

land use designation of the subject property is high density residential, which allows the proposed apartments at the proposed density.

The parcel was rezoned from R-3 (13 dwelling units per acre) to R-4 (multiple story apartments and higher densities permitted) in 1969 without a development plan that would set the density. Therefore, no density has ever been established for this parcel. However, at the 1969 rezoning meeting, the applicant, Henry Cibula (President, Slovak Gardens), stated the future development plan for the site would include "high rise apartments". No opposition or dissent was voiced at the meeting.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the requested revised development plan as submitted and attached with the following conditions:

1. Construction of a six foot brick or masonry wall along the entire eastern property boundary as required by active/passive buffer design standards (LDC 30.1232); and
2. Construction of pedestrian access sidewalks/trails around the retention pond; and
3. Upgrade of Jergo Road to County standards from Howell Branch Road to the entrance of the apartment complex.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

At the regular meeting of the Planning and Zoning Commission, on January 5, 2005, the members recommended a density not to exceed 13 units per acre by a vote of five (5) to two (2).

Attachments: Location Map
Proposed Development Plan
Development Order
Zoning and Land Use Maps
Legal Description
Sketch of Description
1969 BCC Rezoning Minutes

Woods at Casselberry Apartments

Development Plan Approval on R-4 zoned Property (Multiple-Family Dwelling District)		Z2004-064
<i>REQUEST</i>		
APPLICANT	Francisco Rojo / Landmark Companies	
REZONING	NA	
FUTURE LAND USE	High Density Residential	
APPROXIMATE GROSS ACRES	10.72	
LOCATION	Located on the south side of Howell Branch Road approximately 800 feet south of Jergo Road	
BCC DISTRICT	District 1 – Dallari	
<i>RECOMMENDATIONS AND ACTIONS</i>		
STAFF RECOMMENDATION	Staff recommends APPROVAL of the development plan.	

STAFF ANALYSIS & FINDINGS

OVERVIEW

Zoning Request:

The applicant, Francisco Rojo/Landmark Companies, is requesting approval of a development plan depicting a gross density of 16.8 units per acre, in order to build 180 apartment units on 10.72 acres in the R-4 zoning district. No rezone is required since the property is already zoned R-4. The future land use designation of the subject property is High Density Residential (over 10 dwelling units per acre), which allows the proposed apartments.

The applicant is proposing access from Jergo Road. This roadway will be required to be upgraded to meet County standards from Howell Branch Road to the entrance of the proposed apartment complex. The applicant understands and has agreed to abide by this requirement. Staff, therefore, recommends approval of the development plan as submitted.

The existing zoning and future land use designations surrounding the subject property are as follows:

Location	Future Land Use*	Zoning*	Current Use
Site	HDR (High Density Residential)	R-4 (Multiple-Family Dwelling District)	Vacant
North	HDR (High Density Residential)	R-4 (Multiple-Family Dwelling District)	Vacant, Church and Apartments
South	City of Casselberry Multi-Family	City of Casselberry Multi-Family	Apartments
East	LDR (Low Density Residential)	R-2 (One and Two-Family Dwelling District) and R-1A (Single-family Dwelling District)	Single- and Double-family Residences
West	City of Casselberry Multi-Family	City of Casselberry Multi-Family	Townhomes

SITE ANALYSIS

Facilities and Services:

The proposed zoning is consistent with the adopted future land use designation assigned to the property and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Seminole County Comprehensive Plan.

Water and sewer service is available to the site and supplied by the City of Casselberry. The property may annex into the City as a result of the utility connections.

Transportation / Traffic:

Access is available to the site from Howell Branch Road through Jergo Road. Howell Branch Road is classified as a Minor Arterial and has an adopted Level of Service "D+20%". It is currently operating at a Level of service of "D" in this area.

Compliance with Environmental Regulations:

At this time there are no concerns with compliance with environmental regulations. The applicant must demonstrate at site plan approval that 25 percent of the trees are being preserved.

