 95th Street, noting water and sewer was addressed and was a requirement. The motion died for lack of a second.

A motion was made by Commissioner Payton, seconded by Commissioner Stone, to deny transmittal of the land use changes in regard to Applications 05-L44 and 05-L45, from Rural Land to Medium Density Residential, based on the Planning Commission recommendation and findings that the amendments would adversely affect the public interest, were not compatible with surrounding land uses, and were not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. General discussion ensued in regard to timing, need and ingress/egress concerns. The motion was unanimously approved by the Board.

Mr. MacKay stated there was nothing further to be addressed in regard to Application 05-L68. He pointed out that the parcel was located on a section line road of SW 100th Street.

A motion was made by Commissioner Harris, seconded by Commissioner Payton, to deny transmittal of the land use change in regard to Application 05-L68, from Rural Land to Medium Density Residential, based on the Planning Commission recommendation and findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, and was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

There was a recess at 3:51 p.m.

The meeting reconvened at 3:56 p.m. with all members present.

Comprehensive Plan - Chairman Kesselring stated that he had a conflict in regard to Application 05-L63 and would abstain from voting. He presented Form 8B, Memorandum of Voting Conflict, contained in the minutes following this application. Chairman Kesselring passed the gavel to Vice-Chairman Payton, who assumed the Chair.

Commissioner Kesselring out at 3:57 p.m.

Principal Planner Massey presented Application 05-L63 by C.L.D. Properties, Ltd., Owner, W. James Gooding, III, Esq., Agent, for a land use change from Medium Density Residential to Commercial and Multi-Family Residential Medium Density, on 7.44 acres located approximately 600 feet east of SR 200 on the north side of SW 100th Street. He stated staff recommendation was split, with denial of the Commercial, but approval of the 8 to 12 units per acre, and the Planning Commission recommended denial.

Commissioner McClain questioned what staff would approve in regard to the multi-family residential. Mr. Massey stated the recommendation for denial of the Commercial was based on the already existing commercial designated property and the lack of need. Chairman Payton questioned whether staff would object to the entire property being designated as Multi-Family Residential. Mr. Massey stated that was correct.

Jimmy Gooding, SE 36th Avenue, attorney representing applicant, stated the entire parcel was 28 acres and was much larger before the Department of Transportation (DOT) condemned 12 acres for a drainage retention area (DRA). He stated of the 28 acres almost 24 acres had commercial land use zoning and the applicant was requesting 7 1/2 acres to be designated as Medium Density Residential. Mr. Gooding stated the proposal was to convert half of the 7 1/2 acres to Commercial to replace a portion of the 12, almost 13 acres lost to DOT on the condemnation for the DRA in regard to the SR 200 widening. He stated Medium Density Multi-Family designation was being sought on the south along SW 100th Street. Mr. Gooding stated the application was justified and based on compatibility.

Bobby Dinkins, NE 16th Avenue, Dinkins Realty, CLD Properties, presented three pages of drawings and a brief summary of the proposal to develop an entertainment venue lifestyle center. He stated the Center would include 40 lanes of bowling, a lazer tag arena, indoor putt-putt golf, video arcade and activities for youths. Mr. Dinkins stated he would enter into a Developer's Agreement which would state there would be no building backing up to the high-end town homes which would be a much better buffer to the B-2 zoned property. He stated there was no access from SW 80th Avenue.

Mr. Gooding stated the 7 1/2 acres of Medium Density Residential would allow 30 units. He stated 3 1/2 acres of Multi-Family Residential Medium Density would allow 36 units and 3 1/2 additional acres of Commercial.

Upon call for public comment, Mary Morgan, SW 81st Terrace Road, stated she lived

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in Unit 1, which was behind the subject property. She stated expensive homes were located on the south side of SW 100th Lane Road. Ms. Morgan stated single family residences were more appropriate. She stated she was opposed to the requested change.

Mr. Gooding stated the proposed townhouses were more compatible with fronting on SW 100th Street. He addressed buffering.

