The Lake County Planning and Zoning Board met on Wednesday, September 5, 2018, in County Commission Chambers on the second floor of the Lake County Administration Building to consider petitions for rezoning requests.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, September 25, 2018 at 9:00 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:
- Lawrence “Larry” King
- Rick Gonzalez
- Jeffrey Myers
- Kasey Kesselring
- Sandy Gamble, Vice-Chairman

Members Not Present:
- Kathryn McKeeby, Secretary
- Laura Jones Smith, Chairman
- Donald Heaton

Staff Present:
- Tim McClendon, AICP, Director, Office of Planning & Zoning
- Steve Greene, AICP, Chief Planner, Office of Planning & Zoning
- Michele Janiszewski, Chief Planner, Office of Planning & Zoning
- Ken Johnson, Senior Planner, Office of Planning & Zoning
- William (Bill) White, PE, Engineering, Public Works
- Matthew Moats, Assistant County Attorney
- Janie Barron, Senior Planner, Office of Planning & Zoning
- Shelby Eldridge, Planner, Office of Planning & Zoning
- Christine Rock, Planner, Office of Planning & Zoning
- Donna Bohrer, Public Hearing Associate, Office of Planning & Zoning
- Josh Pearson, Administrative Specialist, Board Support
- Kathleen Bregel, Deputy Clerk, Board Support

Vice-Chairman Sandy Gamble called the meeting to order at 9:00 a.m., noted that a quorum was present and led the Pledge of Allegiance.

AGENDA UPDATES
Mr. Steve Greene, Chief Planner, Office of Planning and Zoning, stated that staff had moved Tab 1 to the regular agenda.
Mr. Sandy Gamble stated there was a speaker comment card for Tab 3 and that this tab would be moved to the regular agenda.

Mr. Larry King stated that he had questions on Tabs 7 and 9, and the Vice-Chairman pulled Tab 7 to the regular agenda as Tab 9 was already on the regular agenda.

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Consideration of Minutes: August 1, 2018

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Other Business

- Comprehensive Plan Open Space Workshop
- Sunshine Presentation

Adjournment

MINUTES

MOTION by Rick Gonzalez, SECONDED by Larry King to APPROVE the Minutes of August 1, 2018 of the Lake County Planning and Zoning Board meeting, as submitted.

FOR: Gamble, King, Gonzalez, Myers and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

PUBLIC COMMENT

No one wished to address the Board at this time.

CONSENT AGENDA

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MOTION by Rick Gonzalez, SECONDED by Jeffrey Myers to APPROVE Tabs 2, 4, 5, 6, and 8 on the Consent Agenda.

FOR: Gamble, King, Gonzalez, Myers and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

REGULAR AGENDA

Tab 1 – CHARLIE JOHNSON ESTES ROAD RESIDENTIAL FUTURE LAND USE AMENDMENT - TRANSMITTAL

Mr. Greene stated that all cases had been duly advertised in accordance with the law.

Mr. Ken Johnson, Senior Planner with the Office of Planning & Zoning remarked that Tab 1, Case FLU-18-12-4, Charlie Johnson Estes Road Residential Future Land Use (FLU) Amendment. He said the requested application was to amend the FLU on two parcels from Rural Transition to Urban Low Density in order to allow the development of a residential subdivision consisting of approximately 114 lots. He noted that the property encompassed approximately 35 acres and was located on the south side of Lake Lincoln Lane, east of Estes Road. He specified that the properties were currently zoned agriculture and declared that after staff analysis, the proposed Comprehensive Plan (Comp Plan) text amendment was consistent with all elements of the Comp Plan and land development regulations (LDRs). He elaborated that the proposed land use amendment would provide an orderly land use pattern and would direct growth to existing urban areas where public facilities and services were presently in place. He also indicated that the City of Eustis was able to provide sewer and water services to the property. He said the proposed FLU amendment to the urban FLU series from the rural FLU series was contiguous to existing urban development in the urban FLU series to discourage urban sprawl. He stated that the proposed amendment was also consistent with the Comp Plan where there was an existing development pattern in the immediate area as the parcels directly to the south and those east of Estes Road were designated urban low density, which allows a maximum density of four dwelling units per net buildable acre. He explained that the applicant had also submitted a rezoning application in conjunction with the land use amendment to rezone the properties from agriculture to planned unit development (PUD) district, noting that a PUD is established in an effort to allow a diversification of uses, structures, and open space in a manner compatible with both the surrounding and existing approved development of land surrounding the abiding PUD. He then indicated that staff had received one email and two phone call communications in opposition to the proposed land use amendment. He noted that staff had reviewed the proposed land use amendment and found it to be consistent with the Comp Plan policies and current LDRs and that based on
these findings, staff recommended the approval to amend the FLU on these two parcels from rural transition to urban low density.

Mr. Gonzalez asked if the urban low area next to this property on the south had been viewed and noted that what was shown on the map as urban low to the south was actually an unfinished subdivision that had been there for a decade due to issues with the sewer system. He mentioned that he had spoken with the City of Eustis head planner who indicated there were unresolved issues with the sewer system, and he asked Mr. Johnson to confirm that the city could supply sewer.

Mr. Johnson replied that he had not been on the property and that he had email correspondence as well as a utility notification form from the City of Eustis, noting that while the email did reference unresolved sewer issues, the City said they would be able to provide water and sewer.

Mr. Gonzalez shared concerns that even though this was currently just a FLU application, the subdivision concept plan included could lead to extra traffic on Lake Lincoln Lane and Estes Road and asked if it could be required that Lake Lincoln Lane be improved as part of the potential future PUD.

Mr. Johnson replied that the traffic questions would be deferred to the Lake County Public Works Department; however, he indicated that this department would require a full tier three traffic analysis as part of any PUD.

Mr. Gonzalez requested that it be a requirement for the traffic from this subdivision to go to the existing traffic light at State Road (S.R.) 44 as opposed to coming out on Estes Road, as he opined that traffic would have a negative impact on Estes Road and that Lake Lincoln Lane was not adequate to accommodate the extra traffic.

Mr. King asked if this subdivision would be conventional construction and not manufactured homes.

Mr. Johnson replied that was his understanding but would defer to the applicant.

Mr. Greg Beliveau, with LPG Urban and Regional Planners, implied that prior to submitting this application, he had met with the Lake County Public Works Department due to concerns raised 18 months ago from the previous application. He stated that as a result of that meeting, he was informed that a road project was being considered to address the intersection of Estes Road and S.R. 44. He noted that the Department of Economic Opportunity had approved the previous application for the FLU amendment; however, it was withdrawn because the County wanted a PUD to move forward at that time but there was not yet a market for a PUD. He indicated there was now a market for a PUD and this property was now attractive to developers. He displayed a map and referenced urban low areas surrounding this property to the south and west and he opined that this area was expanding and becoming urbanized. He stated that water and sewer lines had been on the property for several years but had been
neglected and were being analyzed by the City of Eustis to determine if they needed to be upgraded, repaired or reinstalled. He said there were also existing easements available for utilities on the property. He indicated that the city was interested in providing sewer and water and that after discussions with the Lake County Public Works Department, they were requesting that the development provide improvements to Lake Lincoln Lane as well as its intersection to Estes Road and to add a sidewalk. He also said that two options were currently being analyzed through the PUD process. He continued by noting that three traffic analyses had been conducted within the last 18 months and that everything was within the proper levels of service and there were no negative impacts to roads, schools, parks, water, sewer and transportation.

