

BOARD OF COUNTY COMMISSIONERS

OCTOBER 22, 2007

A meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Loftus, Commissioner Duffy, Commissioner Cummings, and Commissioner Moore. Also in attendance were Assistant County Attorney Browne, County Administrator Loucks, and Minutes Supervisor Nice. The following members were absent: Commissioner D'Aprile.

The Public Hearing was called to order at 2:00 PM followed by the Pledge of Allegiance. (Proof of publication was in order.)

Revision of TDU Ordinance

A. Jeff Ruggieri - General Comments

Mr. Ruggieri explained the purpose of the public hearing, summarized the columns in the Matrix of Proposed Changes; recommended the Board consider each of the nine items individually based on staff's presentation, public input, Board discussion, and decision; and advised a motion will be required to approve revisions to the TDU ordinance. **Commissioner Moore** concluded the Board will vote on each specific item prior to a motion on revisions to the ordinance. **Chairman Loftus** stated this is the most appropriate way to address each of the nine items with public input on each item separately. **Commissioner Duffy** questioned the necessity of voting on the ordinance today since **Commissioner D'Aprile** is absent. Mr. Ruggieri stated it is not absolutely necessary. **Commissioner Moore** stated he may not be ready to vote today and noted staff's significant efforts with regard to the proposed revisions.

Mr. Ruggieri gave a brief overview on discussions and concerns brought up during the six forums held over a two month period; explained the TDU ordinance is at the center of some major development and growth issues in the County; many discussions regarded a County wide density cap; it is not density but the increase in development that caused the greatest concerns and impacts demanded by growth e.g. water usage and sources, roads, water and sewer lines, government services, police, fire,

environmental systems and management, affordable housing, and transportation and traffic management; and commented on the need to stay positive and move a head.

B. Inga Williams - Brief History/ Background

Ms. Williams gave a slide presentation on the history with adoption of the existing Transfer of Density Units (TDU) Ordinance 2004-067, formerly known as the Transfer of Development Rights (TDR) Ordinance; staff was directed to review and revise the ordinance on a yearly basis; staff began to review and revise the ordinance and a Board workshop was held on January 25, 2006 on the draft ordinance along with specific issues for discussion; public input was allowed and comments were made against certain provisions of the ordinance; staff resolved outstanding issues with the Department of Community Affairs (DCA) through the Evaluation, Appraisal and Report process for the Comprehensive Plan; and reported three goals were identified by panel members during the first forum as follows: (1) to make the ordinance understandable, (2) to make the TDU process fair to all involved, and (3) to re-state the intent of the ordinance to "move development from areas less suited for development to areas more suited for development." Ms. Williams outlined the major changes: (1) Page 10, Line 45 to Page 11, Line 35 to create a new procedure allowing an applicant to rezone to a non-Planned Development (PD) zoning district for any increase of density over two units by submitting a petition to transfer density to a Receiving Zoning District (RZ) with the rezoning application but the PD rezoning process is still included for applicants who do not wish to find and transfer density immediately to the RZ; (2) Page 11, Line 37 to Page 12, Line 29 to amend the existing language that exempts developers from the ordinance if they set aside at least 50% of their total housing for low to very low income persons in perpetuity and recommended if a developer sets aside up to 40% of total housing units for workforce housing based on 100% or less than median income for 30 years, those affordable units only are exempt from the ordinance and developers would be exempted from the ordinance if they set aside at least 40% of total housing for 80% or less of the median household income for 30 years; (3) Page 13, Lines 4 to 20 to redefine the method to calculate density off of a Sending Zone (SZ) to utilize the same method used to calculate density e.g. multiply the acreage by the zoning district density exclusive of

