



LAKE COUNTY

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April 5, 2010

* VIA HAND-DELIVERY

Lewis Stone, Esq.
Stone & Gerken, PA
4850 N. Highway 19A
Mount Dora, FL 32757-2008

RE: Sorrento Commons LLC vs. Lake County -- Special Master Case No. SM-1-09

Dear Special Master Stone:

Please find below the additional evidence that Lake County wishes to submit in the above-styled case. The County has also submitted a Proposed Recommended Order, attached hereto.

Sincerely,

Erin E. Hartigan for

Melanie N. Marsh
Acting County Attorney

MNM/ak
1701.021

Attachments

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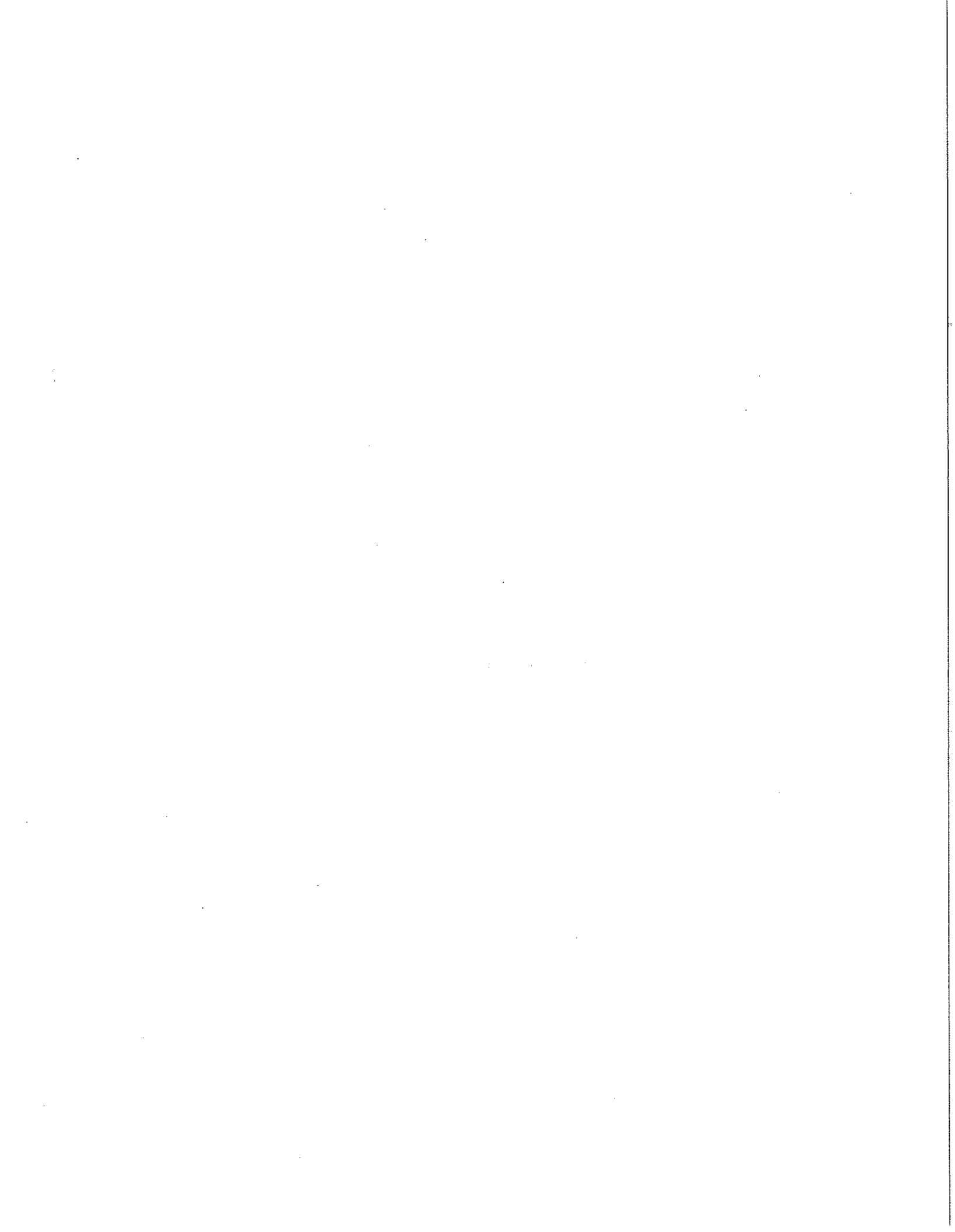
Summary

Lake County reiterates its findings on every application submitted by the Petitioner: The Petitioner's property, which is located at the southeast corner of the intersection of State Road 46 and County Road 437, is subject to the Neighborhood Activity Center "dot" clearly shown on the County's Future Land Use Map. The County's adopted Future Land Use Map is attached hereto as County's Exhibit "A," and an arrow has been drawn to the Neighborhood Activity Center that affects the Petitioner's property. The County cannot ignore the "dot," as suggested by the Petitioner on the first day of the Special Master Hearing, or read it out of the Comprehensive Plan.

As indicated on the second page of the attached County Exhibit "B," which is an excerpt of County Comprehensive Plan Policy 1-3A.1, the Comprehensive Plan states that Neighborhood Activity Centers are to be located at the "intersections of collectors, or at the intersection of a collector and an arterial," and that they allow "combined commercial allocations from 10,000 to 50,000 square feet of gross leasable area." Policy 1-3A.1, "Commercial Development in Land Use Classifications," subsections 3.a. and c., Lake County Comprehensive Plan. The word "combined" must mean that the County is to count all existing commercial area at the intersection covered by the Neighborhood Activity Center before considering a new request for commercial uses.

If the policy were to be read to allow 50,000 square feet of gross leasable area per commercial parcel, as the Petitioner suggests, the area would be automatically transformed into a Community Activity Center, which allows 50,000 to 500,000 square feet of gross leasable area at an intersection, according to the first page of County's Exhibit "B." Policy 1-3A.1, "Commercial Development in Land Use Classifications," subsection 2.b., Lake County Comprehensive Plan. In that case, there would be no need for the "dot" on the Future Land Use Map. Currently, however, the "dot" on the adopted Future Land Use Map and the accompanying Map Legend clearly indicate that the Petitioner's property is within a *Neighborhood* Activity Center, and not a Community Activity Center.

The intent of the drafters of the Lake County Comprehensive Plan in creating Neighborhood Activity Centers was to allow a small-scale cluster of commercial development at those intersections marked as such on the Future Land Use Map, while Community Activity Centers allow for more intensive, larger-scale types of commercial development. This is also apparent from the types of commercial development allowed in both Centers: the "major component" of a Neighborhood Activity Center "may include a grocery, drug or convenience type stores," while the "major component" of a Community Activity Center "may include a shopping center with one or more department stores." County's Exhibit "B," Policy 1-3A.1, "Commercial Development in Land Use Classifications," subsections 2.c. and 3.b., Lake County Comprehensive Plan. Obviously, a shopping center with one or more department stores is a more intensive commercial use than a convenience store, and this is why the Comprehensive



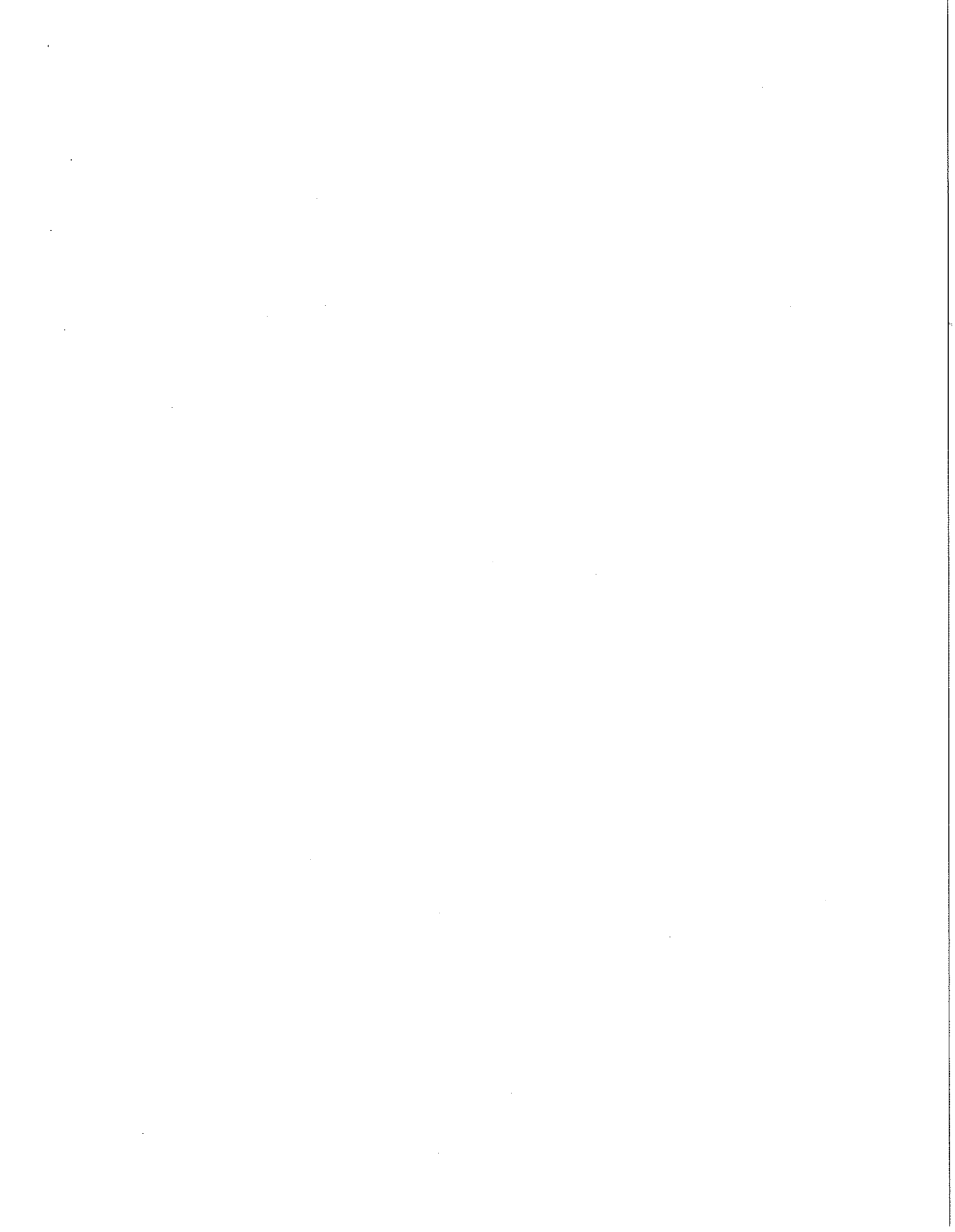
Plan locates Community Activity Centers in high-traffic, more intensely developed areas than the rural-character Mt. Plymouth/Sorrento area, where the Petitioner's property is located. It is clear that an allocation of 500,000 square feet of commercial development, which is permitted within a Community Activity Center, would significantly and fundamentally alter the character of the Mt. Plymouth-Sorrento Community.

The County has already done as much as it can to assist the Petitioner by evaluating the Petitioner's application in light of where the Neighborhood Activity Center should be located – i.e., at the intersection – since the “dot” is not perfectly centered on the Future Land Use Map (refer to County's Exhibit “A,” which shows the “dot” on the adopted Future Land Use Map, and to County's Exhibit “C,” the latter of which centers the “dot” at the intersection). By centering the Neighborhood Activity Center at the intersection and evaluating the existing commercial square footage within one-quarter of a mile of the intersection (refer to County's Exhibit “D”), the County found that the Petitioner was permitted to develop 15,100 square feet of commercial space, which is actually 100% more commercial development than the Petitioner would have been allowed if the County had evaluated the application in light of the actual location of the Neighborhood Activity Center “dot.”

However, the County can do no more, and cannot ignore or simply fail to give effect to its adopted Future Land Use Map. The Neighborhood Activity Center overlay designation that applies to this property clearly requires the County to evaluate the Petitioner's application in light of the existing commercial development at the intersection, which thus prohibits the Petitioner from developing more than 15,100 square feet of commercial uses. Below, the County goes through the Petitioner's exhibits, submitted to the Special Master on March 1, 2010, the first date of the Special Master hearing, and identifies the analytical flaws in the Petitioner's reasoning and exhibits.