Mr. Gonzalez asked if it was an option to take subdivision traffic out to the traffic light at S.R. 44 instead of Lake Lincoln Lane and reiterated his desire for this to be the primary access.

Mr. Beliveau replied there was an option to use the backdoor once the property to the south was developed, but not as the primary access at this point. He remarked they would prefer that traffic flow as well but there was not a property owner to the south that they could use for right of way until the property was developed. He added that the developer had deeded a 66 foot right of way on Lake Lincoln Lane to the County and had coordinated with the Public Works Department to provide improvements to this road and Estes Road at the developer’s cost. He reiterated that the development did not impact negatively any levels of service and met the required criteria.

Mr. Gamble recognized there was a school report but asked that before the final plat, if it would be rechecked since schools often get additional students after Labor Day.

Mr. King inquired about the 4.17 acre strip of land between the houses and asked who would maintain it.

Mr. Beliveau replied that the Homeowners’ Association (HOA) for the PUD would maintain that land.

The Vice-Chairman opened the floor for public comment.

Mr. Mark Draper, a resident on Lake Lincoln Lane, shared concerns about the potential of added traffic to this road and opined this was an agricultural area and there were too many houses being proposed.

Ms. Lee Owen, a resident on Estes Road, stated she was not opposed to development but had several issues with this project. She opined that when the Comp Plan was put in place, the categories were there for a reason and she asked if something had fundamentally changed to make rural transition now become urban low development. She stated that the parcel in question had one border to urban low development and that everything else around it was rural transition and felt that if that parcel transitioned to urban development, many other areas in the area would also transition as well. She questioned the access to Estes Road as well as
the comment in the proposal stating that it was adjacent to county school property, noting she
did not think this was accurate. She recalled that when this was discussed last year, she
thought the BCC gave conditional approval for the project pending that the plan have the exit
for the development at the traffic light at S.R. 44B through the south parcel. She opined that
it would be a mistake to approve this project without knowing what might happen to the
property to the south.

The Vice-Chairman brought it back to the Board for discussion.

Mr. Gamble inquired about the comment regarding this being sent to the state and for traffic
to come out on S.R. 44B.

Mr. Beliveau responded that the FLU did not have conditions but rather the connection topic
was attached to the PUD which was not approved. He added that the existing rural transition
land use allows for 70 units and this development’s PUD was asking for 114 units which he
opined was not that much more. He noted that the land use for urban development would
allow for 140 units; therefore, their request was in the middle of these two allowances. He
urged the Board to consider the intersection improvements and the traffic studies that prove
development would not negatively impact the level of service as their guidelines for
deciding on this FLU amendment. He also mentioned that the County was already working
on the existing traffic concerns on Estes Road and S.R. 44. He reiterated that this developer
only needed to work within the adopted levels of services within the Comp Plan. He restated
that in regards to approval of the FLU, the Board only needed to consider if this land was
compatible and appropriate. He noted that the access issues were PUD concerns.

Mr. Gamble remarked that the 114 units was still an additional 44 units and over half of the
allowed 70 units. He expressed the desire to hear from a representative of the Public Works
Department regarding the traffic.

Mr. Beliveau agreed but opined that it was still consistent to properties to the south, southeast
and east. He reiterated that the developer was making the improvements to Lake Lincoln
Lane by making it a county standard road, widening it to 24 feet, repaving and adding a
sidewalk as well as improvements to the intersection of this road and Estes Road. He
reiterated that those conditions were attached to the PUD and not the FLU amendment.

Mr. Gamble recalled Ms. Owen’s comment that the BCC wanted the access road to go to S.R.
44B.

Mr. Beliveau responded that was before they were made aware that improvements were
planned at the intersection of Estes Road and S.R. 44.

Dr. Kasey Kesselring asked staff what was the deciding factor to change the land use map
from rural transition to urban low, noting he had read the report but was unsure if it was based
on a demonstrated need. He felt that if this property went to urban low then other properties
may also want the same transition and this could lead to increased development in that area, which is what the county desires.

Mr. Johnson responded that the rural transition FLU category was designed for the purpose of transitioning rural areas to urban areas. He understood the concerns but reminded the Board that development can only occur if it meets the appropriate criteria related to levels of service for water, sewer, schools, traffic, etc., noting if the level of service is not provided, then there would be no justification to make the transition from rural transition to the urban low category. He added that there were various levels of review before approval and stated that staff recommended approval for this property.

Dr. Kesselring asked Mr. Beliveau if 70 lots would not work for the development and if this was the reason they were seeking the change to urban low.

Mr. Beliveau replied that the difficulty with using the rural transition and the point system to get to a two dwelling units per one acre ratio, is that the BCC was reluctant to allow that option and had denied three similar requests. He indicated this was why applicants were now trying to go to a new land use category and since urban low is along the entire southern boundary of this property and prevalent around the property, the City of Eustis was close and there was water and sewer available, it made sense to ask for an urban low designation. He noted that several of the properties to the east did not meet the county policies needed to obtain approval for an urban low density and therefore opined that there should not be a landslide of urban expansion in this area. He reiterated that this development met all the policy criteria for an FLU amendment and noted that the Board could discuss other criteria and conditions that would mitigate some of the impacts they believe would affect the area when the PUD process was addressed. He said the first step would be is the Comp Plan amendment and the second step would be the PUD.

Mr. Jeffrey Myers remarked that he was in the construction, home-building, and development business and opined that Lake County struggled with providing housing.

Mr. Matthew Moats, Assistant County Attorney, reminded the Board that if any of them wanted to present testimony for the Board to consider, then he recommended they not vote on this matter. He stated that if there were any conflicts of interests, those should be disclosed on the record and the Board member should abstain from voting.

Mr. Myers continued by opining that it was becoming more difficult to provide housing for professionals, first responders, sheriffs, and the people who help protect the community. He felt that this was a local, responsible developer who was trying to maximize his business return in a responsible manner by asking for a conservative number of lots. He stated that the county needed responsible, healthy growth and affordable housing.

Mr. Gamble asked if the fact Mr. Myers was a contractor exempted him from voting on this matter.
Mr. Moats replied that it was a reminder due to various comments previously made in the meeting that this was something to take under consideration by the individual board members; however, he mentioned that he had not had any conversations with any board members regarding any potential conflicts of interest and was not aware of any, but if some conflicts of interest did exist, they would need to be disclosed for the record and the board member should abstain from voting. He reiterated that if the board members wanted to present testimony for the Board to rely on in their recommendation, then they should abstain from voting. He stated the Board should decide if they want to vote as a board member or present evidence.

Mr. Bill White, with the Engineering Division, indicated that in regards to transportation, his department was currently reviewing the level of service and if the capacity was available on the roads. He stated that based on the capacity for Lake Lincoln Lane, the developer would be required to build it to county standards as it was not structurally or dimensionally adequate to service this development. He stated they would also have to tie into the intersection at Estes Road and line up with Bates Avenue. He reported that there were a few intersection improvements submitted that his department was currently reviewing for the PUD, but he was unable to report at this time if these options would be acceptable.

Mr. Gamble asked for clarification on Ms. Owen's comment regarding the exit coming to S.R. 44B and that it had been sent to the City of Tallahassee for approval.

