The Marion County Board of County Commissioners met in regular session in Commission Chambers at 2:03 p.m. on Tuesday, May 31, 2011 at the Marion County Governmental Complex located in Ocala, Florida.

The meeting opened with invocation by Chairman McClain and the Pledge of Allegiance to the Flag of our Country.

Upon roll call the following members were present: Chairman Stan McClain, District 3; Vice-Chairman Charlie Stone, District 5; Commissioner Mike Amsden, District 1; Commissioner Kathy Bryant, District 2; and Commissioner Carl Zalak, District 4. Also present was County Attorney Matthew G. Minter.

Ordinances/Zoning – (1.) – Chairman McClain advised that today's meeting was continued from the May 17th Board of County Commission (BCC) meeting due to an error in the advertisement of the zoning portion.

Deputy Clerk Bonvissuto presented Proof of Publication No. A000698187 entitled, "Notice of Intention to Consider Adoption of an Ordinance" published in the Star Banner newspaper on May 19, 2011. The Notice stated the Board would consider adopting an ordinance approving zoning changes and Special Use Permits.

Planning Director Jimmy Massey, Zoning Manager Sam Martsolf, Senior Planner Andrew Persons and Executive Staff Assistant Jan Stevens were also present.

Ordinances/Zoning – (1.A.) – Zoning Manager Sam Martsolf advised that a letter was received late in regard to the first item (110502SU by John and Gail Johnson) and requested that the matter be pulled from the Consent Agenda in order to enter that letter into the record. He stated the remaining four (4) petitions listed on the consent agenda were recommended for approval by both the Planning Department and Zoning Commission. He stated the consent agenda items would be acted on in one motion. It was noted that the Zoning Commission recommended approval, as follows:

Motion was made by Mr. Gaekwad, seconded by Mr. Finn, to approve the five (5) Consent Agenda items. There was no written opposition within 300 feet and no opposition at the Zoning Commission meeting:

1. 110502SU John and Gail Johnson Special Use Permit in R-1 .93
2. 110503SU Frank Garrido Special Use Permit in R-4 .77
3. 110505Z Ronetta Carney B-2 to R-4 .43
4. 110506SU Stephen and Kathy Tracey Special Use Permit in A-1 6.0
5. 110507SU Martins Realty Investments Special Use Permit in A-1 2.69

Motion passed 7 to 0.

There was no public comment.

A motion was made by Commissioner Amsden, seconded by Commissioner Zalak, to approve consent agenda items 14.A.2. through 14.A.5., based on Planning Department staff and Zoning Commission findings and recommendations that the proposed uses were compatible with the surrounding land uses, were consistent with the Comprehensive Plan and would not adversely affect the public interest. The motion
was unanimously approved by the Board (5-0). The motion approved the consent agenda items as follows:

**Resolutions/Zoning – (1.A.) – 2. – (Z. C. 110503SU – Consent)** – The Board adopted Resolution 11-R-134 granting a petition by Frank Garrido, 15355 NE 140th Street, Fort McCoy, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.3, for the purpose of keeping two (2) horses, on approximately .77 acres, in an R-4 (Residential Mixed Use) zone, on Parcel Account Nos. 1028-004-016 & 1029-005-001. Resolution 11-R-134 contained the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. A maximum of two (2) horses may be kept on the property. Foals may be kept on-site until weaned.
3. For the keeping of the horse(s), the minimum square footage of contiguous lot area for paddock/pasture, not including the dwelling unit, garages, and driveways, shall be 9,000 square feet for the first horse, and an additional 6,000 square feet for the second horse.
4. The Special Use Permit is effective for the total .77 acre site, and shall terminate if there is a division or subdivision of the property.
5. The Special Use Permit shall run with the property owner and not with the property.
6. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

**Zoning–(1.A.)–3.–(Zoning Commission 110505Z–Consent)** – The Board granted a petition by Ronetta Carney, 14350 NE 9th Lane, Silver Springs, FL, requesting a Zoning Change of the Marion County Land Development Code, Article 5, from B-2 (Community Business) to R-4 (Residential Mixed Use), for the intended use of any and all uses permitted in an R-4 zone, on approximately .43 acres, on Parcel Account No. 16628-005-00.

**Resolutions/Zoning – (1.A.) – 4. – (Z. C. 110506SU – Consent)** – The Board adopted Resolution 11-R-135 granting a petition by Stephen and Kathy Tracey, 2450 NW 225th Avenue, Dunnellon, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.3, for the purpose of parking a commercial vehicle and trailer, on approximately 6.0 acres in an A-1 (General Agriculture) zone, on Parcel Account No. 17225-004-00. Resolution 11-R-135 contained the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. The Special Use Permit is limited to a maximum of one (1) commercial vehicle specifically a commercial tractor (VIN# 1FUJA6CG33LK74303) with trailer (VIN# 1JJV532W4XF617894) as indicated in the submitted application.
3. A modified Type "B" Buffer (minimum width of 25 feet, with a minimum of 5 trees and 30 shrubs per 100 LF with a 6' privacy fence) shall be provided
along the southern perimeter of the commercial vehicle parking area as depicted on the conceptual plan.

4. No refrigeration or cooling unit on any semi-trailer or semi-tractor may be operated onsite between the hours of 9:00pm to 7:00am.

5. No mechanical repairs/maintenance on the commercial vehicle shall take place on-site.

6. The ingress/egress shall be from NW 225th Avenue using a paved driveway apron. Within thirty (30) days of approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to establish how access will be provided to the site and determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any driveway apron and/or other related improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed within ninety (90) days of approval of this Special Use Permit.

7. The owner and operator of the commercial vehicle shall reside onsite.

8. The Special Use Permit shall run with Stephen & Kathy Tracey and not with the subject property.

9. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

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Resolutions/Zoning – (1.A.) – 5. – (Z. C. 110507SU – Consent) – The Board adopted Resolution 11-R-136 granting a petition by Martins Realty Investments, LLC (Wilson Martins, owner), 9001 SW Hwy 200, Ocala, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.3, for the purpose of a pre-school for three and four-year-old children, with a maximum of 70 students, on approximately 2.69 acres, in an A-1 (General Agriculture) zone, on Parcel Account No. 35300-027-07. Resolution 11-R-136 contained the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.

2. Vehicle access to the site shall be via a 22' paved driveway connected to the existing driveway used for accessing PID# 35300-027-01. The final access configuration shall be authorized as part of the property's site plan and driveway permitting review/approval by the Marion County Transportation Department.