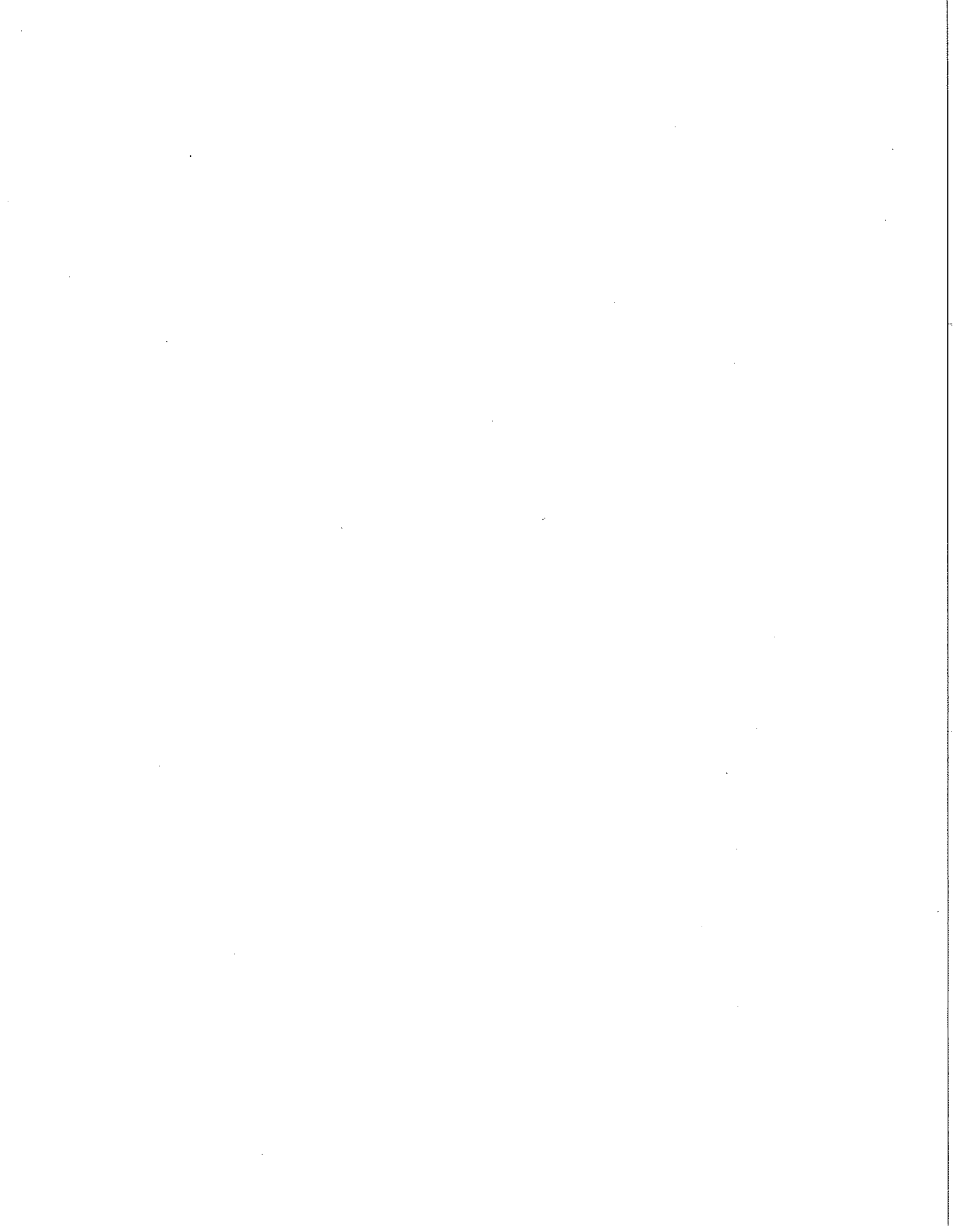
County's Response to Petitioner's Exhibit B

This exhibit was included by the Petitioner to highlight the requirements of the “Urban Area” Land Use. The Petitioner's property is within one of the Urban future land use categories, the Mt. Plymouth/Sorrento Urban Compact Node (Non-Wekiva) Category, in addition to being within a Neighborhood Activity Center on the Future Land Use Map. This policy subsection discusses the allowed uses within the Urban Future Land Use Category. This policy includes a policy direction for commercial uses within the Urban Land Use Category, including an allowance for “new Commercial” development within this category without the need for a Comprehensive Plan Amendment, provided that the development meets the locational criteria for commercial activity centers, and that it meets the criteria established within other policies of the Comprehensive Plan.



The Petitioner believes this policy would allow the proposed development to be exempt from the commercial locational criteria contained in the comprehensive plan. This argument is flawed for many reasons:

1. This policy is specific to the Urban, Urban Expansion, and Suburban Future Land Use categories, and the Petitioner's property is within a different category, the Mt. Plymouth/Sorrento Urban Compact Node (Non-Wekiva) Future Land Use category. This point is made specifically in the last sentence of the first paragraph under the "Urban Area" subheading, which states in part, "As stated below, residential development with an overall density greater than one dwelling unit per acre *shall also* be allowed in Urban Expansion and Suburban land use categories designated on the 'Future Land Use map.'" The policy does not make any reference to the Urban Compact Node (UCN) Future Land Use Category, and thus, the County cannot read this policy as somehow applying to a Future Land Use Category it excludes from mention altogether.
2. The excerpt highlighted by the Petitioner on the second page of Exhibit B specifically and unequivocally states that new commercial development shall be allowed within the *Urban Land Use Category*. This is a specific category defined in the Comprehensive Plan and assigned on the Future Land Use Map (County's Exhibit "A"). However, the Petitioner's property is assigned the *Urban Compact Node (UCN) Future Land Use*, a different future land use category that can also be seen on the County's adopted Future Land Use Map (County's Exhibit "A"), and is therefore not eligible for this allowance.
3. Even if the County gave the language the effect the Petitioner is requesting, it still would not preempt the assigned Land Use overlay (Neighborhood Activity Center) on the Future Land Use Map without the Petitioner's applying for a map amendment.
4. The property is assigned a Neighborhood Activity Center Overlay on the Future Land Use Map as both an allowance and limit of the total commercial allocation for the intersection. Such a specific assignment of land use cannot be superseded by text in the plan that references neither the overlay nor the actual Future Land Use Category that applies to the Petitioner's property. The intent of a specific limit is clear through the assignment of the overlay.
5. The remainder of the policy discusses how commercial and industrial development will be treated within the Urban and Urban Expansion Future Land Use Categories. If the Petitioner's argument had merit, the policy would at the very least mention the Urban Compact Node Future Land Use at some point, but it does not. Therefore, the Petitioner's argument on this point is misleading and erroneous.



County's Response to Petitioner's Exhibit C

In this exhibit, the Petitioner shows maps of other areas in the County where the commercial location criteria, in the Petitioner's opinion, was misapplied because it had "no dot." In essence, the Petitioner reads Policy 1-3A.1 of the Comprehensive Plan, "Commercial Development in Land Use Classifications," to mandate that a "dot" – i.e., a Regional Activity Center, Community Activity Center, etc. – be placed wherever commercial development at the intersection of two arterials, or at the intersection of an arterial and a collector, has reached the threshold for the applicable type of Center.

In contrast, the County reads Policy 1-3A.1 of the Comprehensive Plan, contained in County's Exhibit "B," to apply at any commercialized intersection in an urban area, *unless* there is a "dot" at the intersection on the adopted Future Land Use Map, in which case the "dot" acts as a limitation on the amount of commercial development. The County believes that its interpretation of Policy 1-3A.1 is bolstered by the first two sentences of the Policy, which state: "Urban areas should be served by shopping facilities which are designed and planned around market and service areas. These areas are *generally categorized* under one of the following shopping center types:" (emphasis added). In addition, the County's interpretation is supported by Petitioner's Exhibit B, in which, as the Petitioner actually acknowledges, a "Dot" is not required for property to be eligible for commercial allocation within the Urban and Urban Expansion Land Use Categories.

The first group of items in Petitioner's Exhibit C are Zoning Maps showing the area of SR 50 and CR 455. Most of the SR 50 Corridor in this area is in the Urban Expansion Future Land Use, and is eligible to be evaluated under the Commercial Location criteria contained in Policy 1-3A.1, "Commercial Development in Land Use Classifications." These parcels are not assigned a Neighborhood Activity Center, Community Activity Center or any other type of limiting overlay, and are not comparable to the Petitioner's property. Therefore, the Petitioner's allegation that the commercial allocations were improper is erroneous since the commercial allocations along this corridor are consistent with the Future Land Use map and Comprehensive Plan policies that apply to the properties along this corridor.

The second group of items in Petitioner's Exhibit C are Zoning Maps showing the intersection of CR 25A and US 27. The parcels within the County in this area are within the Urban Future Land Use, and are eligible to be evaluated under the Commercial Location criteria contained in Policy 1-3A.1, "Commercial Development in Land Use Classifications." As with Petitioner's first example in Exhibit C, these parcels are not assigned a Neighborhood Activity Center overlay and are not comparable to the Petitioner's property. They are also within the most intense and dense land use allocated within the Comprehensive Plan. Therefore, the Petitioner's allegation that the commercial allocations were improper is erroneous since the commercial allocations in this area are consistent with the Future Land Use map and Comprehensive Plan policies that apply to the properties along this corridor.



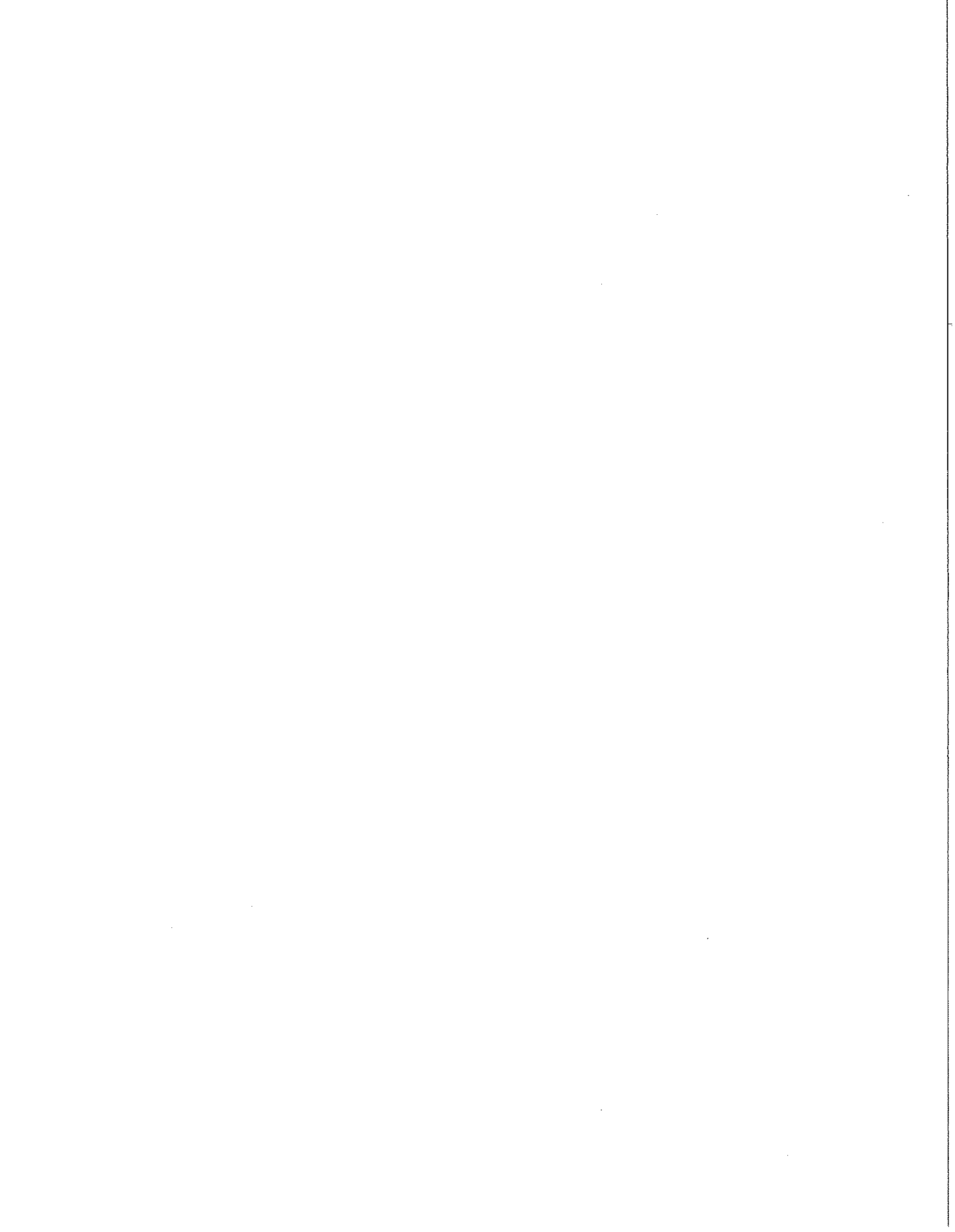
The third group of items in Petitioner's Exhibit C are similarly problematic in terms of supporting the Petitioner's argument. The third group of items consists of Zoning Maps showing the intersection of CR 468 and US 27/US 441. The parcels within the County in this area are within the Urban Future Land Use and are eligible to be evaluated under the Commercial Location criteria contained in Policy 1-3A.1, "Commercial Development in Land Use Classifications." Again, these parcels are not assigned a Neighborhood Activity Center overlay and are not comparable to the Petitioner's property. In addition, as is the case for the second group of items in Petitioner's Exhibit C, they are also within the most intense and dense land uses allocated within the Comprehensive Plan. Therefore, the Petitioner's allegation that the commercial allocations were improper is erroneous since the commercial allocations in this area are consistent with the Future Land Use map and Comprehensive Plan policies that apply to the properties along this corridor.

County's Response to Petitioner's Exhibit D

This exhibit concerns Policy 1-20.4, "Density and Intensity of Land Use within the Wekiva River Protection Area." On the third page of this exhibit, the Petitioner has highlighted the portion of the policy for Receiving Area Number Two, which applies in the Urban Compact Node - Non-Wekiva Future Land Use Category, in an apparent attempt to indicate that commercial allocations in the Urban Compact Node - Non-Wekiva area can be assigned through the Urban Land Use Category.

The Petitioner is mis-applying this policy. First, the policy, as plainly read, discusses residential uses. It states, "Lands within the Mount Plymouth-Sorrento Urban Compact Node and outside of the Wekiva River Protection Area Boundary may be developed to a maximum *density* of five and one-half (5.5) *dwelling units* per one (1) net acre and shall utilize the development regulations of Lake County which pertain to the Urban Land Use Category" (emphasis added). Second, Policy 1-20.4 plainly states that the "*development regulations*" of Lake County that pertain to the Urban Land Use Category shall be used. Those development regulations can be found in Policy 1-1.13., Subsection 1.b. of the Lake County Comprehensive Plan, attached hereto as County's Exhibit "E," which states on the second page, "Urban areas: residential densities shall be permitted up to 7 units per gross acre. The maximum impervious surface ratio shall be no greater than 65% of the gross development parcel."

The Petitioner apparently included Petitioner's Exhibit D to suggest that the latter half of the policy (" . . . and shall utilize the development regulations . . . which pertain to the Urban land use category") allows commercial development within the Mount Plymouth-Sorrento Urban Compact Node Non-Wekiva, so long as the commercial development is done according to the Urban development regulations. The Petitioner ignores the fact that this phrase is included in a provision discussing *density*- i.e., residential development - and further fails to state that the phrase, "development regulations of Lake County which pertain to the Urban land use category,"



is, in fact, a reference to a separate policy discussing *residential* densities and impervious surface ratio (County's Exhibit "E").