Mr. White responded that he was not aware of the previous review but noted that in the current plan presented by the developer, they were showing a connection point to the southern property which once it was developed, and their entrance would then connect to S.R. 44.

Mr. Gamble remarked that if the developer did not own the right of way to the southern property, then they would not be required to connect to S.R. 44.

Mr. White replied that if it was based on that property being developed as a subdivision, then those roads would become public roads and would give them a connection. He noted that both PUDs would then require a connection between the two.

Mr. Gonzalez asked if there was a rough grade road through the southern property that could tie into this development.

Mr. White responded that feasibly it could; however, he thought they would probably have to re-permit as there was not a valid approval.

Mr. Gamble noted that this road was to the east and did not line up to where they were trying to intersect.
MOTION by Jeffrey Myers, SECONDED by Sandy Gamble to APPROVE Tab 1, Charlie Johnson Estes Road Residential Future Land Use Amendment - Transmittal.

FOR: Myers

AGAINST: Gamble, King, Gonzalez, and Kesselring

MOTION DENIED: 1-4

Tab 3 – PROTECTION OF SHORELINES COMPREHENSIVE PLAN AMENDMENT - TRANSMITTAL

Ms. Michele Janiszewski, Chief Planner with the Office of Planning & Zoning, reported that the Comp Plan was adopted in 2011 and established a 50 foot setback from the mean high water line or jurisdictional wetland line, depending on which is further landward from natural water bodies, canals, and wetland areas, with a few exceptions. She remarked that in 2012, an ordinance was approved to amend the policy to redefine development for that section and require a 100 foot setback from the mean high water line of lakes and wetlands, or jurisdictional wetland line for the placement of drain fields and excluded canals from it. She said that currently, staff was seeking to amend the policy to include the ordinary high water line as a method to establish the 50 foot setback from the shoreline, which would be consistent with the verbiage in the LDRs. She added that the proposed revisions would also remove the strict criteria for which a variance could be granted for residential and non-residential development approved prior to March 3, 1993, which was the date that the 50 foot setback was established in the LDRs. She stated that staff still recommended to keep the criteria of a 50 foot setback for new site plans and new residential lots but allow variances through LDRs for development approved prior to March 3, 1993 with these few conditions: the development cannot adversely impact the natural water bodies or wetlands; all feasible alternatives have been exhausted; the first one inch of stormwater runoff is captured on the site; and development must be constructed as far landward as possible. She remarked that staff was also seeking to amend the policy regarding the platting of wetlands and water bodies to require the 50 foot upland, wetland buffer to be included in the common area tract with the wetlands. She indicated that in the past, it has been difficult to enforce the conditions of a conservation easement if it is included on a platted residential lot; furthermore, the proposed condition would only apply to wetland areas which do not abut open bodies of water and are required to be platted as a common area tract.

Mr. Gamble noted a speaker from the audience.

Ms. Lavon Silvemell, a Lake County resident, asked if this was a proposed change to the shoreline ordinance or an individual’s change. She also inquired about which criteria would be used by staff in making decisions.

Ms. Janiszewski replied it would be a change to the Comp Plan and did not change the LDRs which would still require the 50 foot setback. She added that anyone seeking to develop at a
reduced setback would have to meet the conditions in the Comp Plan and that this was strictly removing the overly strict criteria for granting a variance that was currently in the Comp Plan. She recalled the four criteria listed in her presentation and noted that if someone was seeking a variance, they would also have to meet the criteria for granting a variance in the LDRs, which would then be meeting the indent in the code and not adversely impacting the wetlands.

Ms. Silverman opined that the criteria needed to be more specific.

MOTION by Rick Gonzalez, SECONDED by Kasey Kesselring to APPROVE Tab 3, Protection of Shorelines Comprehensive Plan Amendment – Transmittal.

FOR: Gamble, King, Gonzalez, Myers and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

Tab 7 – TEMPORARY SIGN ORDINANCE

Mr. Tim McClendon, Director for the Office of Planning & Zoning, recapped that the Supreme Court ruling in 2015 strictly enforces sign regulations based on content of signs were that is no longer allowed. He indicated that staff rewrote the entire sign code in March 2017 in order to remove every content based idea within the sign regulations. He stated that this item on today’s agenda was a clarification of temporary or nonpermanent signs since they could now no longer be based on the content of the signs. He said that change this proposed to remove all regulations pertaining to signs three square feet and under, noting that a resident could have as many signs of this size in their yard as they desired. He added that this would help clarify some code enforcement issues and would include some setback requirements for public safety purposes and a provision for one larger sign between three square feet and sixteen square feet if the sign was temporary in nature, such as being constructed of plywood, paper, canvas, plastic, etc.

Mr. King asked Mr. McClendon to explain the definition of a snipe sign and inquired if pole signs were prohibited.

Mr. McClendon responded that a snipe sign is a temporary sign fixed to a tree, fence, pole or similar objects that are in the right of way or on private property without the permission of the property owner. He replied that pole signs were currently prohibited and that the only changes to the ordinance were highlighted in red on the document in their packet and everything in black was already part of the existing code.

Mr. Gonzalez asked if a full plywood sheet sign at the standard size of four feet by eight feet was too big.

Mr. McClendon responded as part of a temporary sign it would be too large.
Mr. Gonzalez recommended the size change to 32 square feet in order to allow a full size sheet of plywood to be acceptable.

Mr. McClendon expressed that the BCC was concerned about this size sign possibly becoming airborne in a hurricane; however, if this Board’s recommendation was for 32 square feet, he would make those changes and present that to the BCC.

**MOTION** by Rick Gonzalez, **SECONDED** by Jeffrey Myers to **APPROVE** Tab 7, Temporary Sign Ordinance, with the change in size to 32 square feet.

**FOR:** Gamble, King, Gonzalez, Myers and Kesselring

**AGAINST:** None

**MOTION CARRIED:** 5-0

**Tab 9 - SLIP TECH CUP**

Mr. Greene said that this case was presented to the Board during the August 2018 meeting and that at that point in time, the Board recommended that the case be continued to the next meeting to allow the applicant time to gather information to demonstrate an existence on the property since 1991. He stated that no information had been received from the applicant, though they were in attendance and had contacted staff to request another continuance. He asked the Board to confirm the applicant’s preference on the matter.

Mr. Moats stated that under Section 14 of the LDRs, since a continuance was granted in August 2018, an additional continuance would have to be based upon the applicant demonstrating extenuating circumstances to justify this action.

Mr. John Trubenbach, owner of Sliptech, LLC, said that he had been in business on the property since the year 1990. He explained that he purchased the property in early 1991 and he was conducting business on the site with equipment during that year. He commented that the business had existed on the property for 27 years and that he had since acquired two pieces of property to the east. He mentioned that the Office of Code Enforcement had visited his site numerous times over this period and that they had had seen his equipment from the road and asked him to construct a six foot privacy fence to obstruct visibility from the road, which he complied with. He opined that he did not have a significant amount of equipment on the property and that the equipment would be appropriate for farming activities, as his land was zoned as Agriculture. He stated that he complied with each request from the Office of Code Enforcement, though recently he received a letter indicating that he would need a CUP for the property. He relayed that Mr. Greene assisted him with the process and that after a hearing with Mr. Greene and an attorney, he expressed that he did not require a CUP. He mentioned that the attorney suggested drafting a letter indicating that he had been conducting business for over 20 years on the site and that if the Office of Code Enforcement was called again, the
letter could be used to resolve the situation. He said that Mr. Greene then informed him that a CUP would be required, after which he also desired to rezone a small area that he owned; however, there were objections to this additional action and he withdrew it. He indicated that there were witnesses who could testify that he had conducted businesses for the stated time period. He said that he did not have paperwork from 27 years prior and that the Internal Revenue Service (IRS) records only accounted for the previous 10 years. He indicated that the 1991 Comp Plan had zoned his property as Agriculture, that he did not desire a CUP, and that he only wanted to continue his business.