3. The facility shall be limited to a maximum of 70 children and shall utilize the existing 2,625 SF building.

4. Use of the site shall be limited to a pre-school facility from Monday through Friday from 7:00 am to 6:00 pm.

5. A modified Type "D" Buffer (minimum width of 10 feet, with a minimum of 5 trees and 18 shrubs per 100 LF with a 6’ privacy fence) shall be provided along the subject property's northern and southern perimeters as depicted on the conceptual plan.

6. No increase or expansion of the facility in square footage or number of children shall occur; however a new Special Use Permit Application may...
be submitted for consideration to expand the facility or address a change in ownership.

7. This Special Use Permit runs with Wilson Martins and not the property.

8. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

Resolutions/Zoning – (1.A.) – 1. – (Z. C. 110502SU) – Chairman McClain noted that Mr. Martsofl presented a letter of objection dated May 23, 2011.

The Board considered a petition by John W. and Gail A. Johnson, 6185 SE 119th Street, Belleview, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.3, for the purpose of parking two (2) commercial vehicles on approximately .93 acres, in an R-1 (Single Family Dwelling) zone, on Parcel Account Nos. 38547-001-00 and 38548-000-00.

Senior Planner Persons stated both Planning Department staff and the Zoning Commission recommended approval with the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.

2. The Special Use Permit is limited to a maximum of two (2) commercial vehicles specifically two commercial tree trucks (VINs # 1GDM7HI8RJ502518 & 1GDJ7DIB7HV524697) as indicated in the submitted application.

3. A 6’ privacy fence shall be provided along the northernmost 60’ of the western property line and along the westernmost 70’ of the northern property line corresponding with the location of the proposed truck parking area/pole barn.

4. No mechanical repairs/maintenance on the commercial vehicles shall take place on-site.

5. The ingress/egress shall be from SE 119th Street using a stabilized driveway apron. Within thirty (30) days of approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to establish how access will be provided to the site and determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any apron improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed within ninety (90) days of approval of this Special Use Permit.

6. The owner and operator of the commercial vehicles shall reside onsite.

7. The Special Use Permit shall run with John W. & Gail A. Johnson and not with the subject property.

8. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

There was no public comment.

A motion was made by Commissioner Stone, seconded by Commissioner Amsden, to adopt Resolution 11-R-133 granting the Special Use Permit with Conditions 1 through 8, based on Planning Department staff and the Zoning Commission findings and recommendations that the proposed use was compatible with the surrounding land
uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest. The motion was unanimously approved by the Board (5-0).

Zoning – (1.B.) – 1. (Z. C. 110203Z) – It was noted that this item was continued from the March 17, 2011 BCC (Zoning) meeting.

The Board considered a petition by Joe Brown, P.O. Box 2407, Belleview, FL, requesting a Zoning Change of the Marion County Land Development Code, Article 5, from A-1 (General Agriculture) to B-5 (Heavy Business) for the intended use of any and all uses permitted in a B-5 zone, on Parcel Account No. 13167-000-00.

Located: US 27 northwesterly to NW 44th Avenue, turn right; to NW 73rd Place, turn left. The property is on the left at 4502 NW 73rd Place.

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 2 OF 10 = 20%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mr. Meadows, seconded by Mr. Finn, to agree with staff's findings and recommendation, and recommend approval of the request, based on the following findings of fact:

1. Is compatible with the surrounding land uses.
2. Is consistent with the Marion County Comprehensive Plan.
3. Will not adversely affect the public interest.

Motion passed 6 to 0.

Senior Planner Persons stated both Planning Department staff and the Zoning Commission recommended approval based on analysis and findings.

Joe Brown, applicant, SE 95th Street, addressed staff's comments, noting there was one party that would be affected. He noted the affected party lived in the middle of a commerce center and opined that the entire area would succumb to commercial. Mr. Brown stated the parcel was in the middle of a commerce center that needed to be zoned commercial. He commented on access, which was an issue that had to be resolved, noting if the zoning was not in place then why fight for the road.

Mr. Brown noted that COPART, a 20 acre salvage yard (auto auction site), was located to the south and Highland Tractor was to the north. He stated the property was basically in limbo and was almost useless without the zoning.

Board discussion ensued with regard to access.

Upon call for public comment, Julene and Issac Wilson, NW 73rd Place, appeared. Ms. Wilson voiced her concern with giving up a portion of her property to widen the road. She stated she was opposed to the zoning change. Mr. Wilson advised that he had nothing further to add.

Board discussion ensued with regard to access.

Mr. Martsolf advised that a prescriptive road was used as legal access. County Attorney Minter stated that a prescriptive easement was only what had been being used and if all one had was a prescriptive easement without a deeded right of way (R/W) or publicly platted R/W of a particular size. He stated the applicant would need a zoning and legal road access at some point before it could be developed for its intended use that would satisfy the County's Land Development Code (LDC) requirements, noting there was no legal prohibition for the Board to act on the application today. Mr. Minter advised that a private individual did not have the power of eminent domain and did not have the right to force another party to donate or sell their property.

Mr. Martsolf stated he could not find that portion of the Code that specifically required the applicant to upgrade to a minimum width, which was 24 feet for two way
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traffic. He stated he was not sure that the requirement could be enforced beyond the apron or R/W if the applicant did not have 24 feet.

Chairman McClain inquired if the type of road for access could be part of the discussion before approving. Mr. Martsolf advised that staff had discussed some type of Developer's Agreement with the applicant. He noted there would likely be a need to have the road widened and fixed sometime in the future.

Board discussion continued with regard to access.

A motion was made by Commissioner Stone, seconded by Commissioner Amsden, to deny the Zoning Change from A-1 to B-5 based on findings and recommendations that the proposed use was not compatible with the surrounding land uses, was not consistent with the Comprehensive Plan and would adversely affect the public interest.

Chairman McClain opined that the Board was putting off something that would be inevitable at some point in time. He stated the property should be zoned commercial due to the location.

Commissioner Amsden questioned the section line of the R/W that ran down that road and which property owner would take the largest proportion of property. Mr. Martsolf stated the section line road meandered and was not a straight line.

General discussion ensued.

The motion was unanimously approved by the Board (5-0).

Zoning – (1.C.) – 1. (Z. C. 110501Z) – The Board considered a petition by Lucy J. DiCandia, (Causseaux Hewett & Walpole, Inc., Agent), 6011 NW 1st Place, Gainesville, FL, requesting a Zoning Change of the Marion County Land Development Code, Article 5, from A-1 (General Agriculture) to B-1 (Neighborhood Business), for the intended use of a general retail store, and any other use permitted in a B-1 zone, on approximately 3.47 acres, on Parcel Account No. 41577-001-00.

