

**MINUTES
LAKE COUNTY ZONING BOARD
SEPTEMBER 21, 2007**

The Lake County Zoning Board met for a special public hearing on Friday, September 21, 2007 in the Commission Chambers on the second floor of the Round Administration Building to consider this petition for a rezoning.

The recommendation for this case of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, October 23, 2007 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Phyllis Patten	District 4
Paul Bryan, Chairman	District 5
Mark Wells	At-Large Representative
Larry Metz	School Board Representative

Staff Present:

Brian Sheahan, AICP, Acting Director, Planning and Community Design Division
Alfredo Massa, Chief Planner, Planning and Community Design Division
Rick Hartenstein, Senior Planner, Planning and Community Design Division
Karen Rosick, Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ashley Sneed, Intern Planner, Planning and Community Design Division
Fred Schneider, Engineering Director/PE, Engineering Division
Melanie Marsh, Deputy County Attorney

Chairman Bryan called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and Timothy Morris gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor. He explained the procedure that will be used in hearing this case. Chairman Bryan stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator.

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Minutes

MOTION by Timothy Morris, SECONDED by James Gardner to approve the September 5, 2007 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Gardner, Patten, Bryan, Wells, Metz

AGAINST: None

MOTION CARRIED: 7-0

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When Timothy Morris asked if there has been communication between the parties during this past month, Rick Hartenstein, Senior Planner, said there had been.

Mr. Hartenstein presented the case and staff recommendation of denial. He showed the aerial, conceptual plan, and a map of the development pattern analysis from the staff report on the monitor. Mr. Hartenstein noted that five additional letters of opposition had been received. Chairman Bryan pointed out that four of those letters had been e-mailed to the Zoning Board members earlier in the week. Each member had also received at this meeting a copy of the e-mail of opposition that was received Thursday evening. These letters were submitted as County Exhibit A.

Cecelia Bonifay with Akermann Senterfitt was present to represent the case. She noted that John Gray, owner; Sam Boyer; and Bill Ray were also present. She spoke of a past issue regarding what parts of the parcel were and were not in the Urban Compact Node for the purposes of calculating the density. She pointed out that there was a legal opinion from the County Attorney in the case booklet indicating that what they had been told earlier was the correct way in terms of which portions were in the Urban Compact Node and which portions were not. She submitted a future land use map as Applicant Exhibit A. She also submitted a site plan as Applicant Exhibit B, noting that 39 percent or 63.5 acres of open space is provided.

Regarding concurrency management, Ms. Bonifay stated that the way the staff report is written, it states that the reason for denial is that the project does not meet concurrency at the present time. That is why the Code provides for concurrency deferral. She spoke of Sorrento Village, which is in close proximity to this project. In every case, there was no finding of concurrency today in that project for transportation, utilities, or schools. Sorrento Village was approved by the Board of County Commissioners (BCC) in 2006 including the language that prior to final plat or site plan approval, it must be demonstrated how concurrency will be met. The fact that the subject property does not have concurrency today is not new or unusual and not grounds for denial. She added that St. Johns River Water Management District did not include this project in setting its new allocation and revising the consumptive use permit for the City of Eustis because this project does not have a zoning designation other than Agriculture. Until zoning approval demonstrates the density, St. Johns said they could not calculate what the allocation would be.

Ms. Bonifay stated that a fourth revision of the transportation study has been submitted, and the County has signed off on it. She reiterated that concurrency must be met prior to final plat submittal. She pointed out that Sorrento Village had some of the same intersections that were failing as this project has. Sorrento Villages' Planned Unit Development (PUD) ordinance said these intersections must be remedied or improved prior to final plat. She saw no difference or reason why the rules are being changed or reinterpreted for the subject project.

Ms. Bonifay said there is no provision in the Comprehensive Plan for a rezoning in this land use that would require a one-mile radius. It appears that the staff used the timeliness criteria for transitional land uses in the Green Swamp Area of Critical State Concern and Suburban, which does not pertain to this parcel. She submitted a map showing development patterns in the area as Applicant Exhibit C and a transportation improvements map as Applicant Exhibit D. She also stated that there is nothing in the Land Development Regulations (LDRs) dealing with PUDs that says concurrency deferrals should not be taken or that a project must meet concurrency at the time the PUD is approved.

Ms. Bonifay added that Sorrento Village has a density of over two units per acre; they had originally requested 4.5 units per acre. The subject project also originally requested a higher density but has reduced the density to 3.5 units per acre. She said it would not be economically feasible to provide central water and sewer to this project with a density of two units per acre. The focus in the Wekiva area has been to reduce the number of people using well and septic.