Mr. Gonzalez said that when the case previously came before the Board, the comment was made that Mr. Trubenbach would be willing to stay on his present location.

Mr. Trubenbach confirmed this and said that he did not wish to disturb his neighbors.

Mr. Gonzalez asked to confirm if the present operation was on Grassy Hill Lane.

Mr. Trubenbach confirmed this and said that he would remain on that property. He relayed that he constructed Grassy Hill Lane and had improved the road with a driveway and curb. He indicated that his 20 acre property was mowed and had been opined to be attractive, and a code enforcement officer previously stated to him that he only came to the property because of a complaint. He noted that about one mile away from his property was the Muscle Machine business that constructed hot rod engines and was allowed to operate there. He said that he had also been in business before Black Bear Golf Course was constructed and that he installed the roads for its owner. He said that his attorneys felt as though he may have been misled by the Office of Planning and Zoning and he indicated that he would like to resolve the issue and move on. He noted that he had already paid for the CUP and would continue paying any costs required to maintain it.

Mr. Gamble commented that the permit was for the regulations of the County and the cities and that an occupational license was also required.

Mr. Trubenbach said that he had an occupational license with the state, and he recalled telling Mr. Greene that he would undergo any required action to obtain a CUP.

Mr. Gamble asked if Mr. Trubenbach wanted a continuance for the case.

Mr. Trubenbach indicated that he wanted the case to be resolved at the current meeting. He then relayed that the water on his property had been tested and that he had several individuals in attendance who wanted to testify.

Mr. Greene commented that the applicant was supposed to submit information demonstrating the business’ existence prior to the effective date of the 1991 Comp Plan, though no information had been provided. He relayed that staff conducted further research on the non-conforming uses in the agricultural zoning area. He reiterated that the property was zoned Agriculture with an FLU of Wekiva River Protection Area (A-1-20), and he said that for the
County’s LDR proclamation regarding agricultural uses, staff indicated that the current use of the property was quasi-industrial and was indicative of industrial use. He displayed an LDR document in the Comp Plan that discusses uses in agricultural zoned districts and he also said that Lake County Ordinance 1989-3 which relates to Florida Statute Chapter 369 which enacted the Wekiva River Protection Act. He added that one of the prohibited uses was industrial and that this legislation had been carried forward in the Comp Plan since its implementation in 1990.

Mr. Moats asked to clarify that these two referenced documents were not in the staff report, and Mr. Greene confirmed this. He also asked if the documents were provided to the applicant.

Mr. Greene replied that excerpts of the documents were provided in the staff report and that the applicant did not receive any documents. He noted the excerpts as attachment 4 in the staff report.

Mr. Moats clarified that neither the full documents nor any excerpts were included in the staff reports.

Mr. Gamble indicated that he would like to see the documents.

Mr. Gonzalez inquired about the quasi-industrial uses that were being performed on the property.

Mr. Greene stated that the CUP application indicated that the use of the property was for vehicle equipment oil change, fluid replacement, battery changes, track maintenance, engine maintenance, tire replacement or maintenance indicative of vehicular repair use. He highlighted that the various uses of the property were listed in the staff report and that they appeared to be indicative of construction equipment. He noted that the aerial photographs included in the staff report were incompatible and inconsistent with the use of the adjacent agricultural zoned properties and inconsistent with the 2030 Comp Plan A-1-20 FLU policy I-3.2.3, which does not allow heavy construction equipment, maintenance and storage uses.

Mr. Gonzalez asked if Mr. Greene recommended to the applicant to include these uses in the CUP application.

Mr. Greene said that he asked the applicant to provide him information indicative of the use of the property so that staff could understand the proposed request. He stated that the matter was brought to staff’s attention by a code notice violation and at that time, staff was unsure of how the property was being utilized. He relayed that Mr. Trubenbach indicated that the property was similar to a truck yard, and he responded that truck yards were allowed with the Agriculture zoning through a CUP. He reiterated that this was before an application had been submitted, and once the CUP came forth, it was lacking information. He recalled that he asked the applicant for additional detail, at which time they provided the information which was currently being presented.
Mr. Gonzalez asked if Mr. Greene had visited the site, and Mr. Greene confirmed that he had. Mr. Gonzalez then inquired if truck yards were allowed under a CUP.

Mr. Greene replied that truck yards were allowed if they were in the function and purpose of agriculture and citrus crop production.

Mr. King asked if staff was suggesting that the applicant move their business off of the property.

Mr. Greene replied that the current use of the property was not indicative of agricultural uses.

Mr. King stated that there were wholesale and retail nurseries in the area and that there was also farming equipment on those properties. He noted that the subject property was an approximate four acre parcel with a home and the business, and that non-contiguous was a five acre parcel that the County stated was vacant. He said that the five acre parcel was not visible from County Road (C.R.) 44 and he opined that the applicant should be able to park their equipment there.

Mr. Moats clarified that the ultimate issue was the Comp Plan and that the subject property was part of the Wekiva River Protection Area, though the Board could grant an exception to the LDRs.

Mr. Gonzalez asked to clarify that the exception would be a CUP.

Mr. Moats replied that a CUP is one form of an exception.

Mr. Trubenbach commented that he did not plan to develop the property.

Mr. Gonzalez recommended extracting exhibit B-1 for the extra five acre property and containing the operations to what already existed.

Mr. Trubenbach expressed that this would be acceptable.

Mr. Moats said that there were these three general options for the Board: recommendation of denial; recommendation of denial with conditions, such as a withdrawal of the application and a submittal of a Comp Plan amendment application; or recommendation of approval contingent upon state approval through a Comp Plan amendment.

Mr. Gonzalez asked if the CUP would have to go to the state.

Mr. Moats responded that the CUP would not have to go to the state, though industrial uses were prohibited in the Wekiva River Protection Area under the Comp Plan. He added that for the use to continue, the state would have to approve that.
Mr. Trubenbach indicated that he did not want a Comp Plan amendment and he recalled that Mr. Moats had researched non-industrial uses. He said that he was parking no more equipment than if he was farming crops on the property. He elaborated that he had a few pieces of equipment parked intermittently with a privacy fence to block sight lines from C.R. 44. He indicated that Mr. Greene said that a CUP would be required for heavy industrial uses rather than light industrial or commercial. He said that equipment such as a skidsteer or a bobcat could be used for agriculture or commercial uses and that he also had a small excavator. He remarked that the vehicles were parked in a small area and that he did not want a CUP.

Mr. Gamble clarified that the permit would be required due to the types of vehicles parked on the property.

Dr. Kesselring asked which vehicles were parked there.

Mr. Trubenbach replied that parked vehicles included a skidsteer and a few pickup trucks for work. He said only one neighbor was within 1,000 feet of the site and that they did not indicate a problem with the operations. He also opined that the uses were more agricultural and that he planted food crops on the property each year, with some of the equipment being used to facilitate this.