Located: South on US 441, turn right on SE Hwy 484, turn right on SE 47th Avenue. The property is on the immediate right.

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 1 of 29 = 3%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mr. Meadows, seconded by Mr. Thompson, to agree with staffs findings and recommendation, and recommend approval of the request, to include the owner's agreement: 1) to replace fencing along the north side of the property; and 2) there will be no security lighting placed on the back of the building, based on the following findings of fact:

1. Is compatible with the surrounding land uses.
2. Is consistent with the Marion County Comprehensive Plan.
3. Will not adversely affect the public interest.

Motion passed 7 to 0.

Senior Planner Persons stated both Planning Department staff and the Zoning Commission recommended approval based on analysis and findings.

The applicant was present and advised that he had no comments or remarks.

Upon call for public comment, Tom Ranew, SE 14th Place, advised that he was present on behalf of Mr. Buck Mills who owned property immediately south of the subject site. He stated the basic concern was that 2 convenience stores could not make it in the same intersection.
In response to Commissioner Stone, Mr. Persons advised that the proposed use (as of now) was for a Dollar General store. He noted the conceptual plan had already been through the Development Review Committee (DRC) process.

A motion was made by Commissioner Zalak, seconded by Commissioner Bryant, to approve the Zoning Change from A-1 to B-1, based on Planning Department staff and Zoning Commission findings and recommendations that the proposed use was compatible with the surrounding land uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest. The motion was unanimously approved by the Board (5-0).

Zoning – (1.C.) – (Z. C. 110504Z) – The Board considered a petition by Eddie and Jennifer Jackson, 1085 NW 67th Street, Ocala, FL, requesting a Zoning Change of the Marion County Land Development Code, Article 5, from R-3 (Multiple Family Dwelling) to R-4 (Residential Mixed Use) for the intended use of placement of a mobile home, and any other use permitted in an R-4 zone, on approximately .46 acres, on Parcel Account No. 0847-007-011.

Located: North on US 441, turn right on NW 124th Place. The property is on the right (no physical address assigned).

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 1 of 48 = 2%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mr. Finn, seconded by Mr. Thompson, to agree with staff's findings and recommendation, and recommend denial, based on the following finding of fact:

1. Is not compatible with the surrounding land uses.

Motion passed 7 to 0.

Senior Planner Persons stated both Planning Department staff and the Zoning Commission recommended denial based on analysis and findings.

The applicants were not present.

There was no public comment.

In response to Chairman McClain, Mr. Person advised that 00 was vacant, 01 was family residential, and 02 was mobile home. He stated R-4 and RR-1 zonings allowed manufactured mobile homes, noting there were a couple of scattered mobile homes already in the area.

Chairman McClain again called for the applicants, but there was no response from the audience.

General discussion ensued in relation to objections to the zoning change by neighbors.

A motion was made by Commissioner Zalak, seconded by Commissioner Stone, to deny the Zoning Change from R-3 to R-4, based on findings and recommendations that the proposed use was not compatible with the surrounding land uses, was not consistent with the Comprehensive Plan and would adversely affect the public interest. The motion was unanimously approved by the Board (5-0).

Resolutions/Zoning – (1.C.) – 3. – (Z. C. 110508SU) – The Board considered a petition by Elvin Wayne Harmon, Sr., 1665 SE 185th Court, Silver Springs, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.3, for the purpose of parking one commercial tractor and one trailer, on approximately 1.75 acres, in an R-4 (Residential Mixed Use) zone, on Parcel Account No. 3285-022-010.
Located: East on SR 40, turn right on SE 185th Court. The property is at the end of the street, at 1665 SE 185th Court.

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 4 OF 40 = 10%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mrs. Mangram, seconded by Mr. Thompson, to agree with staff’s findings and recommendation, and recommend approval of the request with condition #4 being amended to read: “No refrigeration or cooling unit on any semi-trailer or semi-tractor may be operated on site.”; also to add requirements that the tractor be stored in the garage and the trailer be parked behind the garage, based on the following findings of fact:

1. Is compatible with surrounding land uses.
2. Is consistent with the Marion County Comprehensive Plan.
3. Will not adversely affect the public interest.

Motion passed 7 to 0.

Senior Planner Persons stated the Planning Department staff recommended approval with the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. The Special Use Permit is limited to a maximum of one (1) commercial vehicle (VIN # 2HSFTAER4XCO42857) and trailer (1DTV61525X273791).
3. Existing shall be maintained along the site’s southern perimeter.
4. The parking/storage of a refrigerated trailer unit(s), or refer unit(s), is prohibited.
5. No mechanical repairs/maintenance on the commercial vehicle shall take place on-site.
6. The ingress/egress shall be from SE 185th Court using a paved driveway apron. Within thirty (30) days of approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to establish how access will be provided to the site and determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any driveway apron and/or other related improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed within ninety (90) days of approval of this Special Use Permit.
7. The owner/operator of the commercial vehicle shall reside on-site.
8. The Special Use Permit shall run with Elvin Wayne Harmon and not with the subject property.
9. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

Mr. Persons advised that the Zoning Commission also recommended approval; however, changes were recommended be made to the Conditions based on comments. He noted the owner requested that changes be made to Condition No. 4 to allow parking of refer units on the property, but not to operate the unit on-site.

Vanessa Thomas, with the law firm of Forman, Hanratty, Montgomery and Thomas, East Ft. King Street, attorney, representing the owner, was present and advised that the refer unit came onto the property empty so the unit was never
operated. She noted that photographs were included with the application of the barn where the truck could be parked. The Zoning Commission had requested that the truck be parked in the barn/garage, but the owner requested the Condition be modified as the stacks would have to be removed in order for the truck to fit. Ms. Thomas requested a reasonable time frame of more than 48 hours. If the commercial vehicle was parked for more than 48 hours then the stacks would be removed and the tractor-trailer parked inside the garage.

There was no public comment.

Mr. Persons noted that during the Zoning Commission meeting one of the concerns voiced was in regard to the trailer being parked behind the garage. Ms. Thomas stated that was still the intent (to park the trailer behind the garage) and noted that pages 4 of 5 and 5 of 5 (agenda page numbers 18 and 19) showed pictures of where the trailer would be parked.

In response to Chairman McClain, Ms. Thomas stated this was the result of a Code Enforcement violation.

Chairman McClain passed the gavel to Commissioner Stone who assumed the Chair.