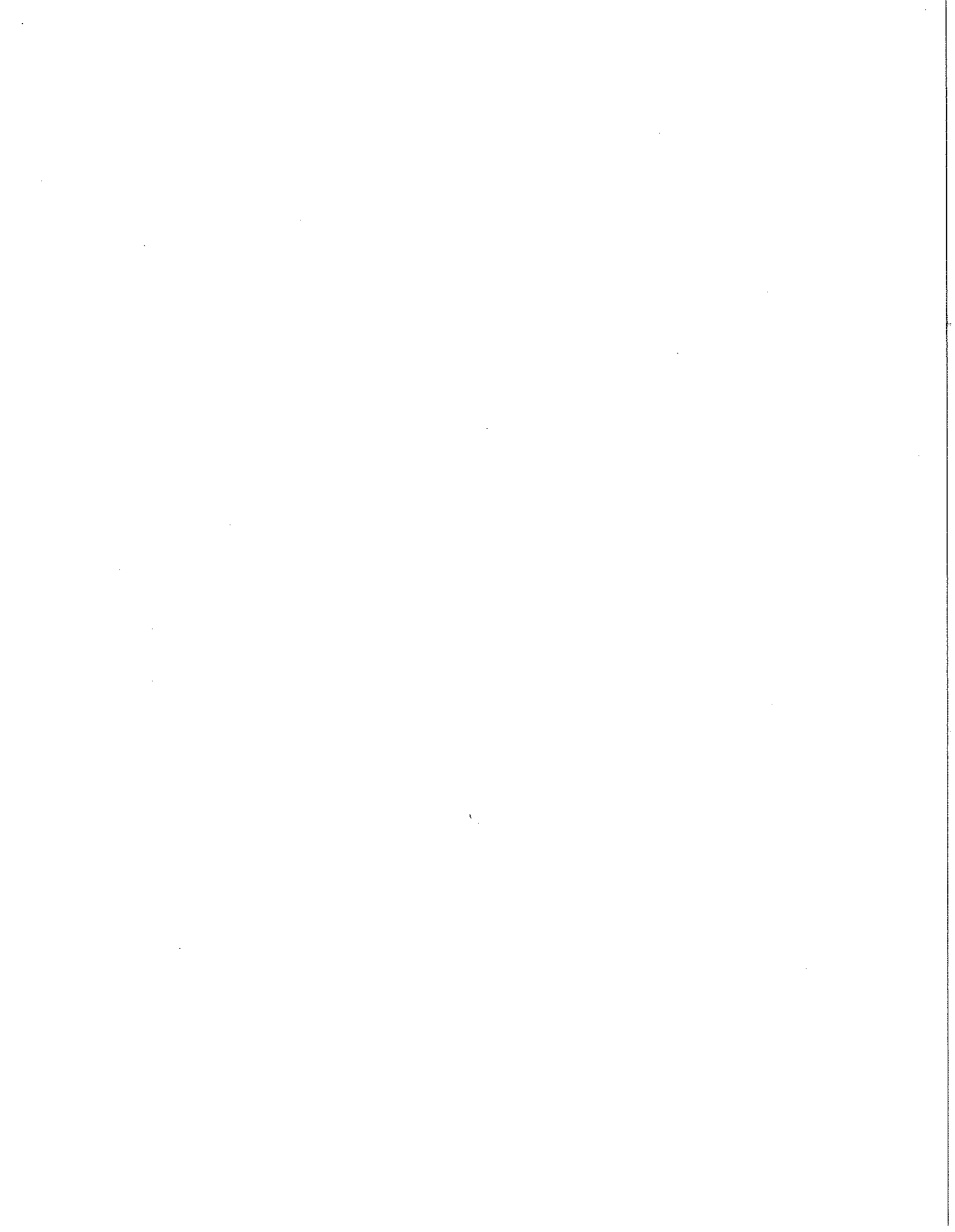
County's Response to Petitioner's Exhibit E

Exhibit E is an excerpt from the Comprehensive Plan that includes Policy 1-3A.1, "Commercial Development in Land Use Classifications." The Petitioner has highlighted the introductory paragraph of this policy as well as other selected text.

In Exhibit E, the Petitioner appears to be suggesting, as the Petitioner argued in the Special Master Hearing, that the Activity Center designation is a fluid one, whereby the amount of commercial development around a designated intersection can move the designated intersection from a Neighborhood Activity Center to Community Activity Center. Thus, Petitioner must also be arguing that the County's Future Land Use Map is a "self-amending" one, whereby the label attached to the "dot" on the Future Land Use Map would change along with the Activity Center designation.

This theory is unfounded and inaccurate. As previously discussed, the Future Land Use Map attached hereto as County's Exhibit "A" indicates that the Petitioner's property is within a designated *Neighborhood* Activity Center. The County does not have a self-amending Comprehensive Plan or Future Land Use Map, as a self-amending Plan or Map would be contrary to Fla. Stat. 163.3184, "Process for adoption of comprehensive plan or plan amendment." Fla. Stat. 163.3184(2) states, "Each comprehensive plan *or plan amendment* proposed to be adopted pursuant to this part *shall be transmitted, adopted, and reviewed in the manner prescribed in this section*" (emphasis added).

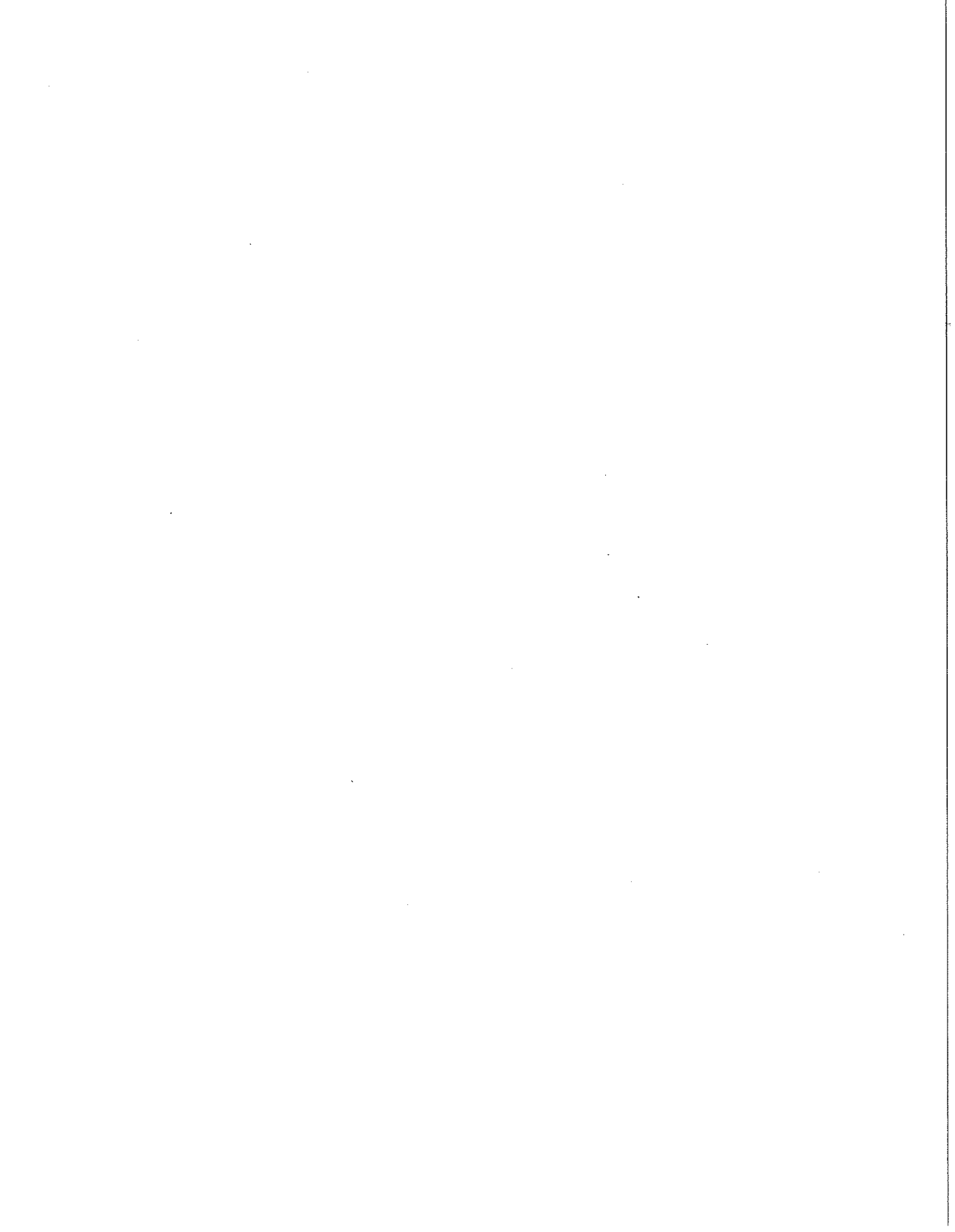
In an analogous rezoning case that came before the County in 2007, where there was a conflict between the adopted Future Land Use Map and a Comprehensive Plan Policy, the County Attorney's Office concluded that the adopted Future Land Use Map prevailed (in contrast, in the instant case, the County contends that there is no conflict between the adopted Future Land Use Map and Comprehensive Plan). The County Attorney's Office's conclusion was based in part on the fact that since the time of the County's Comprehensive Plan adoption in 1993, there have been numerous amendments to the Future Land Use Map done in accordance with statutory procedure; however, there had been no concomitant changes to the particular policy at issue in that case. Thus, the County Attorney's Office concluded, since the Future Land Use Map was the most recent, adopted document, it would appear to more accurately reflect the intent of the County regarding the appropriate future land uses within the County. In the instant case, the same rationale would apply; that is, because in all the times the County has amended the Future Land Use Map since 1993, the County has never attempted to amend the Neighborhood Activity Center designation that applies to the Petitioner's property, it is apparent that the County's intention has been for this area to be limited by the Neighborhood Activity Center Future Land Use overlay.



In the Petitioner's Exhibit E, the Petitioner has also highlighted portions of the Neighborhood Activity Center criteria, such as the minimum market area referenced in 3.d. However, the most pertinent point of this sub-policy is not highlighted. Section 3.d., found on the third page of Petitioner's Exhibit E, specifically requires that shopping centers serve the needs of the residents living within the *immediate surrounding neighborhoods*. In this case, however, the Petitioner submitted a market study that demonstrated the proposed development sought to serve a regional market of eight to eleven miles. This underscores the failure of the application to "fit" within the Future Land Use map overlay that is applied to the property. That is, the clear intent of the Lake County Comprehensive Plan in creating Neighborhood Activity Centers was to allow a small-scale cluster of commercial development at those intersections marked as such on the Future Land Use Map. Restricting the total amount of commercial development at those intersections to 50,000 square feet, including grocery and convenience stores in the list of suggested major components, and structuring the service area of a Neighborhood Activity Center to accommodate shopping needs within the immediate surrounding neighborhoods are all consistent with the intention of carving out small scale, neighborhood-oriented commercial centers at certain intersections and designating them Neighborhood Activity Centers. The Petitioner's application proposes something more in the character of a Community Activity Center-type commercial development, but the subject property is located within a Neighborhood Activity Center.

The Petitioner also failed to highlight section 3.f., which states that the proposed use "will not degrade the proper functioning of the adjacent roads below the established levels of service." Based on the analysis conducted as part of the application and the testimony made at the public hearings, it was demonstrated that the proposed project would cause two intersections to fail and that it would adversely impact the Level of Service of SR 46. Although the Petitioner deferred a determination of concurrency at the time of the hearing (it should be noted that deferral of concurrency for planned developments is no longer permitted under the revised Chapter V. of Lake County's Land Development Regulations), this did not relieve the Petitioner of the burden of showing how the project's impacts would be mitigated.

The Lake County Land Development Regulations (LDRs) specifically state that in applying for a rezoning, the applicant shall include, among other things, a statement outlining the extent to which the proposed rezoning affects the capacities of public facilities and services. Section 14.03.02 C.2., Lake County Land Development Regulations. Moreover, the LDRs state that the Lake County Zoning Board and the Board of County Commissioners shall consider "whether, and the extent to which, the proposed rezoning would result in demands on public facilities, and whether, or the extent to which, the proposed rezoning would exceed the capacity of such public facilities, including, but not limited to, police, roads, sewage facilities . . . schools, and fire and emergency medical facilities." Section 14.03.03 E., Lake County Land Development Regulations. In other words, the applicant is required to demonstrate, and the County's reviewing Boards must consider, the impact a proposed project like the Petitioner's



would have on the capacity of available facilities. The Petitioner's consistent response on this subject has been merely to state that the Petitioner submitted an Affidavit of Deferral of Concurrency Determination. This, under the County's LDRs, is not enough.

