MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
February 6, 2019

The Lake County Planning and Zoning Board met on Wednesday, February 6, 2019, 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, February 26, 2019 at 9:00 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Kathryn McKeeby, Secretary	District 1
Laura Jones Smith, Chairman	District 2
Tim Morris	District 3
Rick Gonzalez	District 4
Jeff Myers	District 5
Sandy Gamble, Vice-Chairman	School Board Representative
Kasey Kesselring	At-Large Representative

Members Not Present:

Donald Heaton	Ex-Officio Non-Voting Military

Staff Present:

Steve Greene, AICP, Chief Planner, Office of Planning & Zoning
Michele Janiszewski, Chief Planner, Office of Planning & Zoning
Christine Rock, Planner, Office of Planning and Zoning
Donna Bohrer, Office Associate, Office of Planning & Zoning
Matthew Moats, Assistant County Attorney
Diana Johnson, Senior Assistant County Attorney
Josh Pearson, Deputy Clerk, Board Support

Chairman Laura Jones Smith called the meeting to order at 9:07 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 the agenda had been advertised in accordance with the law. He relayed that there were three conditions added to Tab 7 which staff had forwarded via email to the Board late the previous day, and that staff would share those conditions when discussing that tab.

Mr. Rick Gonzalez suggested that Tab 7 be heard last on the agenda.

MINUTES

MOTION by Kasey Kesselring, SECONDED by Kathryn McKeeby to APPROVE the Minutes of January 8, 2019 of the Lake County Planning and Zoning Board meeting, as submitted.

FOR: **Jones Smith, Gamble, McKeeby, Gonzalez, Kesselring, Myers, and Morris**

AGAINST: **None**

MOTION CARRIED: **7-0**

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Tab 2	RZ-18-22-1	Summer Lake Grace Groves PUD
Tab 3	CUP-18-08-1	Howard Private Airstrip CUP
Tab 4	RZ-18-20-1	Erickson Property Rezoning
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Tab 7	CUP-18-06-3	Treasure Island Range CUP
Tab 8	MCUP-18-01-1	Lake Environmental Resources (LER)

Other Business

Adjournment

PUBLIC COMMENT

No one wished to address the Board at this time.

CONSENT AGENDA

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Tab 1	**RZ-18-21-4**	**Hines Property Rezoning**
Tab 2	**RZ-18-22-1**	**Summer Lake Grace Groves PUD**
Tab 3	**CUP-18-08-1**	**Howard Private Airstrip CUP**
Tab 4	**RZ-18-20-1**	**Erickson Property Rezoning**

The Chairman moved Tab 5 from the Consent Agenda to the Regular Agenda due to citizens who wished to speak regarding that tab.

Mr. Matthew Moats clarified that Tab 5 was the Evergreen Estates Future Land Use (FLU) Amendment Transmittal.

MOTION by Rick Gonzalez, SECONDED by Sandy Gamble to APPROVE the Consent Agenda, Tabs 1-4.

FOR: **Jones Smith, Gamble, McKeeby, Gonzalez, Kesselring, Myers, and Morris**

AGAINST: **None**

MOTION CARRIED: **7-0**

REGULAR AGENDA

Tab 5 – EVERGREEN ESTATES FLU AMENDMENT - TRANSMITTAL

Ms. Michele Janiszewski, Chief Planner, Office of Planning and Zoning, presented Tab 5, rezoning case #FLU-18-15-2, Evergreen Estates FLU Amendment – Transmittal. She explained that the subject property contained approximately 50 acres and was located north of Hartwood Marsh Road, south of Lake John and east of the Clermont city limits, and was within the City of Clermont joint planning area (JPA). She relayed that the applicant was requesting a future land use (FLU) amendment from Wellness Way 1 to Planned Unit Development (PUD). She added that the applicant was seeking to develop the property at a density of three dwelling units per net acre and that if approved, the amendment would be transmitted to the Florida Department of Economic Opportunity (DEO) and other state reviewing agencies to provide feedback, and would later return for adoption along with an application to rezone the property to PUD.

Mr. Gonzalez asked if this item was on the consent agenda because it was a transmittal.

Ms. Janiszewski confirmed that this was correct, though noted that there were two letters of objection.

Mr. Gonzalez noted that there was a letter of objection from the City of Clermont, and Ms. Janiszewski reiterated that the item was on the consent agenda because it was only a transmittal.

Mr. Tom Daly, with Daly Design Group and representing the contract purchaser of the property, displayed the Wellness Way map and noted that the subject property was at the north end of the area. He related that there was a Lake County Water Authority (LCWA) property to the north and that there were single family lots from one to five acres to the northeast and south. He also noted the nearby Lake County and Orange County line. He felt that Wellness Way allowed for a wide range of uses and densities, and also had components which required job creation. He displayed different uses which could be contemplated within Wellness Way 1 and he clarified that they were proposing to remove many of the rights and uses on the property; additionally, they would not be seeking any non-residential requirements which would otherwise be required there. He explained that the PUD FLU was chosen because they wanted to cap the density at three units per acre with no non-residential uses on the site. He displayed an image of the site and noted that there were currently six platted lots at five acres each and that the remaining twenty acres was vacant Agriculture zoned land with the Wellness Way 1 FLU. He related that there were no wetlands on the site and noted the currently allowed uses on the property under Wellness Way 1. He specified that the southeast corner of the property was non-residential and that this was predicated on Wellness Way policies which mandated a certain amount of non-residential square footage for each residential unit. He highlighted some nearby roads which the property could potentially access along with some access easements. He showed an image of the proposed development and explained that there

was an intention to have access on Champagne Drive, Flynn Court or Sadler Court; however, they were proposing that this development be an extension to a currently approved Lakeview Estates subdivision to the west. He elaborated that the access would primarily be limited to the existing subdivision, though there could be some emergency access requirements along the public roads to the north and east. He indicated a commitment to not impact local roads with traffic, and he felt that non-residential uses for this location was inappropriate. He said the future zoning request would indicate that the property would be a gated community with parks and access through the approved subdivision. He elaborated that sewer and water from the City of Clermont would be utilized and that there would be no well or septic tanks used. He requested the Board's support and commented that a previous request for the site was under the name Extreme Groves and was supported by the Board unanimously; additionally, he opined that the current proposal was a smaller version of the Extreme Groves request. He addressed the City of Clermont's letter of opposition and mentioned that meeting had been held with the City. He suggested that the City was obligated to provide water and sewer for this property as part of their interlocal service boundary agreement (ISBA), and he opined that the letter from the City was a city planner's opinion and was not from the Clermont City Council. He claimed that the City wanted the developer to follow up the transmittal by appearing before the City Council for their opinions. He relayed that the developer held a well-attended community meeting in the previous year and that while concerns were noted, there were land development rights on the property through the Wellness Way area plan. He requested the opportunity to respond to any comments made by the public.

Mr. Gonzalez asked if the development would be incorporated into the City of Clermont.

Mr. Daly replied that this was a possibility and that the City would have to accept the annexation. He felt that with the current entitlements of Wellness Way and County policies, it was preferable to move forward as a county project than annexing into the city now; however, if water and sewer was provided by the City, then they could reasonably ask the development to be annexed.

Mr. Gonzalez inquired about the northwest corner of the property which was not included in the plan.

Mr. Daly clarified that it was owned by the LCWA and that the developer's understanding was that it would be a parking lot for the Scrub Point Preserve.

Ms. Jones Smith asked if the access through the adjacent Lakeview Estates subdivision would use public or private roads.

Mr. Daly said that they would be private roads and would be part of the homeowners association (HOA).

The Chairman opened the floor for public comment.

Mr. Raymond Flynn, a resident on Flynn Court, gave a brief history of the area and alleged that the developer took a number of five acre lots and changed them to one acre lots on a lake. He suggested that previous development efforts on the site failed in 2005 and 2016, and five acre lots were parceled off in 2017 along with Wellness Way being approved. He indicated a concern with the technical memorandum in the current application and noted that in table four, the traffic counts compared Wellness Way to the PUD FLU. He claimed that the numbers were subtracted and showed a negative traffic flow from the site. He thought that a traffic study should be conducted, that the 1,300 or greater daily trips should be counted as the traffic out of the site, and that this should be an additive to the subdivision to the west. He opined that there would be a negative impact to Hartwood Marsh Road and that the road was currently graded a level F for service. He also expressed another concern for the technical memorandum stating that there would be future roadways to accommodate the traffic which would be created by this development. He conveyed his understanding that these roads would be constructed significantly into the future and that the Central Florida Expressway Authority (CFX) indicated that the Lake/Orange County Connector was currently under study and the design would occur in 2022 to 2023 with construction to follow. He also addressed item H in the standards for review, and said that approximately 126 large lots were in this area; furthermore, he felt that incorporating a PUD into the area would not be logical.

Ms. Susan Yawn, a concerned Lake County resident, claimed that she had appeared before governing boards multiple times to support established rural community there. She opined that Wellness Way was not a mandate for developers to construct within established agricultural and rural communities, and that these homes would be a significant transition from the current density of one dwelling unit per five acres. She expressed that the existing residents did not want to have their properties devalued, and she alleged that during the planning of Wellness Way, the County assured residents that rural properties would be well buffered and protected from business and high density housing.

Ms. Yanette Moyano, a resident on Flynn Court, said that she had signatures from residents living on the thirteen one acre parcels along a nearby lake and the five acre tracts which she opined would be impacted by the proposed community. She recalled that the Extreme Groves proposal had a density of 122 homes on approximately 67 acres, while the new proposal was for about 50 acres with around 133 homes. She asked about the need to travel through a City of Clermont community to reach the proposed development and how garbage and recycling pickup would operate. She felt that the lack of access on Flynn Court and Champagne Drive would change, and she suggested that the traffic report associated with the 2016 proposal indicated that approximately 1,900 car trips per day would occur on Flynn Court. She requested that the Board deny the case.

Ms. Stacie Welch, a resident on Champagne Drive, expressed concerns about Hartwood Marsh Road being unable to accommodate the additional traffic, the lack of capacity in Lake County schools, and the availability of emergency services in the area. She then requested denial of the request due to these factors, though expressed that she was not opposed to development which would fit with the existing rural community.

Ms. Yvette Whitaker, a resident on Champagne Drive, expressed opposition to developing the proposed property in a rural area and she felt that it would negatively impact the community. She opined that Hartwood Marsh Road was dangerous and that adding additional traffic could create an issue. She requested that the Board deny the case.

The Chairman brought it back to the Board for discussion.

Mr. Daly stated that numerous traffic studies were incorporated when Wellness Way was planned and opined that there were many transportation solutions which were being planned. He added that a traffic study was submitted as part of the current application and that the County had not shown any objection to it. He said that utilizing the Lakeview Estates project would include a significant improvement as required by the County on Marsh Road, such as a roundabout. He noted that the alternative would be to access Flynn Court, though felt that this intersection was problematic due to limited visibility. He said that a PUD FLU was requested to place conditions and to prohibit accessing Flynn Court.

Mr. Gonzalez asked to confirm that the subdivision would never access Flynn Court or Sadler Court. He also asked about the location of the roundabout.

Mr. Daly confirmed this with the exception of emergency response if it was desired by those responders. He felt that the proposed plan would create less disruption than what was allowed, and he relayed that more specific details would be discussed with the rezoning request. He stated that the roundabout was near the intersection of Marsh Road and Lovers Lane. He reiterated that the County proposed a roundabout to assist with the flow of traffic.

Mr. Gonzalez recalled that Mr. Daly mentioned leaving the proposed subdivision through Lakeview Estates and asked why the roundabout was required.

Mr. Daly responded that the proposed subdivision would be part of the master HOA along with Lakeview Estates and would have access through the mentioned roundabout.

Mr. Sandy Gamble asked about the City of Clermont providing water and sewer and if this would require the proposed subdivision to be annexed into the city. He also noted that the Lake-Sumter Metropolitan Planning Organization (MPO) was considering the widening of Hartwood Marsh Road in the future.