A motion was made by Commissioner McClain, seconded by Commissioner Amsden, to adopt Resolution 11-R-137 granting the Special Use Permit, with Conditions as amended (noted below), based on Planning Department staff and the Zoning Commission findings and recommendations that the proposed use was compatible with surrounding land uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest. Resolution 11-R-137 was amended as follows:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. The Special Use Permit is limited to a maximum of one (1) commercial vehicle (VIN# 2HSFTAER4XCO42857) and trailer (1DTV61525XA273791).
3. Existing shall be maintained along the site's southern perimeter.
4. The operation of a refrigerated trailer unit(s), or refrigeration unit(s), on site is prohibited.
5. Tractor to be parked inside garage if left on site in excess of 48 hours.
6. No mechanical repairs/maintenance on the commercial vehicle shall take place on-site.
7. The ingress/egress shall be from SE 185th Court using a paved driveway apron. Within thirty (30) days of approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to establish how access will be provided to the site and determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any driveway apron and/or other related improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed within ninety (90) days of approval of this Special Use Permit.
8. The owner/operator of the commercial vehicle shall reside onsite.
9. The Special Use Permit shall run with Elvin Wayne Harmon and not with the subject property.
10. The Special Use Permit shall expire on May 17th, 2014. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

The motion was approved by the Board by a vote of 4-1, with Chairman Stone voting nay.

Commissioner McClain clarified that the motion included the Zoning Commission changes to the Conditions, along with the 48 hours before parking in the garage and parking the trailer behind the garage, as well as the parking of a refer unit, which could not be operated on-site.

Chairman Stone returned the gavel to Commissioner McClain, who resumed the Chair.

Resolutions/Zoning – (1.C.) – 4. – (Z. C. 110509SU) – The Board considered a petition by Lawrence and Anna Moody, 2301 SE 26th Street, Ocala, FL, requesting a Special Use Permit of the Marion County Land Development Code, Section 5.2, for the purpose of construction of a well with an outside diameter less than 6 inches, to produce mineral water to be loaded in trucks and transported to a location within the St. Johns River Water Management District territory for treatment and bottling, on approximately 5.70 acres, in an A-1 (General Agriculture) zone, on Parcel Account No. 16637-000-00.

Located: East on SR 40, turn left on SR 19. The property is on the right, across from NE 100th Street (no physical address assigned).

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 0 OF 13 = 0%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mr. Thompson, seconded by Mr. Finn, to disagree with staff’s findings and recommendation, and recommend the request be denied, based on the following findings of fact:
1. Is not compatible with surrounding land uses.
2. Will adversely affect the public interest.

Motion passed 6 to 1, with Mr. Jinks dissenting.

Commissioner Stone out at 2:44 p.m.

Growth Management Director Jimmy Massey addressed the Marion County LDC, Article 2, Section 2.2, which defined a “Special Use” and noted Article 4.5 of the LDC required the Zoning Commission to make recommendations on Special Use Permits to the BCC.

Commissioner Stone returned at 2:45 p.m.

Mr. Massey stated the Board was under no obligation to approve a Special Use Permit unless and until the applicant met the burden of demonstrating that the proposed use: 1) would not adversely affect the public interest; 2) was consistent with the Comprehensive Plan; and 3) was compatible with land uses in the surrounding area. He advised that Planning Department staff recommended approval with the following Conditions:
1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. Operation of the site shall be limited to production, distribution and transportation facilities as depicted on the conceptual plan.
3. The operation of this facility shall result in the creation of a minimum of 40 new jobs located within Marion County, Florida within 18 months from the date of approval of this Special Use Permit. Verification of job creation
shall include, but may not be limited to, a notarized statement signed by the applicant and the principal representative of the company receiving the transported product. The statement shall indicate the point of delivery within Marion County where production will occur and where related new Marion County jobs will be created. In addition, a copy of the “Employer’s Quarterly Report” (Form UCT-6), as required by the Florida Department of Revenue, shall be submitted to the Marion County Office of Economic and Small Business Development and the Growth Management Department, Zoning Division.

4. In the event that the operation of this facility requires that the owner obtain a consumptive use permit from the Water Management District(s) a new Special Use Permit issued by Marion County shall be required.

5. Expansion or modification of the number, type, approximate size, or location of any of the proposed uses/operations beyond those listed or shown on the conceptual plan is prohibited; however, a new Special Use Permit Application may be submitted for consideration to expand the uses/operations.

6. Hours of operation shall be from 5:00 a.m. to 6:00 p.m. Monday thru Saturday.

7. Access to the property shall be limited to SR 19 via a paved driveway apron. The applicant shall obtain the necessary driveway permits from the Florida Department of Transportation and complete and construct any roadway, access, or driveway apron improvements required by FDOT.

8. A Transportation Impact Analysis shall be submitted for review by Marion County prior to commencing any production, transport, and distribution operations on the subject property. The analysis shall identify needed access and roadway improvements and the appropriate timeframe for construction of such improvements, subject to approval by the Marion County Engineer. The property owner/operator of this facility shall be responsible for the cost of providing any necessary transportation improvements.

9. Lighting shall be limited to full cutoff fixtures as defined by IESNA, scaled and located to minimize glare and light diffusion to adjoining properties and prohibit direct upward light projection.

10. A Type "E" Buffer (currently a minimum width of 5 feet, with a minimum of 4 trees per 100 LF, and a continuous double-staggered hedgerow to be 60" high in 2 years) shall be provided along the subject property’s SR 19 road frontage.

11. The Special Use Permit shall expire on May 17, 2036. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

12. The issuance of this Special Use Permit shall be subject to revocation by the Board of County Commission in the event that the owner/operator fails to adhere to any of the conditions associated with the issuance of this Special Use Permit.

James Moody, SE Ft. King Street, applicant, attorney and member of the Moody family, was present and presented a PowerPoint presentation. He advised that the entire operation occurred within 800 feet of SR 19 and the request was to build a pole
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barn at that location, which would be less than 20 feet high to accommodate water collection from a 4-inch well. Mr. Moody stated they intended to install a looped driveway to allow trucks direct access off SR 19 without having the need to backup to enter the pole barn. He advised that this was a transportation issue and not a water issue. St. Johns River Water Management District (SJRWMD) did allow the installation of a 4-inch well.

Commissioner Bryant out at 2:52 p.m.
Chairman McClain laid out the ground rules for the public hearing.
Commissioner Bryant returned at 2:53 p.m.