Commissioner McClain questioned the portion labeled Progress Energy. Mr. Dinkins stated it was a substation. Mr. Gooding stated it was an existing use.

Chairman Payton stated the applicants proposal was appropriate, noting traffic issues would have to be worked out before a building permit could be obtained, as well as buffering requirements.

A motion was made by Commissioner McClain, seconded by Commissioner Stone, to grant transmittal of the land use change from Rural Land to Medium Density Residential based on staff and Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. In response to Commissioner McClain, Mr. Dinkins stated he had an existing easement with Wachovia Bank, McDonald's and the Medical Park. Growth Management Bureau Chief Mike May stated parallel access existed on the parcel. The motion was approved by the Board.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

| | | | |
|---|-------------------------|--|--|
| LAST NAME—FIRST NAME—MIDDLE NAME <u>KESSELRING EUGENE A JR</u> | | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>MARION CO BOARD OF COMMISSIONERS</u> | |
| MAILING ADDRESS <u>1970 SE Pine Street</u> | | THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: | |
| CITY <u>ALMA</u> | COUNTY <u>MARION</u> | CITY / COUNTY / OTHER LOCAL AGENCY | |
| DATE ON WHICH VOTE OCCURRED <u>8/24/05</u> | | NAME OF POLITICAL SUBDIVISION: <u>MARION COUNTY</u> | |
| | | MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE | |

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are present with a voting conflict of interest under Section 112.3143, Florida Statutes. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

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IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:

- You should disclose orally the nature of your conflict in the measure before participating.
- You should complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

DISCLOSURE OF STATE OFFICER'S INTEREST

I, ROLAND A. BESSEMER JR., hereby disclose that on AUGUST 24, 2005:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain; or

☒ inured to the special gain of C.L.D. PROPERTY LTD, by whom I am retained.

(b) The measure before my agency and the nature of my interest in the measure is as follows:

LAND USE CHANGE

I HAVE HAD CONVERSATIONS WITH THE AGENCIES ABOUT BEING EMPLOYED
FOR THE DESIGN ON THIS AND ADJACENT PROPERTIES

AUGUST 24, 2005
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.

Comprehensive Plan - Principal Planner Massey stated Application 05-L40 by Bruce E. Moore and Phillip C. Giovinco, Owners, Steven H. Gray, Esq., Agent, was withdrawn. It was noted that the petition was for a land use change from Rural Land to Medium Density Residential, on 34.68 acres located south and west of the point where CR 475 and SW 107th Place merge.

Commissioner Kesselring returned at 4:19 p.m. The gavel was returned to Commissioner Kesselring who assumed the Chair.

Comprehensive Plan - Principal Planner Massey stated Applications 05-L46 and 05-L43 had the same Owners and Agents and would be presented together unless otherwise advised. Mr. Massey presented Application 05-L46 by Bank of America, Inc., Owner, John J. Zacco, Agent, for a land use change from High Density Residential to Commercial, on 5.08 acres located approximately 1200 feet south of SR 200 on the west side of SW 80th Avenue. He stated staff and the Planning Commission recommended denial.

Mr. Massey presented Application 05-L43 by Bank of America, Owner, John Zacco, Agent, for a land use change from Medium Density Residential to High Density Residential, on 6.02 acres located approximately 80 feet south of SR 200 on the east side of SW 80th Avenue. He stated staff and the Planning Commission recommended approval.

Commissioner Harris out at 4:20 p.m.

Mike Pape, Michael Pape & Associates, SE 17th Street, landscape architect and land planner representing the applicants on both cases, presented a Conceptual Site Plan regarding the proposed projects.

Commissioner Harris returned at 4:23 p.m.

Mr. Pape stated the proposal would internalize trips and keep individuals off SR 200. He stated the proposal was compatible and was a good transition of land uses. Mr. Pape stated strips of high density along major roadways or minor collectors were conducive to good internalized development. He stated the plan was compatible with commercial properties located immediately to the north and west.

Chairman Kesselring questioned whether the applicant (05-L46) would be willing to accept Limited Commercial designation as opposed to Commercial. Mr. Pape stated he would have to defer to Mr. Zacco.