Mr. Daly stated that the City could annex the subdivision and that they were obligated to provide water and sewer regardless if the development was annexed. He relayed that his understanding that the Hartwood Marsh Road widening would be to the west and said that Lake County did not have jurisdiction over the road in the City of Winter Garden. He then mentioned that the City had a density of four dwelling units per acre near the county line.

Ms. Jones Smith clarified that the proposed road project would be from U.S. 27 to Hancock Road.

Mr. Daly commented that regarding schools, it was mentioned in the staff report under item E that there were two proposed capital projects to provide relief in South Lake. He elaborated that the projects would include a new K-8 school and a classroom addition to Lake Minneola High School. He clarified that as part of the application to the County, the developer would reserve school capacity and could not move forward without approval from the Lake County School Board; however, capacity reserved at the FLU stage may not be used for several years.

Dr. Kasey Kesselring said that a primary objective of Wellness Way was to ensure future economic growth and development, and he relayed that there was a concern about the area having an excessive number of dwelling units. He noted that a job creation platform was built into the sector plan and he asked if the change to PUD was being sought to circumvent this aspect of the plan.

Mr. Daly replied that the purpose was to recognize the location and size of the property, and he indicated a concern for commercial viability due to the property not fronting Hartwood Marsh Road. He felt that commercial development would not likely be the most appropriate land use for this site.

Mr. Gonzalez inquired if the subject property could have up to 1,000 dwelling units with its current FLU designation.

Mr. Daly replied that there could be up to 20 units per acre and that this number was accurate, though opined that it would not be an appropriate development.

Ms. Jones Smith expressed a concern for the access to the proposed development being through a subdivision within a different jurisdiction and she said that there could be complicating factors when considering items such as law enforcement, fire rescue, garbage collection and stormwater management.

Mr. Daly stated that more clarity would be presented with the rezoning application. He explained that the proposed development would be a subsequent phase of the existing adjacent subdivision and would include private roads, a master HOA and the same builder.

Ms. Jones Smith asked to clarify that he was not opposed to the development being annexed into the City of Clermont and Mr. Daly confirmed this, though he mentioned that the City had not expressed an interest in this.

Mr. Gonzalez inquired if this was expected to be a gated and walled community.

Mr. Daly confirmed this and said that the existing adjacent community was also gated.

Mr. Jeff Myers indicated his understanding that the project would be developed ahead of any road extensions which would help alleviate traffic on Hartwood Marsh Road. He also indicated a concern about the overall relief for Hartwood Marsh Road.

Mr. Daly commented that it would not be developed until the roundabout and turn lanes were constructed as part of the Lakeview Estates project. He said that road projects were possible and that the developer had submitted traffic studies to the Lake-Sumter MPO as part of this process. He noted that there had been no objections to the additional proposed units as part of this project.

Mr. Myers said that if this case was approved, he wanted to opine for the record that the Board of County Commissioners (BCC) should strongly consider how the road relief would be funded.

Mr. Daly commented that the developer could help fund this through impact fees.

Mr. Tim Morris noted that the developer had an agreement with Pulte Homes.

Mr. Daly replied that more information would be provided with the rezoning request. He indicated an expectation for Pulte Homes and Taylor Morrison to be the builders in the proposed community.

Ms. Jones Smith asked if he would be opposed to adding a condition to the FLU ordinance stating that all access would be through the existing approved project, and Mr. Daly said that this could be added.

Mr. Moats expressed that this would be more appropriate as a condition in the rezoning ordinance.

Ms. Jones Smith agreed, but stated a concern for the possibility of another party having this land use with no restriction.

Mr. Daly said that along the western property boundary between the proposed subdivision and Lakeview Estates, there was a county road which accessed the Scrub Point Preserve. He relayed that the developer had access rights and easements over this road and that they could potentially use them for access. He indicated that they could agree to the proposed plan, though they would not remove their access rights to this county road.

Ms. Janiszewski clarified that the current case was an FLU amendment and that if it was approved for transmittal, the adoption hearing before the BCC would be concurrent with the rezoning request. She noted that staff had included a draft PUD ordinance and that Section 1 stated that there would be no direct access to Champagne Drive or Flynn Court and that the proposed development would be accessed by the western property.

Mr. Gamble opined that accessing county property through city property was common throughout the county, and he confirmed that there was a public K-8 school and a K-8 charter school in development for the Four Corners area. He added that a new wing was in development for Lake Minneola High School, and he noted that there were still issues in South Lake and that the applicant would have to obtain approval from the Lake County School

Board. He also opined that the letter of opposition from the City of Clermont staff member would not have been sent without the City's approval.

Mr. Morris felt that the initial intent of Wellness Way was to bring jobs to the county and not to have a significant number of homes, and he opined that this intent should be followed.

Mr. Gonzalez agreed, though thought that commercial development would not be appropriate for this site.

Mr. Myers felt that the progress of development could not be prevented, though the Board could affect its timing. He reiterated that there was currently no traffic relief for Hartwood Marsh Road, and he expressed that either the timing of the property would need to be addressed or there would need to be special assessments made to quicken the road developments. He indicated that he had no other issues with the scope of the proposed development.

Ms. Jones Smith said that the Wellness Way plan was significant and that she had concerns with deteriorating the plan on a project by project basis. She noted that the proposed densities were not in excess of what was currently allowed there, though the project was removing the required commercial component. She also reiterated her concern about accessing the site through a project in another jurisdiction.

MOTION by Rick Gonzalez, SECONDED by Kathryn McKeeby to APPROVE Tab 5, FLU-18-15-2, Evergreen Estates Future Land Use Amendment Transmittal.

FOR: **McKeeby, Gonzalez, and Myers**

AGAINST: **Jones Smith, Gamble, Kesselring, and Morris**

MOTION DENIED: 4-3

Tab 6 – ADRIATICO PROPERTY REZONING

Mr. Greene, presented Tab 6, rezoning case RZ-18-23-5, Adriatico Property Rezoning. He indicated that after the staff report was given to the Board, staff received a notice of appearance for Mr. Greg Thompson, one letter of opposition and four letters of support, which he distributed to the Board. He said that this was a request to rezone an approximately 162 acre property from Rural Residential (R-1) to Agriculture. He relayed that the property was located at 29540 Fullerville Road in the City of DeLand and was comprised of two separate parcels. He noted that the owner had existing ongoing agricultural uses there such as cattle ranching, grazing and aquaculture, that they had an existing house there, and that they used the property for private hunting, fishing and their enjoyment of Raptor Airsoft target play. He commented that the Rural FLU allowed the property to be downzoned from R-1 to Agriculture, and he relayed that staff found the request to be consistent with the FLU.

Mr. Gonzalez, a Planning and Zoning Board member, inquired if the applicant had asked to operate a commercial airsoft use on this application. He also asked if an Agriculture zoning would allow the applicant to do this.

Mr. Greene replied that the application was devoid of any commercial business aspirations. He said that the Rural FLU would allow outdoor recreation.

Mr. Moats added that for a commercial airsoft use, the applicant would have to file an application for a CUP and come back before this Board and the BCC.

Ms. Jones Smith asked to confirm that the Board was currently only hearing a downzoning request to Agriculture, and Mr. Greene replied that this was correct.

Mr. Michael Wojtuniak, an engineer representing the owner, stated that they would be coming back for a CUP and that the first step would be to obtain a consistent zoning for this FLU.

Mr. Greg Thompson, a concerned individual who owned land adjacent to the subject property, claimed that he had been substantially affected by the owner's continued violation of both the Land Development Regulations (LDRs) and a special master's order to cease their operation of a commercial airsoft venue. He alleged that as of November 2018, the owner had caused a reduction in his property value due to noise, traffic and increased intensity. He felt that the rezoning should be denied because its purpose was not for agricultural uses, but instead for the specific use described on the application as Raptor Airsoft and/or recreational uses. He opined that these commercial uses were not consistent with the approved Lake County Comprehensive Plan (Comp Plan) as required by law. He felt that the staff report ignored the stated purpose of the rezone and was delegating this consideration to the CUP process. He opined that staff had failed to apply the facts of the rezoning to the appropriate standard of review outlined in the LDRs and that the staff report not considering the proposed use until the CUP process would affect his ability to effectively oppose the owner's goal of obtaining approval to operate a commercial airsoft venue on their property. He implied that the consideration of Raptor Airsoft recreational use on the property, which was currently zoned R-1, was before the Board, and the first step was to place such a use into a zoning which would allow it under a CUP. He said it was his understanding that staff determined that zoning the property to Agriculture would fulfill this purpose. He opined that the CUP process was currently irrelevant, and he relayed that he had filed a complaint in March 2018 indicating that the owner was operating a commercial airsoft business on their property. He implied that the owner was found in violation of the LDRs and was ordered by a special master to cease their operation, which they neglected to do and were being fined $100 per day due to this. He believed that the owner did not stipulate to any agreement regarding compliance and that County staff had communicated to them that to be in compliance, they would have to rezone the property to Agriculture and apply for a CUP, and that they were also informed that these requests could be concurrent. He relayed his understanding of the following items: that the applicant submitted a rezoning application which was accepted on November 27, 2018, though no CUP application had been submitted; that the application stated that one of the

current uses was Raptor Airsoft; and that another item on the application stated the need to rezone the property to allow recreational uses there. He said that rezoning the property to Agriculture was necessary to allow Raptor Airsoft conditionally, and he relayed that state law required rezoning to be consistent with the approved 2030 Comp Plan for the county, which was a standard for review for rezoning cases. He mentioned that according to the staff report, the Agriculture zoning was consistent with Comp Plan Policy I-1.4.4; however, he felt the report did not mention that the applicant's stated purpose of operating Raptor Airsoft for recreational use would be viewed in context of its consistency with the Comp Plan. He stated that another condition was whether there had been changed conditions which justified a rezone. He remarked that the staff report indicated the property owner's desire to continue agricultural uses on the property consistent with the Rural FLU, though did not indicate any changed conditions. He felt that the owner's desire to operate an airsoft business was a changed condition which required a rezoning. He relayed his understanding that the subject property had been zoned R-1 since the 1970s and that the current uses, aside from Raptor Airsoft, had not been the subject of any enforcement action, rezone or conditional use. He opined that the Board's decision to accept the planning staff's review and recommendation, which disregarded the stated purpose on the application, should be supported by reasons, the staff report, testimony and other evidence in the record. He suggested that full consideration should be given to the purpose and the proposed uses of the rezone with strict compliance to the standards of review and all elements of the 2030 Comp Plan; furthermore, other planning staff reviews had included discussion of proposed uses. He felt that his right to oppose the goal of operating a commercial airsoft business on the property would be compromised when the purpose of the rezoning was not considered in the context of its consistency with the Comp Plan, and that this could constitute a misapplication of the County's standards for review. He implied that the staff report excluded the other standards of review including whether the proposed rezoning would negatively affect other properties through noise, traffic and intensity. He mentioned the standard of the rezoning would represent a logical and orderly development pattern, and he opined that Raptor Airsoft did not meet this criteria and would disrupt the area's character. He brought up another standard if the proposed zoning would be in conflict with public interests and if it would be in harmony with the intent of the regulations, and he suggested that this answer would depend on if the Board recognized the intended use as Raptor Airsoft; additionally, he thought that the Board should consider if this use would fit with the Wekiva-Ocala Rural Protection Area. He said that part of this framework stated that Lake County should exercise extraordinary care to uphold the long term integrity of the rural protected areas and shall recognize their primacy in future land use decisions. He also mentioned that an objective for this area was an intention to preserve the rural density and lifestyles and to protect the ecological integrity of the public and private lands associated with the Ocala National Forest, the Wekiva-Ocala Greenway and the St. Johns River. He commented that another policy was that Lake County shall limit future land use within the area to the Rural, Conservation and Public Benefit FLU series. He opined that the public interest concerned preserving the rural character of these areas and he encouraged the Board to consider the purpose of the rezone. He claimed that staff did not mention that the applicant was informed that they could pursue both a rezoning and CUP request concurrently, though chose not to. He felt that it would be appropriate to consider both of these requests simultaneously and that such action would highlight all issues and leave no doubt to how the

airsoft business fit with the regulations and the Comp Plan. He opined that deciding upon the rezoning without the benefit of the analysis involved for the CUP would be inappropriate. He requested that the rezoning be denied based on the owner's stated purpose of the Raptor Airsoft business and its inconsistency with the character of the rural protection area. He suggested that if the rezoning should be approved for agricultural purposes as defined by the regulations and the Comp Plan, then a deed restriction or condition should be placed on the property prohibiting any future use as a commercial airsoft venue or business. He implied that if the owner was not willing to proceed with the rezoning under this restriction, then the true reason for the rezoning would be to establish a commercial airsoft venue rather than agriculture. He proposed that a consideration be given to postpone the rezoning hearing until the CUP application could be heard and that they should not be viewed separately. He opined that the owner did not appeal the special master's orders and therefore admitted to the charges and agreed to the terms of the order of enforcement. He felt that this action should not entitle the owner to an equitable recovery through a rezoning or a CUP process; rather, the rezoning request should be denied or postponed until the owner complies with the special order to cease their operation. He alleged that the owner began their operation without discussing it with the County and that they should have known to do this. He expressed his position that the neighbors should not have to be affected by this violation and that the owner's actions were willful while knowing of the neighbors' concerns.