Ms. Bonifay stated that the Department of Community Affairs (DCA) would not accept Lake County's

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interlocal agreement on school concurrency. They also would not accept Lake County’s public facilities element. Therefore, the County is not formally under school concurrency at this time. However, this is being addressed by requiring approval from the School Board that there is enough capacity to go forward. One of the schools most crowded in this area is the elementary school; the School Board is looking at three sites at this time. Therefore, she asked that the language that has been added in other PUD ordinances regarding schools also be added to the ordinance for this project. She added that there is also a provision that makes it possible to go to adjoining districts and borrow capacity.

Timothy Morris asked if Ms. Bonifay was aware of the School Board denying anyone who wanted to build something. Ms. Bonifay said none of her clients have reached the platting stage where concurrency would have to be demonstrated or be denied. It is the School Board’s choice as to where the schools would be located. Mr. Morris was informed by Ms. Bonifay that there has been no legal challenge to the concurrency deferral.

In response to Chairman Bryan, Ms. Bonifay said local governments are not putting road segment or intersection improvement in their capital improvement program until they get a commitment from the developer and enter into a proportionate share or impact agreement.

When Chairman Bryan asked about utilities from Eustis, Ms. Bonifay said Mr. Gray was also involved in Sorrento Springs, where they built and paid for the wastewater plant for the City of Eustis (\$2 million) with the understanding that there would be additional development to be served. Mr. Gray also contributed several hundred thousand dollars to assist the City of Eustis with the consumptive use permit, only to find out this project was not included in consumptive use permit allocation because it did not have zoning. She felt the situation has changed, and she will continue to work with the City of Eustis. These plants can be modified.

Chairman Bryan asked how long rights are vested in a PUD if there is no concurrency; Melanie Marsh, Deputy County Attorney, said there are no timeframes in the Code regarding PUDs. Ms. Bonifay said concurrency deferral gives the right to be able to develop if concurrency requirements can be met. Ms. Marsh agreed.

Leslie Campione said she was present on behalf of the David Fernandez family and the Sam Goss family. Both families own property and live in the Equestrian Trail area, which is west and south of the proposed project. She said this is a very rural area. The Eagle Dunes Subdivision to the north of this proposed project was a vested project, developed as a golf course community. It is the open space created by the golf course that results in the one unit per acre density. She noted that this is the first time they have seen this site plan so they have not had time to evaluate it. However, they will be reviewing it before the BCC public hearing. She spoke of the 50-foot wide lots abutting agriculturally zoned property that are being considered a form of mitigation between inconsistent land uses.

At the request of Ms. Campione, Mr. Hartenstein named the length of time he has worked for the Growth Management Department, his land use experience, and his responsibilities as a Senior Planner. He explained the criteria he uses in preparing staff reports for rezoning requests. In response to Ms. Campione, he said there is a requirement that he consider the impact of a rezoning on existing public facilities. He said staff has to know whether there is at least the opportunity to have some level of capacity to supply the project. When Ms. Campione asked if it is a concurrency evaluation rather than a concurrency test, Mr. Hartenstein said he would look at it that way. When she asked Mr. Hartenstein if he had reviewed other cases in the past that were located in the Wekiva Protection Area and in the Urban Compact Node, Mr. Hartenstein said he had reviewed cases in the Urban Compact Node. She confirmed with Mr. Hartenstein that he had been involved in the review of the Sorrento Village project. She asked Mr. Hartenstein about any differences he felt there were between the land use characteristics of Sorrento Village and the subject project. Mr. Hartenstein said that one of the differences staff considered between

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the two projects was the fact that Sorrento Village was located more toward the core of the higher developed density area of the Mount Plymouth-Sorrento area whereas the subject project is at the “very outer skirts of the Urban Compact Node, butted up to a Rural future land use.” Staff was looking at it from the standpoint of evaluating it for the potential for urban sprawl. Ms. Campione asked if staff had considered the impacts to roads, schools, and water and sewer issues when evaluating the Sorrento Village project. Mr. Hartenstein said that was done, and there was language added to the ordinance addressing those issues. She asked if the staff report noted the deficiencies at that time. Mr. Hartenstein said he did not recollect the exact language in the staff report. Ms. Campione confirmed with Mr. Hartenstein that it would be a standard practice to look for rezoning and see an evaluation of impacts to roads, utilities, schools, and other public services.