County's Response to Petitioner's Exhibit F

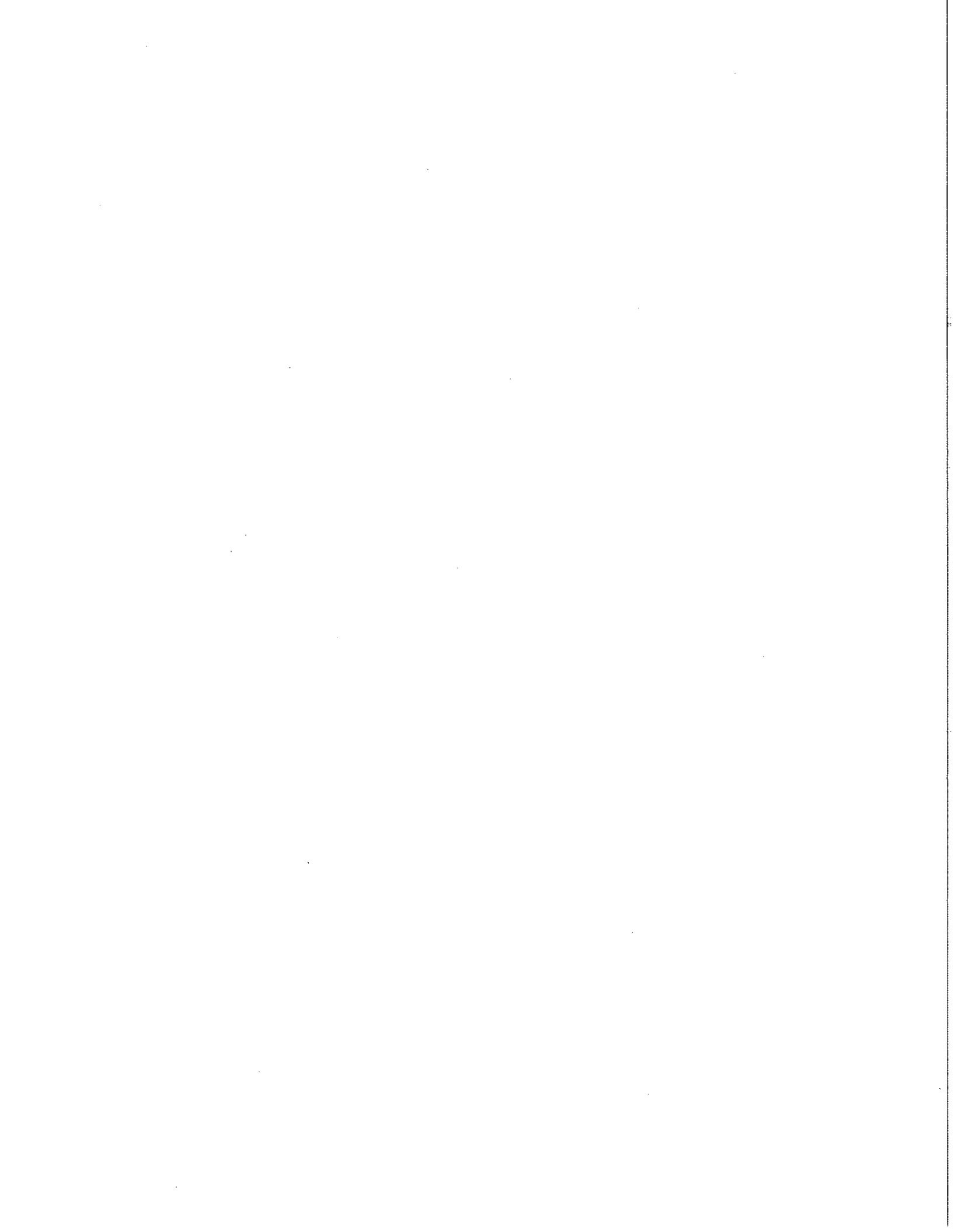
On the first page and in the second sentence of this market analysis, there is a statement that the Lake County Board of County Commissioners (BCC) adopted the Mount Plymouth Sorrento Frame Work Study Report. This statement is erroneous as the BCC did not adopt the report, as can be seen in the October 14, 2003 minutes, attached hereto as County's Exhibit "F." Instead, the BCC directed the creation of an advisory board for this community. The Market Analysis relies heavily on the Frame Work Study Report and is therefore deficient since the Report has no authority and contains no policy direction adopted by Lake County.

In addition, the Report relies on the Petitioner's incorrect interpretation of the Commercial Location Policies; namely, that the property is subject to a higher commercial activity than allowed by the Neighborhood Activity Center overlay that applies to the Petitioner's property. This proposed interpretation was given due consideration by the BCC at two separate public hearings. At both hearings, the Petitioner's proposed interpretation was rejected as flawed (*see, e.g.*, County's Exhibit "G" attached hereto, consisting of pertinent provisions from the September 22, 2009 BCC minutes leading up to the BCC decision denying the Petitioner's rezoning application). Further, the Report indicates that Mt. Dora and Eustis could be potential utility providers. No such possibility exists at this time or in this planning horizon according to those cities.

Finally, the Market Area extends well into Orange County, which is a greater service area than required to serve the residents of the "*immediate surrounding neighborhoods*" as described in the Policy 1-3A.1, Subsection 3.d., which applies to Neighborhood Activity Centers. The generation of trips by residents outside the immediate area would adversely affect the transportation level of service, and was one of the primary factors in the Board's decision to deny the Petitioner's application three times.

County's Response to Petitioner's Exhibit G

Exhibit G is a copy of the draft Ordinance for the Zoning Board Hearing held on September 22, 2009. The Petitioner has highlighted Section E. (2), found on page three of the draft ordinance, relating to right of way dedication for possible future realignment of Hunter Road/CR 437. As proposed by the Petitioner, a portion of the right of way necessary to realign CR 437 would have been dedicated to the County. This dedication has been characterized as a major concession by the Petitioner. However, it must be noted that such a dedication would be credited toward any proportional fair share contribution required as part of the development. That is, if the Petitioner were able to build the proposed development, and went through the concurrency evaluation process pursuant to the County's LDRs, the Petitioner would likely have



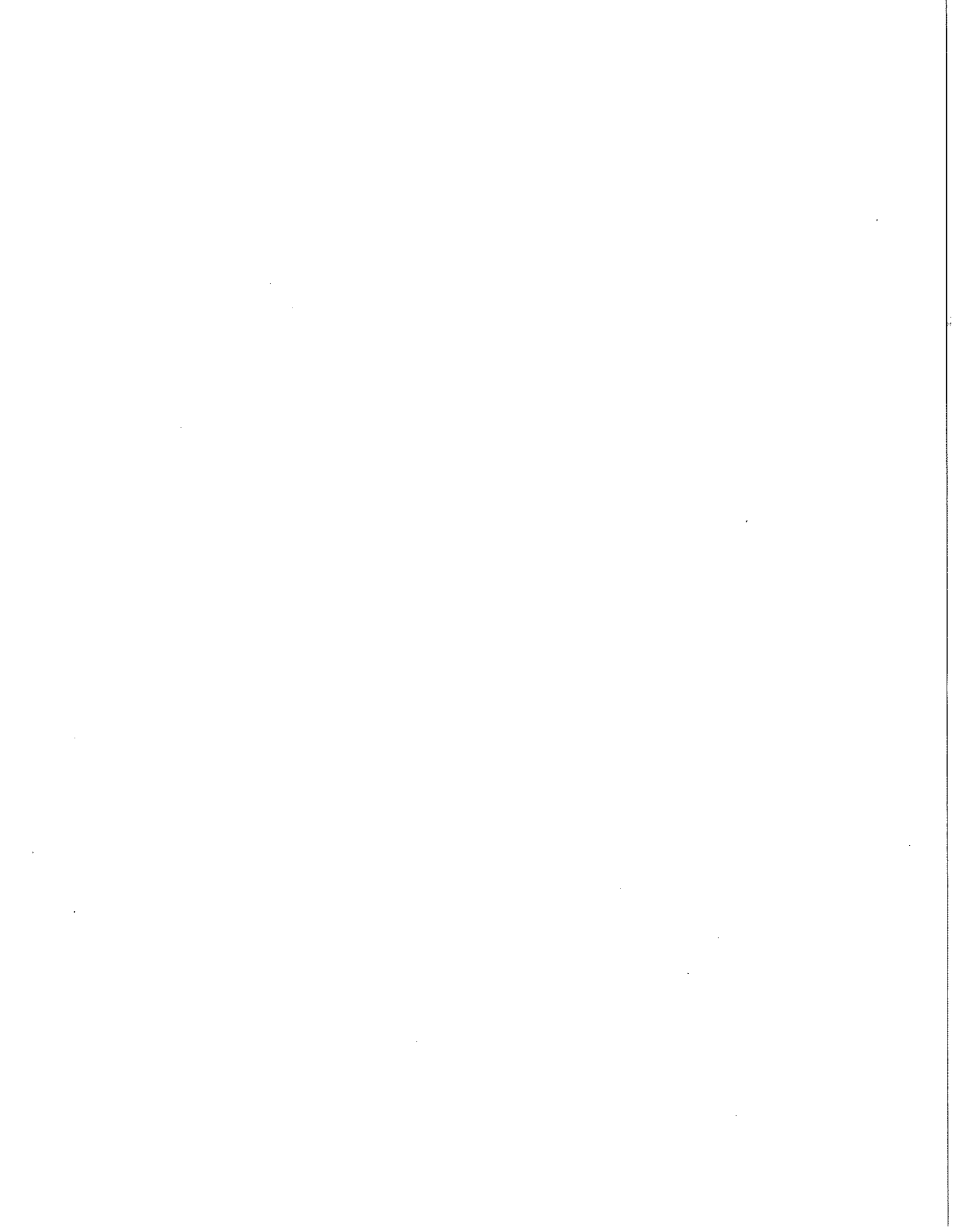
to enter into a proportionate fair share agreement with the County in order to mitigate impacts to local roadways. The proposed right of way dedication would be counted as part of the Petitioner's proportionate fair share contribution.

In reviewing the Petitioner's application, the Lake County Public Works Transportation Division determined that the Level of Service for SR 46 roadway is currently "C," and that although the existing roadway segment is operating with adequate capacity, this project would have a significant impact on the roadway segment capacity and major intersections. The proposed development would, at a minimum, cause two intersections to fail: SR 46 & CR 437S and CR 437N & Wolfbranch Road.

Further, the County's 5-Year Capital Improvements Program does not include the improvements needed for this development to complete the realignment. Even if the proposed development was ultimately permitted and the Petitioner were to enter into a Proportionate Fair Share Agreement with the County, the agreement would not, in and of itself, be sufficient to complete all necessary improvements for the southern extension of CR 437. The result would most likely be that the financial burden of completing the improvements to address the impacts generated by the proposed development would be shifted to the County. Therefore, as proposed, the application was inconsistent with Policy 1-7.1 of the Lake County Comprehensive Plan, entitled "Availability of Public Facilities," since public funds (or additional development paying proportional share) would not fund the necessary improvements needed in the 5-year CIP. Policy 1-7.1, contained in County's Exhibit "H," states, "Future land use allocations, including their related densities and intensities, shall not exceed the financial and legal ability of the County to provide or require provision of public facilities to serve those land uses delineated on the 'Future Land Use Map.'"

County's Response to Petitioner's Exhibit H

Exhibit H is a copy of the minutes from the BCC Zoning hearing on November 26, 2002, which concerned a property in south Lake County in a similar rezoning request (PH#43-02-2). The Petitioner has highlighted portions of the testimony from Mr. Jeff Richardson, a former Chief Planner with the Planning and Community Design Division. It is unclear why the Petitioner has highlighted this case, as the testimony centers primarily around the applicability of the commercial area limitation of 5,000 square feet contained not in Policy 1-3A.1 but in Policy 1-1.15, entitled "Land Use Activities Within the Land Use Categories." Section 8.b. of Policy 1-1.15 limits commercial developments to 5,000 square feet or less in the Green Swamp Ridge Future Land Use Category. In the first highlighted paragraph, Mr. Richardson correctly summarizes that the Department of Community Affairs considers this limitation to be per parcel – "In their discussions with DCA, they were basically going to do four parcels at 5,000 square feet each."



The circumstances described in these minutes do not seem directly applicable to the Petitioner's circumstances or property.

County's Response to Petitioner's Exhibit I

Exhibit I is a copy of the 2002 rezoning staff report and minutes for rezoning request PH# 79-01-4. In this request, the applicant, Michael Day, requested a change from R-6 Zoning (Urban Residential) to CP Zoning (Planned Commercial), for a piece of property in close proximity to the Petitioner's property. In this case, the planning staff appear to have applied the Commercial Location Criteria based on the applicant's request and recommended denial because the request exceeded the square footage threshold. The Applicant in this case limited his request to 5,000 square feet in order to comply with the criteria and received a favorable recommendation from staff and approval from the BCC.

County's Response to Petitioner's Exhibit J

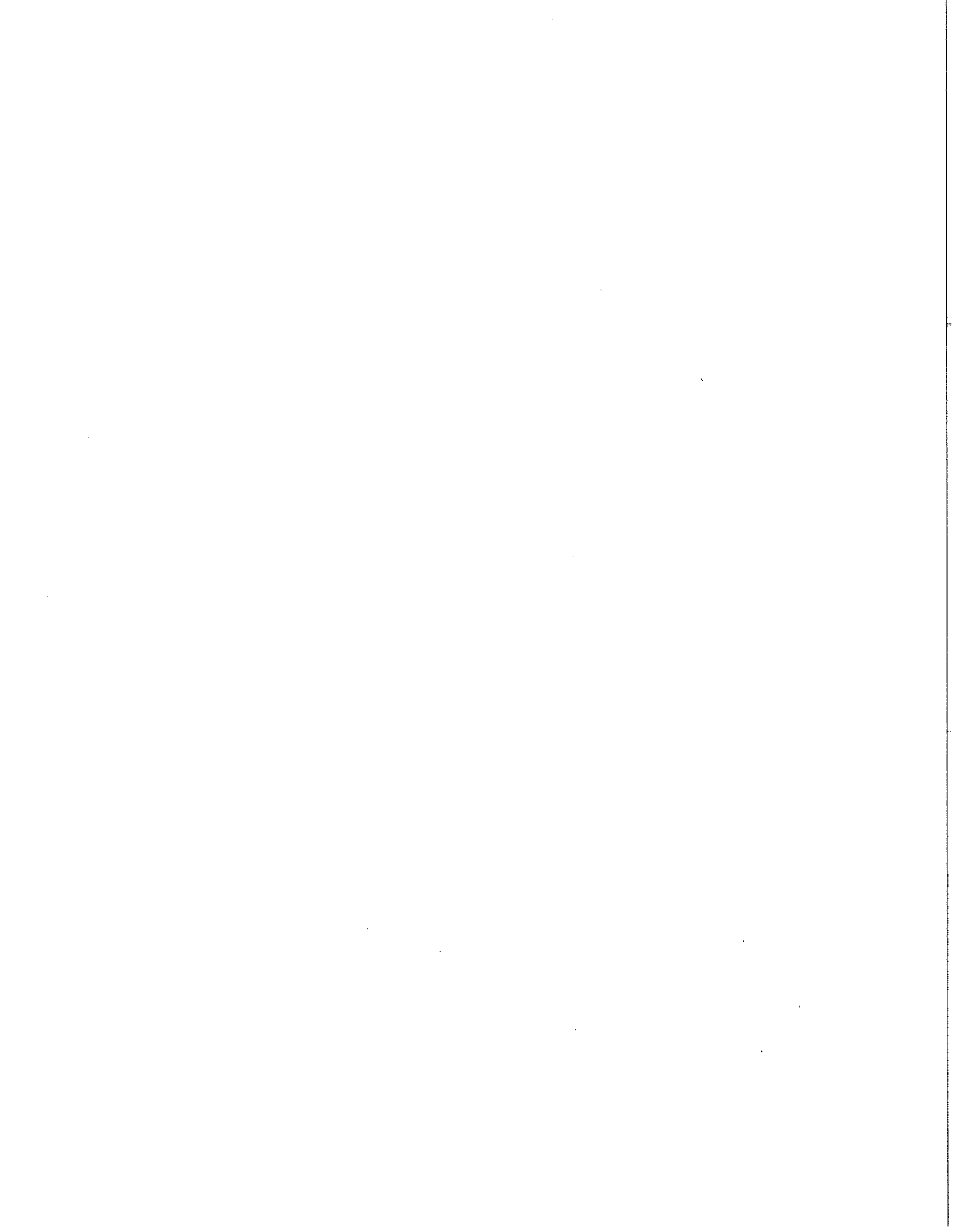
Exhibit J is a copy of the February 6, 2008 rezoning staff report for WLW Construction. The application in this case was to add a Truck Yard use. Although the staff report indicates that this site meets commercial location criteria (Section B), County Staff believes that a Truck Yard use should not have been, and is not, subject to commercial location criteria as this use is not measurable as *commercial* floor area, or in terms of intensity. A Truck Yard is basically an outside storage area and is therefore not comparable to a 50,000 square foot shopping center.