Mr. Gonzalez asked about the meaning of a notice of appearance.

Mr. Moats responded that under Chapter 14 of the LDRs, it would consider an individual to be a party to the case and would grant them the same opportunity as the applicant to present a case including evidentiary witnesses or documentary evidence, though they would not be allowed to rebut.

Mr. Thompson noted that he had questions for Mr. Greene. He recalled that Mr. Greene's opening statement indicated that the rezoning application was absent any commercial intentions. He asked if the applicant stated this specifically, if it was in writing, and where in the application the statement was located.

Mr. Greene confirmed that item 10 in the application discussed the owner's use of the property.

Mr. Thompson asked about the meaning of Raptor Airsoft on the application.

Mr. Greene said that with regard to downzoning the property from R-1 to Agriculture, staff considered it to be a private use of one's private property. He elaborated that the owner was allowed to have recreational use of their property.

Mr. Thompson asked if he was aware that the owner was currently operating an airsoft business on their property, and Mr. Greene replied that this was not the scope of the rezoning request and staff had no knowledge of this other than hearsay. Mr. Thompson then asked to confirm that staff had no knowledge of a code violation.

Mr. Greene indicated that there was no code documentation from the Lake County Office of Code Enforcement which accompanied the rezoning application.

Mr. Thompson asked if all of the opposition letters were examined, and Mr. Greene stated that there was a single opposition letter. Mr. Thompson said that since November 27, 2018, he believed that the record showed four or five letters of opposition stating that the owner was operating a commercial airsoft venue on the property. He asked if Mr. Greene considered this in the rezoning application.

Mr. Greene responded that he did not consider this and that it was not part of the application. He elaborated that if the owner had submitted that request as part of the application, then staff would have had them submit a CUP application. He stated that as recreational use, it could be permissible in a Rural FLU.

Mr. Thompson asked to confirm that staff indicated to the owner that there was a two-step process for a rezoning and a CUP, and also that staff had no control over when the owner would be entitled to submit either of those applications.

Mr. Greene confirmed this and said that there was some informal communication with the owner at the Lake County Office and Planning and Zoning counter where staff answered their questions. He relayed that staff informed the owner that a CUP would be required to conduct business on their property.

Mr. Thompson asked if Mr. Greene was the only person who reviewed the file, and Mr. Greene confirmed that he and the County Attorney reviewed it. Mr. Thompson asked to confirm that no one else from the Office of Planning and Zoning reviewed it, and Mr. Greene responded that he was a Chief Planner and was capable of reviewing it.

Mr. Thompson noted that Mr. Greene's opening statement indicated that the purpose of the request was for the owner's personal enjoyment of airsoft, and Mr. Greene confirmed this. Mr. Thompson asked if Mr. Greene evaluated Raptor Airsoft for its consistency with the Comp Plan.

Mr. Greene remarked that he evaluated it as a private use of one's own property and that the owner was seeking to downzone the property from R-1 to Agriculture such that it would reflect consistency with the FLU. He added that rural activity allowed agricultural uses.

Mr. Thompson noted that he had questions for Mr. Wojtuniak. He asked if Mr. Wojtuniak was hired by the owner, and Mr. Wojtuniak confirmed this. Mr. Thompson then asked if the purpose of his hire was to assist the owner with a rezoning process.

Mr. Wojtuniak said that there were multiple processes to work through and the first step was to rezone the property to be consistent with the FLU.

Mr. Thompson asked if the owner only hired Mr. Wojtuniak to answer questions pertaining to the rezoning.

Mr. Wojtuniak replied that he filled out the application personally and advised the owner of the procedure which would be followed. He said that when he considered a CUP for any actions on the subject property, some of the items would not be consistent with an R-1 zoning. He relayed that the owner had approximately 162 acres and that a rezoning would be required to make the property consistent with the Agriculture FLU. He added that the next step would be to follow up with a CUP, which they were working on currently.

Mr. Thompson asked to confirm that Mr. Wojtuniak was hired to work on both a rezoning and a CUP.

Mr. Wojtuniak replied that he did not need to disclose the scope of his hiring.

Mr. Thompson inquired about the discussion about a CUP and why this would be necessary.

Mr. Wojtuniak said that it was to handle the owner's land use changes because they currently had a code enforcement issue and that the airsoft activity would require a CUP, which was not allowed on a parcel zoned R-1. He said that if the request to rezone the parcel to Agriculture was approved and that since the owner had approximately 162 acres, then this would be consistent with the FLU.

Mr. Thompson asked to confirm that Mr. Wojtuniak was aware of the violation pertaining to the airsoft activity and that both a rezone and a CUP would be necessary. He also inquired if the only reason why Raptor Airsoft was mentioned on the rezoning application was for the owner's own enjoyment and that it did not pertain to the violation.

Mr. Wojtuniak replied that when he assisted an individual with rezoning their property, they would consider all opportunities which they could use the property for. He said that activities such as hunting and fishing would require a CUP for commercial use, and airsoft could also be one of those activities.

Mr. Thompson asked to confirm that Mr. Wojtuniak never mentioned an airsoft commercial venue to the Office of Planning and Zoning.

Mr. Wojtuniak responded that he discussed activities which fell under certain categories and that airsoft may have been an included item, though commercial hunting and fishing would also require rezoning the property to Agriculture.

Mr. Thompson asked why Raptor Airsoft was included on the application, and Mr. Wojtuniak replied that it was the owner's email address and was one of the businesses that they operated. Mr. Thompson then inquired where this business was operated, and Mr. Wojtuniak said that it was on the owner's approximate 162 acres. Mr. Thompson asked if Mr. Wojtuniak was

aware that the owner was in violation of a special master's order, and inquired about why the owner continued to operate in violation of the special master's order.

Mr. Wojtuniak confirmed that he was aware of this and stated that they were working through the process to make the activities legal per the LDRs.

Mr. Thompson asked if Mr. Wojtuniak would be willing to rezone the property to Agriculture but restrict it to agricultural uses.

Mr. Wojtuniak replied that they would not, and that it would be restricted to anything permitted by LDRs and the Lake County Code.

Mr. Thompson noted that the request was to rezone the property for agricultural uses.

Mr. Wojtuniak explained that the property would be downgraded to be less intense from R-1 to Agriculture and that activity which fell under Agriculture zoning would be allowed by the code.

Mr. Thompson stated that the parcel had been zoned R-1 since the 1970s and had been operating under the current uses, with the exception of Raptor Airsoft, for over 40 years. He asked how this would be downgrading to Agriculture.

Mr. Wojtuniak clarified that it would be less intense and that the owner was within their rights to subdivide the property into 32 lots, which would be more intense than having it remain at about 162 acres. He elaborated that by downgrading it to Agriculture, the owner could then perform agricultural uses including conditional uses, such as an airsoft field, through a conditional use process. He stated that the County would then have discretion to develop a plan to mitigate any negative impacts.

Mr. Thompson asked why a CUP request was not submitted along with the rezoning request.

Mr. Wojtuniak opined that it would be an economic waste because if the zoning was denied, then the CUP could not be obtained. He said that this was his advice for the owner.

Mr. Thompson indicated that his presentation was concluded.

The Chairman opened the floor for public comment.

Mr. Matt Elmatti, a military veteran, said that he had engaged in airsoft, fishing and other activities on the subject property. He stated that he used the property to feel safe and enjoy nature, and that he felt that airsoft was a game of integrity, provided great exercise, and helped educate individuals about nature.

Mr. Daniel Keller, a neighbor of the subject property, voiced his opposition to rezoning the property for use as a commercial entity. He noted that there was noise from the subject

property and he felt that the application indicated that the owner wanted to operate a business there. He opined that it was a safety issue and created traffic on the narrow clay road there, noting that there were no sidewalks on the road.

Ms. Kathryn McKeeby left the meeting at 10:57 a.m.

Mr. Joseph Harrod, a resident of Volusia County, said that he frequently took his children to play airsoft on the subject property. He said that visiting Lake County to play airsoft created a positive economic impact, and he relayed that other airsoft venues were a considerable distance from the subject property. He opined that the property owner and the neighbors should discuss the issue and reach a solution.

Mr. Brett Arquette, Chief Technology Officer for the Ninth Judicial Circuit Court in Orange and Osceola Counties, said that he played airsoft at the subject property with his family and law enforcement officers. He noted the concerns about noise and opined that the activity should not be able to be heard from a quarter mile away. He also felt that there was not a significant amount of traffic there each day of the week. He opined that airsoft was a less intense use of the property than what would be allowed by the Florida Statutes and that all of the nearby properties should be zoned Agriculture due to the livestock there.

Mr. Melvin Rollins, a retired Marine Corps Gunnery Sergeant and the property manager for a neighbor of the subject property, showed a chart with the maximum range which various weapons could be fired. He opined that the owner had live fire each week on a shooting range. He also showed a picture with the location of nearby houses on Fullerville Road, and felt that each of the houses would be within the range of firearms. He showed information about the nearby families with children and he opined that they were being endangered by the live fire.

Mr. Cecil Gray, a neighbor of the subject property, asked if staff was monitoring website postings for Raptor Airsoft. He noted that there had been prices for gun rentals, air and BBs, and that this represented a commercial operation. He opined that the purpose of the rezoning was to install a commercial gun range in an Agriculture zoned district. He thought that the owner had expressed interest in continuing the activity through an email to the Office of Code Enforcement, which followed the special master's ruling that the airsoft activity was not in compliance with the Lake County Code. He felt that approving this request would contradict the LDRs, and he added that on February 17, 2018, he counted over 150 vehicles entering the subject property; furthermore, he said that the traffic and gunfire had damaged his quality of life and his property value.

Ms. Jamy Young, a resident of Marion County, said that she had played airsoft at the property with her family. She advocated for the rights of private property owners and she opined that the complaints about noise and traffic were valid; however, the property was only operational from 10:00 a.m. to 5:00 p.m. on Saturday and Sunday. She expressed hope that the community could find unity on the issue.

Ms. Lois Brown, a neighbor of the subject property, said that she found the owner's shooting range disturbing and stated that it could grow and become dangerous. She indicated concerns about the activity's effect on land values and for the traffic on the road. She commented that the business was continuing even though the owner was being fined daily, and she asked if Raptor Airsoft would be in compliance with Agriculture zoning.