Regarding the staff report for the subject project, Ms. Campione asked if staff had looked at the distance between this project and the closest municipality that could provide services to this project. Because the City of Eustis was providing utilities to an adjacent development, staff looked at it from that aspect. However, the City of Eustis has said they do not have capacity. He read into the record an e-mail from Chin Khor, engineer for the City of Eustis, with regard to this issue; that e-mail can be found in the booklet provided to the Zoning Board. She asked if staff had any documentation in the file from St. Johns River Water Management District or the City of Eustis indicating that had this property been rezoned previously to a higher density, they would have gotten a revision to their consumptive use permit to serve this project. Mr. Hartenstein read into the record a portion of the staff report from St. Johns River Water Management District regarding that subject, which can also be found in the booklet.

In response to Ms. Campione, Mr. Hartenstein said the Urban Area Residential Density Chart is only one of the tools utilized. He added that in the Comprehensive Plan, it specifically states that in the Urban Compact Node, Non-Wekiva, urban development regulations shall be utilized for the analysis.

When Ms. Campione asked about the one-mile radius used for surrounding development patterns, Mr. Hartenstein said staff actually looked further than that; but staff chose an arbitrary number to show the immediate surrounding area and that development pattern. He referred to the map submitted as Applicant Exhibit C. He acknowledged that Sorrento Springs was vested; it is in the Rural land use category. However, beyond that, the parcels are all one dwelling unit per five acres or a lower density. He noted an area of older platted subdivisions at a density of one dwelling unit per acre. He also pointed out a project with R-2 zoning, but he added that a higher density basically does not occur until the property located south of Wolf Branch Road. Ms. Campione asked Mr. Hartenstein to point out on Applicant Exhibit C the location of Sorrento Village. When he did, she asked if this was the area that he had just identified as the highest density within the Mount Plymouth/Sorrento area. Mr. Hartenstein said this is an area that is being looked at with the new Comprehensive Plan that has not been adopted. However, he did say that it is an area of higher development density.

In summary, Ms. Campione noted that there has been much comparison between the subject project and the Sorrento Village project. As was testified, Sorrento Village is in an area that abuts SR 46. This is an area that has been designated as a main street district for the Mount Plymouth/Sorrento area. Even being in that area, the density of Sorrento Village is not as high as what is being proposed in the subject project on the perimeter. If it were not for the project to the north that was developed as a vested project, there would be no densities even close to what is being requested. Although her client would prefer this property retain the Agriculture zoning, she asked this Board to consider the surrounding average density (no more than one dwelling unit per acre) if the property is to be rezoned.

Ms. Bonifay said she would also like to cross-examine Mr. Hartenstein. She confirmed with Mr. Hartenstein that an application was submitted for this project last year. When she asked if staff had recommended a density of 3.5 dwelling units per acre at that time, Mr. Hartenstein said staff did not. The staff recommendation was for denial. There was talk about two dwelling units to the acre. When Ms.

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Bonifay asked if that talk was staff initiated, Mr. Hartenstein said he did not recollect as he was not at the hearing when it was presented.

Ms. Bonifay asked Mr. Hartenstein if he had received any directives from his superiors as to the basis to be used for review. Mr. Hartenstein said it is his understanding that the only reference for review is the current Comprehensive Plan and LDRs. The proposed Comprehensive Plan cannot be used as a basis for denial. However, staff can look at it for evaluation of a proposed project.

Mr. Hartenstein reiterated that he prepared the staff report for Sorrento Village. Ms. Bonifay confirmed with Mr. Hartenstein that there were no utilities in the area for that development. In response to Ms. Bonifay, Mr. Hartenstein said the Sorrento Village project received a staff recommendation of approval. He added that the developers for that project were in the process of working with the City of Mount Dora; there was a study involved regarding the feasibility of supplying utilities. It was also directed by the BCC that if it did not happen, the developers would have to go back before the BCC for a determination on how utilities would be handled. Ms. Bonifay read into the record a statement as to how utilities would be handled for this project. To the best of his knowledge, Mr. Hartenstein said the study is still ongoing. He said he has not seen any final results.