County's Response to Petitioner's Exhibit K

Exhibit K includes a portion of the minutes from the Petitioner's September 22, 2009 rezoning hearing before the Board of County Commissioners. The Petitioner has excerpted the testimony of Richard Hartenstein, Senior Planner, at the point where he identifies the intersection of CR 48 and US Hwy 27, where the Commercial Location Criteria appears to have been incorrectly applied. County Staff acknowledges this error. Nonetheless, the existence of a prior error is no reason or excuse for the County to deliberately ignore the demarcation of a Neighborhood Activity Center on the County's Future Land Use Map.

County's Response to Petitioner's Exhibit L

Exhibit L is a copy of the Affidavit of Deferral of Concurrency Determination submitted by the Petitioner for his 2009 rezoning application. The portion of the application relating to the Petitioner's election to defer concurrency analysis is highlighted. As stated previously in the staff report for the September 22, 2009 hearing, and above in this memorandum, the deferment of concurrency does not absolve the Petitioner from demonstrating how impacts on public infrastructure will be addressed, nor does it relieve the County from conducting the necessary review to determine the impacts a proposed development will have on the public health, safety and welfare of its citizens.



County's Response to Petitioner's Exhibit M

Exhibit M is a copy of the June 18, 2009 comments on the Petitioner's Application for rezoning. The Petitioner has highlighted the portions of the comments relating to transportation. As stated above, the County is required to consider a proposed development's impacts in its analysis of the rezoning requests as evidenced by Section 14.03.03 of the Land Development Regulations entitled Standards for Review (of Rezoning). Subsection E of the section specifically requires that the demands on public facilities and the extent to which the proposed development would exceed the capacity of such public facilities be considered.

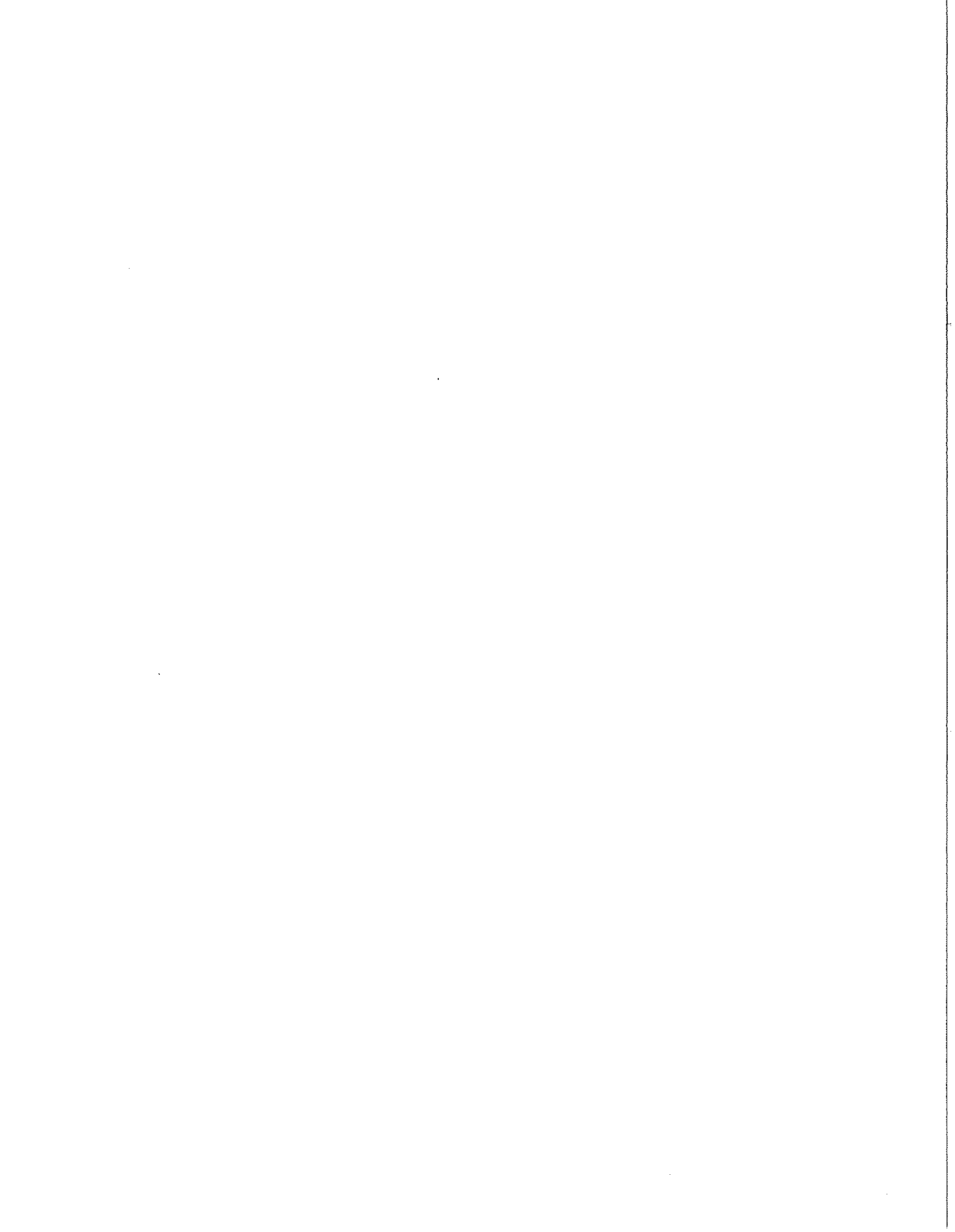
Further, the County is required by Section 163.3177(3)(a)5. of the Florida Statutes to include a Capital Improvements Element in the Comprehensive Plan. The Capital Improvements Element must include "a schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects for which the local government has no fiscal responsibility, necessary to ensure that adopted level-of-service standards are achieved and maintained. For capital improvements that will be funded by the developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to paragraph (10)(h), or other enforceable agreement." Fla. Stat. §163.3177(3)(a)5. The County's 5-Year Capital Improvements Program does not specifically identify all the improvements that would be needed for this development, and the Proportional Fair Share process would, on its own, be insufficient to complete all the necessary improvements needed to maintain the Level of Service adopted by the County for the roads in this area.

County's Response to Petitioner's Exhibit N

The Petitioner highlights Policy 1-3.4 of the County Comprehensive Plan in Exhibit N, which states: "The density and intensity of commercial uses shall be compatible with the ability of public facilities to provide adequate services according to adopted level of service standards." This is one of the policies that County Staff cited in finding that the Petitioner's application was inconsistent with the Lake County Comprehensive Plan, because the intensity of the Petitioner's proposed development is incompatible with the ability of public facilities in the area to provide adequate services, the necessary infrastructure improvements are not adopted into the 5-Year Capital Improvements Plan, and the necessary improvements would not be provided by the proposed development.

County's Response to Petitioner's Exhibit O

Exhibit O is a copy of Objective 1-7 of the Comprehensive Plan, entitled "Coordinate Future Land Use with the Concurrency Management System." The highlighted sections relate to



the requirements that Public Facilities be available concurrent with the impacts of development. As stated previously, the Land Development Regulations require the County to consider a proposed development's impacts in its analysis of the rezoning requests under Section 14.03.03 of the Land Development Regulations. Further, and also as previously stated, the County's 5-Year Capital Improvements Program, required by the Florida Statutes, does not specifically identify all the improvements that would be needed for this development, and the Proportional Fair Share process would, on its own, likely be insufficient to complete all the necessary improvements needed to maintain the Level of Service adopted by the County for the roads in this area.

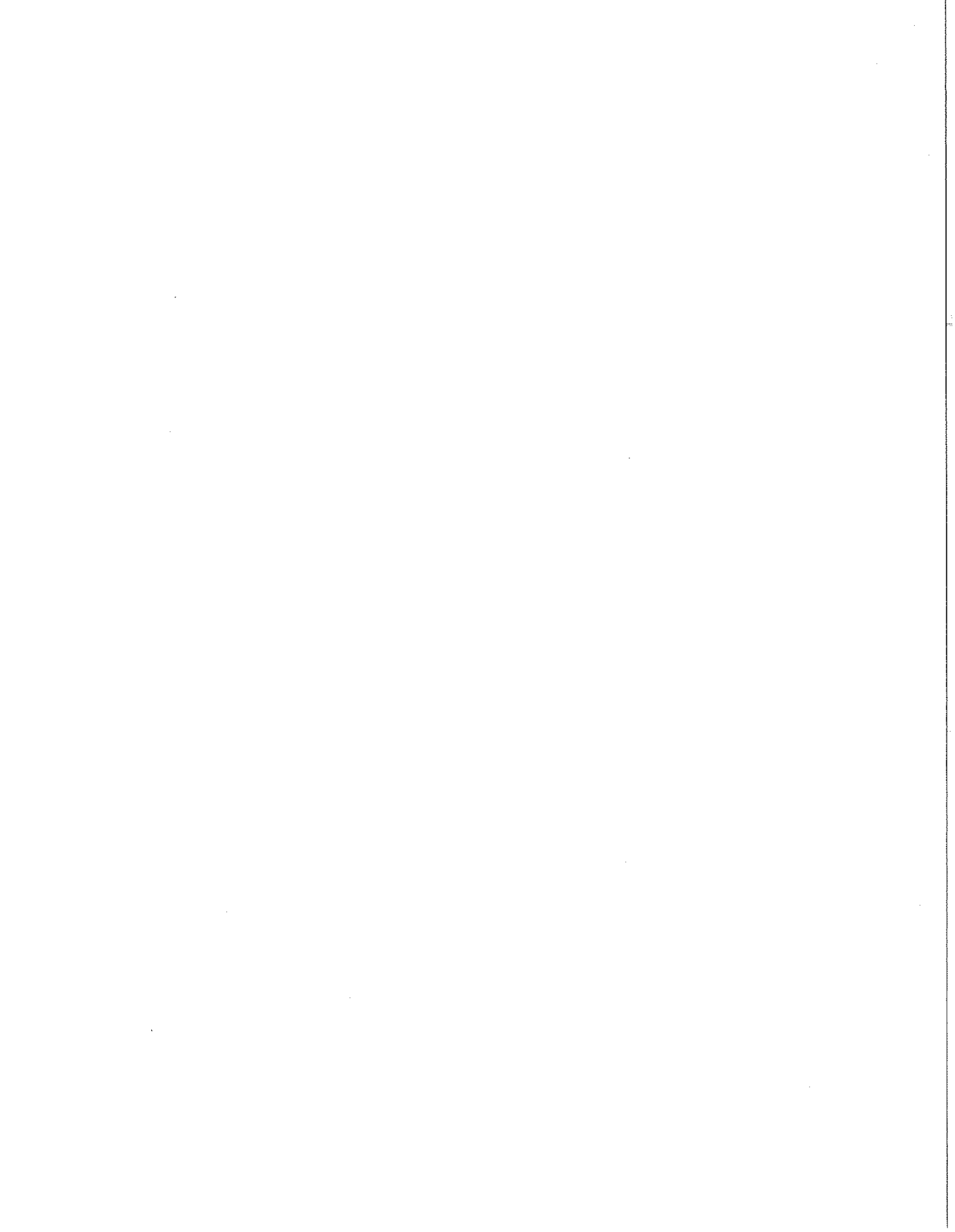
Conclusion

It is notable that none of the Petitioner's exhibits show the County's Future Land Use Map, which clearly indicates, in the attached County's Exhibit "A," that the Petitioner's property is subject to the Neighborhood Activity Center overlay district. In order for the County to do as the Petitioner asks, which is to allow at least 50,000 square feet of commercial square footage on the Petitioner's property, the County would have to blind itself to its own Future Land Use Map and Comprehensive Plan.

The Comprehensive Plan could not be more clear in stating that Neighborhood Activity Centers allow "*combined* commercial allocations from 10,000 to 50,000 square feet of gross leasable area." Policy 1-3A.1, "Commercial Development in Land Use Classifications," subsections 3.a. and c., Lake County Comprehensive Plan. If the word "combined" is to be given any effect at all – and the County must give it some effect – it must mean that the County is to count all existing commercial area at the intersection covered by the Neighborhood Activity Center before considering a new request for commercial uses. Otherwise, there would be no need for the Comprehensive Plan to draw distinctions between Neighborhood and Community Activity Centers.

In this case, the Petitioner's property is located in a Neighborhood Activity Center where approximately 34,900 square feet of commercial land uses already exist. The County can reach no other result, without entirely discounting its own Future Land Use Map and Comprehensive Plan, than the one stated in the staff report: the remaining, allowable square footage for commercial development within this Neighborhood Activity Center is approximately 15,100 square feet. The Petitioner's request exceeded this amount by 34,900 square feet. Accordingly, the Petitioner's request was denied.