Compatibility with Surrounding Development:

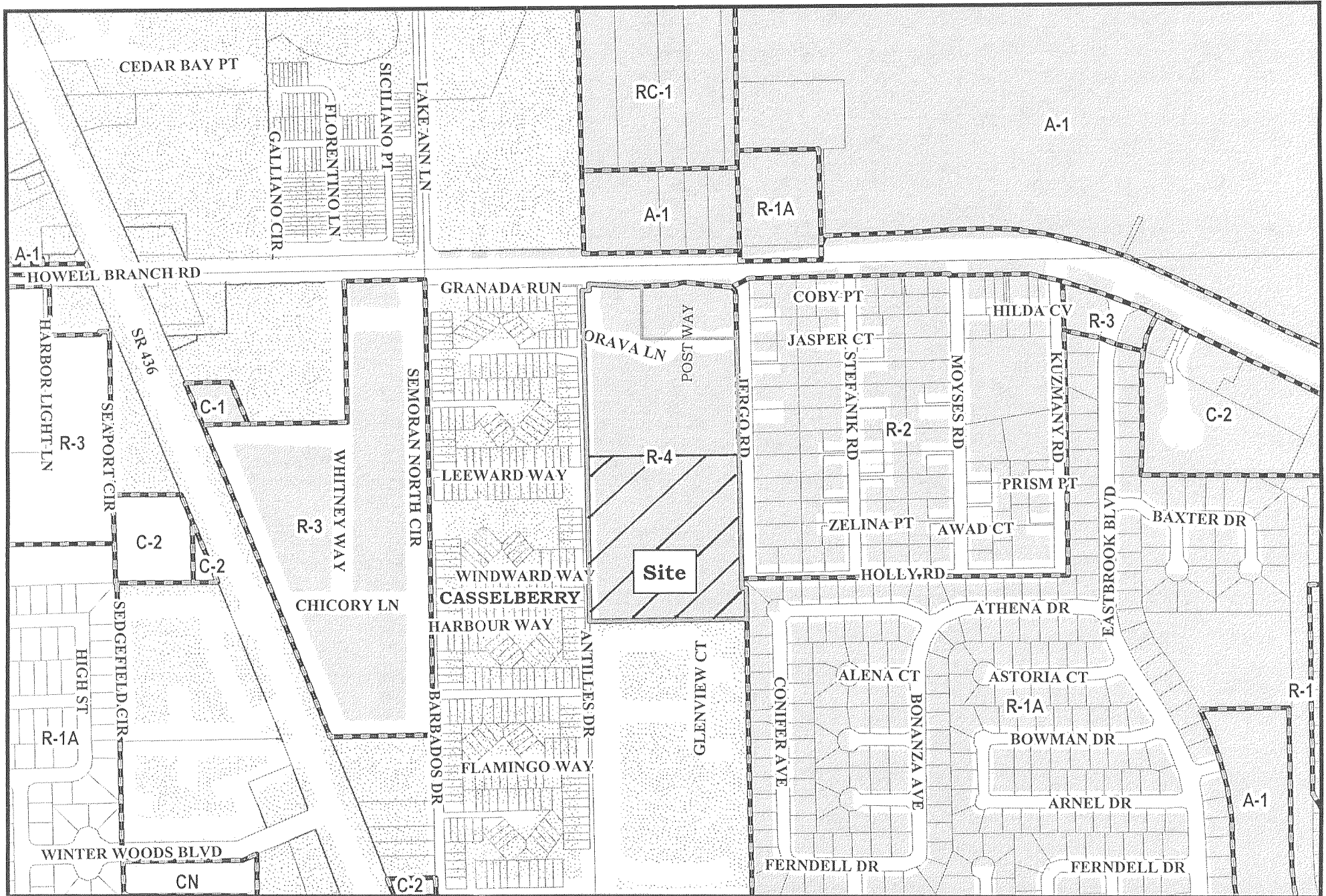
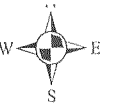
The property has a High Density Residential land use designation, and the proposed apartments are allowed in that future land use category. The property is surrounded by High Density Residential to the north, Medium and Low Density Residential future land use on the east and southeast, and the City of Casselberry to the south and west.