manmade items; this will require creating a new definition for Base Density as set out on Page 4, Line 21; substandard platted lots outside the Urban Service Area (USA) are still given a one-unit per one platted lot density and restrictions on what property can be included in the calculation of SZ density still remain on Page 12, Line 36; (4) Page 24, Line 38 to Page 25, Line 3 to alter criteria (vi) and (vii) of the Requirements for a SZ to refer to "excess" density e.g. criteria (vi) allows a petitioner to remove excess density from property in a Suburban in that the criteria no longer refers only to platted lots but retained the requirement that the property cannot be severed or scheduled to be severed within five years by potable water or sanitary sewer facilities and criteria (viii) is for Infill properties and in both cases, excess density can only be transferred to the Infill Area of the USA and the trigger to allow an applicant to request excess density is the submittal of a building permit; (5) Page 26, Lines 7 to 17 to remove the requirement to transfer density between equivalent or greater hazard flood zones within the Coastal High Hazard Area to revise the only restriction on flood zones would be on AE flood zone density from being transferred into a VE flood zone; (6) Page 18, Line 20 to Page 29, Line 22 to revise the entire Appeals section, based on a hardship not created by petitioner and be non-injurious on the neighborhood and it must be consistent with the TDU Ordinance and the Comprehensive Plan, changing the process to be called a Variance and to be treated as a Variance in the Zoning Code except that the decision still rests with the Board of County Commissioners; and (7) Page 29, Line 24 to add a section prohibiting any waivers from the requirement to transfer density except for affordable housing exceptions as was done with Babcock New Town pursuant to the Comprehensive Plan.

Commissioner Cummings questioned the necessity of approving the proposed changes and ordinance at this time. **Chairman Loftus** explained the Board should at least take action on the proposed changes today. **Commissioner Cummings** made the following general remarks: focus needs to be on developments with lower impacts e.g. better development will have fewer impacts per capita; there has to be a balance between incentives and benefits to the community; the TDU Ordinance is about shifting density whereas growth is addressed through the Comprehensive Plan and the ordinance goes hand-in-hand and implements some of the Elements, Objectives, and Goals; the benefits and monetary costs of

transferring density need to be clearly justified to the public for Infill and Suburban Areas, Suburban Reserve, Transition Areas, and Historic/Archeological Areas; Placida would be a combination of Coastal High Hazard and Suburban Areas; opined Comprehensive Plan changes are necessary to effectively address growth in relation to proposed ordinance revisions; low impact estate development needs to be addressed by more creative methods; and referenced Corkscrew Sanctuary.

Commissioner Moore recalled **Commissioner Cummings** referred to the TDU ordinance as a way to shift density and requested opinions from Board Members. **Commissioner Cummings** opined it needs to be clearly articulated in the Comprehensive Plan. **Commissioner Duffy** questioned if these TDU changes represent the cart before the horse. Mr. Ruggieri advised staff has tried to revise the ordinance to work with more flexibility for implementing policies of the Board and the Comprehensive Plan. **Commissioner Cummings** commented on the need to annually monitor the need for revisions.

C. Inga Williams - Staff Presentation on the Matrix of Proposed Changes (Each Matrix Item will be discussed individually)

Inga William reviewed Matrix Item 1 on the Declaration of Intent and Purpose and staff's recommendation to remove subparagraphs (3) and (5) and alternative actions.

Percy Medintz distributed handouts and a copy of her statement and introduced panel members who would make presentations on consolidated comments. Mrs. Medintz reviewed the intent and purpose including the standards for approval and requested the existing language be retained in the ordinance.

Chairman Loftus noted the expiration of the allotted public input time. Mrs. Medintz requested another three to four minutes. **Chairman Loftus** pointed out if an exception is given in this case, then it must be given in all other cases. Mrs. Medintz stated her remarks would save time in the long run. **Commissioner Cummings** expressed an inclination to allow the additional time. **Chairman Loftus** requested an eight minute cap.

Geri Waksler advised all panel members are residents of Charlotte County, one of the charges to the panel was to review and revise

sections of the ordinance that provided for more appeals, members support staff's recommendation because it will improve and make the ordinance clearer and will not change the intent of the ordinance.

Marvin Medintz, individually as a resident, as Cape Haze Property Owners Association President, and as an alternate panel member, appeared in support of moving forward with the process. **Commissioner Duffy** requested clarification since Mrs. Medintz indicated time would be saved by allowing her additional time to speak and eliminating the need for more people to speak. Mr. Medintz referenced Tab 8, a memorandum from Nicole Dozier; stated the purpose of the ordinance and the Comprehensive Plan are woven together in order to shift density outside of Coastal High Hazard Areas, dirt mining land areas, and undevelopable environmental areas; and advised staff omitted panel member's language from the Matrix.

Misty Nichols stated GICIA supports revisions to the ordinance and reduction of density especially in West County and expressed concerns about the already reduced level of service from C to D on roads.