Finally, it must be noted that the Lake County 2030 Comprehensive Plan, which has been transmitted by the Board of County Commissioners to the State for review, is expected to be adopted by the BCC on May 25, 2010. The proposed 2030 Comprehensive Plan differs from the current Plan as it applies to the Petitioner's property and to this area, and the Petitioner is aware of this fact. Specifically, the proposed 2030 Comprehensive Plan assigns a proposed Future

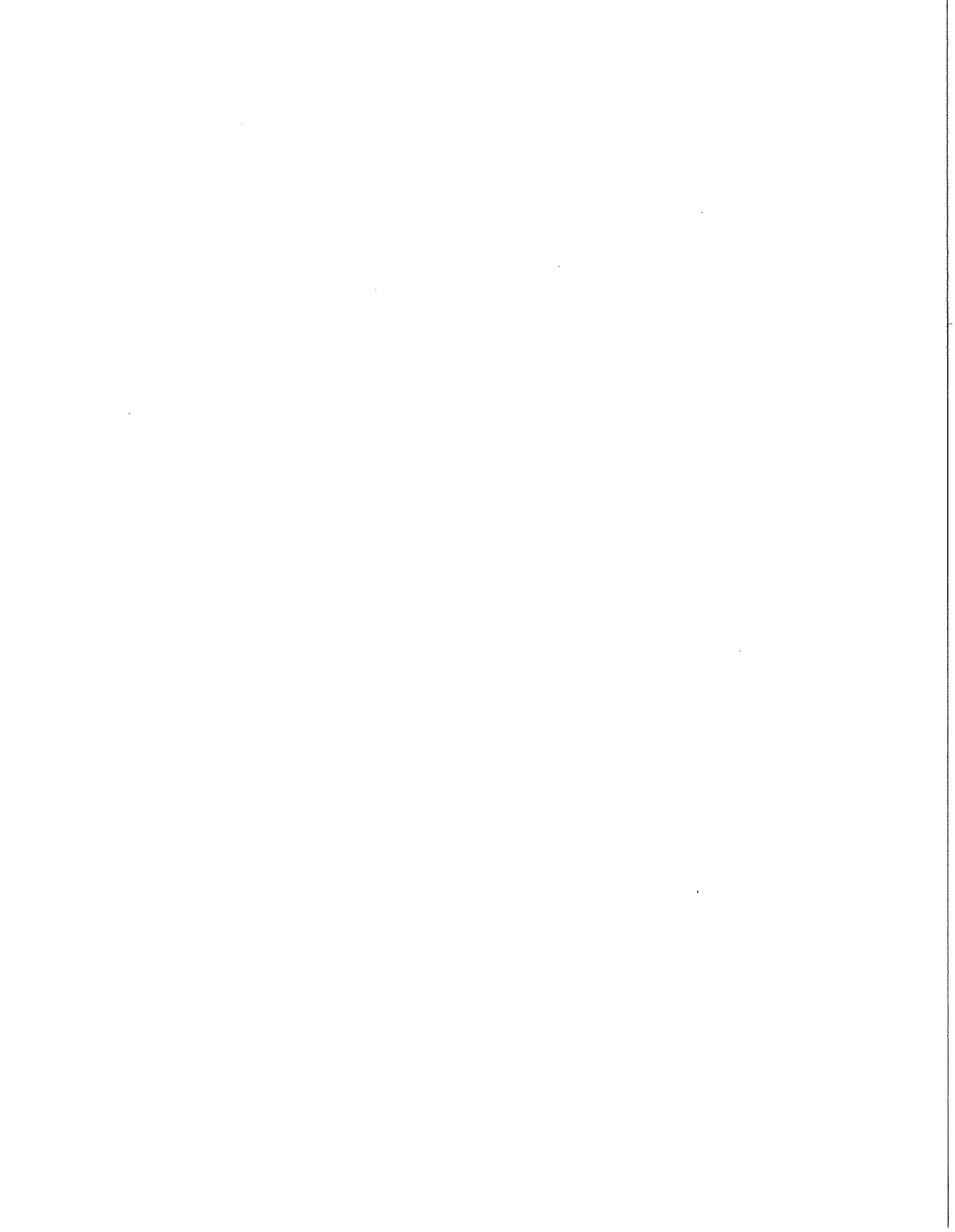


Land Use of "Mt. Plymouth-Sorrento Main Street," and deletes the Activity Center "dots." Under the proposed plan, the Petitioner could develop the property at an intensity of 0.30, or 30% of the area of his property for commercial development. The proposed 2030 Comprehensive Plan does, however, include a cap on building size of 30,000 square feet, in order to maintain the consistency of the existing development pattern and character of the community.

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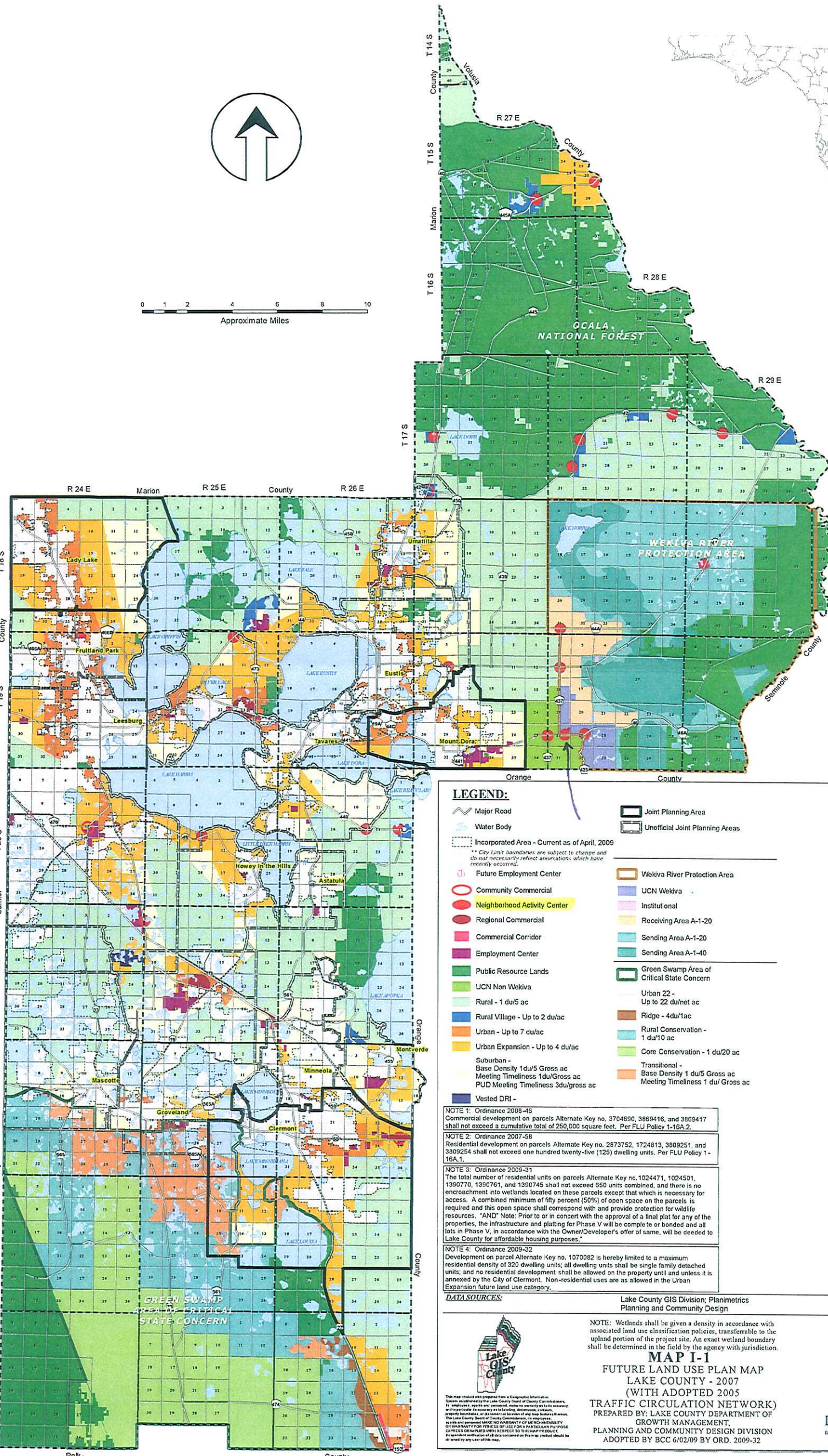
COUNTY'S EXHIBIT "A"



FUTURE LAND USE MAP LAKE COUNTY, FLORIDA



0 1 2 4 6 8 10
Approximate Miles



LEGEND:

- Major Road
- Water Body
- Incorporated Area - Current as of April, 2009
*** City Limit boundaries are subject to change and do not necessarily reflect annexations which have recently occurred.*
- Future Employment Center
- Community Commercial
- Neighborhood Activity Center
- Regional Commercial
- Commercial Corridor
- Employment Center
- Public Resource Lands
- UCN Non Wekiva
- Rural - 1 du/5 ac
- Rural Village - Up to 2 du/ac
- Urban - Up to 7 du/ac
- Urban Expansion - Up to 4 du/ac
- Suburban - Base Density 1du/5 Gross ac Meeting Timeliness 1du/Gross ac PUD Meeting Timeliness 3du/gross ac
- Vested DRI
- Joint Planning Area
- Unofficial Joint Planning Areas
- Wekiva River Protection Area
- UCN Wekiva
- Institutional
- Receiving Area A-1-20
- Sending Area A-1-20
- Sending Area A-1-40
- Green Swamp Area of Critical State Concern
- Urban 22 - Up to 22 du/net ac
- Ridge - 4du/1ac
- Rural Conservation - 1 du/10 ac
- Core Conservation - 1 du/20 ac
- Transitional - Base Density 1 du/5 Gross ac Meeting Timeliness 1 du/Gross ac

NOTE 1: Ordinance 2008-46
Commercial development on parcels Alternate Key no. 3704690, 3869416, and 3869417 shall not exceed a cumulative total of 250,000 square feet. Per FLU Policy 1-16A.2.

NOTE 2: Ordinance 2007-58
Residential development on parcels Alternate Key no. 2873752, 1724813, 3809251, and 3809254 shall not exceed one hundred twenty-five (125) dwelling units. Per FLU Policy 1-15A.1.

NOTE 3: Ordinance 2009-31
The total number of residential units on parcels Alternate Key no. 1024471, 1024501, 1390770, 1390761, and 1390745 shall not exceed 650 units combined, and there is no encroachment into wetlands located on these parcels except that which is necessary for access. A combined minimum of fifty percent (50%) of open space on the parcels is required and this open space shall correspond with and provide protection for wildlife resources. **AND** Note: Prior to or in concert with the approval of a final plat for any of the properties, the infrastructure and platting for Phase V will be complete or bonded and all lots in Phase V, in accordance with the Owner/Developer's offer of same, will be deeded to Lake County for affordable housing purposes.

NOTE 4: Ordinance 2009-32
Development on parcel Alternate Key no. 1070082 is hereby limited to a maximum residential density of 320 dwelling units; all dwelling units shall be single family detached units; and no residential development shall be allowed on the property until and unless it is annexed by the City of Clermont. Non-residential uses are as allowed in the Urban Expansion future land use category.

DATA SOURCES:

Lake County GIS Division; Planimetrics Planning and Community Design



NOTE: Wetlands shall be given a density in accordance with associated land use classification policies, transferable to the upland portion of the project site. An exact wetland boundary shall be determined in the field by the agency with jurisdiction.

MAP I-1
FUTURE LAND USE PLAN MAP
LAKE COUNTY - 2007
(WITH ADOPTED 2005
TRAFFIC CIRCULATION NETWORK)
PREPARED BY: LAKE COUNTY DEPARTMENT OF
GROWTH MANAGEMENT,
PLANNING AND COMMUNITY DESIGN DIVISION
ADOPTED BY BCC 6/02/09 BY ORD. 2009-32



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COUNTY'S EXHIBIT "B"

- * to examine level of service opportunities and constraints for potential land use changes and development within the corridor areas; and
- * to achieve other such planning objectives as the Board of County Commissioners may direct.

OBJECTIVE 1-3A: CRITERIA TO DIRECT COMMERCIAL DEVELOPMENT. Lake County Shall Direct Commercial Development Through the Designation of Commercial Activity Centers (Regional, Community, Neighborhood) as Designated On the Future Land Use Map.

Policy 1-3A.1: Commercial Development In Land Use Classifications. Urban areas should be served by shopping facilities which are designed and planned around market and service areas. These areas are generally categorized under one of the following shopping center types:

1. Regional Activity Centers:

- a. Location - will be at the intersections of arterials or along an arterial at an appropriate distance from an interchange of an arterial with an interstate highway. These centers shall be located within the Urban and Urban Expansion land use categories. In addition, these centers require a minimum population of 150,000 within its service area for support.
- b. Allows - 500,000 square feet or more of gross leasable area.
- c. Major component may be a mall with two or three anchor stores.
- d. Service Areas – county-wide to regional area.
- e. Requires a unified site plan which incorporates an internal traffic circulation system and pedestrian circulation.
- f. May not be separated by public streets and highways.
- g. Site design will not compromise the integrity of adjacent uses.
- h. May contain office, professional or institutional use.

2. Community Activity Centers:

- a. Location - at the intersection of two arterials or at the intersection of an arterial and collector, or along an arterial at an appropriate distance from an intersection. These centers shall be located within the Urban and Urban Expansion land use categories. In addition, these centers shall have a minimum market area radius of two miles.
- b. Allows - 50,000 to 500,000 square feet of gross leasable area.
- c. Major component may include a shopping center with one or more department stores.
- d. May contain office, professional or institutional uses.
- e. Requires a site plan with an internal circulation system that does not compromise the integrity of adjacent uses.
- f. Shall not degrade the proper functioning of the adjacent roads below the established levels of service.
- g. These centers shall be located so that there is not a substantial overlap of its service area with the service area of existing centers.

