



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: October 16, 1998
TO: Division of Records and Reporting *BSM*
FROM: Patricia Brady, Division of Water and Wastewater *Pb*
RE: Docket No. 980876-WS, Application for certificates to operate water and wastewater utility in Marion County by Ocala Springs Utilities Inc.

Please add to the docket file the attached letter dated October 8, 1998 from Mr. B. Kenneth Gatlin to Mr. Charles H. Hill. The letter is the utility's response to Mr. Hill's September 16, 1998 request for a response to the Department of Community Affairs's August 28, 1998 comments on the above referenced application.

Attachment

cc: Division of Legal Services (McRae, Crosby)

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

DOCUMENT NUMBER-DATE
11566 OCT 16 88
 RECEIVED CLERK/REPORTING

RUDEN
MCCLOSKEY
SMITH
SCHUSTER &
RUSSELL, P.A.
ATTORNEYS AT LAW

215 SOUTH MONROE STREET
SUITE 815
TALLAHASSEE, FLORIDA 32301

TELEPHONE: (850) 681-9027
FAX: (850) 224-2032

E-MAIL: BKG@RUDEN.COM

October 8, 1998

Charles H. Hill, Division Director
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERY

RECEIVED

OCT - 8 1998

Florida Public Service Commission
Division of Water and Wastewater

Re: Docket No. 980876-WS
Application for certificates to operate water and wastewater utility in Marion County
by Ocala Springs Utilities Inc.

Dear Mr. Hill:

I hereby acknowledge receipt of your correspondence dated September 16, 1998, which references the above-captioned matter. On behalf of Ocala Springs Utilities Inc. (Utilities), I am forwarding this letter to you in order to respond to various requests set forth in your correspondence. Therefore, I would hereby provide the following for your review and consideration:

1. As stated in previous document filings for the applications, the property encompassing the proposed service area is owned by Avatar Properties Inc. (Avatar), a sister affiliate corporation of Utilities. Avatar is proposing to develop the property in question as an active adult community. Before undertaking the design and planning stage for the proposed active adult community, Avatar needs to resolve, for future financing and economics, the issue of water and wastewater utilities service to the area which will encompass the development. There is not available water and wastewater utility service from any other source except as proposed by the application in this docket. Utilities has been advised by Avatar that the design and planning stage will begin shortly after the certificates have been obtained from the Public Service Commission (PSC). Based upon current time projections and critical path milestones estimates, Avatar has informed Utilities as follows:
 - a. Water and wastewater utilities services will be needed in approximately two (2) years.
 - b. In undertaking the design, planning and development of the property, Avatar will comply with all appropriate laws, rules and regulations of governmental entities including provisions of Chapter 380, Florida Statutes.

- c. Until conceptual plans and drawings have been prepared and reviewed, Avatar would obviously be unable to ascertain what changes may be needed to the comprehensive plan of Marion County.
 - d. Avatar has indicated to Utilities that it plans to work closely with all applicable government regulatory agencies in the design, planning and development of the proposed active adult community at Ocala Springs. The aforesaid would include, but not be limited to, Marion County and the Department of Community Affairs (DCA).
2. Utilities has reviewed in detail the letter forwarded to the PSC by DCA dated August 14, 1998. With regard thereto, Utilities would provide the following:
- a. The issue of whether or not DCA's October 1, 1985 Binding Letter of Interpretation of Development of Regional Impact Status (BLID) has expired is a matter of DCA and Avatar to resolve in the future, if appropriate and necessary. This issue should not affect the request of Utilities to the PSC for certificates to operate water and wastewater utilities as the issue is not relevant or material to the granting of the applications of Utilities as Ocala Springs could be developed by Avatar as presently platted and permitted.
 - b. In Paragraph IV, DCA sets forth a number of items which DCA indicates were based upon input from the planning staff of Marion County. Utilities would hereby provide the following in order to clear up any misunderstanding pertaining thereto:
 - (1) By Vesting Order dated October 5, 1992, Marion County confirmed Avatar's vesting application and acknowledged that the property known as "Ocala Springs" was statutorily vested in accord with Section 10.3a(1) of the Marion County Land Development Code. Attached hereto and incorporated by reference herein is a copy of said Vesting Order and a copy of the letter dated October 12, 1992 from Avatar attorney (Landis V. Curry, Jr., Esq.) to Michael E. May, the Marion County Zoning Director, which confirms that the entire area encompassing Ocala Springs was vested by Marion County.
 - (2) The area vested by the aforementioned Vesting Order sets forth the proposed service area sought by Utilities in its application with the PSC.
 - (3) DCA in its letter indicates that "... County planning staff said that the current land use of the 1,022 acre non-vested DRI portion of the development is designated as Rural land use (1 du/10 acres) on the FLUM; therefore, a FLUM amendment would be required to allow the development of this property for Urban land uses..." The Marion County Zoning Director has advised Avatar on September 16, 1998 that Marion County considers Ocala Springs to be vested pursuant to

the Vesting Order referenced above. Further, said Director has indicated that Marion County considers the present zoning for Ocala Springs to be as shown on the attached Land Use Designation Maps. As the PSC can ascertain from said Maps, Ocala Springs is entirely zoned by Marion County with different zoning classifications (R-1, R-3, R-4, B-2 and M-1). Marion County has confirmed that right of Avatar to be able to develop Ocala Springs according to such zoning. Of course, such zoning would mandate modification if Ocala Springs was to be developed by Avatar as an active adult community.

