

ITEM # 50

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: LAKE CHARM REZONE

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Dan Matthys **CONTACT:** Chris Schmidt **EXT.** 7440

Agenda Date 02/28/06 **Regular** **Consent** **Work Session** **Briefing**
Public Hearing – 1:30 **Public Hearing – 7:00**

MOTION/RECOMMENDATION:

1. APPROVE the request and enact an ordinance to rezone 38.67± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue), based on staff findings, (Brian L Harris, applicant); or
2. DENY the request to rezone 38.67± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue), based on staff findings, (Brian L Harris, applicant); or
3. CONTINUE the item to a time and date certain.

District 2 – Commissioner Morris

Chris Schmidt, Senior Planner

BACKGROUND:

The applicant is requesting to rezone 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District). Under the current A-1 zoning designation, 1 dwelling unit per net buildable acre is permitted. The requested zoning designation allows single family development on lots with a minimum area of 9,000 square feet and lot width of 75 feet.

Reviewed by: _____
Co Atty: KL
DFS: _____
OTHER: _____
DCM: _____
CM: AS
File # ph130pdp06

The Future Land Use designation of the subject site is LDR (Low Density Residential), which is consistent with the requested zoning district. The LDR Future Land Use designation permits a maximum of 4 dwelling units per net buildable acre. Section 30.1380.3 of the Land Development Code requires the application of the Weighted Method for Determining Single-Family Residential Compatibility in Residential Land Uses. The lot compatibility analysis yielded a weight rating of 5.22, which corresponds to R-1AAAA. While this zoning represents a lower density (requires a larger lot size minimum of 21,780 sq. ft.) than the applicant is requesting, the Board of County Commissioners may grant R-1A (minimum lot size of 9,000 sq. ft.) upon making a specific finding that the requested higher-intensity zoning is compatible with surrounding uses and development. Staff has determined that in this case, the requested higher-intensity zoning of R-1A would be compatible with surrounding uses based on the following factors:

- Zoning and lot sizes to the west of the subject site are consistent with the requested zoning of R-1A.
- Zoning and lot sizes to the northwest, north, and northeast of the subject site skews the compatibility analysis by awarding a base weight of only 2 points.
- The trend in the area is consistent with R-1A zoning designation.
- The proposed number of lots, 65 and resulting net density, 2.43, serves as a transition between properties to the south and west from those to the north and east.
- The request is consistent with the west parcel with regards to buffering, lot size, and house size.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

On January 11, 2006, the Planning and Zoning Commission voted (6-1) with a recommendation of DENIAL to a request to rezone approximately 38.67± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue).

STAFF RECOMMENDATION:

Staff recommends APPROVAL of a request to rezone approximately 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue); based on staff findings.

Attachments:

Staff Analysis
Location Map
FLU/Zoning Map
Aerial Photo
Ordinance
LPA/P&Z January Meeting Minutes
Letter to Oviedo

Lake Charm Rezone / Z2005-057

Rezone from A-1 to R-1A

APPLICANT	Brian L Harris / Harris Construction Group	
PROPERTY OWNER	Mai T. To, Nguyen T. Minh, Lisa P.N. Ta, Thuan V. Dinh, Margaret Ta, & Trang Dinh	
REQUEST	Rezone from A-1 (Agriculture District) to R-1A (Single-Family Dwelling)	
PROPERTY SIZE	38.67 ± acres	
HEARING DATE (S)	P&Z: January 11, 2006	BCC: February 28, 2006
PARCEL ID	03-21-31-300-0120-0000 & 03-21-31-300-0130-0000	
LOCATION	Northeast corner of Lake Charm Drive and Panther Street	
FUTURE LAND USE	LDR (Low Density Residential)	
ZONING	A-1 (Agriculture District)	
FILE NUMBER	Z2005-057	
COMMISSION DISTRICT	#2 – MORRIS	

Proposed Development:

The applicant is proposing to develop a 65 lot single-family residential community on 38.67 ± acres.