Ms. Rebecca Murphy, a neighbor of the subject property, commented that she had numerous photographs of cars travelling on the road during the past weekend. She felt that the owner's airsoft activity was harming the neighbor's rights to enjoy a peaceful weekend, and she said that she had heard airsoft guns, explosions, game calls and live gunfire. She also expressed a concern for declining property values and for having to reduce her land usage due to this activity. She felt that the subject property had trees removed and was developed for airsoft purposes. She disagreed with the staff report finding that the request would not disrupt existing orderly logical development due to noise and consistent traffic on the road. She opined that rezoning the property to Agriculture would not create consistency with these activities.

Ms. Ella List, a neighbor of the subject property, expressed a concern for the traffic on the road there and said that she witnessed a septic truck and motor homes travelling to the subject property.

Ms. Chloe Sloan, a neighbor of the subject property, said that heard live fire from the property on the weekends and that it was negatively impacting her property values; additionally, she felt that the damage to the road from the increased traffic was affecting her vehicles. She expressed that the activity was harming her ability to enjoy her quality of life.

Mr. Carl Elmquist, a resident of Volusia County, said that he considered the subject property to be wholesome for his family and that he only heard live fire from areas other than the subject property. He opined that he did not observe children in the streets there and that the traffic did not create a hazard. He remarked that if the property was developed into residential lots, there would be a greater number of traffic than with the current activities. He also opined that there was prejudice against the owner.

Ms. Alcira Samson, the daughter of the subject property owner and co-owner of Raptor Airsoft, felt that she had experienced prejudice from the neighbors. She opined that complaints about noise, significant traffic, live firearms and a fear of being struck by projectiles were untrue. She stated that airsoft guns fired quietly and no more than 60 yards. She also related that live firearms had never been allowed at Raptor Airsoft; however, she noted that their family had a right to shoot firearms on the property and that the neighbors had fired weapons on their own properties.

The Chairman brought it back to the Board for discussion.

RECESS AND REASSEMBLY

The Chairman called a recess at 11:35 a.m. for five minutes.

Tab 6 – ADRIATICO PROPERTY REZONING CONTINUED

Mr. Wojtuniak stated that the request was to downzone the property from R-1 to Agriculture which would be consistent with the FLU. He commented that the goal was to comply with all LDRs and that a CUP would be following the current application. He clarified that the activity was not a live fire shooting range and that airsoft was an activity which could be conducted under a CUP. He also relayed that a sound study would be included as part of the CUP, and he felt that the activity only generated a low volume of traffic intensity.

Mr. Gonzalez asked to confirm that a CUP was not the subject of this petition.

Mr. Wojtuniak confirmed this. He opined that changing the zoning would not change property values and reiterated that the current R-1 zoning would require the owner to rezone the property for any other use of the property.

Mr. Morris asked about airsoft pellets, and Mr. Wojtuniak said that the weapons fired a small biodegradable BB.

Mr. Gamble asked if this was similar to what was used for school resource officer training. He also asked to confirm that no live fire was occurring on the property.

Mr. Wojtuniak replied that airsoft guns could potentially be used for this purpose, and he clarified that there was no live fire range on the property.

Mr. Gonzalez observed that the staff's summary of analysis stated that the present zoning was inconsistent with the adjacent land owners.

Mr. Greene remarked that the current zoning was R-1 and the surrounding properties were also R-1, though the current zoning was not consistent with the FLU. He said that Agriculture zoning would be consistent with the FLU.

Ms. Jones Smith inquired if R-1 zoning was permitted in the Rural FLU.

Mr. Greene said that it was recognized as legal non-conforming and that until such time that they seek to redevelop the property, R-1 would be indicative of one residential dwelling per one acre. He elaborated that this level of density was not permissible within the Rural FLU which required one dwelling unit per five net acres.

Mr. Gonzalez asked if a request to construct 136 lots on the property would be denied. He also asked if 32 lots would be allowed.

Mr. Greene confirmed that 136 lots would be denied and that 32 lots would likely be allowed.

Mr. Morris said that this many lots would create numerous trips per day.

Ms. Jones Smith asked if the density of one dwelling unit per five acres within the Rural FLU was a maximum or a minimum, and Mr. Greene replied that it was a maximum.

Dr. Kesselring stated that he understood Mr. Thompson's concern about the owner's attempt to operate a business on the property, but the current request was not for approval to do this. He related that the request was only to rezone the property from R-1 to Agriculture. He remarked that if a business was being operated there illegally and was subject to code enforcement, then the owner would have to request a CUP for permission to operate the business there; furthermore, he would be supporting the request for this reason.

Mr. Gonzalez agreed with Dr. Kesselring's position on the issue.

MOTION by Rick Gonzalez, SECONDED by Sandy Gamble to APPROVE Tab 6, RZ-18-23-5, Adriatico Property Rezoning.

FOR: **Jones Smith, Gamble, Gonzalez, Kesselring, Myers, and Morris**

AGAINST: **None**

MOTION CARRIED: **6-0**

Tab 8 – LAKE ENVIRONMENTAL RESOURCES (LER)

Mr. Greene presented Tab 7, rezoning case #MCUP-18-01-1, Lake Environmental Resources (LER). He explained that this request sought to amend the previously approved conditional use permit MSP#05/10/1-3, Ordinances 2005-113 and 2006-101, to allow the vertical expansion of an existing construction and demolition (C&D) pit and to allow a borrow pit on the southern adjacent property. He noted that the uses would be authorized with the enactment of a new ordinance which would supersede and replace the previously specified ordinances. He said that the construction of the C&D landfill was approved in 2005 with the mentioned ordinances, and the applicant sought to expand the existing C&D operation by increasing the perimeter berm height from 205 feet to 225 feet and also to allow a borrow pit on the southern area. He displayed an image of the site and pointed out C.R. 455 on the north side, the current C&D activity, and the proposed borrow pit activity on the southern area for the purpose of providing materials for highway improvements for nearby construction jobs in Central Florida. He said that the existing C&D activity was approved by the BCC in 2005 pursuant to LDRs Chapter 6 regarding the removal of soils greater than 20 percent of the stormwater volume. He commented that for the proposed borrow pit use, the LDRs specified that borrow pits were areas of land for the use of borrowing that material and using it for projects which require it, and he added that those definitions were codified in the Comp Plan. He related that

the requested borrow pit was similar to a C&D pit for the removal of material for the purpose of creating landfills. He relayed staff's belief that the borrow pit activity to the south was similar to the previously approved C&D activity and would be no more detrimental than that activity; furthermore, the application indicated that the proposed borrow pit would accept clean fill at a future date for the sole purpose of reclaiming the southern portion of the land for agricultural purposes. He added that upon completion of the C&D activity at the north end, the land would be reclaimed and capped in accordance with the existing Florida Department of Environmental Protection (DEP) permits for that activity. He stated that mining was allowed in the property's Rural FLU category and that C&D and borrow pit activity would be similar to a mining use; therefore, staff recommended the approval of a mining CUP (MCUP). He explained that this would be similar to the original approval in 2005 and that with regard to incompatibility with surrounding land uses since that time, the adjacent properties would be buffered with an approximately 100 foot landscape buffer to minimize adverse impacts. He listed another impact as the expansion of the C&D and the borrow pit activity possibly increasing truck traffic on the property, and he showed an image with the distribution of the truck trips. He relayed that the applicant had indicated that the trucks would generate no more than ten additional trips per day on the property and that the Lake County Public Works Department included a condition within the ordinance which would limit access to C.R. 455 for both activities; additionally, access to Bruce Hunt Road would be prohibited. He stated that staff found the CUP amendment consistent with the current LDRs and Comp Plan, and recommended approval of the request. He noted that there were additional letters of opposition which staff had distributed.

Dr. Kesselring recalled an image shown during staff's presentation and asked to confirm that the highlighted boundary lines around the site represented the subject owner's property. He also noted a home to the southwest of the property and asked if it belonged to the applicant.

Mr. Greene confirmed that the boundary was around the existing C&D activity and that the home belonged to the applicant.

Dr. Kesselring asked to confirm that a residential home was located east of the proposed borrow pit, and Mr. Greene confirmed this.

Mr. Morris asked if there was a deadline for the mining activity within the original ordinance.

Mr. Greene clarified that there was no sunset in the original ordinance, though the activities would have to be conducted in accordance with their DEP permit.

Mr. Morris said that the applicant had an existing C&D pit and was trying to add a borrow pit.

Mr. Gonzalez asked to confirm that the new pit would be borrowing from a new area and that material would not be disposed of there.

Mr. Greene clarified that the applicant was seeking to raise the existing C&D pit about 20 feet higher to create more capacity, along with creating a borrow pit for a different purpose. He said that there could be some dry fill because they intended to reclaim the land for agricultural purposes.

Dr. Kesselring inquired if all traffic from the borrow pit operation would go through the existing C&D out to C.R. 455, and Mr. Greene relayed his understanding that this was correct.

Mr. Ted Wicks, an engineer representing the applicant, clarified that the applicant only requested land to create a borrow pit and that it would not be used for any disposal, clean fill or C&D. He requested for it to be stated in the ordinance and in the operations plan that there were no future plans for these uses. He stated that the site was originally approved in 2005 or 2006 on the site of a vested mining operation and that the material borrowed there was becoming exhausted. He commented that additional dirt was required for the area due to market conditions and that the borrow pit was required to address this. He mentioned that the C&D landfill was for that debris only and that when the application was made, they went to the DEP for suggestions on how to improve their operations and to receive a permit for vertical expansion. He related that the existing footprint would not change and that they were seeking a higher closure elevation. He said that they applied for an amendment to the existing MCUP ordinance and that staff had created a new ordinance, though the applicant preferred to have all of the conditions in the original ordinance be incorporated into the new ordinance to protect the owner and the neighbors. He noted that the current ordinance had specific requirements for air quality, water quality and the odor and remediation management program. He requested more specific language in the proposed ordinance to strengthen these conditions and require the company to renew the corrective action plan. He relayed that they had plans to add additional odor control devices at the facility including more vents and flares, and the company would discuss with the DEP if these devices could be operated at all hours of the day. He indicated that his client did not want approval for any additional material to be placed in the new borrow pit, and he expressed that any new traffic would exit through the existing operation onto C.R. 455 and follow the traffic pattern shown in the application.

Dr. Kesselring asked if any groundwater studies had been conducted on the property.

Mr. Wicks replied that they established about six groundwater monitoring wells around the site, conducted background sampling, and had a monitoring plan implementation schedule as part of their operating permits with the DEP and the County; furthermore, this required them to sample water quality twice per year and provide reports. He added that as of the current date, there had not been a violation of public drinking water standards, and also that this program would continue. He said that there was a provision for if the site closed, the company would have five years of long term care and monitoring before it could be officially closed.

Mr. Gonzalez noted residents' complaints about odors and asked if there was a previous cell which had been closed and vented.

Mr. Wicks expressed that there were ongoing odor issues there and that the company had been proactive to address them with daily cover, vents and flares. He specified that there were currently seven or eight flares in the operating system there and that another seven were planned; additionally, they had committed to a proactive complaint response program which he felt had been successful. He noted an issue of clean wood, vegetative matter and land clearing debris which were disposed of at the site, and he said that the current application included an ability to install an air curtain incinerator to burn the wood and vegetative debris instead of placing it into a landfill. He added that there were standards for the incinerator and would require a Title V air pollution permit from the state to operate. He also stated that they had spoken with adjacent land owners who had suggestions about the odor and how to address it.

Mr. Gonzalez inquired if the site accepted septic waste.