- (4) On September 16, 1998, Landis V. Curry, Jr., Esq. met with the Marion County Attorney (Gordon B. Johnston), Assistant Marion County Attorney (Tom MacNamara) and the Marion County Zoning Director (Michael E. May) to discuss the letter of DCA to the PSC. In said meeting the aforementioned Marion County officials confirmed that the comments made by DCA in their letter to the PSC did not modify the Vesting Order referenced above. The Marion County Zoning Director indicated that the PSC should call him if they would like confirmation on information set forth in Subparagraphs 2b(1)-(4). A letter from Mr. Curry dated October 7, 1998 which confirms the meeting of September 16, 1998 is attached hereto.

c. It is important to point out and note the following quotations from DCA's letter:

- (1) "...Marion County planning staff said that the County has no concerns regarding the proposed utilities application for the vested portions of Utilities development and that the County would require central water and sewer for a development the size of the Utilities development, in any case..."
- (2) "...the proposed service area should be beneficial to the vested Utilities development as it is in the Silver River watershed and is less than ½ mile from the Silver River which is a Special Waters and an Outstanding Florida Waters..."

In other words, the bottom line is that both DCA and Marion County are of the opinion that the supplying of service by Utilities to the proposed service area would be a good thing for the community and the environment.

3. Notwithstanding any of the above, the key point to note is that the property encompassing the proposed service area is being planned for a future active adult community and therefore, Avatar will need to fully master plan same. In the undertaking of such master planning, Avatar will be subject to and will need to comply with all applicable land-use, environmental, permitting, etc. laws, rules and regulations. Therefore, Avatar will be interacting with appropriate governmental

Charles H. Hill, Division Director
October 8, 1998
Page 4

agencies, including, but not limited to, DCA, with regard to master planning the proposed active adult community. Obviously, the construction and development of the proposed active adult community would not be able to be undertaken until Avatar has complied with all legal mandates applicable thereto.

I trust that the above is in response to your request for information and that same will allow you to recommend favorably Utilities' request for certificates from the PSC. Of course, if I can be of further assistance, please do not hesitate to contact me at your earliest convenience.

Very truly yours,

A handwritten signature in cursive script that reads "B. Kenneth Gatlin". The signature is written in black ink and is positioned above the printed name.

B. Kenneth Gatlin

BKG/l dv

LAW OFFICES

AYRES, CLUSTER, CURRY, McCALL & BRIGGS, P.A.

21 NORTHEAST FIRST AVENUE
POST OFFICE BOX 1148
OCALA, FLORIDA 32678

TELEPHONE (904) 351-2222
TELECOPIER (904) 351-8783

October 12, 1992

RANDY R. BRIGGS**
EDWIN C. CLUSTER**
JAMES E. COLLINS
LANDIS V. CURRY, JR.
W. JAMES GOODING III
WAYNE C. McCALL**
DOUGLAS H. OSWALD
WILLIAM R. WOODS

WILLARD AYRES
1992-1244

Certified Civil Trial Lawyer
Florida Bar Board of Certification

Certified Civil Trial Attorney
National Board of Trial Advocacy

VIA HAND-DELIVERY

Michael E. May, Marion County Zoning Director
and Chairman, Vesting Committee
Division of Zoning & Code Enforcement
DEPARTMENT OF COMMUNITY DEVELOPMENT
2631-A S. E. 3rd Street
Ocala, Florida 34471

Re: Avatar Properties, Inc. - Vesting Application for Ocala Springs filed September 29, 1992.

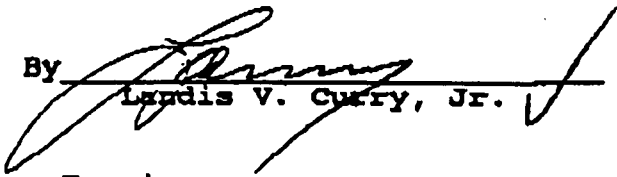
Dear Mike:

This will confirm our telephone conference of October 9 with regard to a question I raised relating to the Map (Exhibit "A" to your October 5, 1992 letter), acknowledging Statutory Vesting for Ocala Springs. Subsequent to my telephone conference with you, I also had a telephone conference with Bill Cobb of your Department. Mr. Cobb advised that the entire area shaded green on the referenced Map is intended to designate the vested area. The reason I raised the question is that the Map apparently contained some shaded areas prior to the color being added and some areas of the Map did not match the color code reflected on Exhibit "A" to the referenced Vesting letter.