ANALYSIS OVERVIEW:

ZONING REQUEST

The applicant, Brian L. Harris, is requesting to rezone 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling). The subject property is located on the northeast corner of Lake Charm Drive and Panther Street (formerly known as Artesia Avenue). The Future Land Use designation of the subject property is LDR (Low Density Residential), which permits a maximum density of four (4) dwelling units per net buildable acre. The following table depicts the minimum regulations for the current zoning district of A-1 (Agriculture) and the requested district of R-1A (Single-Family Dwelling):

DISTRICT REGULATIONS	Existing Zoning (A-1)	Proposed Zoning (R-1A)
Minimum Lot Size	43,560 square feet	9,000 square feet
Minimum House Size	N/A	1,100 square feet
Minimum Width at Building Line	150 feet	75 feet
Front Yard Setback	50 feet	25 feet
Side Yard Setback	10 feet	7.5 feet
(Street) Side Yard Setback	50 feet	25 feet
Rear Yard Setback	30 feet	30 feet
Maximum Building Height	35 feet	35 feet

PERMITTED & SPECIAL EXCEPTION USES

The following tables depict the permitted and special exception uses within the existing and proposed zoning districts:

Zoning District	Permitted Uses	Special Exception	Minimum Lot Size
<p>A-1 (existing)</p>	<p>Agricultural uses such as citrus or other fruit crops cultivation, production and horticulture, truck farms, plant nurseries and greenhouses not involved with retail sales to the general public, silva culture, public and private elementary schools, publicly owned and/or controlled parks and recreation areas, bait production, stables, barns, single-family dwelling and customary accessory uses including one (1) guesthouse or cottage, docks and boathouses, churches and structures appurtenant thereto, community residential homes (group homes and foster care facilities) housing six (6) or fewer permanent unrelated residents.</p>	<p>Special Exception such as cemeteries and mausoleums, kennels including the commercial raising or breeding of dogs, hospitals, sanitariums and convalescent homes, veterinary clinics and assisted living facilities and group homes, public and private nursery schools, kindergartens, middle schools, high schools and colleges, public utility and service structures, fishing camps, marinas, gun clubs, or similar enterprises or clubs making use of land with nominal impacts to natural resources, privately owned and operated recreational facilities open to the paying public, such as athletic fields, stadium, racetracks, and speedways, golf driving ranges, riding stables, water plants, and sanitary landfill operations, off-street parking lots, farm worker housing, mobile homes, retail nurseries, landscaping contractors as an accessory use to a wholesale nursery or wholesale tree farm, communication towers, bed and breakfast establishments.</p>	<p>1 acre</p>

Zoning District	Permitted Uses	Special Exception	Minimum Lot Size
R-1A (proposed)	Single-family dwelling and their customary accessory uses, boathouses and boat docks, community residential homes housing six (6) or fewer permanent unrelated residents, public and private elementary schools, and home offices.	Churches with their attendant educational, recreational buildings, public and private middle schools and high schools, parks and recreational areas, publicly owned and operated, public utility and service structures, guest cottages, subdivision sewage treatment and water plants, boathouses with roofs exceeding ten (10) feet above mean highwater line, assisted living facilities and community residential homes housing 7-14 permanent unrelated residents, communication towers, and private recreational facilities as an accessory use to civic, fraternal or social organizations.	9,000 square feet

COMPATIBILITY WITH SURROUNDING PROPERTIES

The Future Land Use designations, zoning districts and existing uses for the subject and abutting properties are as follows:

(North)

	R-5 Rural <i>A-5</i> <i>Vacant</i>	R-5 Rural <i>A-5</i> <i>Vacant</i>	R-5 Rural <i>A-5</i> <i>Vacant</i>	
(West)	LDR Single-Family <i>R-1A</i> <i>(9,000 sq. ft. lots)</i>	LDR Single-Family <i>A-1</i> <i>Vacant</i>	SE Suburban Estates <i>A-1</i> <i>(1 acre lots)</i>	(East)
	Oviedo Single-Family <i>R-1A</i> <i>(10,000 sq. ft. lots)</i>	Oviedo Single-Family <i>R-1A</i> <i>(10,000 sq. ft. lots)</i>	Oviedo Single-Family <i>R-1A</i> <i>(10,000 sq. ft. lots)</i>	