Mr. Moody reiterated that this was a transportation issue as the SJRWMD relieved the County of the burden of deciding the water issue. He stated most of what was being asked was allowed under the A-1 zoning classification, but the transportation issue perhaps created a need for a Special Use Permit. Mr. Moody noted the request was not asking to put in a bottling plant. The overall purpose of the project was to capture water at the last possible point before it became non-potable and unusable. Once the water was captured it would be transported to a pre-existing facility in Marion County to be bottled and/or used in the food and beverage industry.

Mr. Moody noted the water was not spring water, but rather mineral water and by making it available to the food and beverage industry it would stimulate economic growth as well as create jobs. He commented on the Special Use Permit criteria, which consisted of three prongs: 1) was the proposal compatible with surrounding land uses; 2) was it consistent with the Marion County Comprehensive Plan; and 3) would it adversely affect the public interest. Mr. Moody noted the Planning staff recommended approval. He commented on the surrounding uses and how their proposal was compatible, noting “compatible” would have to first be defined.

Lawrence Moody, SE 17th Avenue, owner, continued with the PowerPoint presentation and described the project site and addressed the zoning map from the County’s website. He noted the Marina property was opened in 1951 by his grandfather and stated the residential uses came after the commercial use. Mr. Moody addressed the Salt Springs Area Zoning map; the Florida Gas Transmission Plant that was located on CR 314, which he opined was constructed in the early 1960s; and the Area Overview map. He briefly commented on the Logging Operations map, noting trucks went to SR 19 then turned north to the Palatka paper mill. Mr. Moody advised that he checked with the Forest Service and was informed that no complaints had been received with regard to the logging trucks entering SR 19.

Mr. James Moody commented on how the proposal was compatible with the surrounding zoning classifications and defined “compatible” according to Webster’s definition as it was not defined in the Marion County Code. Construction of a pole barn and driveway was permitted as the property was currently zoned and SJRWMD advised that a well could be installed. No County roads would be driven on as access was from SR 19 and the heavily wooded buffer zone was the equivalent to 8 football fields. There would also be no noise generated from this activity from machinery as generators would not be used, also, the pole barn would be lit from the inside.

Bob Rogers, consulting engineer, SE 3rd Avenue, representing the petitioner, was present and commented on the unique location, which was heavily wooded on both sides. He noted the property was approximately 12 acres, of which 5.6 acres would be used with about 2 acres for the well. Mr. Rogers addressed what was permitted in an A-1 zoning classification today. He commented on the diagram of the Proposed Site Plan,
noting the applicant could only build what was shown in the plan, which was more restrictive than what was allowed in an A-1 zoning classification. Mr. Rogers stated the issue was transportation; to transport captured water to a facility to be bottled. He addressed the Project Location from Existing Residential Neighborhood, which covered the interception point that was needed due to the elevation and the direct location to SR 19 that currently had 1,800 average daily trips today, but was designed for 8,100 average daily trips per day before triggering a higher level of service. Mr. Rogers addressed Policy 1.1 of the Comprehensive Plan's Future Land Use Element (FLUE) in regard to buffering, as well as Section 8.2.10.k.(7)(c)ii,iii,iv of the adopted LDC, which required a 30 foot buffer if a commercial site was located next to an existing or proposed single-family residential site. He stated this location was approximately 145 feet from the water's edge to Lake George. At this location water could be used for public consumption, but once discharged into Lake George it could not be used without installing a water treatment plant. Mr. Rogers requested the Board consider the uniqueness of the location and follow the guidelines of the Marion County Code and grant the Special Use Permit.

Mr. Minter clarified for the record that the exhibit showed “proposed project limits” on the left and wanted to be clear that the rest of the site would not have any other development except for the well and pipe. Mr. Rogers concurred and briefly explained the Proposed Site Plan drawing.

Mr. James Moody stated it was important to point out that in relation to compatibility, everything that was proposed worked in harmony. He advised that no one would be driving through neighborhoods or on County roads. Mr. Moody stated the County Code did not define ‘consistent’ and opined that Webster had the best definition. He commented on how the proposal was consistent with the Comprehensive Plan in regard to the FLUE, Economic Element and Conservation Element. Mr. Moody addressed the third element, which was whether the proposal was adverse to the public interest. He reiterated that this was a transportation issue and with the Conditions proposed by staff as well as the site plan being proposed would ensure that the public interest would not be adversely affected.

Mr. Moody opined that all of the elements had been met in the criteria to prove competent substantial evidence, the proposal was compatible with surrounding land uses, was consistent with the Marion County Comprehensive Plan as it agreed with many of the Policies, Objectives and Goals, and was not adverse to the public interest. He requested Board approval based on staff recommendation and evidence presented. Mr. Moody advised that he had 20 statements signed by Lake George Manor residents in support of the proposal, which he presented for the record. (Ed. Note: The Deputy Clerk received an 18 page document entitled, “Support for Moody Project.”)

Commissioner Zalak out at 3:32 p.m.
Chairman McClain explained the public comment process.
Commissioner Zalak returned at 3:33 p.m.
Upon call for public comment, George Hill, NE 97th Place, Salt Springs, presented a postcard regarding Salt Springs and advised that attorney Don Holmes was hired to represent several people who were opposed to the proposal. He presented a 5 page document downloaded from the Internet from the Florida Department of State, Division of Corporations.

Mariano Guas, SE 24th Terrace, spoke in support of the proposal.
Wilma Barber, NE 307th Court, Salt Springs, spoke in opposition to the proposal.
John Albritton, NE 304th Avenue, Salt Springs, voiced his concerns with a sharp curve near the proposed entrance, the close proximity of a bus stop, amount of traffic and speeding.

Brian Duffy, SE 56th Court, spoke in support of the proposal.

Mary Black, Hickory Track Way, spoke in opposition to the proposal.

Ara Manoogian, SW 10th Terrace, spoke in support of the proposal.

Commissioner Bryant out at 3:56 p.m.

Don Holmes, North 3rd Street, Palatka, attorney, representing approximately 15 individuals (who raised their hands in the audience), was present and advised that everyone understood these were difficult times and jobs were paramount in everyone's mind, but had to be careful in sacrificing laws in hopes of jobs. On a technical note the special exception promised 1 to 3 jobs and included a statement that the bottling facility would be located in Marion County, but was not a condition of the special exception. He noted the number of jobs associated with the proposal was uncertain. Mr. Holmes briefly noted the 3 criteria and advised that Planning staff's recommendation was for approval of the project; however, the Zoning Commission recommended denial. He stated the Code specified that the burden of proof was on the applicant.