Upon call for public comment, Mary Morgan, SW 81st Terrace Road, stated there was a large sinkhole behind the Hidden Lake area and commented on drainage concerns.

Mr. Pape stated drainage would be improved by development, not only by the County's Land Development Regulations, but also by the Water Management Districts.

A motion was made by Commissioner Stone, seconded by Commissioner Harris, to disagree with staff and Planning Commission recommendation and grant transmittal of the land use change in regard to Application 05-L46, as it was consistent with the existing Commercial. The motion was unanimously approved by the Board.

Mr. Pape stated both staff and the Planning Commission recommended approval of Application 05-L43.

There was no public comment. A motion was made by Commissioner McClain, seconded by Commissioner Stone, to grant transmittal of the land use change from Medium Density Residential to High Density Residential based on staff and Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The

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motion was unanimously approved by the Board.

Comprehensive Plan - Principal Planner Massey presented Application 05-L36 by Good Apple Development Corp., Owner, Jeff W. Gutapfel, Agent, for a land use change from Rural Land to Medium Density Residential, Professional Office, and High Density Residential on 31.83 acres located approximately 1 1/4 miles east of I-75 on the north side of CR 484. He stated a letter was received from the Agent requesting a change to the request. Mr. Massey stated initially the plan was to change from Rural Land to three separate land use categories, which was changed to all Medium Density Residential. He stated staff and the Planning Commission initially recommended denial, which remained unchanged.

Commissioner Harris out at 4:43 p.m.

Jeff Gutapfel, SW 2nd Court, Turning Point Estates, presented a folder containing information regarding the amended application, including a conceptual site plan. He stated the proposed development of Turning Point Estates II would be served by water and sewer. Mr. Gutapfel stated he would be building himself and would not sell to any national or regional developer. He stated approximately 80 units were planned.

It was noted for the record that John and Winifred Troutt, Jeannett and Albert Plam did not appear for public comment. There was no public comment.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to deny transmittal of the land use change from Rural Land to Medium Density Residential, Professional Office and High Density Residential based on staff and Planning Commission recommendations and findings that the amendment would adversely affect the public interest, was not compatible with surrounding land uses, and was not consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

Comprehensive Plan - Principal Planner Massey presented Application 05-L64 by SCI Funeral Services of FL, Inc., Owner, Robert J. Bennett, Agent, for a land use change from Urban Reserve to Low Density Residential, on 25.04 acres located approximately 2000 feet west of US 441 on the north side of SE 59th Street. He stated staff recommended denial and the Planning Commission recommended approval with a cap of 5 units.

Steve Gray, NE 1st Avenue, attorney representing the applicant was present. He stated the property was located at the rear of the cemetery. Mr. Gray commented on density and sewer services. He stated the intent was to construct five estate lots and noted the property would not qualify as a hamlet since it was located in an Urban Reserve area. Mr. Gray stated sewer services would not be available in the near future.

Upon call for public comment, Charles Berk, SE 17th Street, presented two letters objecting to the proposed change. He stated he owned a large number of single family residential mobile home lots in Marion County. Mr. Berk stated he was building his home down the street from the subject parcel. He commented on the slag road, which was a scenic road and the impact on traffic.

Nancy Gallinaro, SE 59th Street, presented three letters in opposition to the proposed land use change. She questioned whether the maximum of five units could be changed. Chairman Kesselring advised that a Developer's Agreement would be required and would limit the developer to whatever decisions were made by the Board. Ms. Gallinaro stated she did not object to five units maximum.

Mariam Cook, 7110 SW 27th Avenue, stated she was opposed to the proposed land use change and requested the Board deny the application.

Mr. Gray commented on the Planning Commission discussion that was held and reasons for recommending approval of the application. He stated the application was consistent and was a step down in the area.