(South)

* **Bold** text depicts the Future Land Use designation, *italicized* text depicts the existing zoning district and plain text depicts existing use. The shaded cell indicates the subject property. More detailed information regarding surrounding properties can be found in the attached Future Land Use, zoning and aerial photo maps.

SITE ANALYSIS:

ENVIRONMENTAL IMPACTS

Floodplain Impacts:

Based on FEMA map #565 Florida Quadrangle Map, there appear to be no floodplains located on the subject property.

Wetland Impacts:

Based on preliminary aerial photo and County wetland map analysis, the subject property contains approximately 12 ± acres of wetlands. Compliance with the Land Development Code regarding development within and around wetland areas is required prior to the issuance of any building permits.

Endangered and Threatened Wildlife:

Based on preliminary analysis, there are no endangered and threatened wildlife on the subject property. A threatened and endangered study along with a species of special concern survey will be required prior to final engineering approval.

PUBLIC FACILITY IMPACTS

Rule 9J-5.0055(3) (c), Florida Administrative Code, requires that adequate public facilities and services be available concurrent with the impacts of development. The applicant has elected to defer Concurrency Review at this time. The applicant is required to undergo Concurrency Review prior to final engineering approval.

The following table depicts the impacts the proposed development has on public facilities:

Public Facility	Existing Zoning (A-1)	Proposed Development*	Net Impact
Water (GPD)	12600	32200	19600
Sewer (GPD)	10800	27600	16800
Traffic (ADT)	400	1860	1460
Schools			
Elementary	9	23	14
Middle	4	10	6
High	4	11	7

* Proposed development on straight zoning is based on maximum units permitted using gross acreage.

Utilities:

The parcel is located in the service area of the City of Oviedo and will require the execution of an annexation into the City of Oviedo to connect to public utilities. A letter of capacity and intent from the City of Oviedo for water, wastewater and reclaimed water service is required at the time of Concurrency Review. An approval of the proposed water service utility plan is required prior to the approval of final engineering plans.

Transportation / Traffic:

The property is adjacent to Panther Street (f.k.a Artesia Avenue) and Lake Charm Drive, which are classified as local roads. Panther Street and Lake Charm Drive are not currently programmed to be improved according to the County 5-year Capital Improvement Program. The applicant will have to receive approval from the City of Oviedo to access Lake Charm Drive and/or Panther Street prior to subdivision approval.

School Impacts:

Based on the formulas provided by the Seminole County School District, the proposed zoning change will generate approximately 44 school age children. This subject site is currently zoned for, and will affect, the following schools:

Schools Impacted	Proposed Impact	Current Capacity	05/06 Enrollment	Percent Capacity
Lawton Elementary	23	886	882	100.5%
Jackson Heights Middle	10	1154	1345	77.2%
Oviedo High	11	3147	2998	99.7%

Public Safety:

The nearest response unit to the subject property is Station # 44, which is located at 42 South Central Avenue. Based on a response time of 2 minutes per mile, the estimated response time to the subject property is 3 minutes. The County level-of-service standard for response time is 5 minutes per Policy PUB 2.1 of the Comprehensive Plan.

Drainage:

The proposed project is located within the Lake Jessup drainage basin. If the proposed development is unable to secure legal positive outfall for discharge, the site shall retain all runoff resulting from the 100- year design storm as computed for the developed condition.

Parks, Recreation and Open Space:

In accordance with Section 30.1344 of the Land Development Code, the applicant will be required to provide twenty-five (25) percent of the site in common open space. Per Section 30.1344 (e), the common open space may include landscape buffers, recreational areas accessible to all residents, as well as the preservation of floodplain areas, wetlands and other natural resources.