Dr. Kesselring asked for the definition of industrial equipment and commented that he would consider it to be Euclid trucks, graders, bulldozers, semi-trucks, etc.

Mr. Trubenbach said that he had a single semi-truck for hauling equipment.

Dr. Kesselring noted that he saw many skidsteers, many tractors, a curb machine, some landscape trailers, pickup trucks, and trenchers listed.

Mr. Trubenbach said that this list represented a worst case scenario for the amount of equipment that could be parked at his business, and that he was instructed to do this by staff.

Mr. Moats said that this concerned the Comp Plan policy receiving area A-1-20 and that Policy 1-3.2.3 states that typical uses include agriculture and forestry, residential, passive parks, religious organizations, equestrian related uses and rural support uses; furthermore, typical uses requiring a CUP include active parks and recreation facilities, outdoor small scale sporting and recreational camps, animal specialty services, civic uses and unpaved airstrips. He commented that all uses not identified in this policy would be prohibited.

Mr. Gonzalez asked why uses not listed in the policy are prohibited.

Mr. Moats responded that this was how the County and the state had been interpreting the Comp Plan.

The Vice-Chairman opened the floor for public comment.
Mr. James Walmer, an employee of Sliptech, said the Comp Plan excerpt that Mr. Moats presented was from the current plan as opposed to the plan that the applicant had contended. He said that the existence of the company could be backdated to the beginning of 1991 and that the current Comp Plan was not the issue.

Mr. Gamble stated that some form of documentation proving this should be provided.

Mr. Walmer indicated that multiple people would testify about the existence of the company and that on the current morning, Ms. Michelle Trubenbach, Chief Executive Officer (CEO) of Sliptech LLC, found an exemption receipt from the state for worker’s compensations under an older company name of Quality Concrete. He relayed that the effective date for the receipt was November 3, 1991, though the company existed prior to this date. He noted that the state worker’s compensation receipt also showed the company’s name changes to John Trubenbach Construction and later to Sliptech.

Mr. James Kiser, an associate of Mr. Trubenbach, stated that he had been aware of Mr. Trubenbach’s business since the early 1990s when it was called Quality Concrete. He noted that the company had performed subcontractor work for him during that period of time, and that the company at that time consisted of Mr. Trubenbach and two other employees.

Mr. Dan Strader, an associate of Mr. Trubenbach, remarked that he had known Mr. Trubenbach for 33 years and opined that the business was quiet and that he had not seen any problems with it.

Mr. Gonzalez asked if Mr. Strader was aware of the current operation being on the property for this period of time, and Mr. Strader confirmed this.

Mr. Michael Keys, a former employee of Mr. Trubenbach, said that he began working for Mr. Trubenbach since 1989 and had performed work on the property when it was purchased.

Mr. Bill Adams, an associate of Mr. Trubenbach, commented that Mr. Trubenbach had been in business since 1990 or 1991 and that he had not observed any problems.

Mr. Gamble asked to confirm that Mr. Trubenbach began business on the property in 1990, and Mr. Adams confirmed this.

Mr. King asked why the property would be considered industrial.

Mr. Greene responded that the property did not seem to function for an agricultural purpose and that he associated the mentioned equipment with an industrial use. He said the application did not indicate whether that the equipment was used for the purpose of agricultural operations of an existing agricultural business for citrus. He stated that in the second paragraph on page four of the staff report discussed truck yards in agriculture zoned districts.
Mr. Trubenbach asked if there was any equipment on the site that could not be used for agricultural purposes.

Mr. Gamble clarified that the equipment was not being used at the current time for agriculture.

Mr. Trubenbach said that the equipment was not used for agriculture on every day.

Mr. Gonzalez inquired that under the previous Comp Plan, were existing industrial uses grandfathered in with the new Comp Plan.

Mr. Moats responded that based on staff’s research, there was a 1989 ordinance in response to the Wekiva River Protection Act, which had been presented earlier by Mr. Greene. He elaborated that the ordinance discusses the prohibition of industrial uses within the Wekiva River Protection Area. He also noted that this was in the LDRs prior to the 1991 Comp Plan, which had also been presented by Mr. Greene.

Mr. Gonzalez noted that under Lake County FLU Element 1.02.25, Section C(2), new industrial development would be prohibited and he asked if this was implying that existing industrial development was allowed.

Mr. Moats commented that this language was inserted from the 1989 ordinance and that existing uses were allowed to stay.

Mr. Gonzalez inquired if there was a process to prove that a use had existed beforehand.

Mr. Moats responded that he did not recall if there was process under the 1991 Comp Plan provision, though there may have been a process under the LDRs.

Mr. Gonzalez opined that it was clear the business existed prior to the 1991 Comp Plan and that staff was proposing to close the business based on an interpretation of industrial uses.

Mr. Greene added that the crux of the matter was the definition of agriculture, whether the use was consistent with it, and whether it could be demonstrated that the business existed during the indicated time period. He said that staff would typically accept a past business license for the use of the property, evidence of utilities associated with the use of the property, etc. He reiterated that the applicant previously asked for a continuance to present evidence, though staff did not receive any written evidence to assess whether the business was valid at the time period in question. He opined that the staff report had been improved to identify some historic documents relevant to the case and that staff would request that their recommendation be considered.

Mr. Gonzalez noted that the testimony from the public had been received and indicated that the business had existed beforehand.

Dr. Kesselring asked about the ramifications of approving the CUP.
Mr. Moats replied that an approval would have to be in conjunction with a Comp Plan amendment approved by the state to ultimately allow the use to be maintained. He recommended that if the Board was to recommend approval, it should be contingent upon the state’s approval through a Comp Plan amendment as well.

Mr. Walmer asked if state approval would be necessary if the business was grandfathered in.

Mr. Moats responded that it would not be necessary in that case; however, the LDRs in the Comp Plan predate both the 1991 deed and any uses of the property.

Mr. Gonzalez inquired if there could be a different interpretation such that the use of the property was not industrial.

Mr. Moats confirmed this if there was an interpretation that the uses fit within the allowable uses under the Comp Plan. He also confirmed that it could be decided that the use could be found to not be industrial.

Mr. Gamble asked to confirm that the Board’s recommendation would be sent to the Board of County Commissioners (BCC), who would have the final say, and Mr. Moats confirmed this.

Mr. Charles Lee, with the Florida Audubon Society, expressed concerns about a Comp Plan amendment to allow industrial uses within the Wekiva River Protection Area for the first time. He opined that this would be an overreaching act to resolve this case and that by modifying the Wekiva River Protection Act to allow an industrial use and accommodate Mr. Trubenbach’s 27 year business on the site, the County would be committing more harm than good. He said that County staff could demonstrate the activity of the site dating back to 1989 by reviewing aerial photographs that could be obtained from the Lake County Property Appraiser’s Office. He related that the property was not being used for endeavors such as a factory or cement plant and that some equipment was just being stored onsite. He hoped that the evidence could be considered to treat the case as a grandfathering issue rather than one that would require modifications to the Wekiva River Protection Area.

The Vice-Chairman brought it back to the Board for discussion.

Mr. Gonzalez asked if an interim step would allow the case to be retracted so that Mr. Trubenbach could continue his business and be recognized as a business existing prior to the new rules.

Mr. Moats said that the Board could make that recommendation for the BCC’s consideration.