STAFF RECOMMENDATION

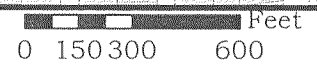
Staff recommends approval of the revised development plan with the following conditions:

1. Construction of a six foot brick or masonry wall along the entire eastern property boundary as required by active/passive buffer design standards (LDC 30.1232);
and
2. Construction of pedestrian access sidewalks/trails around the retention pond;
and
3. Upgrade of Jergo Road to County standards from Howell Branch Road to the entrance of the apartment complex.

Woods at Casselberry Francisco Rojo



JANUARY 11, 2005



Parcel ID #: 34-21-30-300-0100-0000/ District: 1

SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On January 25, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

A portion of the East Half (1/2) of the West Half (1/2) of the Northwest Quarter (1/4) of Section 34, Township 21 South, Range 30 East, of the Public Records of Seminole County, Florida, Being more particularly described as follows:

COMMENCING at the Northwest corner of the Northwest $\frac{1}{4}$ of Section 34, Township 21 South, Range 30 East; thence N89°08'23"E along the North line of the Northwest $\frac{1}{4}$ of said section 34, a distance of 660.85 feet; thence S01°00'08"E along the West line of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said section 34, a distance of 797.23 feet to the POINT OF BEGINNING; thence continue S01°00'08"E along said West line a distance of 728.62 feet; thence N89°08'35"E, a distance of 661.93 feet, thence N01°01'56" along the West line of Eastbrook Subdivision, Unit No. Sixteen, as recorded in Plat Book 15, page 36 of the Public Records of Seminole County, Florida, a distance of 174.44 feet; thence S89°14'33"W a distance of 28.16 feet; thence N00°54'37"W along the West right-of-way line of Jergo Road per Official Records Book 430, Page 144 of the Public Records of Seminole County, Florida, a distance of 554.19 feet; thence S89°08'15"W, a distance of 634.57 feet to the POINT OF BEGINNING.

Containing 10.72 acres (466,898 square feet) more or less.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

FINDINGS OF FACT

Property Owner: SLOVAK GARDEN
3110 HOWELL BRANCH ROAD
WINTER PARK, FL 32792

Project Name: WOODS AT CASSELBERRY APARTMENTS

Prepared by: Francisco Torregrosa
1101 East First Street
Sanford, Florida 32771

Requested Development Approval:

REVISED DEVELOPMENT PLAN FOR 180 APARTMENT UNITS, AS DEPICTED ON THE ATTACHED DEVELOPMENT PLAN.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Order**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
 1. Construction of a six foot brick or masonry wall along the entire eastern property boundary as required by active/passive buffer design standards (LDC 30.1232); and
 2. Construction of pedestrian access sidewalks/trails around the retention pond; and
 3. Upgrade of Jergo Road to County standards from Howell Branch Road to the entrance of the apartment complex.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: _____
Matthew West
Planning Manager

**STATE OF FLORIDA)
COUNTY OF SEMINOLE)**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ who is personally known to me or who has produced _____ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2005.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

Motion by Commissioner Yarborough, seconded by Commissioner Drummond, and carried continuing this hearing until August 12, 1969.

Continuation of hearing on request of Slovak Gardens for rezoning from R-3 to R-4 on property in Section 34-21S-30E, south of Howell Branch Road and West of Jergo Road.

Mrs. Thompson, Secretary to the Zoning Director, appeared and stated Planning and Zoning recommended this rezoning and it was her understanding that a retirement village was planned in this section with high rise units.

Mr. Henry Cibula, President of Slovak Gardens, appeared and stated that Slovak Gardens is a non-profit organization and this property encompasses about 40 acres on Howell Branch Road. He stated these high rise apartments would consist mainly of one bedroom, living room, kitchenette and dining room and bath with possibly some efficiencies if the need arises.