APPLICABLE POLICIES:

FISCAL IMPACT ANALYSIS

This project does not warrant running the County Fiscal Impact Analysis Model.

SPECIAL DISTRICTS

The subject property borders the Urban/Rural Boundary line to the north.

COMPREHENSIVE PLAN (VISION 2020)

The following policies are applicable with the proposed project:

Policy CON 3.6	Wetland/Flood Prone Regulations
Policy FLU 2.5	Transitional Land Uses
Policy POT 4.5	Potable Water Connection
Policy SAN 4.4	Sanitary Sewer Connection
Policy PUB 2.1	Public Safety Level-of-Service

INTERGOVERNMENTAL NOTIFICATION:

Intergovernmental notices were sent to the City of Oviedo and the Seminole County School District on December 21, 2005. To date, no comments have been received. A package including this agenda, the staff report, and the Planning and Zoning Commission minutes was sent to the City of Oviedo to provide them the opportunity for review and comments on February 8, 2006. A copy of the letter sent to the city is attached.

LETTERS OF SUPPORT OR OPPOSITION:

At this time, Staff has received one (1) letter of opposition.

STAFF FINDING:

The applicant is proposing R-1A zoning on a 38.67 ± acre site located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a Artesia Avenue). The requested zoning classification would permit single family development on lots having a minimum of 9,000 square feet in size and 75 feet in width. Located in the Low Density

Residential future land use designation, the property is programmed under the Vision 2020 Plan for a maximum of 4 units per net buildable acre. However, as a request for conventional zoning (i.e., not PUD), the application is subject to the lot compatibility analysis required under Section 30.1380.3 of the Land Development Code. This analysis supports a zoning classification of R-1AAAA.

The analysis evaluates appropriate zoning for a given parcel on the basis of existing zoning on surrounding properties within 660 feet. The calculations assign differing weights to the various districts according to permitted development intensities within those districts. For example, the R-1A district, with a minimum lot size of 9,000 square feet, has a weight factor of 8, while R-1AAAA, requiring half-acre lots, has a weight factor of 5. Properties zoned for Agriculture (A-1) receive a base weight of 4, but additional points can be assigned where water, sewer, and paved roads are available, for a maximum of 7. Weighting factors, together with the acreage of each zone within the 660-foot radius, determine the “compatible” zoning for the subject property.

The lot compatibility analysis yielded a weight rating of 5.22, which corresponds to R-1AAAA. While this zoning represents a lower density (requires a larger lot size minimum of 21,780 sq. ft.) than the applicant is requesting, the Board of County Commissioners may grant R-1A (minimum lot size of 9,000 sq. ft.) upon making a specific finding that the requested higher-intensity zoning is compatible with surrounding uses and development. Staff has determined that in this case, the requested higher-intensity zoning of R-1A would be compatible with surrounding uses based on the following factors:

- Zoning and lot sizes to the west of the subject site are consistent with the requested zoning of R-1A.
- Zoning and lot sizes to the northwest, north, and northeast of the subject site skews the compatibility analysis by awarding a base weight of only 2 points.
- The trend in the area is consistent with R-1A zoning designation.
- The proposed number of lots, 65 and resulting net density, 2.43, serves as a transition between properties to the south and west from those to the north and east.
- The request is consistent with the west parcel with regards to buffering, lot size, and house size.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the request to rezone 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue).

Chris Schmidt
Senior Planner
Seminole County Planning & Zoning

Mr. Schmidt,

I have received a notice of public hearing on the property located on Lake Charm and Panther Street in Black Hammock. I find this notice to be disturbing in that it was only given to a very limited number of people – those living within 300' of the proposed rezoning. My property is adjacent to this development on the east side. I own two lots and am currently building my residence on one.

This rezoning impacts all of the residents of Black Hammock as it represents further intrusion into a community of people residing on lots not less than 1 acre and for the most part living on 2.5 + acres.