Mr. Gonzalez motioned for a recommendation that the BCC recognize that Mr. Trubenbach’s business was an existing use prior to the Comp Plan amendments that challenged the use of...
his property and that there would be no need for a CUP because the business was an existing use.

Mr. King asked if the motion would encompass both non-contiguous parcels.

Mr. Gonzalez said he was suggesting that Mr. Trubenbach stay on his existing property and not expand onto the additional property.

Mr. Greene reiterated that the staff's recommendation was for denial, and he suggested a motion to accept or reject staff's recommendation and then to proceed in the manner that Mr. Gonzalez indicated.

Mr. Moats indicated that if Mr. Gonzalez's motion was adopted, it would functionally override the staff's recommendation.

MOTION by Rick Gonzalez, SECONDED by Kasey Kesselring to recommend that the BCC recognize Mr. Trubenbach's Sliptech Company as an existing use prior to the Comp Plan amendments that challenge his use of his property and grant that there is no need for his company to obtain a CUP since it was already an existing use; furthermore, if this is not acceptable, then recommend the BCC grant Mr. Trubenbach's Sliptech Company a CUP. This motion includes the commitment of Mr. Trubenbach to operate his company on his existing parcel of land and not extend to the additional property he had purchased.

FOR: Gamble, King, Gonzalez, Myers and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

OTHER BUSINESS

OPEN SPACE WORKSHOP

Mr. McClendon presented the open space workshop. He notified the Board that no items being presented today would have a request to be approved or denied, and staff was only looking for direction and next steps from the Board. He explained that this discussion originated from a January 2018 BCC meeting where the Board asked staff to examine the potential adoption of Wellness Way open space policies countywide. He related that during the analysis process, staff identified that the Comp Plan had three separate open space definitions, with first being the definition of open space, the second pertaining to the Wekiva River Protection Area, and the third pertains to the Wellness Way urban service area. He said that there was no specific policy in place for open space in the Comp Plan and that there was
only a definition, and he highlighted that open space was determined based off net acreage. He specified that the definition did not include water bodies, wetlands, residential lots, rights of way, parking lots and active recreation areas as being counted toward open space. He noted that some stormwater areas could be counted toward open space provided they utilize low impact development (LID) principals, and areas of golf courses that are chemically untreated and are not mowed are able to be counted toward open space. He said that the second definition of open space was within Comp Plan Policy I-3.1.1 under the Wekiva River Protection Act policies and that it mirrored the first definition except that it specifically mentions lands within the Wekiva River Protection Area. He stated that the Wellness Way open space definitions in Comp Plan Policy I-8.2.5 begins to diverge from the previous two definitions, and that Wellness Way considers open space to be in the two tiers of wellness space and green space. He explained that open space was still counted in the same manner based on net acreage and with the same categories as the previous definitions. He said that wellness space remains minimally developed and includes open boardwalks and train, though it also allows public gathering places such as parks, plazas and urban squares. He commented that a driving force of Wellness Way was also to require this type of open space in the master PUDs.

Mr. Gonzalez asked to clarify if wellness space was considered open space and if this was countywide.

Mr. McClendon confirmed that wellness space was calculated as open space with some number differences and that it was not countywide, though the current discussion would concern whether this definition should be applied to the entire county. He continued his presentation and noted that the second category of green space was undeveloped land and would protect vegetative areas or wildlife habitats. He also noted that this type of open space is typically required to be placed in conservation easements, and that the second paragraph of the definition also allows some generous green space allocations as long as there is at least a dedicated 50 foot buffer around wetlands and water bodies. He clarified that open space is generally meant to act as an amenity for the community and promote public access to draw residents into unique conservation areas and to discourage narrow open space tracts around the perimeter of a PUD. He reiterated that staff was looking to make possible changes to the blanket open space policy by borrowing the Wellness Way criteria and splitting open space into a two tier system; however, staff would only encourage the wellness space and would not require it as Wellness Way does. He said that also unlike Wellness Way, staff would only recommend that 10 percent of the required open space be utilized for areas such as parks, plazas and urban squares, and another potential change would be limiting the impervious surface ratio (ISR) to one percent in lieu of ten percent. He elaborated that a real world application for this change would for be a 200 acre project with a 50 percent open space requirement, only 10 acres of that open space would be allowed to be wellness space and only 0.5 acres could be ISR and still be counted as wellness or open space. He gave another example of a typical 30 acre project with 25 percent open space, stating that it would be able to use three quarters of an acre as wellness space and be limited to a very small amount of ISR.
Mr. Gonzalez asked if sidewalks could be considered open space.

Mr. McClendon confirmed this, though said that it would depend on the specifications of the developments. He showed images of wellness space examples including parks in the downtown areas of the Cities of Winter Park and Winter Garden, and Centennial Plaza in the City of Winter Garden. He stated that these locations would meet the criteria of the application of wellness space, and he then showed images of pocket parks that would possibly be allowed to function as wellness space. He also shared images of active and passive park examples of possible wellness space including a playground, some natural open areas with concrete stem walls, and a playfield. He related that this idea was presented to the BCC in April 2018 and the office created a draft policy that was not finalized. He said that on the morning of August 31, 2018, staff realized that multiple versions of the draft policy were circulating, and he noted that the policy that was part of the planning and zoning books was the incorrect version. He specified that the first paragraph of the published policy was correct and stated that rights of way and parking lots could not be utilized as open space, though the final paragraph of the published version contradicted. He remarked that the policy for green space was intended to exclude sod or turf, mulched and landscaped areas, rights of ways and landscaped islands within parking lots. He displayed a picture of a plaza-type area within a city and asked if the Board would be willing to consider this type of location as open space. He also asked if the Board would entertain the idea with caveats, such as not allowing this type of policy in environmentally sensitive areas such as the green swamp, the Wekiva River Protection Area and the Lake Apopka Basin. He concluded by requesting direction and next steps from the Board.

Mr. Gonzalez inquired about the policy where 20 percent of active parks could be considered open space.

Mr. McClendon clarified that a consideration was limiting open space to 10 percent as opposed to the 20 percent that was allowed within Wellness Way.

Mr. Gonzalez opined that it should remain at 20 percent.

The Vice-Chairman opened the floor for public comment.

Ms. Silvernell asked about Policy 8.1.45 in a version of the policy document she acquired that said Lake County shall incorporate provisions within its code which require new residential development to provide recreation space consistent with the concurrency management plan. She then asked about a statement stricken in red stating that the provision of land for activity based recreation shall be in addition to the area required for open space. She said that if this provision is removed, it would be a net loss because open space would be defined as natural land and would not include spaces the developer would have provided in the past such as plazas and recreational amenities. She opined that having recreational amenities intermixed with open space degrades the open space, creates difficulties for land management, and brings in invasive plants and animals that will negatively impact the natural areas.
Ms. Michelle Janiszewski, Chief Planner with the Office of Planning and Zoning, said that the stricken policy was in conflict with the objective of including wellness space within the open space definition. She elaborated that the reasoning for the change was that the open space definition would be amended to include wellness space, which would allow active recreation to satisfy the open space requirement.

Ms. Silvernell asked that if instead of the development providing an open space amenity, it would instead come out of the open space allocation, and Ms. Janiszewski confirmed this. Ms. Silvernell then said that it would be a double loss to open space due to both losing the 10 percent of open space to wellness space amenities and the developer no longer having to provide open space.