Lynn Seibert, a GICIA member, stated TDUs were listed in the Comprehensive Plan to reduce platted lots in areas inappropriate for future development; Florida's Growth Management Act requires counties' compliance in order to reduce the number of platted lots; and proposed changes are trying to eliminate that and are inappropriate.

Sue Reske, Greater Charlotte Harbor Sierra Club Chairman, distributed a letter regarding affordable housing and expressed opposition to providing developers with a gift of 60% of housing even though it is not affordable; referenced the letter setting out homes for sale in sales ranges from homes under \$250,000, \$200,000, \$150,000 and \$100,000 based on the MLS which is exclusive of homes for sale by owners; stated density would increase impacts; opined it be more appropriate to revitalize affordable housing; and recommended rejection.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.
Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Cummings stated he does not have any objection to bonus density but the Comprehensive Plan needs a regulatory hook to assure reduction in density of 1% per year. **Chairman Loftus** opined the ordinance does not provide sufficient flexibility in growth development in the Infill Areas especially with regard to transportation and infrastructure; and he supports staff recommendation. **Commissioner Moore** stated West County is a unique area in that more density should not be transferred to the area; advised the functions of the ordinance are different than the Comprehensive Plan in that the ordinance provides for shifting density. **Commissioner Cummings** agreed with **Chairman Loftus** on the need to increase density in Infill Areas and commented on the need for a cap to increase versus decrease density in certain areas.

Commissioner Cummings opined affordable housing has decreased and incentive density may be needed in the future. **Commissioner Moore** stated the desire to build will get wilder, developers will need to get more creative, and this will significantly change West County. **Commissioner Duffy** asked why a lot of West County is in the Urban Service Area. **Commissioner Cummings** explained the Urban Service Area was established a long time ago and phased zones with different priorities were developed e.g. the Barrier Islands are in the Rural Service Area. **Commissioner Duffy** indicated West County should be in the Rural Service Area. **Commissioner Moore** explained people in West County worry about roads and infrastructure and are proud of their territory. **Commissioner Cummings** reiterated he has no objection to bonus incentives.

COMMISSIONER DUFFY MOVED TO APPROVE STAFF'S RECOMMENDATION ON MATRIX ITEM 1, SECONDED BY COMMISSIONER MOORE.

Motion Carried 3:1. Commissioner Cummings opposing.

ABSENT: Commissioner D'Aprile.

RECESS: 3:35 PM - 3:45 PM

Ms. Williams reviewed Matrix Item 2 on height restrictions in flood zone areas and transfers.

Ms. Williams stated Department of Emergency Management does not support the flood zone transfers but they do support transfers for wind velocity; and reviewed the alternative actions upon which the Board may vote.

Commissioner Duffy requested clarification regarding the last three options. Ms. Williams explained the options. **Commissioner Moore** expressed support for staff's recommendations.

Lynn Seibert, Boca Grande resident and member of the Boca Grande Planning Board, expressed support for increasing density outside of flood zones. Todd Rebol, as the practitioner member on the panel and an engineer in Charlotte County for over five years, agreed with staff's presentation although he is unsure about placing language about evacuation in the ordinance when it might be better addressed in the Comprehensive Plan. Andy Dodd commented in support of Action #3, moving density out of the Cape Haze Peninsula, and requested elimination of Action #4.

Mrs. Medintz referred to Tab 5 indicating that Wayne Sallade opposed staff's recommendation; recalled staff's position last year to exclude West County; concurred with staff's position last year; referenced the Comprehensive Plan that has language in conjunction with the TDU ordinance to reduce evacuation times; and advised the panel did not take a vote or make a recommendation to staff on any of the Matrix Items.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Moore stated he is hearing comments on not increasing density and evacuation times in West County and expressed support for staff's recommendation on the AE and VE comments.

Commissioner Cummings commented on the need for Hazard Mitgation Strategy. Mr. Ruggieri stated he cannot find any evidence supporting the restriction between flood elevations. **Commissioner Moore** concurred with staff's recommendations in the first column on the AE to VE.

COMMISSIONER MOORE MOVED TO APPROVE STAFF'S RECOMMENDATION IN COLUMN ONE, SECONDED BY COMMISSIONER DUFFY.
Motion Carried 3:1. Commissioner Cummings opposing.
ABSENT: Commissioner D'Aprile.

Ms Williams reviewed Matrix Item 3 on the Calculation of Transferable Density Units and staff's recommendation.