In reading the agenda memorandum, I notice that the City of Oviedo subdivision is used as justification for the proposed density level. Although the report refers to “low density” housing equating to four houses per acre, when compared to the rest of Black Hammock, this is extremely high density and will negatively impact the quality of life in this community.

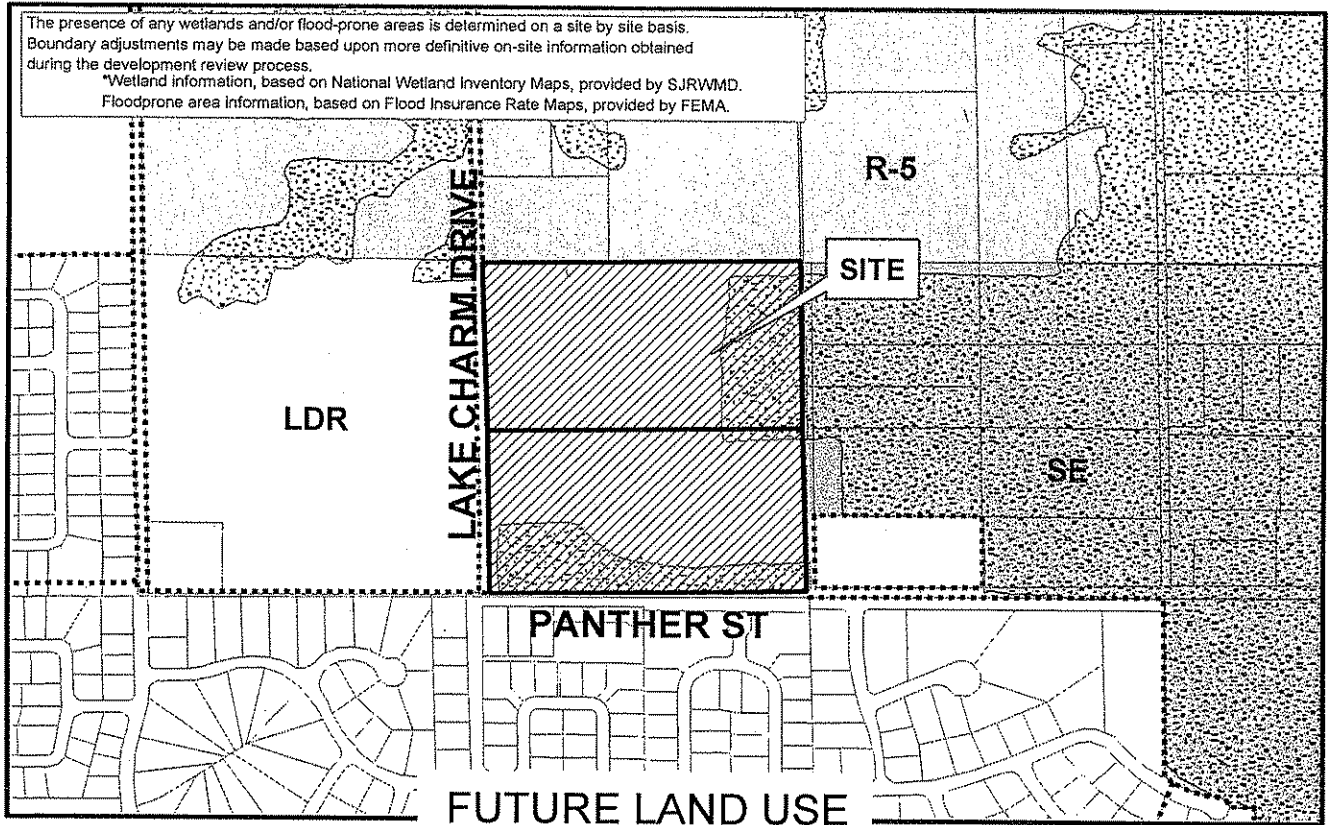
If this method of comparison is used for the justification of further development, I fear that the life style currently enjoyed in the Hammock will be in dire jeopardy. A domino effect will be used to knock down lot by lot for rezone into “low density” housing projects by developers who have no concern for the consequences of the “developments” they construct other than the return on their investments.