3. Neighborhood Activity Centers:

- a. Location - at the intersections of collectors, or at the intersection of a collector and an arterial. These centers shall be located in the Urban, Urban Expansion and Suburban land use categories.
- b. Major component may include a grocery, drug, or convenience type stores.
- c. Allows combined commercial allocations from 10,000 to 50,000 square feet of gross leasable area.
- d. Service Area - will be proximate to population areas to support proposed uses. These centers are intended to accommodate the shopping needs of the resident living within the immediate surrounding neighborhoods. These centers shall have a minimum market area of 1.25 miles.
- e. Site design will not compromise the integrity of adjacent uses.
- f. Will not degrade the proper functioning of the adjacent roads below the established levels of service.
- g. Neighborhood shopping centers shall not use local streets as their principal traffic access.

4. Neighborhood Convenience Centers:

- a. Located along collectors, with preference given to locations at the intersections of such streets, except in rural villages with arterial roads being the only major streets. This type of center may be located at the intersection of arterials in such villages. These centers are intended to accommodate the convenient shopping needs of residents living within the immediate surrounding area. These centers shall have a minimum market area of one mile.
- b. Allows combined commercial and retail allocations of 2,500 to 5,000 square feet.
- c. May be located in all of the land use designations, except for the Green Swamp ACSC and because of size will not require mapping on the Future Land Use Map. Within the Green Swamp ACSC, neighborhood convenience centers may be located only within the Ridge and Transitional land use categories provided they meet all of the criteria of this policy and have a minimum discrete market area of two miles and located on a County arterial.
- d. New convenience centers shall not be located internally within existing single family developments unless part of a Planned Unit Development (PUD or MUQD).
- e. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.
- f. Shall not be located in conservation or environmentally sensitive areas.

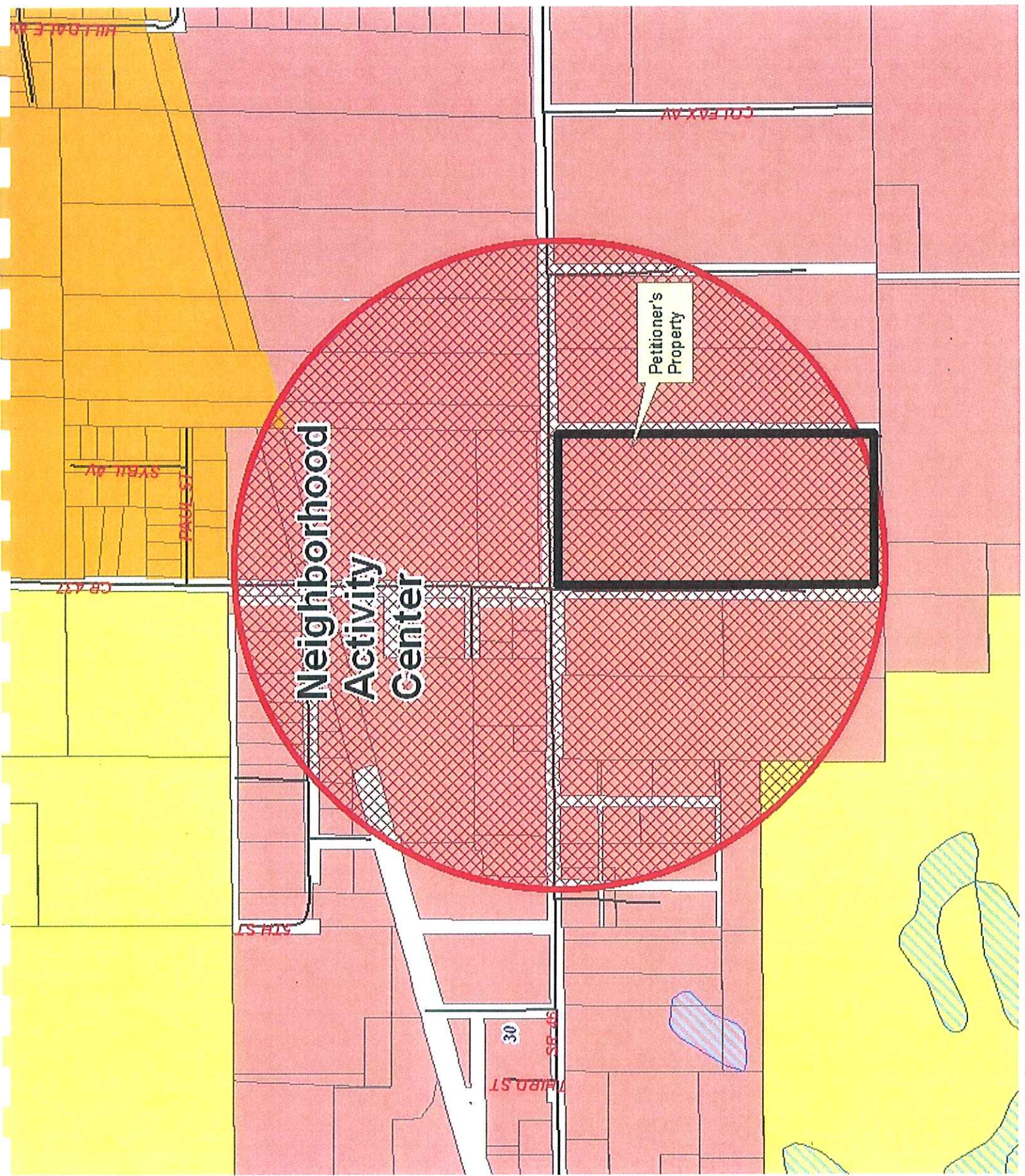
5. Commercial Corridors:

- a. Commercial shall only be allowed along commercial corridors on U.S. 441, U.S. 27 and U.S. 192 which have significant existing commercial development, as identified on the Future Land Use Map.
- b. Infilling will be allowed within designated commercial corridors.
- c. Regulations shall be developed to address the special needs of these corridors. They shall contain requirements for additional setbacks, buffers, landscaping requirements, access limitation, etc.

COUNTY'S EXHIBIT "C"

**Neighborhood
Activity
Center**

Petitioner's
Property



COUNTY'S EXHIBIT "D"

PH#09-09-4 Village Commons Area Commercial Project Data						
AK #	Zoning	Ord.	FLUC	Site Plan #	Use	Commercial Square Ft.
1598095	CP w/C-2 & Commercial Printing Facility	57-88 & 30-89	Employment Center (UNC-Wekiva)	89-7-59 & 98-08-63	Mechanical Contractor Office and Storage & Warehouse	0 10.63 acres
3845080	CP w/C-2	57-88 30-89	Employment Center (UNC-Wekiva)	None	Vacant Commercial	0 3.37 acres
1598079	CP w/C-1	72-89	Neighborhood Activity Center (UNC-Wekiva)	None	Single-Family Residential (Stucco/Brick)	0 4.46 acres
3373103	CP w/C-1 & C-2	78-89	Neighborhood Activity Center (UNC-Wekiva)	None	Vacant Commercial	0 8.78 acres
1598141	CP w/C-1 & C-2	78-89	Neighborhood Activity Center (UNC-Wekiva)	None	Single-Family Residential (MH)	0 9 acres
1598338	CP w/C-1 & C-2	78-89	Neighborhood Activity Center (UNC-Wekiva)	None	Vacant Commercial	0 15.44 acres
2856742 Subject Parcel	CP – Corporate Office, car storage, Service Center for Car Leasing Company	20-88	Neighborhood Activity Center (UNC-Non Wekiva)	None	Vacant Commercial	0
1789150 Subject Parcel	CP – Corporate Office, car storage, Service Center for Car Leasing Company	20-88	Neighborhood Activity Center (UNC-Non Wekiva)	88-11-97	Corporate Office, car storage, Service Center for Car Leasing Company	3241
1681596	C-2	3-81	UNC-Non Wekiva	None	Vacant Commercial	0
3824889	C-2	3-81	UNC-Non Wekiva	None	Store	11,200
1681600	C-2	17-81	UNC-Non Wekiva	86-3-35	Store	6,000 <u>3,600</u> 9,600
1754399	C-1	18-63	UNC-Non Wekiva	None	Store	2,400

1681618	C-1	18-63	UNC-Non Wekiva	85-10-114	Bar	4,140 <u>460</u> 4,600
1681626	CP	50-84	UNC-Non Wekiva	None	Vacant Commercial	0
2762853	C-1	25-85	UNC-Non Wekiva	None	Vacant Commercial	0
3662199	CP	2008-10	UNC-Non Wekiva	None	Vacant Commercial	0
3662172	CP	2008-10	UNC-Non Wekiva	None	Vacant Commercial	0
1682061	CP	2008-10	UNC-Non Wekiva	00-01-08	Office	1,452
1682070	CP	2008-10	UNC-Non Wekiva	00-01-08	Warehouse	2,400
Total Developed Commercial Square Footage within ¼ mile of SR 46 & CR 437 Int. Commercial Acreage in the Wekiva River Protection Area						34,893 51.68 acres

COUNTY'S EXHIBIT "E"

Policy 1-1.12A: Maximum Lot Approvals and Permits Issued. As part of the County's efforts to direct growth to the urban land use categories, the County shall limit the number of lots it approves for platting and the number of building permits it issues in the following rural land use categories as follows:

<u>LAND USE CATEGORY</u>	<u>ANNUAL MAXIMUM</u>	
	<u>LOTS</u>	<u>PERMITS</u>
1. Core/Conservation	35	50
2. Rural/Conservation	60	50
3. Rural Village	250	200
4. Rural	350	300

In no event shall the total annual maximum of platted lots for all of the land use categories set out above exceed 500 lots or the maximum number of building permits issued in a year exceed 400.

The foregoing maximums are presumed to be valid and legally binding. In the event these maximums are stricken by a court of competent jurisdiction, the County shall suspend the review or issuance of any new development orders or permits within these rural land use categories for the purpose of adoption of amendments to the Comprehensive Plan. This suspension shall remain in full force and effect until such time as the County has amended its Comprehensive Plan to establish appropriate densities in accordance with the requirements of Chapter 163, F.S. and Chapter 9J-5, F.A.C.

Policy 1-1.12B: Goals, Objectives, and Policy Inconsistencies. Goals, Objectives, and Policies which conflict with amendments to the Lake County Comprehensive Plan, initiated in response to a stipulated settlement agreement with the Department of Community Affairs, shall be revised via Comprehensive Plan Amendment at the earliest possible time. The Goals, Objectives, and Policies that have been amended in response to a stipulated settlement agreement with the Department of Community Affairs shall take precedence until such time that the conflicting Goals, Objectives, and Policies can be amended to comply with the stipulated settlement agreement.

Policy 1-1.13: Land Use Density and Intensity Standards. Upon adoption of this Plan, the following land use density and intensity standards shall apply. Land Development regulations adopted to implement this Comprehensive Plan shall be based on and be consistent with the following standards for densities and intensities as indicated below:

1. Residential:
 - a. High Density/Intensity Urban
 - (1) The maximum impervious surface ratio shall be no greater than seventy percent (70%) of the gross area, and a minimum of twenty percent (20%) of the gross area shall be dedicated as open space. The area to be dedicated as open space shall not be construed to be in addition to the maximum impervious surface requirements, but may include pervious area used to comply with the maximum impervious surface area ratio.
 - (2) Residential densities shall range from seven (7) units per acre up to fifteen (15) dwelling units per gross acre. Development at densities less than seven (7) units per acre shall not be permitted.
 - (3) Commercial development shall not exceed a ratio of 100 gross leasable square feet per dwelling unit.
 - (4) Approval of industrial or office development shall be required concurrent with the approval of residential development, and shall be subject to a minimum standard of three (3) gross leasable square feet per dwelling unit.

- (5) Approval of active recreation sites, open to the public, shall also be required concurrent with the approval of residential development, and shall be subject to a minimum standard of two (2) acres per one-thousand dwelling units.
- b. Urban areas: residential densities shall be permitted up to 7 units per gross acre. The maximum impervious surface ratio shall be no greater than 65% of the gross development parcel.
- c. Urban Expansion areas: residential densities shall be permitted up to 4 units per gross acre. The maximum impervious surface ratio shall be no greater than 45% of the gross development parcel. Maximum building height is 40 feet.
- d. Suburban areas: residential densities shall be permitted up to 3 units per gross acre. Residential development greater than 1 unit per acre must be permitted as a Planned Unit Development (PUD). The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.
- e. Rural Village: residential densities shall be permitted up to 2 units per gross acre. The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.
- f. Rural: residential densities shall be permitted up to 1 unit per five acres. The maximum impervious surface ratio shall be no greater than 20% of the gross development parcel. Maximum building height is 40 feet. Eighty percent (80%) of the project site shall be retained as open space.
- g. Southlake Urban area: This is a vested residential development with residential densities permitted up to 13 units per gross acre.
- h. Green Swamp Area of Critical State Concern:
- (1) Ridge area: residential densities shall be permitted up to 4 units per acre of uplands. Developments with a density greater than 1 unit per acre must be connected to a regional sewer system, defined as a central sewer system with a capacity of 500,000 GPD or greater. However, a central sewer system having a capacity of at least 100,000 GPD or more may be permitted on a temporary basis until such time as a regional system becomes available. The temporary system shall be staffed by a class C or higher operator for a minimum of three hours per day for five days per week and one visit on each weekend day. Further, these temporary facilities shall be planned, designed, and constructed so that they either serve as the nucleus of a future regional system that later developments will also connect to, or can be abandoned and the system merged into a regional sewer system constructed at another location. The maximum impervious surface ratio shall be no greater than 45% of the gross development parcel. Maximum building height is 40 feet.
- (2) Transition area: residential densities shall be permitted up to 1 unit per acre of uplands. The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.
- (3) Rural/Conservation: residential densities shall be permitted up to 1 unit per 10 acres of uplands.
- (4) Core/Conservation: residential densities shall be permitted up to 1 unit per 20 acres of uplands.

COUNTY'S EXHIBIT "F"

Egor Emery

Mr. Egor Emery, a resident of Eustis speaking of behalf of the Lake County Conservation Council, stated that his group advocates for conservation. He stated that citizens of Florida have invested millions of dollars in the Mt. Plymouth-Sorrento area and that the regional approach is important. He encouraged the Board to look at, and adopt, the recommendations of the Wekiva Basin Area Task Force. He encouraged the Board to be an advocate for the entire community before the state agencies, the road agencies and all the other agencies ultimately determine the future for the community. He remarked that new U.S. Highway 441 was built away from downtown Mount Dora in an effort to preserve it. He commented that the character of U.S. 441 has changed drastically in the last twenty years ago, as the character of downtown Mount Dora has changed. He stated that just having the road go around downtown does not save the downtown. In addition to moving the road, land has to be bought for conservation. He encouraged the Board to set the highest possible standard and use the longest range viewpoint and do whatever can be done to preserve all the communities in Lake County.