Mr. Clyde Stephens, a resident of Lake County, expressed concerns about growth in the state and opposed any modifications to the Comp Plan regarding open space. He opined that Lake County was becoming a suburb of Orange County and that the current open space policy was acceptable.

Mr. Scott Taylor, a resident of Sorrento, agreed with Mr. Stephens’ comments and stated that the Comp Plan was required to be changed as part of the Wekiva River Protection Act of 2004 and another previous act. He said that the environmental community made an agreement between many interests which should not be changed. He commented that each Comp Plan amendment degrades the efforts of the individuals that created the plan, and he asked the Board not to change the open space policies.

Ms. Nancy Prine, representing the Friends of Wekiva River, said that the state’s Wekiva River Protection Act and Wekiva Parkway and Protection Act required the Comp Plan to be considered with regard to how those areas would be affected. She relayed that due to state law, her organization recommended that the Comp Plan not be changed, and she stated that those acts protected the water sources there. She mentioned that the Central Florida Water Initiative and three water management districts among four counties had considered where water would be originating from in the next 30 years and it was found that there was not an ample water supply for that time period. She relayed that more studies had been conducted to consider the options of possibly placing used and processed water back into the ground and drilling down to Lower Floridian Aquafer to obtain water. She elaborated that the Cities of Groveland and Clermont had already been testing drilling for water and that to use this water, additional treatment would be necessary to remove arsenic and other chemicals in the water. She remarked that most of the area in Lake County was an effective recharge area for water, and this water was important to recharge depleted springs and should be protected. She commented that several years prior, a study was conducted to ascertain the age of the water originating from the Wekiva Springs and it was found to be 47 million years old. She opined that some squares and plaza areas would be appropriate as open space, though they do not belong within rural areas that provide a habitat for wildlife. She suggested that the current regulations were important and should be continued.
Mr. Bill Ray, with Ray and Associates, said that an open space policy affecting the entire county would be addressing four or five different topics. He stated that pursuant to the Comp Plan, PUD projects such as those in the Four Corners area were being realized where the open space policies would still apply. He commented that in appropriate site design in urban and suburban areas, open spaces should be active to allow residents to use them and that this related to the Wellness Way policies where cluster development was considered to keep area rural and help internal areas be active for public use. He said currently there was one definition for open space in Wellness Way and that this definition was being considered to potentially serve other areas such as recharge areas and critical habitats, and he expressed that setting aside land was assumed to be beneficial, though there was no accounting for the management or use of it. He said that a PUD in a suburban area such as one using the Urban Low designation of one acre per four dwelling units and setting aside 25 percent of open space would be throwaway land for the developer and the community. He elaborated that the land may have begun as a grass pasture and that there was no requirement for restoration or connectivity to existing natural areas, and the land can only be fenced in and not actively maintained or yield an active use. He said that open of more natural and rural lands were being sought out in the Wekiva River Protection Area and that to force the county to utilize a single definition that would exclude a single use recreational ballfield within a 200 acre residential development as open space would be a disservice to the community. He opined that being able to have community gathering areas is a viable aspect of place making and sound development that helps identify Lake County as being different than other counties. He noted that sidewalks in part of a right of way were not considered open space, though improved jogging trails winding through a community would represent a beneficial use of open space. He encouraged the Board to endorse staff’s continued work on the topic and to accept more community input with the goal of a revised open space policy that could meet the different aspects of the county.

Mr. Lee said that he had distributed a letter to the Board that his organization wrote about the issue on April 30, 2018 when they observed the policy language. He expressed that the letter was still accurate with the exception of whether the amount of open space should be 10 or 20 percent, and with the exception relating to parking lot islands. He indicated that his organization was primarily concerned about the Wekiva River Protection Area and the specific protections that were added to the Comp Plan as a result of state legislation that passed in 2004. He said that an all-encompassing approach would likely be a mistake, and he presented an illustration of two areas of natural open space within the Wekiva River Protection Area, with one example being contiguous and protecting the resources mentioned in the Wekiva River Protection Act such as sand pine scrub, longleaf pine and the mentioned habitat types. He opined that if ballfields, public plazas and other active cleared space were added, the result would be his other example and fragmentation would occur. He explained that a challenge with fragmentation is that controlled burns are not likely to be viable because facilities there must be protected, and he also noted that each of those intrusions becomes an entry point for exotic plants and other factors that can devalue a contiguous natural habitat. He opined that this type of development does not work within the Wekiva River Protection Area, and he relayed that his organization’s primary recommendation was for the revised policy to not apply for the Wekiva River Protection Area, though it could be appropriate for
other urbanized areas in the county or those that were intended to urbanize. He asked the Board to reconsider the proposed policy and said that he distributed a letter to the Board indicating that four aspects of the policy would conflict with the Comp Plan.

Ms. Lori Patterson, a resident of Lake County, said that she recently moved to the county for its nature and that she planned to eventually give her property back to the County so that it would remain open space. She also opined that inserting baseball fields, parks and other wellness areas to fragment the Weekiva River Protection Area would cause animals to enter the public spaces, which could generate public complaints. She expressed concerns with removing animals’ natural resources by not having them be contiguous and she opposed any changes for open space in the Comp Plan.

Mr. Gonzalez clarified that a platted lot would not be considered open space.

Ms. Deborah Shelley, a resident of Lake County and Vice-President of the Aquatic Preserve Alliance of Central Florida, said that her organization was registered 501(C)(3) not for profit, and was a citizen support organization dedicated to promoting and supporting educational and scientific activities for the Weekiva and Middle St Johns Aquatic River Preserve. She relayed that her organization reviewed the open space amendment and was concerned that for the first whereas clause, the general language was subjective with the open space revisions not appearing to serve the health, safety and welfare of all county residents and instead serving developers. She also mentioned that her organization concurred with the thoughts proposed by Mr. Lee in his letter to the BCC and the Planning and Zoning Board. She indicated another concern that Policy I-3.4.4 for the dedication of open space within the Weekiva Study Area refers back to Policy I-1.2.11 and effectively removes the special protections afforded to the Weekiva River Protection Area and the Weekiva Study Area with regard to open space. She concurred with the Florida Audubon Society that the proposed Comp Plan were in conflict with statutory provisions in Section 369 of the Florida Statutes, and she said that the fragmentation of wildlife habitats was a significant problem in the state; furthermore, allowing sports fields, playground equipment and plazas as open space would further fragment habitats and exacerbate the problem. She noted ongoing water quality issues in the Weekiva River Protection Area and throughout the state, and there were also issues with increased nutrients, exotic species and the proliferation of algae in the water. She said that considerable funding is used when attempting to solve these problems and that open space provides a partial remedy for them. She opined that changing open space policies would not benefit the situation and she asked the Board to not change the policies.

Ms. Susan Fetter, a resident of Leesburg, mentioned that the Lake County Economic Development website proposes that the county is “Real Florida, Real Close” and mentions activities such as horseback riding, wildlife viewing, fishing and birding. She said that the open space provides for these activates and that fragmenting it would contradict this notion. She relayed that many families in South Lake have commented that there was not enough recreational facilities, such as soccer fields, in that area, and she remarked that the draft proposal would be moving the requirement for recreation space into open space, which would be a net loss. She related that instead of requiring developers to provide separate recreation
space, it would now become 10 percent of the open space, which could minimize the number of soccer fields along with reducing the amount of open space. She agreed with Mr. Lee’s letter about the proposed changes to open space and she requested that the Board consider the “Real Florida, Real Close” campaign and the wellness of existing residents rather than developers. She then added that fencing in an area within a development could be helpful as the space could act as an aquifer recharge area.