Mr. Wicks denied this and clarified that it was a C&D facility which was strictly limited to materials resulting from a land clearing operation or C&D debris. He noted odor issues with drywall, but said that the company had taken precautions to address this and that the site had not had issues with this material. He commented that there were trained spotters to find inappropriate items for the landfill for offsite disposal and he indicated that for the borrow pit to the south, they had provided staff with the required studies and reclamation would occur on the site with a pastured operation through sloping and revegetation. He related that there were four single family residences located on the parcels within the defined boundary of the borrow pit and the homes would remain there until such time that their phasing plan required them to be moved or otherwise addressed. He stated that when the pit was exhausted of material, it would be reclaimed and returned to a single family agricultural use.

Dr. Kesselring asked if there was a timeline specified for the borrow pit in the proposed ordinance.

Mr. Wicks responded that this did not occur and said that market conditions vary which creates difficulty in evaluating the lifespan of this type of operation.

Mr. Gonzalez asked if there would be a mining plan with a defined amount of elevation to be removed.

Mr. Wicks said that the pit limit had already been defined and that the company would need to file an operating plan to detail the conditions to be met with the borrow pit. He expressed a desire for the conditions in the previous ordinance to be brought into the new ordinance so that there would be an awareness of the company's intent to operate the site soundly and maintain their permits.

Mr. Morris inquired if the company had a bond for the operation.

Mr. Wicks confirmed this and said that it covered financial assurance. He added that if the company walked away or defaulted on its permits, the money would be available to close the facility and to assure five years of long term care for the site.

Mr. Gonzalez asked about the buffers around the borrow pit.

Mr. Wicks noted that they were approximately 100 feet from the property line and were planned to be around 100 feet from Bruce Hunt Road. He stated that they would have about 29 acres of effective borrow area once the setbacks were applied, and he added that they prospected it and conducted geotechnical studies to determine that the material there would meet construction industry standards. He clarified that the material there would only be dug out of the ground and hauled to the job site.

Mr. Gonzalez then inquired about where the groundwater flow was.

Mr. Wicks responded that it was to the northeast, though some of it went to the southwest. He commented that the C&D facility had a 500 foot setback from any of the offsite drinking water wells.

Dr. Kesselring asked to clarify the site's operating hours.

Mr. Wicks said that they were currently operating 5.5 days per week and that within the new ordinance, they had asked to operate the full day on Saturday. He elaborated that with the current construction industry, many of their subcontractors were working on Saturday and he felt it was necessary to work from 7:00 a.m. to 7:00 p.m. on Saturday to protect the landfill; additionally, there would be no operation on Sunday.

Dr. Kesselring asked to confirm the current C&D hours, and Mr. Wicks responded that they were from 7:00 a.m. to 6:00 p.m. He reiterated the request to extend the hours on Saturday to 7:00 p.m.

Dr. Kesselring inquired about how many excavators would be operated at the same time.

Mr. Wicks said that there was currently a single excavator and that this would remain the case with the new borrow pit. He added that a significant contract could lead to there being three or four excavators in use.

Mr. Gonzalez asked about where most of their material came from.

Mr. Wicks commented that it was mostly local. He felt that the ability to dispose of the material was becoming tight and that this was why they had asked for a vertical expansion rather than creating another operation offsite.

Mr. Moats clarified that the current ordinance specified operating hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, with hours of 7:00 a.m. to 2:00 p.m. on Saturday. He said that the Board could include a possible increase of these hours in their motion.

Mr. Gonzalez asked if vertical expansion would not be changing the boundaries of the property.

Mr. Wicks stated that vertical expansion would allow them to raise the closure elevation and that they would gain some air space; additionally, the state was now enforcing a 3:1 foot ratio for run and drop on all of their outside perimeter berms.

Mr. Gonzalez inquired if the incinerator would use a pit and a large fan.

Mr. Wicks confirmed that this was correct, though they were subject to Title V air pollution standards. He stated that it would be for burning wood and land clearing debris. He added that it would be tested on a quarterly basis and that it would likely be limited to 10:00 a.m. to 2:00 p.m.

Mr. Morris asked to confirm the location of the requested borrow pit.

Mr. Wicks pointed out the outline of the borrow pit. He clarified that a neighbor had been farming the area and that this site would be part of the borrow pit.

The Chairman opened the floor for public comment.

Mr. Greg Homan, a forming Planning and Zoning Board member and a neighbor of the subject property, stated that he had previously voted to approve the site because it was going to be temporary and would not expand. He expressed a concern about expanding the operation and delaying its sunset. He suggested increasing the height by a smaller amount due to the possibility of obstructing the view of Lake Harris. He also indicated a concern about the proposed ordinance eliminating the previous two ordinances, and he wanted to retain the previous restrictions. He opined that the site's odor was unpleasant and was negatively affecting nearby property values, and he advocated for a condition to allow the vents to be open for 24 hours per day. He suggested these items: adding this MCUP to the previous MCUPs instead of replacing them; extending venting to 24 hours per day; disallowing the new borrow pits to contain construction debris; implementing a deadline on the current mine; compromising on the height increase for the berm; and allowing him to be involved in the odor mitigation process.

Mr. Billy Shiver, a resident on Bruce Hunt Road, felt that the noise and the odor from the site were issues. He suggested that the site should stay with the original MCUP and that it was his understanding that the site would be reclaimed and given to the County. He opined that the borrow pit should be expanded to the west rather than using homesteaded properties. He alleged that trucks had come into the site after midnight from South Florida and that the County was not considering the complaints about this activity.

Mr. Javier Heredia, a resident on Bruce Hunt Road, stated that he had purchased his property a few years prior and was told that the borrow pit was temporary and would become a park or housing site. He felt that expanding the borrow pit toward Bruce Hunt Road would upset the community there.

Ms. Kim Toops, a resident on Bruce Hunt Road, indicated concerns about the site's odor causing negative effects on nearby properties. She expressed that the smell had negatively affected her quality of life. She noted that there were not many homes around the current landfill, though Bruce Hunt Road had about 40 homes on it, and she felt that the time limit for the site should not be increased.

Mr. Scott Homan, a resident on Bruce Hunt Road, noted that he had purchased a nearby grove and he relayed concerns about the site's effects on water. He also indicated concerns about the site's odor and how this could negatively affect nearby property values. He advocated for a finite timespan for the site which could not be amended, and he opined that the mine would not have been granted at the current time due to its construction.

Mr. Eloy Padruza, a resident on Bruce Hunt Road, opined that the site's odor was unpleasant and was negatively affecting nearby property values.

The Chairman brought it back to the Board for discussion.

Mr. Wicks stated that the company was aware of past odor corrective action and saw this as an opportunity to utilize current technology to expand its levels of odor control with the objective of having no odor. He felt that changing operating procedures at the landfill, installing additional devices and operating the devices 24 hours per day would assist in relieving the odor issues. He recalled that no sunset dates were included in the ordinance or their operating permits with the DEP or Lake County, and he expressed an issue with committing to a date due to the market. He expressed that there was a viable plan for vertical expansion, though if this request was not approved, the company could continue to operate under its current ordinance. He stated a commitment to lessen the burden on residents there, reiterated that no material would be placed in the new borrow pit, and requested approval of the amendment.

Mr. Gamble asked about the differences between the proposed ordinance and the conditions which the applicant wanted to agree to.

Mr. Wicks explained that they wanted to take the original ordinance and amend it with the new borrow pit and a vertical expansion on the existing C&D pit, along with adding language to reinforce the odor control plan.

Mr. Moats clarified that Section 2-B of the proposed ordinance specified the alternate key numbers of the land which would contain the C&D pit and borrow pit, and it was his

understanding that this second amendment would incorporate the original ordinance to include it in a single document.

Ms. Jones Smith asked to clarify that the intent was to restate and replace the original ordinance so that there would not be three ordinances controlling a single site, and Mr. Moats confirmed this.

Mr. Wicks expressed his agreement with this and reiterated that there would be no reclamation of the new borrow pit with C&D or waste materials.

Mr. Gamble inquired about the increased height disrupting the view of Lake Harris.

Mr. Wicks stated that he did not realize that it would be blocking any resident's view, though the vertical expansion would give the company more flexibility for placing slopes. He said that there would be a gain in airspace from a disposal standpoint, though the life extension of the site may not increase beyond what was previously expected.

Mr. Morris asked to confirm that venting the site 24 hours per day would help reduce the odor. He also asked if this was possible on the current site.

Mr. Wicks confirmed this and added that the flares on each vent would also assist with this. He explained that venting was currently done on a limited basis based on the DEP permit.

Mr. Morris inquired if they would have to ask the DEP for a 24 hour permit, and Mr. Wicks stated that they would amend their permit and their odor corrective action and remediation plans for submission to the DEP for approval. Mr. Morris then asked how they would continue to currently operate without the borrow pit.

Mr. Wicks clarified that the new borrow pit was a source of clean fill and that the C&D operation could continue as it was. He indicated that there were already plans to install additional vents and flares, though the operational period would need to be increased to support them.

Mr. Morris inquired that without the borrow pit, would the company need to bring the fill in through additional truck trips. He also asked if there was any negotiation on the proposed height change.

Mr. Wicks said that this would be possible due to nearly exhausting the available fill in the existing C&D borrow pit.

Ms. Jones Smith observed that the height was not specified in the ordinance.

Mr. Moats clarified that it was included in the operating plan and that this plan would have to be approved after the ordinance was approved.

Mr. Gonzalez asked about the comment concerning truck traffic from South Florida entering the site at midnight. He also inquired if there was an end use agreement where the site would become a park.

Mr. Wicks indicated that the site closed at 6:00 p.m. and that this was not their traffic. He added that there could be an occasional maintenance truck entering the site after hours, though it would be the company's vehicle. He stated that the company had not approached an end use agreement with the County, though the company had included within its final closure and intent to regrass the site and use it for pasture.

Mr. Gamble inquired about an agreement made to sunset the project when it was originally planned and where this could be found.

Mr. Greene replied that it would have been contained in the previous ordinance, though they did not contain a sunset date.

Ms. Jones Smith asked if the previous ordinances were the ordinances for this property.

Mr. Greene noted that there was another ordinance for the site, though he was not aware of a sunset date. He noted that mines can have an unending lifespan and that a previous Board could have chosen not to include a sunset date; additionally, sunset dates could be beholden between the applicant and the DEP.

Mr. Moats recalled a recent peat mine case stipulating a periodic review before the BCC and that this could be an option for the current case.

Mr. Wicks stated that their MCUPs were reviewed annually through a mining plan and that an annual fee was being paid to do this.

Ms. Jones Smith asked to confirm that this review was performed by staff, and Mr. Greene explained that following BCC approval, the applicant would have to submit an operating plan for review, after which annual monitoring and inspections would occur. Ms. Jones Smith then asked if the condition for the peat mine was for the MCUP to come back to the BCC for consideration.

Mr. Moats said that this was correct, and Mr. Greene added that for this case, there were questions about the life of the peat mine.

Mr. Gonzalez motioned for approval of the tab with the conditions to include the requested Saturday hours and the conditions of the previous ordinance.

Mr. Gamble seconded the motion, though indicated interest to mandate in writing that they would request 24 hour operation from the DEP for the vents and flares.

Mr. Wicks stated that they would pursue this with the DEP and would include it within the County operating permit. He stated that they were committed to addressing the odor there.

Mr. Gonzalez also advocated for including a statement prohibiting new fill in the borrow pit.

Ms. Jones Smith stated that this was indicated in Exhibit A. She asked if any additional items should be added pertaining to air quality standards.

Mr. Morris asked if the operating hours on Saturdays would be from 7:00 a.m. to 6:00 p.m, and Ms. Jones Smith confirmed this. Mr. Morris and Dr. Kesselring then voiced their opposition to this.

Ms. Jones Smith noted that there was already an odor monitoring plan as part of the operating plan requirements.

Mr. Moats commented that it was feasible to include this in the ordinance, though he was unsure how it should be worded.

Ms. Jones Smith stated that it would be out of the County's control and that the DEP would have to authorize venting and flares for 24 hours per day. She said that this could be beyond the Board's purview.