Charlotte Hollingsworth

Ms. Charlotte Hollingsworth, a resident of Tangerine in Orange County, stated that Tangerine is fighting to preserve what it has. If the Haas Road extension remains a consideration, she asked that citizen representatives, not just a political person, from Orange County be appointed to serve on the advisory committee.

Debbie Liebknecht

Ms. Debbie Liebknecht, a resident of Ondich Road in Apopka, requested that the Haas Road bypass be removed from consideration. She stated that putting a bypass three or four miles away from S.R. 46 will induce sprawl and that would be in direct conflict with what the Task Force is trying to accomplish.

There being no further public comment, the public comment portion of the meeting was closed.

COMMISSIONER DISCUSSION/ACTION

On a motion by Commr. Hanson, seconded by Commr. Pool and carried unanimously, by a vote of 5-0, the Board approved the removal of the following sentence from Page 40 of the summary of the *Mount Plymouth and Sorrento Framework Study Report July 2003*, "Test the Southern bypass to Hass (sic) Road as an alternative to widening SR 46 to four lanes," as well as the removal of any other reference in the study to a Haas Road bypass.

Commr. Cadwell requested that, because there are several areas in the County like the Mt.

Plymouth-Sorrento community that do not have a government support group, the Board instruct County staff to see if someone in the planning department could be assigned as staff support to advisory committees in those areas.

Commr. Hanson agreed that such support would be helpful.

Mr. Bill Neron, County Manager, stated that studies like the Framework Study, as well as Joint Planning Area studies, will require some special attention. He requested a few weeks to determine the most effective way to provide these in-house functions, from the results and cost-effective standpoints.

Commr. Hanson pointed out that the Framework Study offers a lot of background work that can be an important and useful tool for staff to use. She expressed her appreciation to Miller Sellen and Mr. McNeill for the thorough job they did.

Commr. Cadwell suggested that the County Manager also consider a staff liaison to help provide other services to these unincorporated, somewhat urbanized areas.

Commr. Hill stated that this is like an application for a redevelopment by an unincorporated area. For that purpose, this does not fit the County's existing Comprehensive Plan and Land Development Regulations. She asked if an advisory committee would circumvent the land planning agency that would typically be involved in this process.

Commr. Hanson explained that the first step of an advisory committee would be to look at the recommendations that could be incorporated into the Comprehensive Plan and the Land Development Regulations.

Commr. Cadwell further explained that the committee would bring back a list of recommendations at different times.

Commr. Hill cautioned that the Board should be very careful in making those changes. She stated that it seems the Board is in the development business.

Commr. Cadwell stated that the advisory committee would bring recommendations, such as design standards, to the Board and the recommendations would then go through Planning and Zoning and the entire public hearing process.

Discussion ensued regarding recommendations, reducing densities in the community and design standards.

Commr. Cadwell asked for discussion regarding the advisory committee framework.

Commr. Hanson clarified that the members of the last Mt. Plymouth-Sorrento advisory group were invited to serve by Mr. McNeill to advise him through his process as a consultant.

Commr. Cadwell remarked that the new committee should be formed by a resolution of the Board which would clarify the number of members and the geographical makeup of the committee. Discussions can take place regarding other specifics of the group when the resolution comes to the Board.

Commr. Hanson stated that she envisions the committee to be an ongoing group that would deal with the urban node. While areas in Orange County have concerns with their boundaries, at some point the groups will have to work together. She would prefer the advisory committee answer to the Lake County Commission and that members would live in the urban node.

Commr. Cadwell remarked that when Commr. Hanson brought this forward in the beginning, she was concerned with the traditional downtown area and all of today's issues have nothing to do with the original reason it was brought forward, the urban node.

On a motion by Commr. Hanson, seconded by Commr. Pool and carried unanimously, by a vote of 5-0, the Board approved the official formation of an advisory group for the Mount Plymouth-Sorrento Urban Node, of between ten and fifteen people through the application process, by a resolution which will be brought to the Board by staff and the County Manager.

On a motion by Commr. Hanson, seconded by Commr. Stivender and carried unanimously, by a vote of 5-0, the Board approved to send a letter to the Wekiva River Basin Coordinating Committee with the Board's endorsement of the Final Report Recommendations of the Wekiva Basin Area Task Force.

The Board directed, by consensus, that a copy of the Board's Resolution 2001-42 supporting the State's acquisition of the 1500+/- acre parcel known as Neighborhood Lakes be presented to the Wekiva River Basin Coordinating Committee.

REPORTS - COMMISSIONER STIVENDER - DISTRICT #3

UNITED ARTS ASSOCIATION AWARDS

Commr. Stivender announced that the United Arts Association of Central Florida recognized the Performing Arts of Lake and Sumter (PALS) who won first place for special events for the Renaissance Faire; Ms. Sharon Graikowski, a volunteer with for Lake Sumter Community College Foundation received a second place award for Volunteer of the Year for her work with the Lake Sumter performing arts program; and the Lake County Cultural Affairs Council received the second place award for outstanding community engagement programs.

At 12:00 noon, it was noted that Commr. Stivender left the meeting.

CITIZEN QUESTION AND COMMENT PERIOD

It was noted that no one wished to present questions or comments to the Board at this time.

COUNTY'S EXHIBIT "G"

presented by Mr. Beliveau, and addressed some of the comments made by the public. She described her involvement in the negotiations with the Department of Community Affairs (DCA) regarding the 1993 adopted Comprehensive Plan. She opined that this project meets the Comprehensive Plan and requested that the Board support the project and approve this application.

There being no one present who wished to address the Board, the Chairman closed the public hearing.

Commr. Stewart commented that it is clearly defined in the Comp Plan that the proposed area is not a community activity center, and that the interpretation of this policy has been established by three different Growth Management staff members for three separate independent Commissions and found this area to be a neighborhood activity center. She noted that the Comp Plan defines the process of calculating the square footage in a neighborhood activity center, and acknowledged that a previous Board allowed the square footage requirement to be exceeded on two occasions. She stated that the Mount Plymouth Sorrento Planning Advisory Committee (MPSPAC) did not approve or support this project but only accepted the plan into their record. She commented that the conceptual plan is lacking the walkability factor and a meeting space for the public. She reported that the County does not have the money to pay for the realignment of CR 437 which is not on the County's five year capital improvement plan, and the proportionate share that Mr. Fabrizio would be required to pay would not be significant contribution when compared to the total cost of the project. She provided an example of the shopping center located at the corner of CR 561 and CR 48, which was designed to have a grocery store anchor, but grocery tenants keep going out of business at that location and opined that she does not want this same scenario to happen in the Mount Plymouth/Sorrento area. She stated that the MPSPAC and the Local Planning Agency (LPA) is working on creating a main street district with a walkable market square. She commented that she wants the businesses to be successful and provide great job opportunities, a sense of community, and an attractive walkable market square for the Mount Plymouth/Sorrento area, and stated that the Mount Plymouth/Sorrento area is going to change, but the Board is going to control and guide that change according to the Comp Plan.

Commr. Stewart expressed concern that many of the area residents will be disappointed if a Publix store does not locate there because a lot of the correspondence she has received specifically references Publix, and there has not been any commitment from Publix or any other grocery chain. She opined that if the Board rules against the policies in the Comprehensive Plan for this development, then it can not rightfully deny any other requests that go against the Comp Plan or else the County could be faced with a lawsuit. She stated that this development as proposed will have a tremendous impact on SR 46 and would cause two intersections to fail. She reported that she has had discussions with Mr. Fabrizio on numerous occasions and informed him that she will support him when he provides a plan that follows polices in the Comprehensive Plan, is designed as a walkable community with a meeting space for the public and meets the desires of the community. She stated that she looks forward to working with Mr. Fabrizio in the future, but she can not recommend approval of the project at this time. She requested the Board deny this application for rezoning.

Commr. Renick stated that she is uncomfortable with the proposed shopping center and one that is not on central utilities. She commented that she found it interesting when she read the minutes from 2005 when this matter was previously presented to the Board, because some of the same concerns were addressed at that time and unanimously denied by the Board.

Commr. Conner opined that both sides of the argument had valid points; however the Board has a legal obligation to ensure that their decision is consistent with the Comp Plan. He stated that if there are zoning classifications or land uses inconsistent with the Comp Plan, then an amendment needs to be done to the Comp Plan before the Board can approve land use changes. He agreed that Lake County needs more commercial development and the resulting tax base and jobs it would create. He commented that he felt strongly that the rural nature of the Mount Plymouth/Sorrento area should be maintained. He noted that he wants to support a project that is consistent with the Comp Plan and fits in with that community. He mentioned that he would like the Board to review commercial zoning in the Comp Plan to ensure that there is ample commercial zoning throughout the County.

Commr. Hill commented that the proposed plan has been reduced since the previous application. She noted that one of the development drivers for this area is the school that is under construction which is going to cause traffic problems. She opined that she is not sure how to proceed, but that some decisions need to be made because that area is already changing with the construction of the school and park.

On a motion by Commr. Stewart, seconded by Commr. Renick and carried by a vote of 4-1, the Board denied Tab 6, Case No. PH #09-09-4, by Sorrento Commons, LLC, Request for approval to amend Planned Commercial (CP) Ord #20-88 on 17.71 acres to permit Neighborhood Commercial (C-1) and limited Community Commercial (C-2) used to allow five commercial buildings totaling 50,000 square feet.

Commr. Hill voted "no."

RECESS & REASSEMBLY

At 1:04 p.m., the Chairman announced that the Board would recess until 2:00 p.m.

OTHER BUSINESS

REPORTS – COUNTY ATTORNEY

Mr. Sandy Minkoff, County Attorney, reported that the County is in a quiet period of the Union negotiations with the Fire Union and suggested that the Board should not discuss this matter with the County Manager, the County Attorney or any other County employee or make public comment. He noted that the public hearing is tentatively scheduled for October 20, 2009. He stated that any questions on the process should be directed to Melanie Marsh, Assistant County Attorney.

REPORTS – COMMISSIONER HILL – VICE CHAIRMAN AND DISTRICT 1

LEGISLATIVE DELEGATION

Commr. Hill requested an additional item be added to the Legislative Package, noting that the County Attorney has worked on the language. She stated that the item had been added and the completed packages would be delivered to the Legislative Delegation on the 30th. She commented that

COUNTY'S EXHIBIT "H"

OBJECTIVE 1-7: COORDINATE FUTURE LAND USES WITH THE CONCURRENCY MANAGEMENT SYSTEM. Assure that Future Land Use Patterns Promote Efficient Provision of Public Facilities, and that Facilities Are Available Concurrent with the Impacts of Development.

Policy 1-7.1: Availability of Public Facilities. Development orders and permits shall not be issued unless the necessary facilities and services are available concurrent with the impacts of development. Future land use allocations, including their related densities and intensities, shall not exceed the financial and legal ability of the County to provide or require provision of public facilities to serve those land uses delineated on the "Future Land Use Map". A concurrency management system as set forth within the Comprehensive Plan and implemented through the Land Development Regulations shall determine whether adequate public facility capacities are available to meet the demands generated by new development and redevelopment.

Policy 1-7.2: Efficiency in the Provision of Public Facilities. Allocation of future land use shall occur in a manner which promotes efficient distribution and provision of public facilities including Schools. Land use allocations shall assure that future sites can be acquired for public facilities programmed within the Five-Year Schedule of Capital Improvements, the Lake County Schools Board's Facilities Plan or determined necessary to meet demands generated by growth and development anticipated through fiscal year 2012.

OBJECTIVE 1-8: ENCOURAGE THE REDEVELOPMENT AND RENEWAL OF BLIGHTED AREAS. The County Shall Encourage the Redevelopment and Renewal of Blighted Areas and Necessary Action Shall Be Taken to Prevent Their Occurrence.

Policy 1-8.1: Amend Future Land Use to Best Encourage the Redevelopment and Renewal of Blighted Areas. At the time any new areas are identified within the County as being blighted, the County shall amend the Comprehensive Plan to include appropriate policies which address the redevelopment needs of that area. Such policies shall be based on an evaluation and analysis which shall be prepared within the appropriate Data Inventory and Analysis Section, the supporting document to the Comprehensive Plan. The County shall also re-evaluate the future land use designation for the blighted area to determine if a more appropriate designation, density and intensity of development would better encourage the private sector to invest in redevelopment.

For those areas identified in the Data Inventory and Analysis, Volume I as being areas in need of renewal on Map 1-1m, the County shall seek assistance through the use of Community Development Block Grants (CDBG) and shall conduct a detailed housing condition survey as outlined in the policies contained in the Housing Element. Lake County shall seek CDBG funds during the next cycle of eligibility. Lake County shall resume its program of conducting special clean-up functions targeted to these areas.

Policy 1-8.2: Maintain and Enforce Minimum Standards for Existing and New Development. The County shall continue to enforce appropriate standards for the design and construction of development, including public and semi-public facilities. By February 1992, the County's Land Development Regulations shall provide for design and construction standards, including the administration of enforcement activities, to maintain consistency with development guidelines and requirements established in this Comprehensive Plan.

OBJECTIVE 1-9: PLANNING FOR UTILITIES. The County Shall Assure that Needed Utilities Are Provided Concurrent with the Impact of New Development, Including Adoption of a Concurrency Management System within the Comprehensive Plan and implemented through the Land Development Regulations. Sufficient Land Area Shall Be Available to Accommodate Utilities.

Policy 1-9.1: Coordinate Land Use Needs for Utilities. The County shall coordinate the Comprehensive Plan with the development and service plans of utility companies to assure that sufficient right-of-ways and other land is available for utility placements and distribution lines. Distribution lines, such as telephone lines and water mains, shall be permitted in public right-of-way or as otherwise stated in the Land Development Regulations. Utilities shall be permitted under the PFD zoning district.