No one appeared in opposition.

Motion by Commissioner Parker, seconded by Commissioner Yarborough, and carried that property embraced in Proof of Publication be and the same is hereby zoned R-4.

Commissioner Drummond abstained from voting because the company involved is a client of his, and the outcome would have a direct effect on his personal profits.

Mrs. Thompson stated Mr. Dyer has four rezoning requests on adjacent properties and asked if the Board wanted them presented in one group. Chairman Alexander replied they did.

Proof of Publication as shown on Page 5-25 calling for public hearing on request of Thomas Dyer for rezoning from A-1 to R-1A in Section 9-21S-29E south of Little Wekiva Estates and west of Little Wekiva River.

Proof of Publication as shown on Page 5-25 calling for public hearing on request of Thomas Dyer for rezoning from A-1 and C-2 to R-1AA on property in Section 16-21S-29E south of Little Wekiva Estates and West of Little Wekiva River.

Proof of Publication as shown on Page 5-26 calling for public hearing on request of Thomas Dyer for rezoning from M-1 and A-1 and C-2 to C-1 on Lots 9 thru 16, and 57 thru 60, Forest City, Orange Park Subdivision.

**MINUTES FOR THE SEMINOLE COUNTY
LAND PLANNING AGENCY/
PLANNING AND ZONING COMMISSION**

JANUARY 5, 2005

Members present: Richard Harris, Chris Dorworth, Dudley Bates, Walt Eismann, Beth Hattaway, Ben Tucker, and Matt Brown.

Also present: Matt West, Planning Manager; Tony Walter, Assistant Planning Manager; Earnest McDonald, Principal Coordinator; Rebecca Hammock, Principal Coordinator; Tina Deater, Senior Planner; Jeffrey Hopper, Senior Planner; April Boswell, Senior Planner; Jim Potter, Senior Engineer; and Candace Lindlaw-Hudson, Senior Staff Assistant.

PUBLIC HEARING ITEMS:

A. Woods At Casselberry Preliminary Site Plan; Francisco Rojo / Landmark Companies, applicant; Request for Preliminary Site Plan approval for 180 apartments on 10.72 acres in the R-4 (Multi-Family Dwelling District); located on the west side of Jergo Road, approximately 800 feet south of the intersection of Howell Branch Road and Jergo Road; (Z2004-064).

Commissioner Dallari – District 1 Francisco Torregrosa, Planner

Mr. Torregrosa stated that the property has a HDR (High Density Residential) future land use which allows densities of greater than 10 units per acre. The applicant is proposing 16.8 units per acre.

Mr. Torregrosa stated that the property was rezoned from R-3 to R-4 in 1969, and should have been approved with a site plan. Based on the minutes of the meeting, staff believes that no such plan was submitted. A development plan was submitted in 1981 depicting 1 and 2 story

apartments on 13.5 acres with a density of 8.9 units per acre. Staff now believes that this plan was never presented to the Board of County Commissioners for approval. The development plan presented this evening should be reviewed on its own merits, since no density has been previously set on this parcel. Mr. Torregrosa said that staff recommends approval of the plan for 180 apartment units with the following recommendations:

1. Construction of a six-foot brick or masonry wall along the entire eastern property boundary as required in the active passive buffer standards of the Land Development Code.
2. Construction of a pedestrian sidewalk/trail around the retention pond.
3. Upgrade of Jergo Road to County standards from Howell Branch Road to the entrance of the apartment complex.

Mr. Torregrosa stated that he had received numerous calls and letters in opposition to this project.

Commissioner Harris asked that the School Board comments on this item be read.

Matt West stated that there were no School Board comments concerning this item.

There were no questions from the board at this time.

Rob Gebaide addressed the board to say that the main intent is to set the density on this project. He introduced Mr. Salin and Mr. Rojo. The property is surrounded by other multi-family developments.

Pictures of similar projects were placed on the overhead by Mr. Rojo.