Mr. Holmes presented an 11 page tabbed document entitled, "Presentation by: Donald E. Holmes, Esq., In Opposition To SUP #110509SU, Applicant–James Moody, Exhibits", which he briefly addressed. He stated the Special Use Permit applied for was one that would allow a facility that had been described as production, transportation and distribution in nature. Mr. Holmes referred to Tab 1, which addressed A-1 – General Agriculture and noted Item 2.i. covered Special Uses that were allowed. He stated those uses under item 2.a. through h. was permitted by right. Mr. Holmes stated production, transportation and distribution facilities were not allowed by special exception in the A-1 zoning classification. He noted Mr. Massey was on record as advising that it did not matter as they (staff) and the BCC had the discretion to allow a use even if it was not listed as a specific use under the special exception because it met the general criteria and spirit, for which he disagreed.

Mr. Holmes referred to Tab 2, which depicted a case that represented prevailing law, that had not been overruled and had been followed, noting the courts had also disagreed with Mr. Massey with regard to case law. He commented on special exceptions and the zoning ordinance. Mr. Holmes opined that if the use was not allowed by special exception in the County's Code then it could not be granted and still comply with the Code.

Mr. Holmes referred to Tab 3 in regard to the FLUE and the definition of Rural Land.

Commissioner Bryant returned at 4:03 p.m. He commented on Policies in the Comprehensive Plan that were specific to rural land, in particular Policy 3.8 (under Tab 4). Tab 5 addressed the FLUE in regard to Policy 3.10: in regard to functionally related. Tab 6 addressed Allowable Uses Within the ESOZ (Environmentally Sensitive Overlay Zone). Mr. Holmes noted the subject property was located within the ESOZ and advised that a site analysis had not be conducted. He stated it was his position that the use was not consistent with the Marion County Comprehensive Plan and the specific Policies he referenced (3.8 and 3.10), which ruled this out of rural land. Mr. Holmes advised that this particular property was not within the broad definition of what was permissible within rural land and was not allowed by special exception in the A-1 zoning classification.
Commissioner Stone inquired if it was not listed in the Code was it allowed. Mr. Minter advised that the Code said that the director was authorized to interpret the Code. Mr. Massey clarified that a special exception was not being discussed, noting the County did away with special exceptions as the Special Use Permit allowed Conditions. He stated at the beginning of the discussion he read the definition of a Special Use Permit and under what circumstances the Board could or could not approve the permit. Mr. Massey noted it was important to understand that an exception to the zoning category was not what was being discussed, but rather entertaining a special use being allowed in that zoning classification. He referred to the definition of rural land and a land use category.

Mr. Massey further addressed Policies 3.8, 3.19 and 3.10, noting what did apply, in staff's opinion, was a policy in the Comprehensive Plan as quoted earlier in regard to the Conservation Element directing the County to protect, conserve and appropriately use locally significant and commercially valuable natural resources. He stated it was staff's opinion that the Board was legally on the right track in entertaining the application by Special Use Permit.

In response to Commissioner Stone, Mr. Massey stated he disagreed with the statement made relating to the ESOZ. The LDC implemented the Comprehensive Plan and was a requirement in the LDC that this type of use, because it was in the ESOZ, would require a Modified Environmental Impact Statement, which would be addressed at the time of site plan.

Bill Stone, SE 42nd Street, spoke in support of the project.
Margaret Lehman, SE 41st Place, spoke in support of the Special Use Permit.
David Walker, SE 72nd Avenue, spoke in support of the Moody project.
Ross Lehman, SE 41st Place, spoke in support of the Special Use Permit.
Mike Wicker, SE 83rd Street, stated he was speaking on behalf of Associated Grocers (a/k/a Certified Grocers), who approached the Moody's to use their facility. He advised that at one time Associated Grocers employed approximately 1,200 people, but now that figure was around 45, stating it was a struggle to maintain that large a facility and noted the Economic Development Corporation (EDC) was also working with them. Mr. Wicker requested Board approval of the proposed Moody project.
Don Marshall, SW 178th Terrace, did not appear when called upon to speak.
Curtis Alhems, 10625 SW 75th Terrace, spoke in opposition to the proposal.
John Beilstein, NE 310th Avenue, Salt Springs, spoke in opposition to the proposal.
Vivian Thomas, PO Box 248, Sparr, spoke in opposition to the proposal.
Harry Quinn, Almond Road, spoke in opposition to the proposal.
Paul Marraffino, SW 82nd Place Road, Dunnellon, stated he had been studying water issues for some time in Marion County. He commented on homeowner's insurance being cancelled due to sinkholes. Mr. Marraffino presented a 5 page document entitled, 'Florida Geological Survey Data On Sinkhole Event in Plant City Area During Week of January 10, 2010', which contained a number of maps and charts.
James Deas, SE 23rd Lane, spoke in opposition to the proposal.
Suni Perez, NE 6th Street, spoke in opposition to the proposal.
Steve Ellis, SW 75th Terrace, spoke in opposition to the proposal.
Wayne Manning, NE 253rd Court, Salt Springs, spoke in opposition to the proposal.
John Holland, NE 137th Lane, Salt Springs, spoke in opposition to the proposal.
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Jack Kwazkosky, PO Box 3304, did not appear when called upon to speak.
Susan Brown Taaffe, NE 133rd Place Road, Salt Springs, spoke in opposition to the Special Use Permit.
Peter Ramko, NE 310th Avenue, Salt Springs, commented on losing water and suggested leaving nature be.
Chad Johannesen, SE 12th Street, spoke in support of the proposal.
Melvene Thomas Wilson, NE 144th Place, Salt Springs, spoke in opposition to the proposal. She noted she wrote a personal newsletter called, 'As the Springs Boils', which was sent to 315 people.
Kent Clore, NE 305th Terrace, Salt Springs, spoke in opposition to the proposal.
Timothy Owen, NE 302nd Terrace, Salt Springs, spoke in support of the Special Use Permit.
Butch Verrando, SW 138th Terrace, Dunnellon, spoke in support of the Moody project.
Vernon Riker, Lake Buynak Court, Windermere, who also owned property on CR 329, commented on the State government allowing water management districts to issue permits. He stated natural resources needed laws and noted his concern with any private industry selling public resources. Mr. Riker noted the average cost of a 16 ounce bottle of water was $1.00, which equated to $8.00 per gallon and advised that State taxpayers should receive something if the water was sold.
Walter Pine, NW 215th Street, addressed the Moody’s right to use the water, but noted citizens also had a right to be protected. He noted the Board should look into rolling back some of the erosion of those rights. Mr. Pine noted that it appeared that one group or another would lose their rights, which was a significant problem. He suggested that the Special Use Permit be approved and consider repealing some of the rules that invade rights.
David Fechtman, SE 18th Court, advised that he was present on behalf of the Ocala/Marion County Chamber of Commerce, and stated the business community was unified by the issue. He stated the Chamber was in support of the project.
Pat Sasso, SE 45th Street, commented on a sinkhole located on her property. She addressed the 4-inch well that was the same as other residents; however the difference was related to restrictions on the watering of lawns, but yet the Moody’s could draw water. Ms. Sasso noted that the State is out of work because of things that the County had no control over and jobs were not dependent upon this one venture.
Don Browning, SE 158th Lane, Weirsdale, spoke in support of the proposal.
John Wertz, Big Buck Road, Salt Springs, spoke in opposition to the proposal and voiced his concern with saltwater intrusion.
Robert Reynolds, SW 9th Terrace, spoke in support of the proposal.
Steve Purves, Chairman of the EDC, spoke in support of the proposal.
Daniel Owen, Ocala City Council President, spoke in support of the proposal, noting the law was on the side of the Moody’s.
John Rudnianyn, NE 1st Avenue, spoke in support of the proposal to balance the importing and exporting of water.
Rod Rush, (no address provided), spoke in support of the project.
Steven Petrozella, NE 306th Avenue, spoke in opposition to the proposal, noting his concern with saltwater intrusion.
Conelia Stone, SE 42nd Street, ceded her time to her husband.
Bill Stone, SE 42nd Street, addressed the amount of rainfall each year (approximately 54 inches), which equated to 1.5 trillion gallons of rain or 4,000,000,000 gallons of rain per day that came in cycles and lasted for years. He stated what was being discussed today was a minuscule amount of water.