Commissioner Moore indicated support for staff's recommendation and commented on the lack of density on submerged lands. Commissioner Cummings requested clarification regarding the number of submerged land units. Ms. Williams explained the difference in zoning districts controlling the number of units e.g. RSF-5. Commissioner Cummings recalled a situation with a peak of RMF-5. Ms. Williams explained density would go up in a RMF-5 versus RSF-5 zoning district and commented on the encumbrance language in this ordinance as set out on Page 13 under Matrix Item 9.

Commissioner Moore recalled two rules for calculating density, now staff is recommending calculation based on minimum lot size, and expressed support for staff's recommendation especially regarding submerged lands density.

Geri Waksler stated this section will address one of the biggest issues with the existing ordinance e.g. calculating density based on the Zoning Code and the minimum lot size, it will establish one calculation methodology based on the zoning density across the board, and will not create density on submerged lands that do not have a right to build at this time.

Mrs. Medintz stated the panel was accommodating to staff and the practitioners group; stated Ms. Gailbraith would have attended today but the change in date made it impossible; and the minimum request would have been to ensure that non-developable submerged lands not be able to transfer density.

Commissioner Duffy requested staff's position on Mrs. Medintz's additional language. Ms. Williams pointed out the encumbrances with other ordinances, deeds, etc. will control the density on submerged lands and the additional language is not necessary. Commissioner Moore indicated one methodology should be

established. **Commissioner Cummings** stated it is a good thing to transfer density outside of Coastal Areas, even more than what is allowed by RSF-5 if the property is zoned for more. Ms. Williams advised staff's proposed language would allow transfer of developable units.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

COMMISSIONER DUFFY MOVED TO APPROVE STAFF'S RECOMMENDATION WITH REGARD TO UTILIZING BASE DENSITY WITHIN THE URBAN SERVICE AREA AND DEVELOPABLE UNITS ON NATURAL SUBMERGED LANDS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 3:1. Commissioner Cummings opposing.

ABSENT: Commissioner D'Aprile.

Ms. Williams reviewed Matrix Item 4 on Affordable Housing Exemption - Give Away Language and staff's recommendation under Option #1 to retain language in the draft ordinance versus Option #2. **Commissioner Duffy** recalled discussion pertaining to a TDU bank and clarified the use of density only from environmentally sensitive lands. Attorney Browne explained staff's recommendation to retain the language.

Steven Brown, a panel member and a member of the Conservancy of Southwest Florida, expressed support for the acquisition of environmental lands, the transfer of these units as a gift for affordable housing development, and the retirement of density on environmental lands.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Cummings requested the County Attorney's objection to a TDU bank. Attorney Browne explained such a bank is not necessary in this instance. **Commissioner Cummings** opined a bank could be utilized to meet the 1% reduction target in the Comprehensive Plan and a mechanism is needed for measurement and a regulatory standard for land use amendments. Lorraine Helber

stated this is in response to community workforce housing legislation for local governments to work with developers and use innovative tools to reduce the cost of workforce housing and make end products more affordable.

Commissioner Moore questioned the requirements for resale of affordable housing units. Ms. Helber stated restrictive covenants will be included for up to 25 to 30 years in order to keep the units as affordable housing. Ms. Williams stated this can be tracked through restrictive covenants and deeds. **Commissioner Moore** questioned the use of environmental lands. Ms. Williams outlined different uses.

COMMISSIONER DUFFY MOVED TO APPROVE STAFF'S RECOMMENDATION, SECONDED BY COMMISSIONER MOORE.

Motion Carried 3:1. Commissioner Cummings opposing.

ABSENT: Commissioner D'Aprile.

Ms. Williams reviewed Matrix Item 5 on the Affordable Housing Exemption - Increase in the percentage % of Median Income and staff's recommendation. Ms. Helber stated she, Community Development staff, and the Housing Corporation feel very strongly about the 120% although the ordinance might not be the forum to address it.

Ms. Medintz stated this does not impose a limit on free housing and infrastructure for affordable housing, stated there is a large number of existing units for sale under \$250,000 and \$100,000, and expressed concern about the County subsidizing 75% of workforce housing in this budget crunch.