Mr. Massey stated the application did not qualify as a hamlet since it was not 40 acres in size. He stated there may be areas in the Urban Reserve that may be preferable for hamlets, due to the long range plans not to provide central water and sewer services. Chairman Kesselring stated that if the land use change was approved it would still have to go for a zoning change. Mr. May stated it would be an RE zoning classification. Mr. Massey stated that in regard to Commissioner Harris' comments, the need existed to explore creating a new category to accommodate these type of situations. Commissioner Harris commented on densities and central sewer and water services. He suggested the property be limited to four units. Commissioner Stone questioned whether the family division was allowed on five acre tracts. Mr. May stated that was correct, but noted a caveat existed in order for a family division. General discussion ensued in regard to family division.

A motion was made by Commissioner Harris, seconded by Commissioner McClain, to grant transmittal of the land use change from Urban Reserve to Low Density Residential, with a cap of four units total, based on the Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan. The motion was unanimously approved by the Board.

Comprehensive Plan - A motion was made by Commissioner Harris, seconded by Commissioner Stone, to reconsider Application 05-L01. Commissioner Harris stated there was additional information that needed to be considered. The motion was approved by a vote of 3-2, with Chairman Kesselring and Commissioner Payton voting nay.

The Board reconsidered Application 05-L01 by David and Maureen Squier, Owners and Agents, for a land use change from Urban Reserve and Low Density Residential to Medium Density Residential, on 63.7 acres located approximately 1/4 mile west of SW 60th Avenue on the north and south side of SW 59th Street, which was denied earlier in the meeting.

Commissioner Harris stated the application had two very unique situations: 1) the large number of properties that use the property for primary ingress/egress and 2) what appeared to be an enclave in the middle of the upper portion of the property. He stated the future of the enclave was not addressed.

David Squier, applicant, stated two one acre parcels would be addressed by the owners of the surrounding property he had acquired. Chairman Kesselring questioned whether there were any issues related to the in-parcel that would be important enough to result in a change to the previous vote. Commissioner Stone stated he had voted for approval all along. Commissioner McClain stated he was interested in addressing the road traversing the property.

Mr. Klein stated many prescriptive roads had never been judicially declared to be a road, but after long periods of use to provide access to the two one acre parcels, as well as others to the west. He stated several properties to the west were in favor of the

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application as it would provide decent roads for ingress/egress through SW 60th Avenue. Mr. Klein stated the owners of the two one acre parcels were present and could address the Board. He stated access could be addressed in a Developer's Agreement.

Mr. May stated MSTU Director Myra Tedder had been approached in regard to an MSTU Assessment for Road Improvements. Chairman Kesselring stated concern with the County providing a road to serve those properties. General discussion ensued in regard to paving the proposed road. Mr. Klein stated his client could provide 60 feet of required access to the south and that portion of SW 59th Street that crossed the property, but did not control the property to the east, which belonged to John Penn. Commissioner Harris stated a Developer's Agreement could address access and ingress/egress to other properties.

Commissioner Harris questioned the long term use of the enclave property that was situated in the middle. Mr. Klein stated the applicant would have to provide access to those properties and could be made a part of the Developer's Agreement. Commissioner Harris commented on page 4 of the agenda packet in regard to the City of Ocala availability to provide central water services, but not central sewer services. He questioned the status of the possibility of the County being able to service the area with central sewer services. Mr. Klein stated central water and sewer services would be required to be provided as a condition of development.

A motion was made by Commissioner Harris, seconded by Commissioner Stone, to grant transmittal of the land use change, from Urban Reserve and Low Density Residential to Medium Density Residential based on staff and Planning Commission recommendations and findings to approve the land use change findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. and the Comprehensive Plan, subject to the conditions that a road be constructed to County specifications, either on the prescriptive easement over to SW 60th Avenue or south down to SW 66th Street, provide legal access of the constructed roadway to all property owners currently utilizing the ingress/egress, the requirement of central water and sewer services with no possibility of a waiver. Chairman Kesselring stated his concern with infrastructure and reconsideration of a previous denial. The motion was approved by the Board on a vote of 3-2, with Chairman Kesselring and Commissioner Payton voting nay.