Chairman McClain asked if there was anyone else who wished to address the Board, noting once the public speaking portion was closed there could be no further public comment.

Ed Wilson, SW 155th Street, Dunnellon, spoke in support of the Moody project.

Pam Ayers, NE 22nd Avenue, spoke in support of the Special Use Permit, noting private property rights needed to be upheld. She presented a flyer in regard to Agenda 21.

Chairman McClain again called for public comment.

Mr. James Moody addressed concerns with regard to a bus stop on a curve, but noted there was no curve anywhere near the proposed entrance. He stated the 10 mile stretch from Salt Springs to SR 40 would likely be the slowest portion of the highway because trucks would decelerate or accelerate from that location.

Commissioner Bryant referred to questions with regard to use of CR 314. Mr. Moody proposed that only state roads would be used and not county roads or neighborhood roads.

Chairman McClain inquired if the applicant was willing to say trucks would only travel down SR 19 to SR 40. Mr. James Moody stated it would be a reasonable Condition. Chairman McClain stated it was the Permit holder's responsibility to make sure that occurred, should the Board approve the Special Use Permit. Mr. Lawrence Moody stated he did not foresee a problem as the intention was to set up operation with Associated Grocers and that was the easiest route (SR 19 to SR 40). He advised that one resident in the subdivision was an owner/operator who had expressed an interest in doing the trucking, noting he would try to keep the trucking as local as possible. Chairman McClain stated the route down SR 19 to SR 40 would be a Condition of the Special Use Permit, if approved.

Commissioner Stone asked if the trucks would be top loaded. Mr. Lawrence Moody advised that they would not and stated when one top loaded it exposed the water to air, which would introduce pollutants. He stated some pumping would be required, noting it started with the natural flow and in most cases in the area was 350 gallons per minute on average for an artesian well. Mr. Moody stated a volume pump would most likely be used to push it up the hill. He noted the well itself only had about 10 pounds of head pressure, which would not push it up a gradient of 40 feet. Mr. James Moody clarified that the pump was not pumping from the aquifer, but rather from the point that the water came up naturally and redirecting it uphill since there was not enough pressure to push the water up the hill naturally. He stated per the Food and Drug Administration (FDA) standards, by labeling the water artesian it had to be demonstrated at any time by opening a valve that the water was artesian and flowed by itself. For that reason alone the well would not be over pumped as it would no longer be artesian.

Commissioner Stone referred to Condition number 3, which addressed job creation. Mr. Minter advised that his recommendation was to not include that Condition as it was inappropriate and the County would run into enforcement issues. Mr. Lawrence Moody opined that at least 40 jobs would be created, but noted there was no guarantee. Commissioner Bryant inquired if the number of jobs could be removed from
the Condition and revised to state that the operation would occur in Marion County. Mr. Minter stated that was more supportable and a safer Condition than a specific number of jobs. Mr. James Moody stated the proposal would stimulate growth.

Mr. James Moody commented on the opposition, noting it was not a water issue. He stated he had submitted 20 letters from residents closest to the project that were in support of the proposal. Mr. Moody stated it was a good thing for Marion County as it would stimulate jobs. He addressed the site plan that described the footprint, which was extremely small, the limited hours of operation and the pole barn that would be lit from inside. Mr. Moody stated the only thing to be considered today was the three prong criteria, which he opined the proposal met. He requested the Board approve the permit application.

In response to Chairman McClain, Mr. Lawrence Moody stated the plan was to construct a 12-inch clay base road with gravel on top, similar to other forest roads, with a concrete approach on SR 19.

Commissioner Bryant addressed Condition 3 and stated if the Board approved the Special Use Permit, she would like to see that Condition reworded to specify that the bottling would take place in Marion County. Messrs. Moody agreed.

Mr. Minter addressed an earlier comment by Mr. Holmes, which sounded compelling, noting he said that in A-1 this particular use was not a listed use; however, LDC Section 5.2.7. entitled, “Uses Not Listed”, and subsection a. read:

*Uses Not Listed. The listing of permitted uses in a zoning classification is not meant to be all inclusive. Uses not specifically permitted by this Code in any zoning classification shall be reviewed by the Zoning Director in accordance with the provisions of the following paragraph and may require a Special Use Permit. Special Use Permit application procedures shall conform to the provisions of Section 4.6 of this Code.*

He stated the Code specifically allowed for that and noted the case cited by Attorney Holmes was from a different County some 25 or so years ago. Mr. Minter advised that each County had its own zoning code.

Commissioner Zalak noted the hours of operation and length of the permit were previously discussed and were Conditions he wanted to visit. Commissioner Amsden referred to Condition 6, which stated the hours of operation shall be from 5:00 a.m. to 6:00 p.m. Monday thru Saturday. Commissioner Zalak inquired if the Board had any issues with the length of the permit. Chairman McClain and Commissioners Bryant advised that they did not.