Ms. Helber stated this will ensure affordable housing units in new developments for mixed communities. **Commissioner Moore** commented in support of affordable housing but he is concerned about the number of units. Ms. Helber pointed out many developers cannot make the dollars work to reduce costs and make the units affordable. County Administrator Loucks explained this will provide an incentive for developers, require an affordable housing component, staff will be able to track it on a yearly basis, and bring back recommendations to the Board for adjustments. **Chairman Loftus** commented in support of mixed use developments and incentives for affordable workforce housing within planned communities. **Commissioner Cummings** requested the

long-term growth rate for population. Ms. Helber expressed uncertainty. Ms. Williams stated 2.5%. Commissioner Cummings calculated 1,377 houses per year but a 65% loss rate is being built in at the rate of affordable housing growth today.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Cummings stated bonuses are all right but regulatory standards must be established.

COMMISSIONER MOORE MOVED TO APPROVE ACTION #2, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 3:1. Commissioner Cummings opposing.

ABSENT: Commissioner D'Aprile.

Ms. Williams reviewed staff's recommendation on Matrix Item 6 on Preferred Sending Zones disallowing this language in the ordinance.

Steven Brown, a member of the Conservancy of Southwest Florida, summarized efforts by the citizens and panel in trying to reach a compromise, Option #2 is the closest but it falls short of accomplishing the objective. Geri Waksler commented in support of establishing the Preferred Sending Zones and incentives.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Cummings commented in support of creating the Preferred Sending Zones and bonuses.

COMMISSIONER MOORE MOVED TO APPROVE STAFF'S RECOMMENDATION TO RETAIN THE LANGUAGE AS SET OUT UNDER ACTION #1, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:1. Commissioner Cummings opposing.

ABSENT: Commissioner D'Aprile.

Ms. Williams reviewed Matrix Item 7 and advised that staff does not support the requested change and recommended retention of the language with no changes under Action #1.

Steven Brown, as an individual and a member of the Conservancy of Southwest Florida, agreed with staff's recommendation.

Geri Waksler stated the practitioners believe this land use category is consistent with the Comprehensive Plan; there should be a way to shift density outside of the Rural Service Area but there is a conflict between rural living and agricultural life styles; pointed out the excavation ordinance should be revised regarding agricultural lands; and urged the Board to make a modification to add Rural Estate.

Commissioner Duffy stated the ordinance should not drive the Comprehensive Plan and agreed with Geri Waksler on adding the Rural Estate language.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

COMMISSIONER DUFFY MOVED TO APPROVE ADDITION OF THE RURAL ESTATE LANGUAGE AS PROPOSED BY THE PRACTITIONERS IN LIEU OF STAFF'S RECOMMENDATION, SECONDED BY COMMISSIONER MOORE.

Commissioner Cummings stated he does not want to see another Charlotte Ranchettes. Mr. Ruggieri stated this would be a step in the right direction but now is not the time. **Commissioner Moore** asked for the time line. Mr. Ruggieri estimated 18 months. **Commissioner Moore** expressed opposition to the motion even though he seconded the motion.

Commissioner Duffy pointed out residents on Washington Loop Road have groves, they have lost trees from citrus canker and Hurricane Charley, and the next best thing might be to change the zoning to increase density from 1 unit per 10 acres to 1 unit to 5 units instead of mining. **Chairman Loftus** requested assurance that it would be done within 18 months. Mr. Ruggieri stated East County projects are next on the agenda for staff to work on and it might be done in 16 to 19 months. **Commissioner Cummings** stated it would not be just a generic change to the zoning, a

Rural Community can be at a lower density, the needs of the community must be addressed, and recalled he and **Commissioners Moore and D'Aprile** voted on direction at the last workshop on the mining ordinance for staff to bring back a ordinance similar to that of Sarasota County and he went further requesting a mining underlying land use.

Motion Failed 1:3. Chairman Loftus, Commissioner Cummings, and Commissioner Moore opposing.

ABSENT: Commissioner D'Aprile.

COMMISSIONER CUMMINGS MOVED TO APPROVE STAFF'S RECOMMENDATION TO RETAIN THE LANGUAGE, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Ms. Williams reviewed Matrix Item 8 on the Waiver Prohibition and requested approval of staff's recommendation to retain the proposed language to prohibit waivers and explained the appeal process became a variance procedure that would allow for grant of a waiver based on a hardship but this will prohibit any waiver.

Commissioner Moore questioned the applicability to Murdock Village. Attorney Browne stated this would not apply to Murdock Village. **Commissioner Moore** pointed out this provision relinquishing the waiver will need to be dealt with by future Boards.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY CHAIRMAN LOFTUS.