Comprehensive Plan - Principle Planner Massey stated there were two Text Amendments to be considered and requested the order be reversed. He presented Text Amendment No. 05-L76 changing the Transportation Element of the Comprehensive Plan, implementing a change in 2010 Future Traffic Circulation Map, showing Southwest 95th Street as a four lane collector roadway from SW 80th Avenue to SW 60th Avenue. It was noted that the Planning Department and Planning Commission recommended approval.

In response to Chairman Kesselring, Mr. Massey stated it would not preclude or impact 05-L74 in any way.

Upon motion of Commissioner Harris, seconded by Commissioner Stone, the Board granted transmittal of Text Amendment No. 05-L76 to add Southwest 95th Street as a four lane collector roadway from SW 80th Avenue to SW 60th Avenue to the Transportation Element, based on staff and Planning Commission recommendations and findings that the amendment would not adversely affect the public interest, was compatible with surrounding land uses, and was consistent with Chapter 163, Florida Statutes, Rule 9J-5, F.A.C. The

motion was unanimously approved by the Board.

Comprehensive Plan - Planning Director Dwight Gano presented Text Amendment No. 05-L74 by On Top of the World Communities, Inc. requesting a change to the Transportation Element of the Comprehensive Plan, to address Proportionate Share Mitigation Payments for Transportation Concurrency. He stated Statutes provide that a DRI may satisfy concurrency requirements for transportation by proportionate share payment, subject to the County authorizing within the Comprehensive Plan. Mr. Gano stated the County did not currently provide for proportionate share payments in the Comprehensive Plan. He stated that staff recommended denial based on recent legislative changes, which would require addressing the fair share proportionate payment for all developments by the end of next year to allow in the Comprehensive Plan as well as the Transportation Concurrency system a formula and provision for those payments. Mr. Gano suggested that it would be best to address the issue for all developments at one time as opposed to individually. It was noted that the Planning Commission approved forwarding with no recommendation.

In response to Commissioner Harris, Mr. Gano stated there was no downside to addressing the request other than the possibility the Board may not want to include this request in the Comprehensive Plan and may want to address all developments collectively. Commissioner Harris stated they would be the same if the formula was fair and equitable, which was not spelled out, but noted it stated they would pay their proportionate share which would be established later by the County. Mr. Gano stated it would allow for treatment of DRIs separately and differently than other developments. Chairman Kesselring questioned whether the language would apply to all DRIs, if adopted. Mr. Gano stated that it would.

Commissioner Payton stated he had spoken to Mr. Colen in reference to the request and could find no down side. Mr. Gano stated he was unaware of any downside, but did not know of any urgency to move forward at this point.

Landis Curry, NE 1st Avenue, attorney representing the applicant, was present. He stated the amendment applied across the board, but did not apply to all DRIs. Mr. Curry stated it would only apply to multi-use Developments of Regional Impact (DRIs) as defined in the Statute. He stated the request would not give vested right, but would give the right to come back and ask if it was appropriate to amend a Development Order or Notice of Proposed Change (NOPC) to allow the County to decide if it was in the best interest of the County to go that way or in another direction. Mr. Curry addressed subsections of the Statute, noting the City of Ocala adopted it in 2004 and DCA approved the proportionate fair share funding. He stated Jim Metcalf was present to address a couple of issues relating to the Statute and communications with DCA.

Chairman Kesselring questioned whether there was any desire on behalf of the Board to have Mr. Metcalf present additional information. Commissioner Payton questioned whether it make it easier for the City of Ocala to annex all or part of the DRI if the text amendment was adopted. Mr. Curry stated he did not believe that was the case.

There was no public comment. A motion was made by Commissioner Harris, seconded by Commissioner Payton, to grant transmittal of Text Amendment No. 05-L74 changing the Comprehensive Plan, Transportation Element, to address Proportionate Share Mitigation Payments for Transportation Concurrency. The motion was unanimously approved by the Board.

August 24, 2005

Chairman Kesselring advised that he had requested Mr. Massey to provide information of all applications approved to date.

There being no further business to come before the Board, the meeting thereupon adjourned at 5:41 p.m.


Andy Kesselring, Chairman

Attest:


David R. Ellspermann, Clerk