Peggy Belflower said she lives in the district where this proposed project is located and is asking for a recommendation of denial. She felt 522 homes on this site is urban sprawl. Ms. Bonifay’s client is using nearby Sorrento Springs as an excuse to ask this Board to recommend 16 times the allowed number of homes on this property. Ms. Bonifay called this a clustered development with plenty of open space for the residents. However, the site plan shows less than three acres of recreation provided and less than 13 acres of trees left standing on the site plan. There is no concurrency planned with the Lake County School System. There is no water or sewer planned. There are vague suggestions about what could happen with the adjacent wastewater treatment plant. There is no concurrency for the roads. The intersections are going to be severely impacted. The application states that there will be 25 percent open space. However, the map submitted today showed 39 percent open space with no guarantee that they will adhere to that percentage. That open space includes the power line system, a very thin buffer surrounding the property, and the retention ponds. It is not true open space. The surrounding subdivisions are very rural, and the proposed project is a very urban-style proposal.

Jeanne Etter, a resident of Mount Plymouth and a member of the Mount Plymouth/Sorrento Planning Advisory Committee, said she was not speaking on behalf of the Committee. She stated that she has been involved in Mount Plymouth/Sorrento issues for seven years. The community is trying to work together to put the development where they want it to be and still retain some type of community feel. She noted that the area has tremendous road issues with capacity and repair problems. The Committee has put together a plan of what they would like to see in this area. The policies will be in the new Comprehensive Plan. The subject project is on the outskirts of the planning area and has a rural feel. She spoke of the Main Street Corridor where Sorrento Village is located. She noted that the developers of Sorrento Villages attended all of the Mount Plymouth/Sorrento Planning Advisory Committee meetings for over a year to see what the community wanted. Sorrento Village submitted a good plan, although it was denser than what some people wanted. She felt the subject project is too dense. It will not fit in with the community. The density of 3.5 units per acre invites sprawl.

Coleman Holt said he is a resident on Equestrian Trail, about three-quarter mile south of the proposed development. One of his concerns was the lack of concurrency. He felt it was time that concurrency provisions are appreciated and followed. By St. Johns River Water Management District not being able to make a determination with respect to allowable capacity because of the lack of zoning, there appears to be no reason to provide an approval for the convenience of another agency particularly if the approval is for a greater capacity than the site can stand. This proposal reduces the size of the tree preservation area to less than seven acres, which is down almost 60 percent from the originally estimated 27 acres. He felt now is

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the time to plan this development wisely. Once the rooftops are established, there will be no turning back.

Although Shirley Holt had submitted a speaker card, she said she did not wish to speak.

Keith Schue said he would be speaking to this Board as a citizen and resident of Mount Plymouth. He asked the Zoning Board to support the prudent recommendation of staff. He felt staff had done a good job of analyzing the application and making a recommendation of denial. This project was before the BCC a year ago. The Sorrento Village project was also before the BCC on the same day and approved because it met the vision that was being established for the community with a density of 2.5 or 2.6 units per acre. Part of that development is outside of what has been described as the Main Street District. The part that is outside the Main Street District had a density even less than the 2.5 or 2.6 units per acre. It provided substantial open space (almost 50 percent open space) and buffers of 100 feet in areas. A school site was provided on the property as part of the condition for the PUD. Sorrento Hills (now called the Village of Sorrento Springs under the subject application) was withdrawn that same day because it did not have community support or the support of the County Commission. He felt the project is basically the same as it was last year in terms of what is being proposed.

When Chairman Bryan asked if Mr. Schue had any input in the discussions regarding Sorrento Village, Mr. Schue said he was involved and supported the decision that was made. If the Sorrento Village project is built according to the ordinance that was created and with the densities established, he felt it could be a good project, very different than what is being considered at this public hearing.

Craig Henderson, resident of Sorrento Springs (also known as Sorrento Hills) with a longtime family history in this area, said Sorrento Springs is not currently a finished and 100-percent successful community. He questioned how this project will impact their homeowners' association. He wanted to know when the development for Sorrento Springs will be complete. It is his understanding that Phase V, the Villages of Sorrento Springs, will continue Sorrento Springs out with no definitive end number. Until it is determined when that will occur, he felt this project should be denied.

When Chairman Bryan asked about the speaker card for Hatem Alou-Senna, Ms. Bonifay said he is part of their team.

When Timothy Morris asked Ms. Marsh if she was aware of any legal challenge from the use of the affidavit of deferral of concurrency determination, Ms. Marsh said she was not. Mr. Morris then asked if Ms. Marsh felt the document would hold up in court if it was challenged. Ms. Marsh said it would depend on what it was challenged on.