Chairman Harris asked if there was a spokesman from the audience who wished to speak.

Jerry Groupa addressed the board to say that he is the Chairman of the Slovak Garden committee and a former director and Vice President of Slovak Gardens. Last year he resigned his position in protest of Mr. Ruzik (Slovak Garden's current director) illegal activities. On November 22, 2004, Mr. Ruzik gave the Landmark Company illegal permission to submit their site plan to Seminole County for review. Slovak Garden is a membership-owned corporation. It is the only charitable organization of the Slovak Americans in the Southern United States. Leasing 10.72 acres to the Landmark Company will destroy the center of the Slovak Americans and their friends. He asked the commissioners to wait and make their decision after the Slovak Gardens membership meeting on March 7, 2005.

Frank Bobeck said that he has lived in Slovak Gardens for 9 years and he wished that the thing wouldn't go through. The area is already too congested.

Maria Rechouck said that she came here from New York. She can't believe what has happened because many things go on and they don't know about it. She said that the members didn't have an opportunity to talk to the board of directors. She also asked that the Board wait until after the membership meeting on March 7th to make their decision.

Charlotte Smith addressed the board to say that she is not a member of Slovak Gardens, but she has lived on Jergo Road and has seen many changes, but this is the worst she has ever seen. This road will not support a change from low to high density property, without major safety issues. Jergo Road cannot sustain construction vehicles and this will be a major issue.

Phil DeLuca addressed the board to say that the Landmark Company has agreed to do upgrades on Jergo Road for approximately 160 additional vehicles in that area. Jergo Road now has approximately 25 residents on the east side. The traffic load would be considerably worse.

Diana Flint addressed the board to say that if this development would go through, it shouldn't be accessed through Jergo Road. It is understood that this property will be leased for 53 years and that will surely depreciate our property values.

Olga More addressed the board to say that she has been a resident of Slovak Gardens for 14 years. At the July 20th meeting of our board, Mr. Palmer, our lawyer, was answering questions as to the particular lease that Landmark was submitting to us. He stated that there would have to be corrections and adjustments that would have to be brought up to the next board meeting so we could look into this matter, but Mr. Palmer did not do that. When a vote was taken at that meeting, the members did not authorize Mr. Ruzik to pursue this matter with Landmark Company but he told them that he was authorized and that was illegal. This will not enhance our way of life at Slovak Gardens.

Robert Miller said that he wanted to clarify an earlier statement about the School Board not commenting on this project. It is his understanding that the School Board did have comments on this and they were not positive. He encouraged the board to look into that before they made a decision. He is a 10-year member of Slovak Gardens and asked that the board postpone the request to another time. Past board minutes do not reflect that Mr. Ruzik has the approval to ask this board to make a decision about this request. He asked that the board not take any action at this time but the membership work through their internal problems so as to avoid any further embarrassment to this proud institution.

Commissioner Dorworth addressed the board to ask if there had been an authorization letter submitted to the County.

Mr. Torregrosa stated that a letter of authorization had been submitted and signed by the president of Slovak Gardens.

Commissioner Dorworth asked if this board has the authority to move forward at this time because of the internal issues.

County Attorney Kim Romano stated that she had not heard of it before tonight and it would be an issue for the courts, if it exists.

Dick Wells, Community Development Director with the City of Casselberry, addressed the board to say he is not here to speak for or against this matter, but reminded the board about an inter-local agreement with the County to inform each other about projects that affect each other, but he did not receive any notice of this hearing. He just happened to be here to speak on the San Pedro item. He stated that he had talked to Mr. Rojo and there will be issues of utility and possibly fire service that will affect both the city and Seminole County. These issues really need to be worked out before a meeting like this and we would appreciate that consideration for these types of projects in the future.

Thomas Laney asked if he could see another map like the one that was sent to him in the mail. He stated that he lives on the west side of this project and got the notice 2 days before Christmas. He is not the only one who is up in arms about this project. The area right now is at capacity for livability.