Mr. Gamble asked if the motion would be amended to address the Saturday hours.

Mr. Gonzalez inquired if it would be an undue burden for the applicant to remain with the current operating hours.

Mr. Wicks said that they would continue with the hours stated within the current ordinance.

Ms. Jones Smith asked to confirm that the motion would be amended as such, and Mr. Gonzalez confirmed this.

Dr. Kesselring inquired if there was clarity on the new borrow pit being unable to be used for new fill.

Ms. Jones Smith stated that this was mentioned in the legal description.

MOTION by Rick Gonzalez, SECONDED by Sandy Gamble to APPROVE Tab 8, MCUP-18-01-1, Lake Environmental Resources (LER), with the condition to verify that all of the conditions within the original two ordinances would be included in this ordinance.

FOR: **Jones Smith, Gamble, Gonzalez, and Myers**

AGAINST: **Kesselring and Morris**

MOTION CARRIED: 4-2

Tab 7 – TREASURE ISLAND RANGE CUP

Mr. Jeff Myers left the meeting at 1:13 p.m.

Ms. Christine Rock, Planner, Office of Planning and Zoning, presented Tab 7, rezoning case #CUP-18-06-3, Treasure Island Range CUP. She stated that a memo was drafted on the previous night to include additional revisions to the ordinance including a prohibition on firing weapons from military and paramilitary vehicles on the site; additionally, there was a revised concept plan for the backstop berms and the owner indicated that they would retain off duty law enforcement officers to direct and control traffic during four special events on the site per year. She showed the revised concept plan and noted a height increase for the backstop berm from 15-18 feet to 24 feet. She said that since the staff report was published, additional letters of support and opposition were received. She explained that the property was approximately 99.3 acres in size and was located north and south of North Treasure Island Avenue in the City of Leesburg area. She commented that the applicant had requested a CUP to allow a firearms training range facility, and she showed the current location, zoning and FLU of the property. She related that this application was submitted to comply with Special Master Order #2017-11-0051 and that it was submitted within the specified timeframe. She stated that neither the LDRs nor the Comp Plan listed the proposed use of a firearms training range, though the LDRs had a provision stating that similar uses not specifically listed may be permitted within the Agricultural zoning district, which was consistent with the subject property. She noted similar uses in the Comp Plan as active parks, recreation facilities and outdoor sports and recreation clubs, and that these conditions were conditionally allowed within the Rural FLU category. She relayed staff's determination that the proposed firearms range was similar to the existing uses contained within the LDRs and the Comp Plan and she said that to minimize any potential impacts to surrounding properties, the ordinance contained several conditions including the following: specific hours of operation; submission of a noise study at the time of site plan submittal; the northern backstop berm must be increased to at least 21-24 feet in height and maintained; explosive devices and materials would be prohibited; helicopters could not land or take off on the property; and at the time of the site plan, the applicant would be required to submit a full environmental assessment which would be no older than six months and would be reviewed with their application. She stated that because the proposed use was likely similar to the uses listed in the LDRs and the Comp Plan, staff recommended approval of the request.

Mr. Gamble left the meeting at 1:20 p.m.

Mr. Morris asked about the definition of explosive devices and materials.

Ms. Jones Smith noted that the ordinance listed explosive devices and materials including, but not limited to such products as tannerite, as being prohibited. She then asked how long

the ongoing operation was active and if they were issued a business tax receipt or business license from the County or if they were a business under the State of Florida.

Mr. Gonzalez asked about explosive devices and materials.

Ms. Rock deferred these questions to the applicant.

Mr. Brent Spain, an attorney representing the applicant, alleged that the special magistrate proceeding did not go to a hearing and that there was never a finding of a violation on the property; however, there was a disagreement over whether the County could regulate a firearms shooting range and whether it had been preempted by state statute. He added that they had entered into a settlement agreement before the issue went to hearing and they were coming before the Board as compliance with the agreement. He relayed his understanding that the range had been operating for approximately six to ten years and that there had not been a safety incident within that timeframe. He thought that the issue came to the Lake County Office of Code Enforcement in November 2018 and that his law firm became involved in March 2018 and worked with the County to address the issue through an amendment to the settlement agreement which allowed additional time for the applicant to obtain an updated survey and submit the formal application. He indicated that they had voluntarily chosen to delay this case from December 2018 to hold a community meeting onsite, and he noted that they had submitted many conditions for the request including using military and paramilitary vehicles for display purposes only during one of the four special events per year. He elaborated that another condition would require retaining the services of an off duty law enforcement officer to help direct and implement traffic controlling measures during special events. He noted that they had received a letter from the St. Johns River Water Management District (SJRWMD) and that they responded indicating a sensitivity to the SJRWMD's concerns; furthermore, they reevaluated the site plan and the National Rifle Association (NRA) standards for berms, and proposed increasing the height of the backstop berm on the northern side of the long range from about 12 to 14 feet to around 21 to 24 feet. He stated that they also imposed a textual condition that the owner would regularly inspect and service the berms to ensure that the required minimum height was maintained at all times. He noted that some edging was added to the northern berm on the revised site plan to address concerns of keeping objects striking the berm onsite; additionally, the berm on the northwest side of the site would be a type B berm with increased height. He said that another condition would prohibit firing weapons from helicopters.

Mr. Gonzalez asked if weapons were fired from helicopters there before. He noted a picture received from a citizen of an individual firing a machine gun from a helicopter.

Mr. Spain expressed his awareness of a video showing this activity and said that it was conducted during a demonstration as part of a special event. He clarified that the individual who was firing from the helicopter was a former United States Navy special forces officer and that the general public was not allowed to fire from the helicopter.

Mr. Gonzalez also inquired about a video featuring an individual firing two submachine guns at the site.

Mr. Spain expressed that he had no knowledge of this video and said that a CUP permit was being presented with items such as a requirement for a noise study, insulated canopies for the firing range and heavily foresting the property on its southern side. He said that voluntary conditions were included for restricting explosives and hours of operation in order to create a lawful and safe facility. He indicated that law enforcement officers had used the range since it had been operating and that there was an attempt to address the concerns. He expressed agreement with staff's finding that the proposal was consistent with the Comp Plan and the LDRs and he opined that they had addressed the concerns of citizens and the SJRWMD.

Mr. Gonzalez asked about the definition of an explosive device or material.

Mr. Moats stated that per Florida Statutes Section 790.001, Subsection (5), "explosive" meant any chemical compound or mixture which had the property of yielding readily to combustion or oxidation upon application of heat, flame or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, or ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps, and detonators. He thought that the definition of "explosive" was outside the definition of "firearms" and that they were separately defined under the Florida Statutes.

Ms. Jones Smith asked if there was a business license from the County or if the operation had just been on the property.

Mr. Spain expressed his understanding that they had been operating as a sporting club and they retained a business license for a training facility.

Ms. Jones Smith inquired if they had any other licensing through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) or other agencies which would be required for this type of operation.

Mr. Spain said that he was not aware of any licensing requirement at the state level and that the operators who would be onsite daily were certified by the NRA in range development and operation.

Mr. Moats explained that under Florida Statutes, Section 790.333 and Section 823.16, there was preemption for the regulation of sports shooting ranges to the State Legislature and that there was not currently a process for licensing or permitting. He said that there were some conditions which would have to be complied with if the owner wanted to have the immunity that was available under those statutes.

Mr. Spain clarified that there were federal regulations concerning who could sell, possess and use different classes of firearms. He related that Florida Statutes, Section 823.16 contained

the NRA gun safety and shooting range standards and that there was a condition in the proposed ordinance to comply with them.

Mr. Gonzalez asked if those standards included keeping bullets on the property.

Mr. Spain thought that the NRA Range Source Book indicated that this was a top priority. He reiterated that a berm's size was increased and the corners were edged based on concerns from the SJRWMD. He added that he committed in a letter to the SJRWMD that if their inspection of their property subsequent to the reopening of the redesigned range indicated that projectiles were escaping the range, then the owner would revisit this through additional protections on the north side, restrictions on the fire side, or through side berms, and they had committed to being a good neighbor to the SJRWMD. He reiterated that the range was designed according to safety guidelines and that the shooting would occur to the north and that no shooting would occur toward a residential area.

Mr. Gonzalez noted that to the north was a public hiking area and asked to confirm that it had to be closed because of stray bullets from the range.

Mr. Spain said that he was aware of the SJRWMD's letter in this regard, though he was unsure why the property was closed.

Mr. Gonzalez quoted that the property was closed to ensure public safety because of the amount of live fire which had escaped the range.

Mr. Spain commented that the SJRWMD frequently closed public areas for maintenance.

Ms. Jones Smith noted concerns about alcohol consumption at the range and she asked if the sale of alcoholic beverages occurred or was allowed there.

Mr. Spain clarified that there was no sale or use of alcohol on the site or the range and that this was based on the NRA guidelines.

Ms. Jones Smith asked to confirm that this extended to other activities on the site such as shopping.

Mr. Spain replied that he would have no objection with the Board imposing a clear condition for this activity; however, he said he viewed the range as the entire property and expressed his understanding that there was no alcohol consumption there.

Mr. Greg Beliveau, the applicant, stated that they had received numerous letters from visitors of the property who indicated that they had never seen alcohol there during events. He pointed out that on the site plan, all of the shooting areas were on the western end of the property and were enveloped by the SJRWMD property and heavy vegetation. He said that the shooting stalls were designed based on the NRA Range Source Book which contained sections concerning how to construct those facilities for the suppression of noise; additionally, the

berm would also help with suppressing noise. He noted that there were also two skeet shooting areas which would be used intermittently, and he commented that the area was surrounded by private properties which he alleged had private ranges. He related that the Florida Statutes definition of explosives was acceptable and that there was no intention to utilize these materials at the range. He indicated that the purpose of this request was to operate a facility for purposes of training and assisting the law enforcement community. He noted a condition for the new hours of operation and he relayed that an environmental assessment had been supplied for the property, though it would have to be updated. He related that a lead assessment had also been conducted on the property for discharged shells, along with a traffic analysis. He said that operation would occur from Wednesday to Sunday, with minimal traffic from Wednesday to Friday. He noted that the original request was for eight special events per year which was reduced to four due to impacts to the community.

Mr. Gonzalez asked about the definition of a special event.

Mr. Beliveau stated that it would include 500 people. He added that conditions were added to prohibit helicopters and tanks, and clarified that the special events were intended to improve the education and training of firearms rather than utilizing explosives and firing tanks.

Ms. Jones Smith inquired if there had been a soil contamination study separate from the lead assessment.

Mr. Morris asked if any of the berms had increased in size yet and if they met standards before.

Mr. Beliveau denied this and said that as part of the lead contamination study, soil was dug up to search for lead. He stated that they had not increased the berms' size yet due to waiting for the CUP to be processed. He added that they previously met minimal standards, though did not meet the standards which would be employed in the current request. He noted that some of the current berms, such as those near the SJRWMD property, were enhanced and would exceed the minimum standards. He clarified that the berms for the short ranges would meet minimum standards.

Mr. Gonzalez asked to clarify the number of berms in front of firing stalls, and Mr. Beliveau confirmed that there were five berms in front of 26 firing stalls for this firing line. Mr. Gonzalez noted that a SJRWMD lawyer was in attendance and asked if their concerns had been addressed.

Mr. Bill Abrams, general counsel for the SJRWMD, complimented Ms. Rock for her assistance with the case. He stated that the applicants had received the SJRWMD's concerns about the berm heights and voluntarily offered to increase them.

Mr. Gonzalez asked if the nearby SJRWMD area was still closed due to the amount of live fire which had escaped the range.

Mr. Abrams confirmed that it was still closed due to live fire entering the property.

Ms. Jones Smith asked to confirm that the closure of this area was specifically due to evidence that live fire was entering it, and Mr. Abrams said that this was correct.

Mr. Morris asked if Mr. Abrams would be comfortable if the berms were increased in size.