Chairman Bryan asked if density was part of staff's basis for denial. Mr. Hartenstein reiterated that the point system is a guiding tool for staff. There were other factors involved in the analysis for the recommendation of denial. Another factor was the compatibility with the surrounding land uses in the area's development. Chairman Bryan then asked if there was a density that staff would feel was compatible. With no central water or sewer, Mr. Hartenstein said the lots would be limited to one half acre of usable land for wells and septic tanks based on Florida Statute.

Ms. Bonifay pointed out that Ms. Belflower lives a distance from the proposed project. Regarding Mr. Morris's statement about the deferral of concurrency never being challenged, Ms. Bonifay said it is hoped that anything the County has done and put into effect meets the requirements of Chapter 163 and other challenges that could be raised. She added that they will continue to work with Ms. Campione. Referring to the Mount Plymouth/Sorrento study, Ms. Bonifay said the study had set a density of two units per acre for this area. It did require more open space.

Bill Ray, certified planner and environment consultant, said this site is semi-improved pasture with a set of

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mature pine and oak trees, but those do not make a density that is reflective of a natural habitat. Underneath is bahia grass, which is not native to this area. They are proposing to preserve the majority of that habitat and then blend some large residential lots next to it. Their intent is to preserve the maximum amount of open space practical within a contiguous area. They plan to buffer the adjacent sides with an average 100-foot buffer of mature trees along the property line. There will be internal pocket parks located throughout the higher density and mixed use of the storm water retention areas with passive recreation. They will be utilizing dark sky lighting techniques on this project. They are inside the Urban Compact Node, where growth is meant to occur.

John Gray, owner, said the previous request contained 50 percent net open space. At that time, there was a long list of things that the opposing residents wanted. He addressed all their requests except for the 100-foot buffer, which is 75 feet more than is required under a PUD. The buffer is a mature buffer of live oak trees. The project cannot be seen from the opposing residents' homes, not because of buffer but due to the grade of 32 acres behind the subject parcel, which is also in the Urban Compact Node. He did not pursue the contract to purchase that property. He felt he has gone above and beyond to comply with all requirements. He noted that there two abutting property owners who support the project. They have been in the process of developing this property for the past two years. Because there was not a full sitting board at the previous BCC public hearing, he said a decision was made to withdraw the project. He said neither staff nor Ms. Campione would meet with him. Mr. Gray commented that the homes at Sorrento Springs have the most successful closings in Lake County in the past three years. They have kept the same sales pace.

In response to Mr. Morris, Mr. Gray explained that he spent over \$2 million in the agreement they have with the City of Eustis for them to build the plant. Mr. Morris questioned why the City of Eustis would not supply water to the site. Mr. Gray said he did not understand either.

When Phyllis Patten asked if the \$2 million related to Mr. Gray's first development, Mr. Gray said it was; but the plant that was built was intended to be expanded. Ms. Patten pointed out that Mr. Gray did benefit from the water because it was used for the first development. Mr. Gray said that did not happen. Mr. Gray said he benefitted because he corrected a problem that occurred. He was already sold out of the Sorrento Springs community.

Chairman Bryan asked for the basis used to determine the 3.5 density request. Mr. Gray said they wanted to have more open space than required.

When Chairman Bryan said discussion would be restricted to the Board and staff, Ms. Campione said she did not have an opportunity to ask questions of the last two speakers because they were not part of the principal case. Chairman Bryan said he would be interested in learning the net density of the adjoining development. Ms. Bonifay said Mr. Boyer could answer that question. Ms. Campione said she would like that information to come from staff. Chairman Bryan said they could ask staff as well.

Sam Boyer, professional engineer with Boyer Singleton & Associates, said he was asked by John Gray to calculate the net density of the existing Sorrento Springs development. He said they netted out the golf course and the Eagle tract and took areas of the development to come up with the typical density less those two items. The density in that area was between 2.2 and 2.5 dwelling units per acre.

When Mr. Morris asked if it is a common procedure to net out the golf course and Eagle tract in any other developments to get the net density, Mr. Boyer said the net density by Lake County Code does not net out those items. Chairman Bryan asked if staff had any net density calculations on the adjoining development. Mr. Hartenstein said they did not. It was a vested project that was vested several years ago. It was reviewed based on gross acreage and density. In response to Chairman Bryan, Mr. Hartenstein said net density for the subject project is calculated based on the definition of net density in the Comprehensive

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Plan, where it specifically states the items that need to be taken out to establish net density. He did not know if they established it based on that criteria. However, the Sorrento Springs development has a different future land use designation and is a vested project.