Commissioner Dorworth stated that in 1981, the County Commissioners approved 8.9 units per acre, so right now there is a legal right to have a community there. This hearing is to discuss whether there is to be 8.9 dwelling units per acre or 16 dwelling units per acre.

Francisco Torregrosa addressed the board to say that right now, there is no evidence to show that the 1981 site plan was ever submitted or approved by the Board of County Commissioners. It was approved for apartments in 1969.

Chairman Harris asked the applicant if he would like to address the issues that have been raised.

Rob Gebaide addressed the board to say that in 1969 this property was rezoned from R-3 to R-4 to provide for high story apartment complexes. The property has been referred to as a "rezoning" but what we are doing is approving a development plan on the project which establishes the density of the project. We will undergo a full site plan review by the County and many of the concerns raised tonight will be addressed, including the upgrading of Jergo Road as mentioned by one of the speakers.

Commissioner Tucker asked staff to clarify what is exactly approved for. Can it be approved for a minimum of 10 units per acre?

Mr. Torregrosa addressed the board to say that is correct.

Matt West explained that our records show that they have no development plan and without a development plan, they can't come to staff and get a permit of any kind to put something on that land until that plan goes to this board and the Board of County Commissioners.

Commissioner Tucker asked if any surrounding properties were owned or leased by Slovak Gardens.

Mr. Torregrosa pointed out that at the 1969 rezoning, the whole large piece was owned by Slovak Gardens at one point but the southern property was sold off.

Commissioner Tucker asked staff to explain the notification process.

Mr. Torregrosa explained that staff notifies property owners within 300 feet of the subject property and the notification is sent out approximately 2 weeks prior to the meeting.

Commissioner Tucker asked about the traffic study and the impacts for traffic lights.

Mr. Torregrosa explained that no traffic study had been conducted at this time; that will be part of the final master plan approval.

Commissioner Tucker asked about the timeframe because no plan was approved in 1981. What fell through the cracks?

Matt West stated that we do not know what happened in 1981, but in the 1990's we started recording development orders. We will have a final master plan within

5 years. In 1969 the County rezoned by motion, not by ordinance. We have no recorded development order.

Chairman Harris closed the public hearing portion of the meeting and asked for discussion and that a motion is in order.

Chairman Harris asked about the inter-local agreement with Casselberry and if that issue had been taken care of?

Mr. Torregrosa explained that staff had talked to one of Casselberry's planners and discussed the densities of a couple of adjacent projects and the zoning in that area allows for up to 13 dwelling units per acre.

Tony Walter addressed the board to say that when this project goes to Engineering, the details will be worked out. This is a typical procedure at this point.

Commissioner Tucker asked staff about the maximum density for R-4.

Mr. Torregrosa stated that there is no maximum density for R-4 zoning, it allows for 60-foot building height. R-3 is 13 units per acre.

Commissioner Tucker stated that if it is developable, people should have a right to do that.

Chairman Harris agreed that even with a revision from R-3 to R-4 in 1981, the zoning that has run with this property has changed very little.

Commissioner Dorworth stated that this is an advisory board and the Board of County Commissioners will decide what is best for this property.

Commissioner Dorworth Dorworth made a motion to approve the request as per staff recommendations.

The motion died for lack of a second.

Commissioner Bates made a motion to approve the existing density of 13 units per acre and deny the increase to 16 units per acre.

Commissioner Hattaway seconded the motion.

Chairman Harris asked to clarify that the motion was to approve the density of 13 dwelling units per acre and deny the increase beyond that and Commissioner Bates stated that was correct.

Commissioner Hattaway stated that second stands.

Commissioner Tucker offered an amendment of no two story buildings along Jergo Road, and staff recommendations 1, 2, and 3 be included , and the addition of acceleration and deceleration lanes and light to be included.

The amendment died for lack of a second.

Vote was 5-2 in favor of the motion.

Respectfully submitted
Candace Lindlaw-Hudson