Mr. Abrams expressed that he was hopeful due to the redesigned berms. He added that the applicant had voluntarily agreed to conduct periodic reviews of the property to ensure that the berms were effective.

Ms. Jones Smith asked if the SJRWMD area would be reopened based on observing the effectiveness of the berms.

Mr. Abrams said he expected that safety would be confirmed before reopening the property.

Mr. Gonzalez asked if certain controversial activities seen in videos would cease to occur at the site, and Mr. Beliveau stated that they would not occur further.

Ms. Jones Smith asked to clarify that the four special events would last for three days each and if they would have expected features of public events.

Mr. Beliveau confirmed this and said that they would be typical special events with tents and vendors. He added that permits would have to be obtained and reviewed by County staff for items such as adequate traffic control and emergency medical technicians (EMTs), along with County inspections of the site before events occur.

Ms. Jones Smith asked to confirm that the condition to require an off duty law enforcement officer onsite for each of the events was already in place.

Mr. Beliveau confirmed this and said that it had been formalized in the CUP.

Mr. Gonzalez inquired if a typical individual could visit the facility during working hours and ask to fire a weapon for a fee.

Mr. Beliveau responded that a permit would be required to do this and that a citizen who lacked a permit would have to first undergo training and clearances.

Ms. Jones Smith inquired if a citizen with no firearm experience could use the facility to learn about them. She also inquired if a citizen with the required permits could bring their own firearms to shoot at the range.

Mr. Beliveau confirmed that there would be a program there to train them and that the trainers would be certified to do this. He said that a permitted citizen could discharge their weapons at the range.

Mr. Gonzalez asked if there would be a club membership required to utilize the gun range, and Mr. Beliveau indicated that this had not yet been decided.

The Chairman opened the floor for public comment.

Mr. Alan Chen, a neighbor of the subject property, gave a presentation with several concerns about the request. He showed a map of the nearby area and noted Haines Creek and the Emeralda Marsh Protection Area. He detailed the sound dynamics of gunfire and opined that vertical barriers were ineffective at deterring the low frequency sounds associated with gunshots or explosions; additionally, baffles could assist with this, though they were generally ineffective at trapping low frequencies unless they were tuned to that frequency. He alleged that propane tanks had been shot at the range, and he felt that there would be thousands of rounds fired with automatic weapons. He opined that there would be adverse effects to the surrounding neighborhood such as difficulty selling houses there, limited realtor showings for existing homes for sale, and reduced property values of 20 to 30 percent. He also expressed a concern about residents paying higher taxes than the subject property owner, and he proposed using an enclosed range and reducing the tax assessment on nearby properties if the CUP was allowed to proceed. He relayed his understanding that the commitment to NRA range rules was not included in the application and that ATF rules were referred to instead. He felt that this was deceiving and said that the United States Department of Energy (DOE) had published a document about range criteria. He suggested that the applicant should hire the NRA for range construction and range officials, and he showed an example of a berm from the DOE's document. He explained that it indicated that the berm width at its top should be ten feet and built up with at least three feet of rock free soil; additionally, the total height of the berm would be dependent on the length of the shooting range. He alleged that the proposed berm was at a one degree angle and was inappropriate for the range. He showed images of shooting ranges with features such as high berms, sound baffles and buffers to prevent errant shots above a certain elevation. He discussed the surface danger zone (SDZ) which is comprised of the distance that the largest and most powerful cartridge can travel. He explained that the SDZ should be restricted from all human traffic and claimed that a nine millimeter bullet fired above the berm could travel approximately one mile to Haines Creek. He felt that the subject property's berm should be 24 or 26 feet high according to the DOE's requirements. He displayed a map with data about the distance which different types of ammunition could travel, and he opined that the subject location was inappropriate; additionally, he suggested that there were other available gun ranges in the area. He displayed an image of the short berm which he claimed should be 26 feet in height according to the DOE's requirements, and he noted the range's SDZ to the north and west. He recommended either denying the CUP or closing Haines Creek if it was approved due to the danger of escaped projectiles; furthermore, he suggested addressing possible impacts to Lake Griffin. He displayed excerpts of interest from the Environmental Protection Agency's (EPA) best management practices which allowed the EPA, states or citizens to utilize civil lawsuits to compel cleanup of gun ranges; furthermore, he indicated that there was legal precedent for this action. He added that the Clean Water Act prevented the discharge of any pollutant into United States waters, though gun ranges which operated near wetlands or bodies of water were also subject to the provisions of this act. He showed data with the estimated amount of

lead which would enter the berm as being equivalent to 500 to 1,000 average auto batteries. He relayed that the Florida Center for Hazardous Waste had studied five Florida gun ranges and found that lead levels in the soil were higher at the firing lines, the target and the berm. He noted a variance between the ranges for soil, and he said that ranges with acidic soil and a high groundwater table led to high leaching; furthermore, he relayed his understanding that the groundwater table was high near Lake Griffin. He suggested that Emeralda Marsh had acidic soil, high groundwater and high acidic tannin levels in the lake. He remarked that the marsh also defined the South Emeralda Transitional Area, which the gun range was part of. He felt that this area should be one of environmental concern and prioritized. He noted concerns with several of the CUP sections including property taxes, a 25 wide vegetative buffer, consistent lighting with dark sky principals, a noise assessment, and utilizing ATF standards. He added that one condition specified that the CUP would run with the land, which he felt should be removed, and he opined that the Office of Code Enforcement should be allowed to inspect at all special events. He disagreed with the staff report indicating that the site would not be more detrimental than the uses of a private or country club for a hunting or fishing resort, along with the finding that the use would be most similar to active parks, recreation facilities, outdoor sports and recreation clubs. He expressed his understanding that there was not currently a 25 foot landscape buffer on a significant portion of the property, and he asked if the caretaker's residence on the property was associated with the range. He asked how the range could maintain the buffer if it was located on SJRWMD property, and he reiterated concerns about lead pollution in the SDZ. He questioned what recourse the residents would have if these conditions were violated and if the range would be funding a recommended widening of the road there. He showed an image which indicated a lack of buffers on the property, along with an image of buffers on surrounding properties.

Ms. Cheri Vogel, a real estate agent and a neighbor of the subject property, opined that the range had not been a good neighbor and relayed that she was unaware of the community meeting. She recalled hearing sporadic gunfire from the range, along with automatic gunfire and some nearby explosions. She said that she had contacted the Lake County Sheriff's Office about the issue and that she disagreed with the staff report stating that the request would not have adverse effects on other properties. She expressed a concern about being able to sell homes near the range and she felt that the residents there had a right to quiet enjoyment of the area. She opined that the request was not consistent with the range's current operations and indicated concerns about videos showing the use of explosives, military vehicles and flamethrowers at the site. She expressed opposition to the CUP running with the land rather than the owner, and she asked if the owners had checked water samples on the site.

Mr. Lowrie Brown, III, a neighbor of the subject property, said he appreciated increasing the berm height, though did not feel that it would assist with preventing projectiles from being shot over the berm. He claimed that the range used metal targets which could cause bullets to ricochet, and he recommended a condition that liability insurance be required and name the County and the SJRWMD as the insurer. He thought that the noise from the site travelled for many miles, that it was not being abated by the vegetative barriers and that this was impacting the neighbors' property rights.

Mr. Richard Crews, a neighbor of the subject property, claimed that the range had transitioned into a commercial business for customers who wished to fire weapons which may not be permitted at other ranges due to noise, caliber size or being automatic. He felt that the facility was profit driven, strained the local roadways and affected the neighbors' ability to enjoy a low level of noise. He expressed concerns about traffic near his home and opined that hundreds of vehicles travelled to the range for special events. He thought that this created a safety issue, as well as issues for first responders accessing the area. He noted the special event definition of attracting 500 people and indicated a concern for a lower number of guests failing to qualify a special event. He recommended limiting the number of individuals who could attend these events, and he felt that the request would bring disruption and unwanted attention to the area. He suggested that if the request was approved and the road there would also be widened, then this should be at the expense of the shooting range.

Mr. Gary Custer, a neighbor of the subject property, expressed dissatisfaction with the traffic generated by the range, and he recalled seeing pictures of alcohol being consumed there from their website. He asked the Board to deny the request and said that it would disturb the peace there.

Mr. Lowrie Brown, IV, a resident of Orange County, opined that Lake County had a noise ordinance enacted in 2005 and that under the ordinance, noise could not be of such character and in such quantity or level to be disturbing to people and to the public. He felt that the range would be disturbing the peace and he thought that because the applicant would not be following the local requirements for shooting ranges, then they would not be covered by liability insurance. He indicated that a significant concern of the residents was far field noise and that equipment such as headphones and earplugs could mitigate near field noise, and he expressed his understanding that the length of time the range would operate during events could violate Occupational Health and Safety Administration (OSHA) guidelines for noise exposures. He opined that the vegetative berm would not be helpful and that the NRA recommended the construction of a building for the range to dampen the sound.

Ms. Diane Mott, a resident near the subject property, expressed that the facility had disrupted peace in the area. She stated that she had heard explosions and machine guns from the range, and she felt that this activity and pictures from the range's advertisement contradicted the stated conditions for the request. She thought that large crowds at the range created difficulty in accessing the road there, and she relayed the community's concerns about property values. She asked the Board to deny the request.

Ms. Lisa Hayden, a neighbor of the subject property, opined that weapons and ammunition were arbitrarily given to paying customers at the range. She questioned the lead remediation and reclamation on the site, and she indicated concerns about this material leaching into the residents' drinking water. She relayed her understanding about a lack of specific criteria for the noise assessment, and expressed concerns about issues with the surrounding SDZ. She stated that North Treasure Island Road was a true one lane road and that the residents did not want it to be open for commercial traffic. She requested that the CUP be denied until the safety concerns could be fully addressed.

Ms. Allison Fralick, a neighbor of the subject property, said that she had heard gunfire early in the morning and that the range's customers created difficulties with driving on the road there. She expressed a concern for her property value decreasing and for the traffic creating a hazard there. She stated that the owner had agreed to place two signs asking vehicles to reduce their speed, though she thought that there was only one sign currently. She indicated an interest in allowing a gun range if all of the conditions in the CUP were fulfilled.

Mr. Jim Tyrpin, a neighbor of the subject property, said that he had moved to his property to be able to fire weapons. He commented that many individuals did not own a sufficient lot size to allow shooting and he disagreed with denying the range's operation. He relayed his understanding that the DOE's guidelines were for ranges designed to protect a nuclear reactor and that this did not apply to the current place. He urged the Board to approve the CUP.

Ms. Patricia Tyrpin, a neighbor of the subject property, claimed that she heard frequent gunfire and explosions after the range had been allegedly shut down in November 2018; furthermore, she thought that these activities were occurring on private ranges which did not have conditions to meet. She encouraged the Board to approve the request.

Mr. Don Herst, a neighbor of the subject property, recalled hearing gunfire from the range early in the morning in 2010-2011. He stated his understanding that the County had issued a code enforcement notice to the range in 2016, though there were still gunfire and explosions in late 2017. He felt that residents did not buy their property there to experience this issue.

Ms. Lorine Davey, a neighbor of the subject property, expressed opposition to rapid gunfire and explosions in the area.

RECESS AND REASSEMBLY

The Chairman called a recess at 3:04 p.m. for five minutes.

Tab 7 – TREASURE ISLAND RANGE CUP CONTINUED

The Chairman brought it back to the Board for discussion.

Mr. Spain relayed his understanding that ATF range regulations were included by staff for a draft ordinance; however, the NRA standards were later utilized. He clarified that the State of Florida did not utilize ATF standards and instead deferred to the NRA.

Ms. Jones Smith inquired about the DOE standards.