Board discussion ensued.

Commissioner Bryant advised that the water supply was not an issue to be discussed today, but was a matter that needed to be brought up to the water management districts and State Legislator.

A motion was made by Commissioner Bryant, seconded by Commissioner Stone, to adopt Resolution 11-R-138 granting the Special Use Permit with the changes in Conditions as discussed (see below), based on Planning Department staff findings and recommendations that the proposed use was compatible with surrounding land uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest.

Commissioner Bryant opined that there should be an excise tax, which the County could not do as it had to be done at the State level. She stated it was something she would be looking into as it was needed for future stormwater, environmental, and if
needed, alternative water supply projects.

Board discussion continued.

Commissioner Amsden noted that Representative Dean Cannon had a form to select a committee on water policy and would direct the Select Committee to conduct a comprehensive review of the State water policies, take input and report back at the end of this year or beginning of next year. The Committee was looking at all the Policies as well as the procedures of water management districts, consumptive use permits (CUP), and the authority invested in the districts, which he opined was a good starting point for those who had a passion about how the water had been handled rather than writing a letter to the Governor. He stated it appeared it would be a total comprehensive review, which had not been conducted since 1972. Commissioner Amsden advised that the reality was that the Board of County Commissioners did not control water.

The motion was unanimously approved by the Board (5-0). Resolution 11-R-138 contained the following Conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan titled “Rogers Engineering, Inc. Schematic Drawing for Special Use Permit dated 3-8-11” and the conditions as provided with this approval.
2. Operation of the site shall be limited to production, distribution and transportation facilities as depicted on the conceptual plan.
3. All trucks to and from this facility shall use only SR 19 and SR 40.
4. All bottling from the operation of this facility shall take place in Marion County.
5. In the event that the operation of this facility requires that the owner obtain a consumptive use permit from the Water Management District(s) and/or the operation changes in a manner which results in increasing the intensity of the land use beyond what is depicted on the concept plan titled “Rogers Engineering, Inc. Schematic Drawing for Special Use Permit dated 3-18-11”, a new Special Use Permit issued by Marion County shall be required.
6. Expansion or modification of the number, type, approximate size, or location of any of the proposed uses/operations beyond those listed or shown on the conceptual plan is prohibited; however, a new Special Use Permit Application may be submitted for consideration to expand the uses/operations.
7. Hours of operation shall be from 5:00 a.m. to 6:00 p.m. Monday thru Saturday.
8. Access to the property shall be limited to SR 19 via a paved driveway apron. The applicant shall obtain the necessary driveway permits from the Florida Department of Transportation and complete and construct any roadway, access, or driveway apron improvements required by FDOT.
9. A Transportation Impact Analysis shall be submitted for review by Marion County prior to commencing any production, transport, and distribution operations on the subject property. The analysis shall identify needed access and roadway improvements and the appropriate timeframe for construction of such improvements, subject to approval by the Marion County Engineer. The property owner/operator of this facility shall be responsible for the cost of providing any necessary transportation.
improvements **required by the foregoing analysis, within the time schedule required by such analysis.**

10. Lighting shall be limited to full cutoff fixtures as defined by IESNA, scaled and located to minimize glare and light diffusion to adjoining properties and prohibit direct upward light projection.

11. A Type "E" Buffer (currently a minimum width of 5 feet, with a minimum of 4 trees per 100 LF, and a continuous double-staggered hedgerow to be 60" high in 2 years) shall be provided along the subject property's SR 19 road frontage.

12. The Special Use Permit shall expire on May 17, 2036. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

13. The issuance of this Special Use Permit shall be subject to revocation by the Board of County Commission in the event that the owner/operator fails to adhere to any of the conditions associated with the issuance of this Special Use Permit.

It was noted that the Deputy Clerk was in receipt of 23 emails in opposition to the proposed Special Use Permit; 45 emails in support of the Special Use Permit; and 7 miscellaneous emails regarding the project.

**Ordinances/Zoning**– The Deputy Clerk presented Affidavits of Mailing and Posting of Notices received from Zoning Manager Samuel Martsolf and Deputy Clerk Bonvissuto regarding petitions for rezoning and Special Use Permits heard earlier in the meeting.

Upon motion of Commissioner Stone, seconded by Commissioner Zalak, the Board adopted Ordinance 11-46 amending the Marion County Zoning Map pursuant to petitions heard earlier in the public hearing, and entitled:

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, APPROVING REZONING AND SPECIAL USE PERMIT PETITIONS AND AUTHORIZING IDENTIFICATION ON THE OFFICIAL ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.**

There being no further business to come before the Board, the meeting thereupon adjourned at 6:20 p.m.

(Ed. Note: The audio was stopped – meeting adjourned – at 6:20:09 p.m. and resumed at 6:23:09 p.m.)

Chairman McClain advised that the Board still had some house-keeping matters to address.

Upon roll call the following members were present: Chairman Stan McClain, District 3; Vice-Chairman Charlie Stone, District 5; Commissioner Mike Amsden, District 1; Commissioner Kathy Bryant, District 2; and Commissioner Carl Zalak, District 4. Also present was County Attorney Matthew G. Minter.

**Ordinances/Zoning** – Chairman McClain advised that Ordinance 11-46 was adopted. Mr. Minter stated the Ordinance form included in the package did not
reference Conditions, noting he would work with staff on the final product. He advised that he wanted to ensure the motion included all staff Conditions with any modifications the Board made.

Chairman McClain stated that was correct and clarified Resolution 11-R-138 would delete Condition 3 and added in its place was that the bottling of water had to take place in Marion County. Mr. Minter advised staff had that direction, but was not referring only to the Moody's, but all Special Use Permit Conditions heard today. He requested the Board make it clear, on the record, that its approval of Ordinance 11-46 included all staff Conditions and any modifications made to those Conditions.

A motion was made by Commissioner Amsden, seconded by Commissioner Zalak, to include all staff Conditions and Board amended Conditions as a part of Ordinance 11-46. The motion was unanimously approved by the Board (5-0).

Road Improvements/Subdivisions/Suits—Mr. Minter referred to an email he sent to the Board regarding the Road Assessment. He stated his recommendation was to drop the appeal on the original finding that the original assessment was invalid. Chairman McClain stated it was the general consensus of the Board to concur.

There being no further business to come before the Board, the meeting thereupon adjourned at 6:27 p.m.

_______________________________
Stan McClain, Chairman

Attest:

_______________________________
David R. Ellspermann, Clerk

Adopted by the Board of County Commissioners on Tuesday, June 21, 2011.