Motion Carried 3:0.

ABSENT: Commissioner Duffy, Commissioner D'Aprile.

COMMISSIONER CUMMINGS MOVED TO APPROVE THE WAIVER PROHIBITION, SECONDED BY COMMISSIONER MOORE.

Motion Carried 2:1. Chairman Loftus opposing.

ABSENT: Commissioner Duffy, Commissioner D'Aprile.

Ms. Williams reviewed Matrix Item 9 on the Excess Density and Encumbrances and staff's recommendations to retain encumbrances with regard to existing development and requested approval of Action #1.

Anthony Dubbuneh expressed support for Action #3 to remove Subsection 3-5-430(a)(1)(7); referenced the density that was on Darol Carr's property prior to and the lack of density after the fire that destroyed the house; the purpose is to direct development away from Coastal High Hazard areas; referenced the Gasparilla Marina density of 120 units that would allow the Marina to be torn down and 120 condominiums could be constructed; and reiterated his request to remove the specific language and allow transfer of density.

Mrs. Medintz advised she attended the Forums except for the one where this change was discussed; stated this is a bad idea to allow thousands of property owners to reclaim density units; pointed out transfer of Gasparilla Marina units would be within another section of the Coastal High Hazard Area; and urged the Board to follow staff's recommendation.

Geri Waksler indicated staff has taken a neutral position on the language; stated the provision was initially put in to allow transfer of density from platted lots; referred to the Monday, December 8, 2003 transcript from the TDR workshop and concerns raised by former Commissioner Horton to bank and leave development rights to his grandchildren as an inheritance on property in South Gulf Cove; requested the Board not approve Action #3 but adopt the proposed language with a change to read "The proposed Sending Zoning is located in the Infill area of the Urban Service Area and the property owner has obtained a building permit to develop a residential use at a density below the Base Density or not develop any density at all."

Commissioner Moore requested clarification of Attorney Waksler's direction regarding proposed language for Subsection 3-5-430(a)(1)(vii) and subsection 3-5-429(b)(2)(vi). Attorney Waksler commented in support of the proposed language with the exception of the modification as read into the record regarding subsection 3-5-430(a)(1)(vii) and reiterated opposition to Action #3. Attorney Waksler opined excess density should be transferred to the Infill Area and recognize platted lots. **Commissioner Moore** questioned the impact on submerged lands. Attorney Waksler stated naturally occurring submerged lands would not be impacted. Ms. Williams stated criteria #6 related to platted lots in the Suburban Area not the Infill Area and is not for consideration at this time. Attorney Waksler suggested

addressing the transfer of density off of platted lots in the Infill Area and commented in support of the change to Subsection 3-5.430(a)(1)(vii) acknowledging transfer from platted lots.

COMMISSIONER CUMMINGS MOVED TO APPROVE STAFF'S RECOMMENDATION TO RETAIN THE LANGUAGE AS PROPOSED, SECONDED BY COMMISSIONER DUFFY. Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Cummings concluded that the current language prevents transfer of density off of lots in the Suburban Areas unless they have a building permit. *Ms. Williams* explained density may be transferred off of lots in the Coastal High Hazard Area or are substandard or environmentally sensitive lots and it is not specific to lots that do not have water and sewer.

COMMISSIONER CUMMINGS MOVED TO APPROVE THE LANGUAGE AS READ INTO THE RECORD BY ATTORNEY WAKSLER TO ALLOW TRANSFER OF DENSITY OFF OF LOTS IN THE SUBURBAN AREAS, SECONDED BY COMMISSIONER DUFFY. Motion Carried 4:0.

ABSENT: Commissioner D'Aprile.

Commissioner Moore requested staff bring back the ordinance with all revisions based upon today's motions and discussions. *Chairman Loftus* questioned the need to continue the public hearing. *Attorney Browne* suggested scheduling it to another meeting and readvertise it. *Mr. Loucks* suggested placing it on the November 20, 2007 Land Use Public Hearings or the November 13, 2007 Regular Meeting. *Chairman Loftus* announced the public hearing will be scheduled on the agenda for the November 13, 2007 Regular Meeting.

ADJOURNED: 6:25 PM

Signature on file in Commission Minutes
Chairman

Book 65, Page 1152
October 22, 2007

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

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