Mr. Spain said that the purpose of those criteria was to apply to DOE firing ranges. He claimed that a document had been circulating with DOE recommendations which had been superimposed on a SJRWMD site map, and he thought that no range in the state complied with DOE guidelines to include a four mile radius of no development or habitation. He

indicated his understanding that the Florida Fish and Wildlife Conservation Commission (FWC) allowed ranges within its wildlife management areas and did not utilize the DOE's standards. He stated that the EPA and the Clean Water Act were federal and he said that the DEP had adopted best management practices for shooting ranges which had been incorporated into the Florida Statutes. He elaborated that if a shooting range was complying with the DEP's best management practices, then the range would be insulated from the potential for liability.

Mr. Gonzalez inquired if the best management practices included collecting shells from the site.

Mr. Spain stated that the document was available online. He relayed that there was a provision in the proposed ordinance for annual inspections from the Office of Code Enforcement and that nothing would preclude the office from inspecting the site when desired. He listed these two provisions for recourse in the event of a violation: if the CUP is violated, the County can bring the applicant before a code enforcement special magistrate who could specify a time limit to be brought into compliance or pay a fine; and there be a provision which would allow the BCC to revoke the CUP if a violation was found, though the applicant would be provided notice and an opportunity to be heard. He confirmed that a community meeting was held, and he reported that the proposed CUP would not allow gunfire early in the morning. He stated that during this process, there was a period of time in which the range had not been operating, and he felt that complaints about this activity could be attributed to duck hunters or other nearby ranges.

Mr. Gonzalez asked to confirm if the range had been closed since November 2018. He also asked if other property owners had been firing weapons.

Mr. Spain indicated that it had been closed and that there had been no special events during this time. He thought that other private ranges had been firing weapons.

Ms. Jones Smith asked to clarify that the property owners for the range may have been firing their weapons, though they had not been operating the site as a business during that time.

Mr. Spain confirmed this and said that it was within their right to do this.

Mr. Gonzalez asked if any tannerite had been fired there since November 2018.

Mr. Spain denied this and reiterated that the proposed ordinance would prohibit explosions. He commented that they had submitted a traffic study for the daily usage of the property and that the traffic was minimal for the number of range patrons on a weekday. He stated that there may be approximately 50 attendees on a weekend, and he reiterated that traffic concerns resulting from special events would be addressed by the condition requiring an off duty law enforcement officer to help control traffic.

Mr. Gonzalez inquired if there was a maximum number of visitors which were anticipated on a weekend which could be included as part of the CUP. He said that a permit would not be required for 499 people attending the site.

Mr. Spain stated that the definition for a special event came from the County, and he said he could confer with his client about a maximum number of allowable people.

Ms. Jones Smith noted that there was designated parking along with overflow parking, and she asked about a maximum number of vehicles which could be parked there at a given time.

Mr. Spain remarked that visitors may come and go and that there were a limited number of firing stalls.

Mr. Moats clarified that the definition of special event from Chapter 2 of the LDRs referred to circuses, fairs, carnivals, festivals or other type special events that are limited in duration, intended to or likely to attract substantial crowds and are unlike the customary or usual activities generally associated with the property where the special event is to be located. He elaborated that there was a provision in Section 13 which detailed how a special event permit would be applied for and processed by the Lake County Office of Planning and Zoning.

Ms. Jones Smith asked if there was a threshold for how many people constituted a special event.

Mr. Greene said that the ordinance would reference the Lake County Code, Article V, Section 13-146. He explained that special events were only allowed on properties twice per year where they were not previously allowed; however, a CUP would be required to hold them more than twice per year and the Board could identify factors such as the number of events per year, time availability, etc. He commented that the cap of 500 people came from the LDRs and that any number above 500 people would require an incident action plan.

Mr. Moats reiterated that the specific definition of a special event is an event that meets any one of the following criteria: is intended to, or likely to, attract more than 500 people; requires the temporary closure of any collector or arterial public roadway; involves the use of pyrotechnics; or exceeds the maximum allowed number of patrons within an establishment.

Mr. Green added that otherwise, the CUP could allow more than two special events per year if each event drew less than 500 people, though they would have to complete a special event site plan to address factors such as staffing, staging, parking, etc.

Mr. Morris recalled a mud run event off a dirt road and how law enforcement helped address traffic concerns there. He opined that traffic could be managed for these events.

Ms. Jones Smith stated that the special event permit criteria was included to require a plan for the event and that they would be allowed four events per year.

Mr. Morris expressed that he heard gunshots each weekend on Silver Lake Drive, and he expressed an interest in negotiations between the applicant and residents.

Mr. Spain felt that the noise concerns mainly stemmed from past special events rather than the typical operation of the range. He reiterated that no explosives would be utilized and that there was a commitment to conducting a noise study.

Mr. Gonzalez asked if flamethrowers would still be used.

Mr. Spain thought that the condition was written such that they may be viewed as a paramilitary or military firearm and would be prohibited. He said that a photograph of an individual with alcohol and a firearm was not taken on this range, though it may have been on the range's website.

Mr. Gonzalez inquired if fully automatic weapons were illegal. He also asked if there was a law in the state prohibiting firing weapons on property less than one acre.

Mr. Morris indicated that they were legal if an individual had a permit for them.

Mr. Spain stated that firing on a residential property which was denser than one dwelling unit per acre could be a crime.

Mr. Gonzalez asked if napalm had been used on the subject property.

Mr. Spain denied this. He also said that the CUP would prohibit them from operating on Thanksgiving Day and Christmas Day.

Mr. Gonzalez noted a resident's reference to a westward shooting range and asked if any bullets would be shot to the west of the property.

Mr. Spain said that there was a large berm which would be limited to long range firing from east to west.

Mr. Beliveau clarified that the CUP would require a buffer and it would be installed along with the submission of the site plan.

Mr. Gonzalez asked if the berms would only surround the shooting areas.

Mr. Beliveau stated that the berms would surround the entire property per the CUP. He elaborated that there would be a 25 foot buffer where there were not currently trees on the property. He then stated that another condition was that all discharged shells would be collected onsite. He added that part of the property was also dug up recently to collect bullets and was resodded.

Mr. Gonzalez asked if the bullet collection was part of the land management plan there, and Mr. Beliveau confirmed this.

Ms. Jones Smith inquired about what the 25 foot buffer would consist of.

Mr. Beliveau replied that it would be opaque and at maturity. He indicated that they would comply with the CUP and he noted that most of the buffer would be adjacent to SJRWMD property and the neighbor's properties.

Mr. Morris asked if there could be any negotiation for the hours or days of operation.

Mr. Beliveau said that they would start at 9:00 a.m. from Wednesday to Saturday and at 12:00 p.m. on Sunday, and would close at 7:00 p.m. on those days. He noted that the hours of 6:00 p.m. to 10:00 p.m. on Friday and Saturday night for law enforcement personnel would occur on an as needed basis and would not occur each weekend.

Mr. Morris expressed a concern about the law enforcement hours disrupting the peace there.

Mr. Beliveau reiterated that it would be as needed and would be strictly for law enforcement. He thought that it could be once per month or once per every two months and that the time would be scheduled by appointment. He indicated that a noise study would be conducted once the CUP process had concluded and that its documentation would be used for developing the site plan.

Ms. Jones Smith asked if anyone currently lived on the property, and Mr. Beliveau confirmed that the owner lived there.

Mr. Colin Johnson, the owner of the subject property, clarified that it was family property and that a relative was living there. He clarified that neither he nor anyone involved with operating the range was living there.

Ms. Jones Smith inquired if it would become a caretaker residence and if they would be the management of the property.

Mr. Johnson confirmed this and said that they would enforce the hours of operation and prevent trespassing.

Mr. Moats said that according to Florida Statutes, Section 790.333, Subsection (8), it stated that "Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition use at sport shooting and training ranges, including the environmental effects of projectile deposition at sport shooting and training ranges." He added that Section 790.33, Subsection (4)(a) stated that zoning ordinances that encompass firearms businesses along with other businesses, were not prohibited, and Section 823.16, Subsection (7) stated that local governments may regulate the location and construction of a sports shooting range. He commented that Attorney General

Opinion #AGO 2008-34 indicated that counties may impose existing zoning and land use regulations upon the siting of the proposed sports shooting range if the regulations affect other businesses in the same way; additionally, to affect the neighbors in terms of potential remedies, any term within the ordinance would be subject to code enforcement and state or federal issues would have to be addressed by those authorities. He stated that a civil remedy may be settled in court and he mentioned that in Florida Statutes, Section 790.333, Subsection (7), "Any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who intentionally and maliciously violates the provisions of this section or is party to bringing an action in violation of this section commits a misdemeanor of the first degree, punishable as provided in Section 775.082 and Section 775.083."

Mr. Gonzalez asked if the Board was skirting a wrongful action.

Mr. Moats responded that the standard of "intentionally and maliciously" was a high standard and that he thought that the County had worked with the applicant on the ordinance. He clarified that he just wanted to bring this to the Board's attention.

Mr. Gonzalez inquired if there were recognized best management practices for shooting ranges.

Mr. Moats said that the purpose of Florida Statutes, Section 790.333 and Section 823.16 originated from the State Legislature wanting to provide immunity to the operators of the ranges from criminal and civil liability. He explained that if the conditions were followed and the NRA standards were complied with, then a range owner would be immune from civil and criminal liability.

Mr. Gonzalez felt that there may have been an incorrect perception of this request due to improper activities having occurred on the range previously. He thought that the range would change its operations.

Ms. Jones Smith agreed and said that the restrictions in the CUP would define the property owner's responsibility and how they could be a better neighbor. She thought that there could have been an overlap in perception that all shooting in the area was occurring at the range due to its lack of operations since November 2018. She said that it was a large area and that sound could travel far; additionally, citizens could shoot on their own property. She noted a high volume of traffic and visitors during other events in areas off dirt roads in the county, while this range would be limited to four events per year.

Mr. Gonzalez added that he lived near the subject property and had heard automatic gunfire each weekend in the area.

Dr. Kesselring thought that there could be a lack of confidence and trust from residents when changing the operations of a property through a CUP. He expressed a concern for having the

property support staff in place to ensure accountability, and he relayed his understanding that previous activities at the site were not within the permitted actions for a shooting range. He also indicated a concern for if there was confidence if the activity would continue in the future.

Ms. Jones Smith noted that the proposed CUP would be granted to the property in perpetuity, which would allow it to be sold to another entity which may not uphold the conditions. She asked if the owner would be willing to limit the CUP to the current ownership.

Mr. Moats said that this was standard language in the County's ordinances and that the BCC had occasionally modified it.

Ms. Jones Smith asked if a CUP could be overturned.

Mr. Moats stated that the CUP could be revoked if there was a code enforcement issue and that if it was not resolved through that process, it could come through the Planning and Zoning Board and the BCC for revocation.

MOTION by Rick Gonzalez, SECONDED by Tim Morris to APPROVE Tab 7, CUP-18-06-3, Treasure Island Range CUP.

FOR: Jones Smith, Gonzalez, and Myers

AGAINST: Kesselring

MOTION CARRIED: 3-1

OTHER BUSINESS

Ms. Jones Smith stated that she had received many emails about Tab 7 and said that she was not aware that her email address was publically available. She noted that there was a section of the Lake County Code which indicated that the public should not contact board members. She noted that her application for the Planning and Zoning Board was included with a previous BCC's agenda and that no information was redacted. She asked how to limit contact with the general public if this information was available. She noted that she did not respond to the emails and forwarded them to Mr. Greene.

Mr. Moats commented that the prohibition on ex parte communications was from the Lake County Code, whereas the Public Records Act, Chapter 119, Florida Statutes, was a state statute and the County had to comply with it. He elaborated that any information which was not confidential and exempt had to be provided to the public and that correspondence with the public could be forwarded to staff.

Mr. Greene stated that the next meeting would be on March 6, 2019.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:54 p.m.

Respectfully submitted,

Josh Pearson
Deputy Clerk, Board Support

Laura Jones Smith
Chairman