Ms. Eileen Tramontana, a resident of Lake County, opined that open space was important for the county, the environment and the economy. She relayed that a conversation with a realtor revealed that they sold homes based on the county’s “Real Florida, Real Close” branding, the green space, the forests, the birds, and other natural amenities. She disagreed that having community gathering places such as plazas are more important than having open spaces, and she stressed the importance of green space in urban and suburban areas. She opined that having trees and a fenced in grass field can improve residents’ health and reduce their stress, though she noted that active recreation was also required to serve residents; however, active recreation requires significant input due to the need for fertilizers, pesticides and parking areas. She said that due to these needs, active recreation is not always compatible with green space, and she urged the Board to reconsider their recommendations.

Ms. Deborah Maurer, a resident of Lake County, expressed concerns with the County’s development. She said that she sold real estate and that a reason why citizens move to Lake County is for its nature and natural beauty. She remarked that removing natural beauty would eventually degrade the ability for water to filter through the wetlands, and would create negative consequences. She mentioned that the county’s growth would be increased by the construction of the Wekiva Parkway and that the natural areas help sustain the county and preserve its aesthetic appeal. She requested that the Board consider these thoughts and that removing open space would not further the preservation of the county.

The Vice-Chairman brought it back to the Board for discussion.

Mr. McClendon asked if the Board would request that staff revise or change the draft policy.

Mr. Gamble asked to clarify that the draft policy would exclude the green swamp, the Wekiva River Protection Area and the Lake Apopka Basin from the Comp Plan change.

Mr. McClendon replied that it would be an amendment and asked if it should be countywide or specifically limited to urbanized areas. He said that the policy could be changed according to the Board’s direction.

Mr. Gonzalez asked to clarify that staff was considering taking the Wellness Way policy for open space and applying it countywide.

Mr. McClendon responded that it could be countywide or it could exclude environmentally sensitive areas.
Mr. Gamble expressed support for excluding environmentally sensitive areas, and he commented that while the aquifer has not run dry yet, it could at any moment. He said that it takes many years for groundwater to move back into the aquifer and that this replenishment can take a significant amount of time.

Mr. McClendon added that other sensitive areas could also be protected.

Mr. Gonzalez asked to confirm that a 10 acre lot would not be considered open space, even though it is in native grasses and helping to recharge nearby lakes.

Mr. McClendon confirmed that residential platted lots are not considered as part of open space, even if only a small portion of the lot is used for a residence. He noted that if attempting to split or develop the lot, open space criteria would have to be met and the carved out lots would not count toward open space requirements.

Mr. Gonzalez expressed support for expanding Wellness Way concepts countywide.

Mr. Gamble asked about protecting the green swamp.

Mr. Gonzalez clarified that it was protected already.

Mr. Gamble noted that the letter from Mr. Lee indicated that the proposed changes would contradict what the state required for the protection of those areas.

Mr. McClendon said that staff would identify those issues and craft the policies to either meet that specific criteria or exclude the Wekiva River Protection Area from the open space interpretation.

Mr. Gonzalez stated that near the Wekiva River Protection Area, homes are restricted to one dwelling unit per 10 or 20 acres, and those lots would not be considered open space though they would still act as recharge areas. He remarked that the area was being protected by the zoning.

Mr. Gamble related that the 100 year flood plan would also help protect the area.

Mr. Myers said that the Board was attempting to give staff tools to define open spaces within urban areas. He said that the environmentally sensitive areas in the county need to be protected, though staff would require the tools to creatively make the county and its developments a better place to live. He expressed support with amending or better clarifying the regulations.

Mr. Gonzalez agreed with Mr. Myers’ thoughts and said that he would not take issue with 20 percent of a soccer field within a subdivision being considered toward the open space calculation.
Mr. McClendon said that staff was proposing 10 percent unless directed otherwise.

Mr. Gonzalez expressed his support for 10 percent as a compromise between the environmental and development communities.

Mr. Gamble asked about the next steps.

Mr. McClendon explained that staff would revise the policy to exclude environmentally sensitive areas and perhaps tweak some numbers for the amount of space allowed to be used as wellness space. He said that he could cooperate with Mr. Lee to ensure that a compromise is met, and he could then bring it back before the Board for their recommendation.

SUNSHINE LAW PRESENTATION

Mr. Moats presented a brief overview of the Sunshine Law as an annual update. He explained that the Sunshine Law requires meetings to be open to the public to prevent closed door decision making. He said that the three basic requirements for meetings are reasonable notice, being open to the public, and meeting minutes. He stated that staff was mainly responsible for reasonable notice and meeting minutes, though the Board should ensure that staff is fulfilling those requirements. He also noted that the Board is responsible for ensuring that meetings are open to the public. He commented that any questions from the Board on this matter should be directed to staff and that any comments or opinions on agenda items should be expressed at a public hearing. He said that the Board should not hold a private meeting or communication between members regarding any matter that is on an agenda or that may be on an agenda, that no method of communication may be utilized for this purpose, and that any issues should be discussed at a public meeting and on the record. He noted that according to the Lake County Code, Section 14.00.07, members of the Planning and Zoning Board and the Board of Adjustments are restricted from speaking to any member of the public about any matter on an agenda. He elaborated that this would not be prohibited under Florida law, though is prohibited by the Lake County Code.

Mr. Gonzalez asked to clarify that the Lake County Code would prevent him from talking to any other party about any item that is on an agenda. He also asked if he could call the City of Eustis, for example, and ask them for their opinion about an agenda item.

Mr. Moats clarified that he could talk to staff and the County Attorney’s Office, though he could not contact the City of Eustis. He continued his presentation, stating that if the Sunshine Law is violated, there would be a noncriminal infraction with a penalty of up to $500; additionally, if committed knowingly, it could be considered a second degree misdemeanor and attorneys’ fees could be assessed against the Board member personally. He explained that for the Code of Ethics, Chapter 112, Part III, Florida Statutes, a Board member cannot accept or solicit gifts that are intended to influence their decision. He defined a gift as any item that is of any value, including money. He stated that the Board also cannot misuse their public position including securing a special privilege, benefit or exception for themselves or others. He indicated that the crux of voting conflicts is whether it is inured to a Board
member's special private gain or loss or to their principal to a relative or business associate, and he defined "special private gain or loss" as generally economic in nature. He informed the Board that if they experience a potential conflict of interest, they should speak with himself or someone from the County Attorney's Office and to not participate in the vote, to announce the conflict on the record, and to submit the Commission on Ethics Form 8A to himself or the clerk at the meeting. He said that for the disclosure of financial interests, the Board members completed this once they joined the board and that they would have to submit a new form by July 1 of each year. He concluded by specifying that the penalties for violations of the Code of Ethics could include public censure and reprimand, civil penalties, the restitution of any benefits that were wrongfully obtained, civil action by the Attorney General, personal liability for attorneys' fees and costs, and various criminal penalties depending on the nature of the wrongdoing.

ADJOURNMENT

MOTION by Rick Gonzalez, SECONDED by Kasey Kesselring to adjourn the meeting at 11:48 a.m.

FOR: Gamble, King, Gonzalez, Myers and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

Respectfully submitted,

Josh Pearson
Administrative Specialist, Board Support

Sandy Gamble
Vice-Chairman