This letter will confirm that Mr. Cobb, in behalf of Marion County, stated that the entire area colored green, including the darker green shaded areas of Exhibit "A" to your letter, is intended to designate the area that is Statutorily Vested.

Yours very truly,

AYRES, CLUSTER, CURRY,
McCALL & BRIGGS, P.A.

By 
Landis V. Curry, Jr.

LVCjr/L

xc: Avatar Properties, Inc.
Attention: Dennis J. Getman, Esquire



Marion County Commission

2631-A S.E. 3rd Street • Ocala, Florida 32671-2690

RECEIVED

OCT 08 1992

LEGAL DEPT.

OCT 08 1992

COMMISSIONERS

GAIL CROSS	DIST. 1
DON GREENE	DIST. 2
PARNELL TOWNLEY	DIST. 3
NORM PERRY	DIST. 4
GLEN CHARLES FIORELLO	DIST. 5
AREA CODE 904 820-3307	

DEPT. OF COMMUNITY DEVELOPMENT
Division of Zoning
(904) 867-5130
FAX: (904) 867-5420

October 5, 1992

Dennis J. Getman
Executive Vice President
Avatar Properties, Inc.
201 Alhambra Circle
Coral Gables, FL 33134

Dear Mr. Getman:

RE: VESTING APPLICATION DATED JUNE 4, 1992 AND FILED ON SEPTEMBER 29, 1992 FOR OCALA SPRINGS.

We have reviewed your vesting application and the supporting documentation which you have provided.

Based upon the following documents, we have determined that the property shown on the attached map, Exhibit A, is statutory vested in accordance with Section 10.3.a.(1) of the Marion County Land Development Code.

1. Binding letter issued by the State of Florida Department of Administration, Division of State Planning, dated April 29, 1974.
2. Binding Letter of Interpretation issued by the State of Florida, Department of Community Affairs, Division of Resource Planning and Management, dated June 21, 1985.
3. Letter of Clarification issued by the State of Florida, Department of Community Affairs, Division of Resource Planning and Management, dated July 25, 1985.
4. Binding Letter of Interpretation issued by the State of Florida, Department of Community Affairs, dated August 30, 1985.

Should you own properties which may be considered as part of your Ocala Springs project but are not included on the attached map, Exhibit A, please let us know, so that their status may be evaluated for a determination.

Enclosed is your check in the amount of \$400.00.

Sincerely,




Michael E. May, Zoning Director
Chairman, Vesting Committee

cw

encl.

cc: Landis V. Curry, Jr.

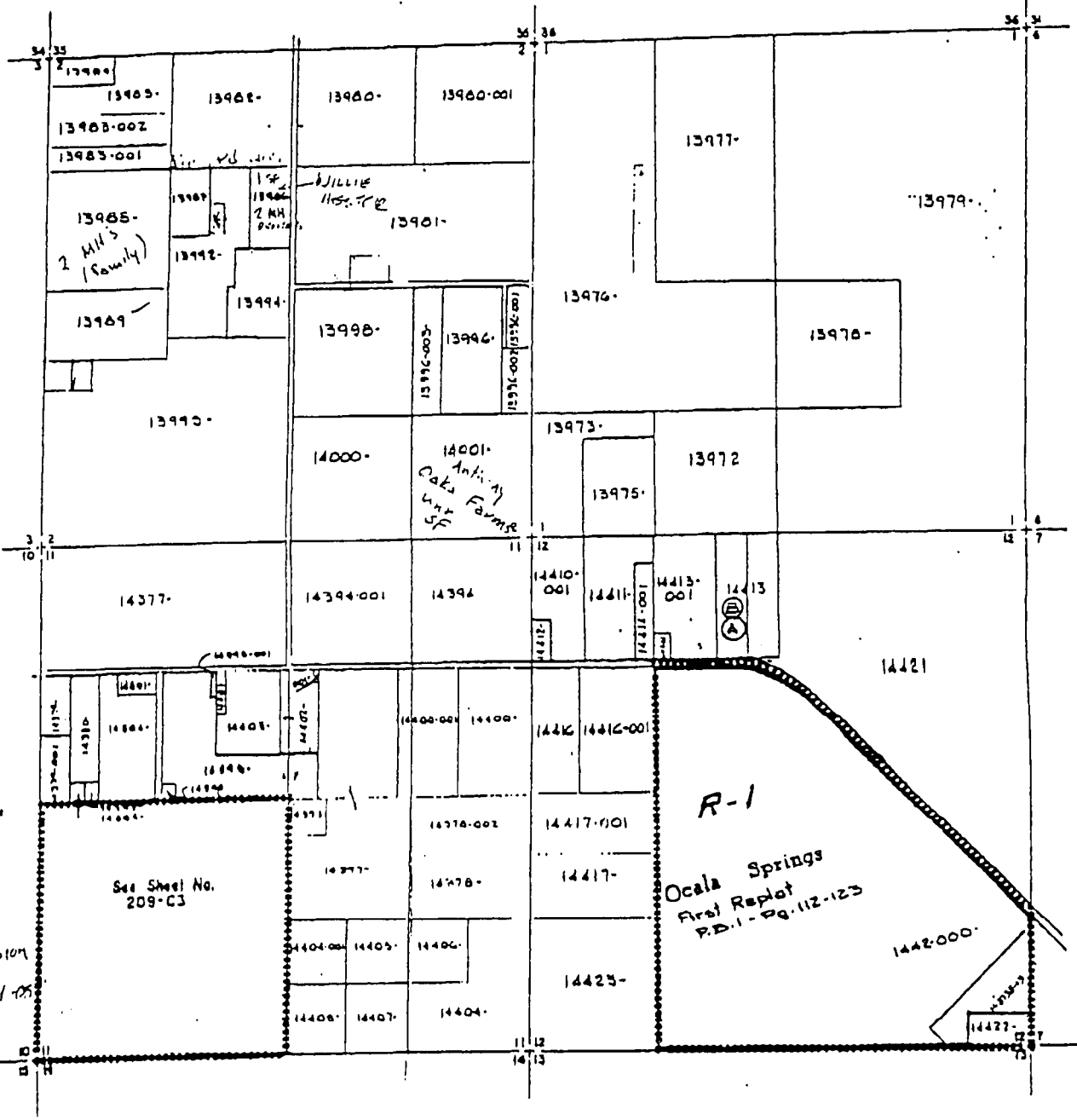
NOTE: On October 9, 1992 I spoke with Mr. Cobb of the Vesting Department of Marion County. He said the \$400.00 check referenced in Mr. May's letter was from Mr. Landis Curry so they returned it back to Mr. Curry with his copy of this letter.


Patty Snow 10/9/92

Land Use Designation Map

MARION COUNTY, FLORIDA

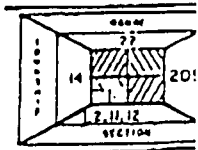
A-0-E. 5-65-6
D-55-91104-4



Family Division
cont. of 13972
Reploting 71-11706
Hawthorn - Hawthorn

Family Division
cont. of 1398-001-05
11 997206035
Nicol-Breeden
(See Big Map)

SCALE: 1" = 1320' (1/4 MILE)
PARCEL NUMBERS
REVISED: 1976 2-11-76



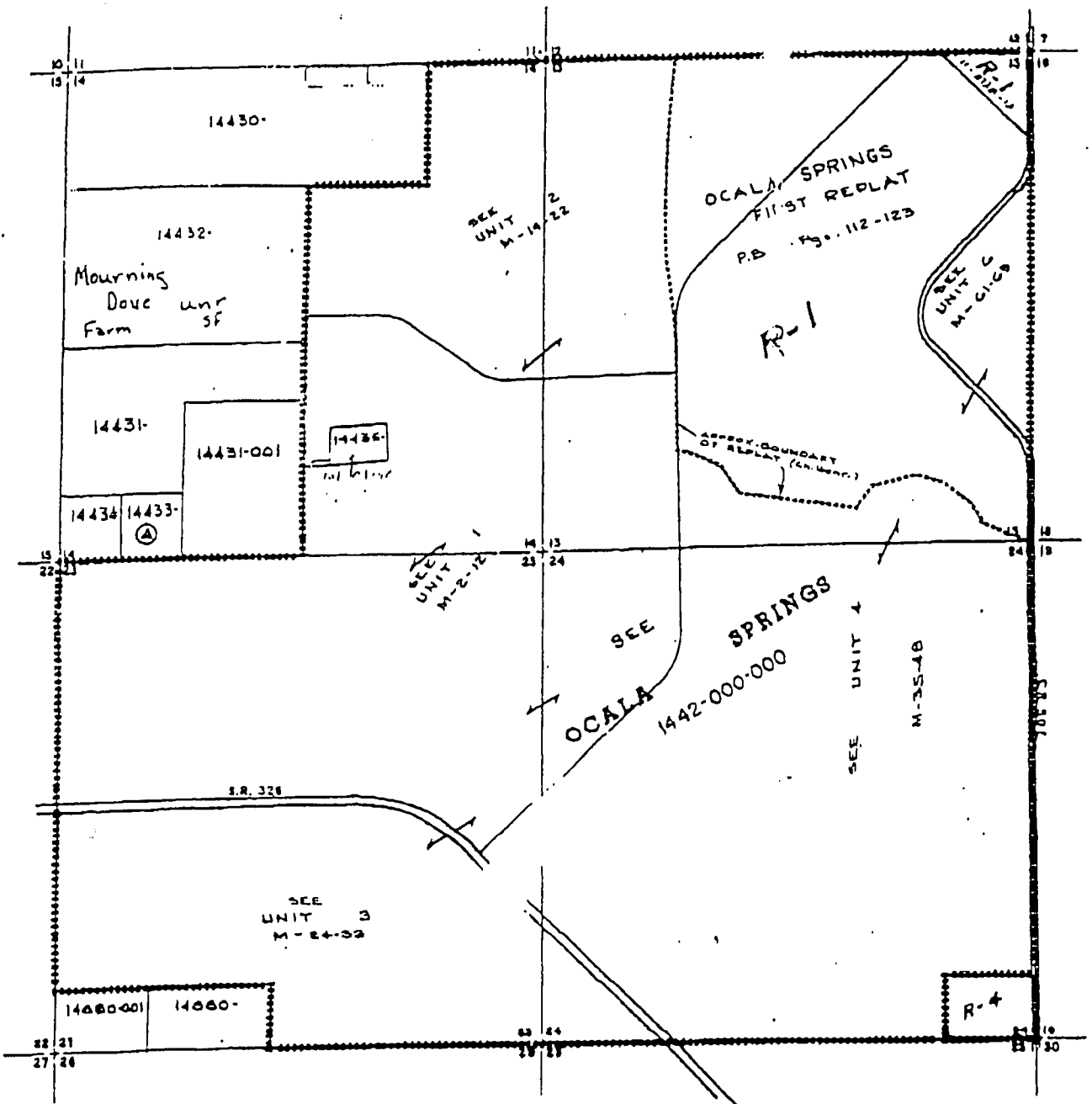
SHEET NUMBER
209



Land Use Designation Map

MARION COUNTY, FLORIDA

192060134 (92-R-104)

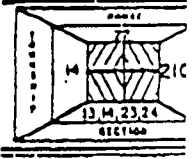


ADM. REV. 10

SCALE: 1" = 1320' (1/4 MILE)

SCALE: 1" = 1320' (1/4 MILE)

PARCEL NUMBERS
REVISION: 1976 Roll



SHEET NUMBER

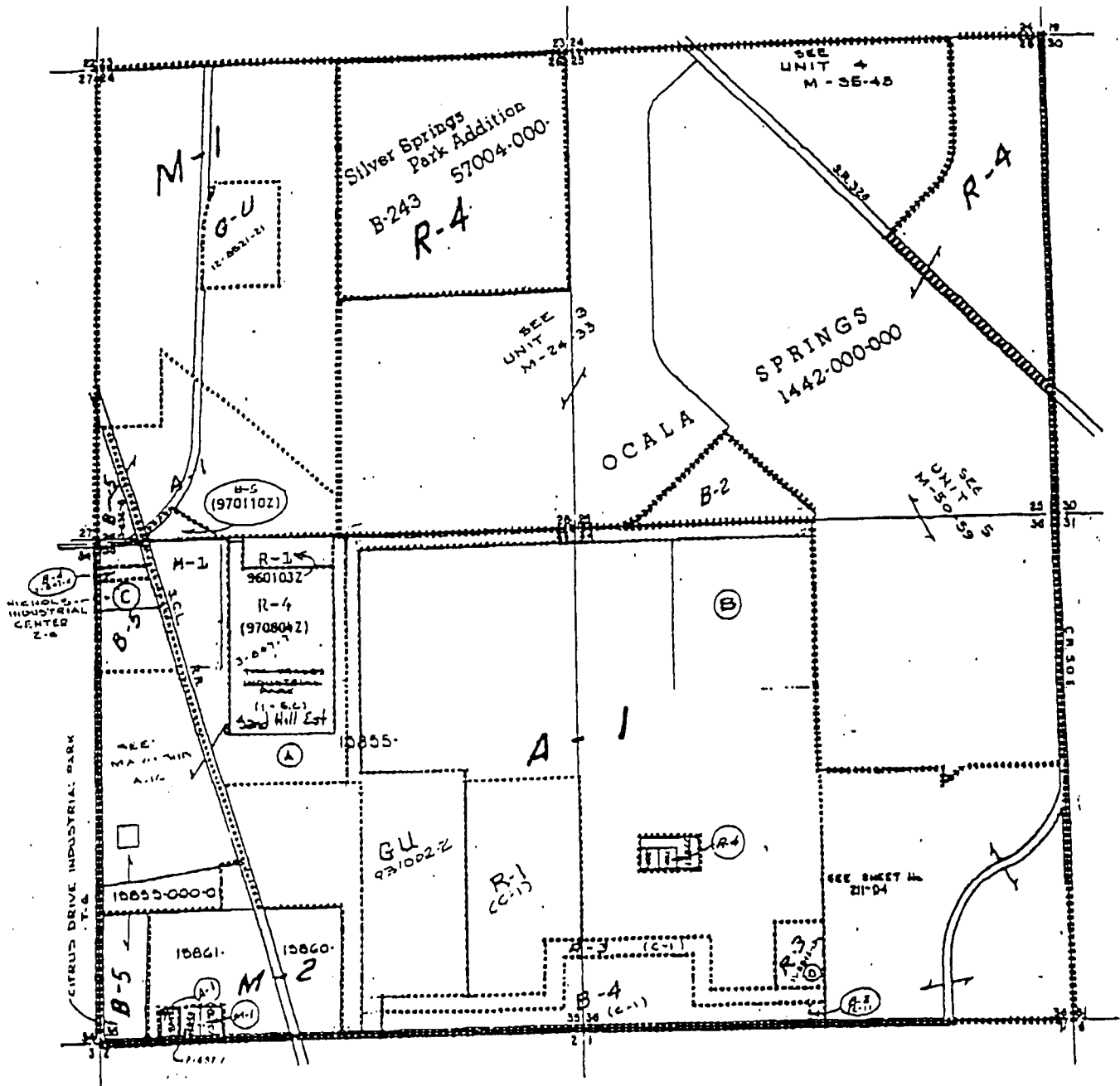
10



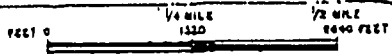
Land Use Designation Map

- (A) SE -01-84-15
- (B) SU -940405SU
- (C) VAR-960503V (LOTS 6-10 & TR.A&B)
- (U) SU -960409SU (R56-103)

MARION COUNTY, FLORIDA (C-1)-C-8614-21 (8CR-161)

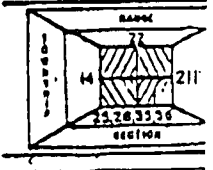


ADM. REV.
9-14-87
12-5-88



SCALE: 1" = 1320' (1/4 MILE)

PARCEL NUMBERS
Revised 1976 Roll



SHEET NUMBER

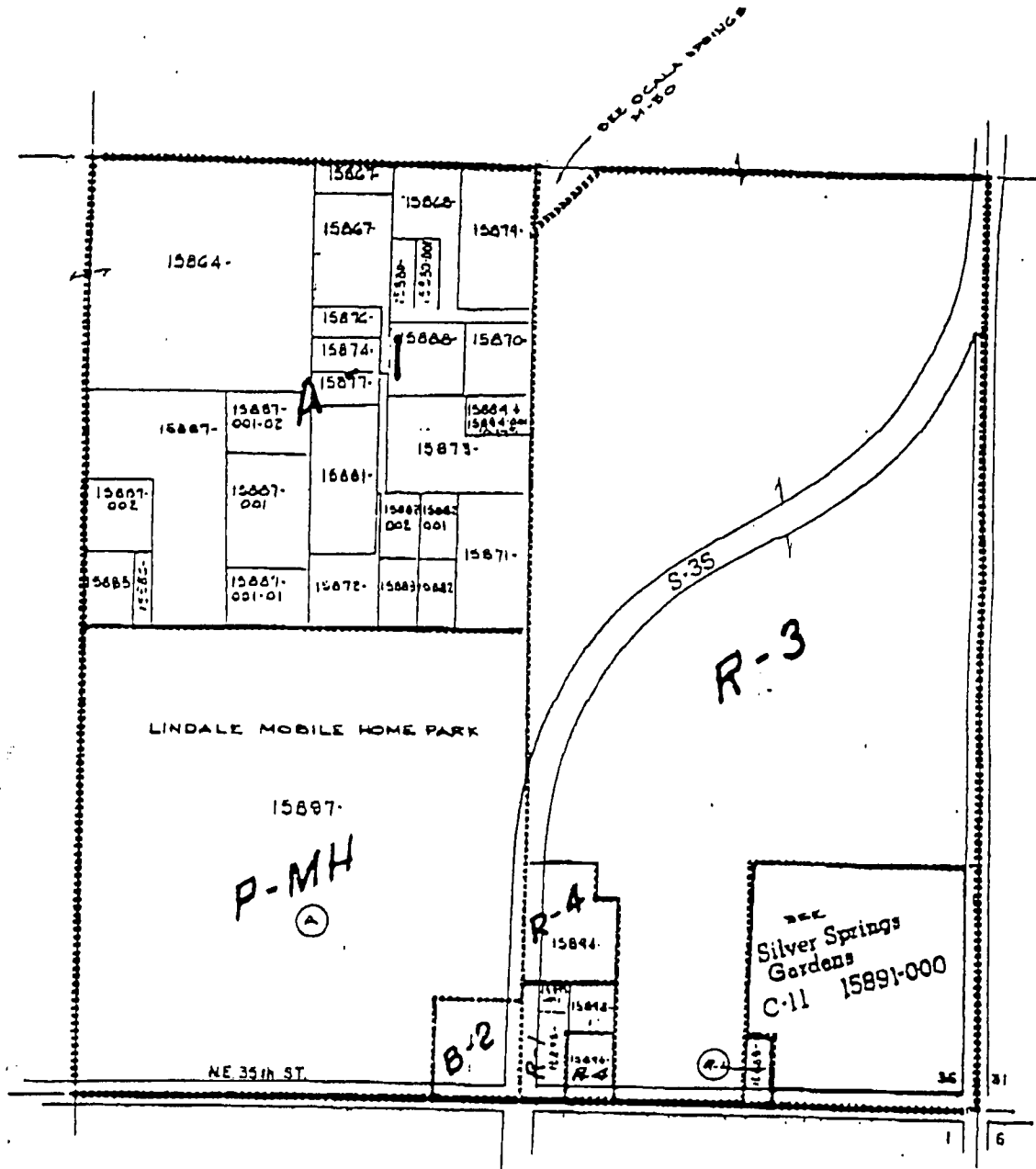
1211



Land Use Designation Map

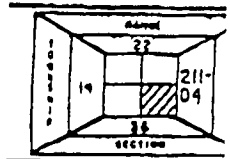
MARION COUNTY, FLORIDA

A. Ver. C-85-1



SCALE: 1" = 400'

PARCEL NUMBERS
REVISED: 1976 CELL



SHEET NUMBER
211 D-4

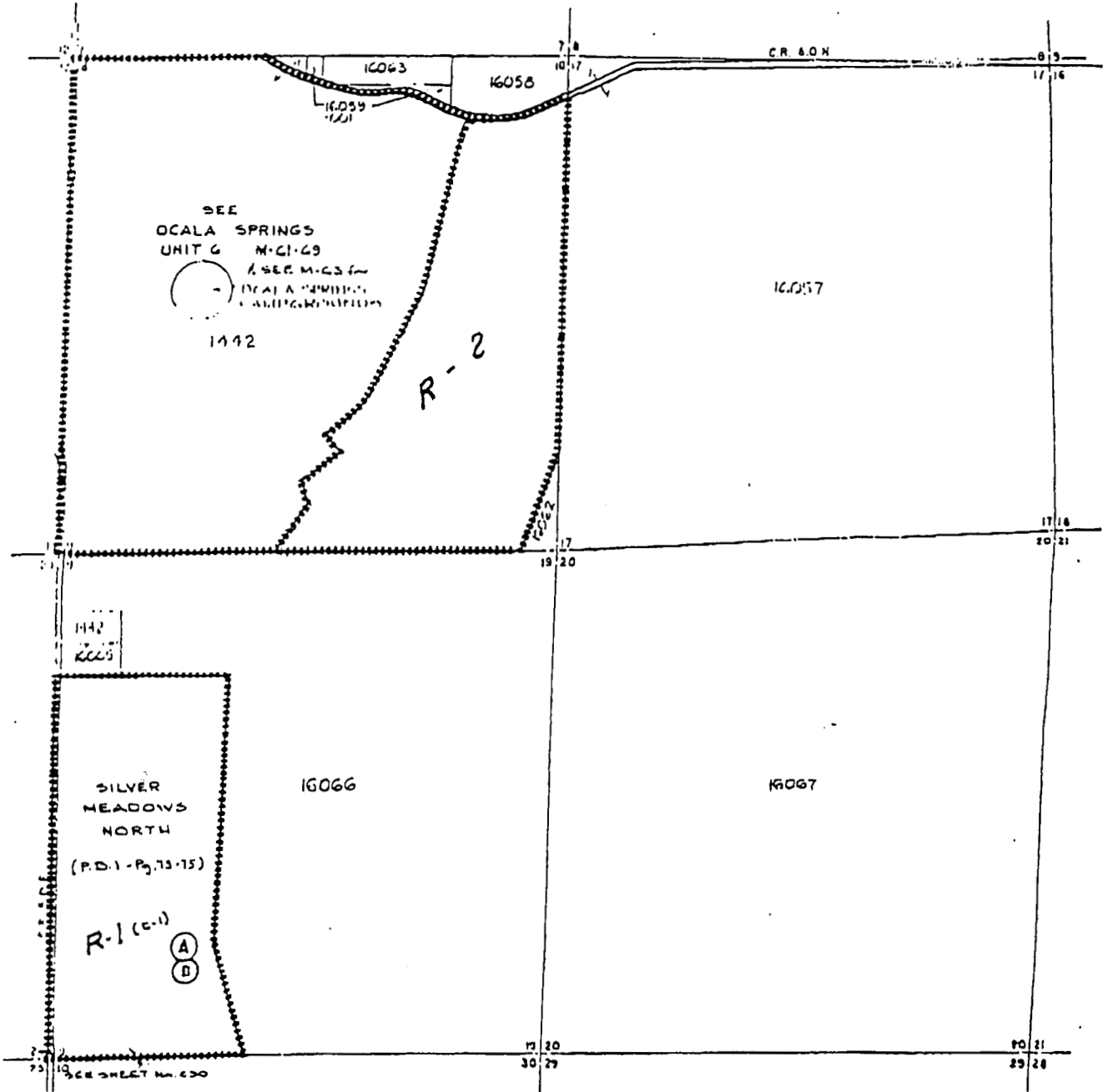


LAND USE DESIGNATION MAP

MARION COUNTY, FLORIDA

(A) SE-9605 (15) (960-15) DIV. "A", LOTS 17 & 18
(B) SW-9606 (15) (960-15) " " "A", " " 10 & 11

(C-1) 901107.2 (90W-318)



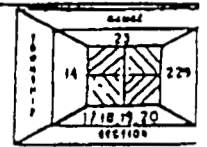
ADM. REV.
3-11-87

SCALE: 1" = 1320' (1/4 MILE)

SCALE: 1" = 1320' (1/4 MILE)

PANSEL NUMBERS

(Reference: 1977 M.C.)



SHEET NUMBER

1221



LAW OFFICES

AYRES, CLUSTER, CURRY, McCALL & BRIGGS, P.A.

21 NORTHEAST FIRST AVENUE
OCALA, FLORIDA 34470

RANDY R. BRIGGS**
EDWIN C. CLUSTER**†
JAMES E. COLLINS
LANDIS V. CURRY, JR.
WAYNE C. McCALL†

REPLY TO:
POST OFFICE BOX 1148
OCALA, FLORIDA 34478

TELEPHONE (352) 351-2222
TELECOPIER (352) 351-0312

*CERTIFIED CIVIL TRIAL LAWYER
Florida Bar Board of Certification

†CERTIFIED CIVIL TRIAL ADVOCATE
National Board of Trial Advocacy

^CERTIFIED TAX LAWYER
Florida Bar Board of Certification

SCOTT A. FRICK
JEFFREY L. SAUEY^
STEVEN W. WINGO

October 7, 1998

WILLARD AYRES
10-1998
RECEIVED

OCT 8 1998

FEDERAL EXPRESS #2844645985

Ruden, McClosky, Smith, Schuster & Russell, P.A.
Attention: B. Kenneth Gatlin
215 South Monroe Street, Suite 815
Tallahassee, Florida 32301

Office of
B. KENNETH GATLIN

Re: Ocala Springs Utilities Inc. Application of Original Certificates for Water and Waste Water

Dear Kenneth:

This letter will confirm that on September 16, 1998, I met with Marion County Attorney, Gordon B. Johnston, Assistant Marion County Attorney, Tom MacNamara and Marion County Zoning Director, Michael E. May, to discuss the Memorandum dated August 14, 1998, from Ron Horlick to Tom Beck of the Department of Community Affairs, regarding comments by the Department of Community Affairs on the referenced application. A copy of the August 14, 1998 Memorandum from the Department of Community Affairs was furnished by me to County Staff prior to the September 16, 1998 conference.

I was assured by Mr. Johnston and Mr. May at the September 16, conference that the Vesting Order dated October 5, 1992, issued by Marion County to Avatar Properties, Inc. ("Avatar") remains in full force and effect and is not modified by the D.C.A. comments set forth in the August 14, 1998 Memorandum.

Mr. May confirmed that the entire Property owned by Avatar as described in the map attached to the Marion County Vesting Order is covered by the Vesting Order. Mr. May further confirmed that the Vesting Order allows Avatar to develop the Property pursuant to the Zoning Classifications in effect at the time the Vesting Order was entered and in accordance with the Master Development Plan on file with Marion County at the time the Vesting Order was entered.

Mr. May stated that the Public Service Commission could contact him if further confirmation is required.

Please advise if you have any questions or require any additional information.

Yours very truly,

AYRES, CLUSTER, CURRY,
McCALL & BRIGGS, P.A.

By: 
Landis V. Curry, Jr.

LVCjr/J

cc: Avatar Properties, Inc., Attention: Dennis J. Getman, Esquire by telefax