When Larry Metz asked the density for the R-1 zoning category, Mr. Hartenstein said it is one dwelling unit per acre. Mr. Metz noted the development across the road, which is zoned R-1 in the Wekiva area. Mr. Hartenstein said he believed the future land use designation is Urban Compact Node—Wekiva. Mr. Hartenstein added that he was not involved in the review of that project, but it probably was developed according to net acre.

Brian Sheahan, AICP, Acting Director, said the Affidavit of Deferral defers concurrency; it does not limit the density or any claim to the density rights. That Affidavit simply states that when a project is developed, concurrency must be met at that time. He said rural sprawl is a very big concern of the planning community. He added that the maximum density allowed in the Comprehensive Plan is not an entitlement; that is the purpose of zoning. He said a statement was made earlier that staff would not communicate with the applicant; that is absolutely untrue. Staff can meet with the public and make a recommendation if asked, based on the Comprehensive Plan and the LDRs. Staff must operate within those parameters. He concluded that staff did not see the new site plan until this morning, not this week.

Ms. Patten said to her this request sounds like the applicant wants the zoning and then will address the other issues. However, there is no entitlement to a zoning. It appears that it is inconsistent and incompatible with the surrounding area, which is what she felt this Board should be considering. She said she could not support the project at this time.

Mark Wells said he is a general contractor and land developer at times. He agreed with Ms. Patten that the proposed density could not be neutral or positive because of the school, traffic, and utility situation.

Regarding the ten findings found in the Summary of Analysis, Mr. Morris pointed out that five of them support the recommendation of denial; he would also support the recommendation of denial. Chairman Bryan pointed out that the bulk of the findings that supported the recommendation of denial were concurrency issues.

James Gardner stated that a development of this density is not consistent with the existing land use.

Larry Metz said he had supported the Sorrento Villages once they had reconfigured the school site because it gave the School Board an option to consider a site that would be very much needed at that location. The School Board is still considering the possible use of that site. That PUD had language in the ordinance that the County Attorney had drafted in conjunction with the School Board attorney addressing school concurrency so he wasn't concerned that houses would be built without concurrency review for schools. If this is approved, he would want the same language used for this project as was used for Sorrento Village. Although that change would address school concurrency adequately, he still had a concern about the density. He did not feel the proposed density would be compatible with the other surrounding areas. This particular proposal does not meet the criteria that he felt should be followed for the density and compatibility so he could not support the project in its current configuration, but he felt staff should determine what density would be acceptable.

Chairman Bryan said he has a comfort level with the use of concurrency deferral as this project cannot move forward if concurrency cannot be met. His main concern was density. However, he felt there should be a density that would be acceptable. Mr. Morris questioned whether it should be the responsibility of this Board to negotiate. Chairman Bryan said he could not support 3.5 dwelling units per acre. He did not have a problem with the concurrency deferral, but he would prefer to move forward with a density recommendation rather than a recommendation of denial.

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Mr. Metz asked Ms. Marsh about the school concurrency language on Page 4 of the proposed ordinance. He said it is different than what has been used previously. Ms. Marsh replied that that language is now part of the Lake County Code. However, she said the language could be added to the proposed ordinance if the Board would feel more comfortable with it in the ordinance. Mr. Metz said he would feel more comfortable with contractually enforceable language that would be available even in the absence of the Code section or the interlocal agreement since that is all still in flux. He would like to have that language included in any PUD ordinance that comes before this Board. Ms. Marsh said that could be done.

Mr. Gardner said he could support a density of two dwelling units per acre.

Chairman Bryan said he would be comfortable with 2-1/2 units per acre, which is the same density as some of the other developments in the area, knowing that central utilities must be available for the site. Mr. Morris said the applicant does not have to bring central utilities to this project, and it is not the job of this Board to ensure that the project is economically feasible. Chairman Bryan said central utilities do need to be part of the project. Mr. Morris said he was leaning toward denial without prejudice and let the owner work it out.

Ms. Patten agreed that density is a major issue. Because the development is moving into an area that is more rural, she felt the density should be less than 2.5 dwelling units per acre.

Scott Blankenship said he was leaning toward denial without prejudice also, but perhaps the parties can meet before the BCC public hearing and get this density issue resolved.

MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend denial without prejudice in PH#7-07-4.

FOR: Morris, Blankenship, Patten, Wells, Metz

AGAINST: Gardner, Bryan

MOTION CARRIED: 5-2

Adjournment

There being no further business, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman