

procedural due process regarding notice was not accorded the Petitioner.

15. **BURDEN OF PROOF:** The Respondent correctly discusses the following as it relates to the issue of whether the Respondents failed to meet their burden of proof in obtaining the approval of the Application: under this Court's limited scope of review, it must be determined whether the record contains any competent substantial evidence to support the decision that was ultimately made. In evaluating the evidence presented, it matters not whether there is also evidence to support a conclusion different from that reached by the Board, for "[t]he point is that when the facts are such as to give the County Commission a choice between alternatives, it is up to the County Commission to make that choice—not the circuit court." *Metro Dade County v. Blumenthal*, 675 So. 2d 598, 606 (Fla. 3d DCA 1995). It is not for the reviewing court to re-weigh or evaluate the evidence presented before the tribunal or agency whose order is under examination. "The...court merely examines the record made below to determine whether the lower tribunal had before it competent substantial evidence to support its findings and judgment..." *DeGroot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957).
16. In conformity with the foregoing, there remain two issues of the several raised by the Petitioner that warrant comment as it relates to presentation of record evidence at the time of approval of the Application and whether it meets the required showing necessary.
 - a. **Traffic Study.** Levy County Code Section 50-719(d)(3)(d) states, in relevant part: *d. "Hauling requirements. The applicant shall ensure that neither public nor private property will be damaged by the hauling of material, and that hazardous traffic conditions will not be created, as shown by a traffic study prepared by a traffic engineer licensed in the State of Florida, which study shall be submitted by the applicant with the application."*

At hearing on February 6, 2024, the following discussion took place when the BOCC was reviewing the Application (at page 25, line 25