I understand that some development is inevitable, but when it impacts the quality of life of the people living in the community it should be conducted with great care.

I am strongly against any rezoning that will allow less than one house per acre to be developed in this location.

James McAuliffe

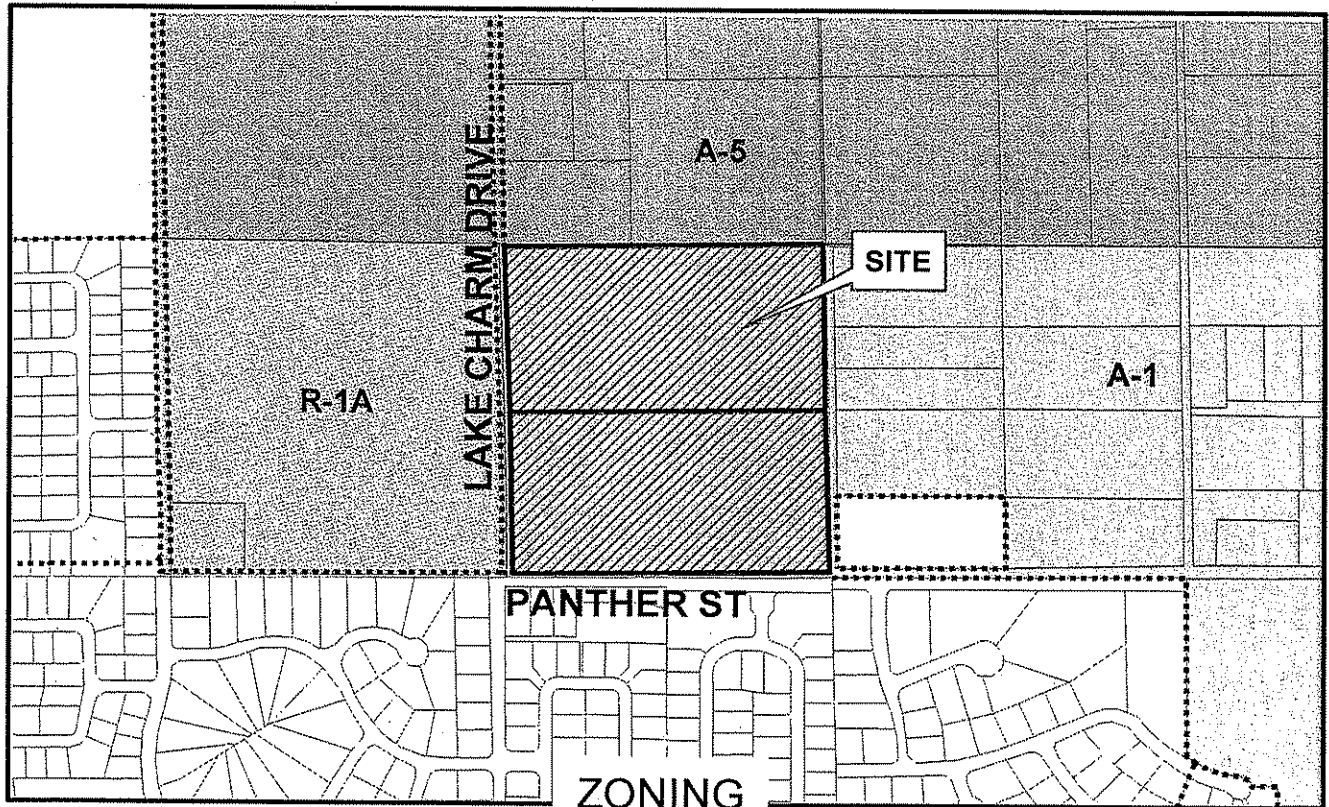
The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.
 *Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



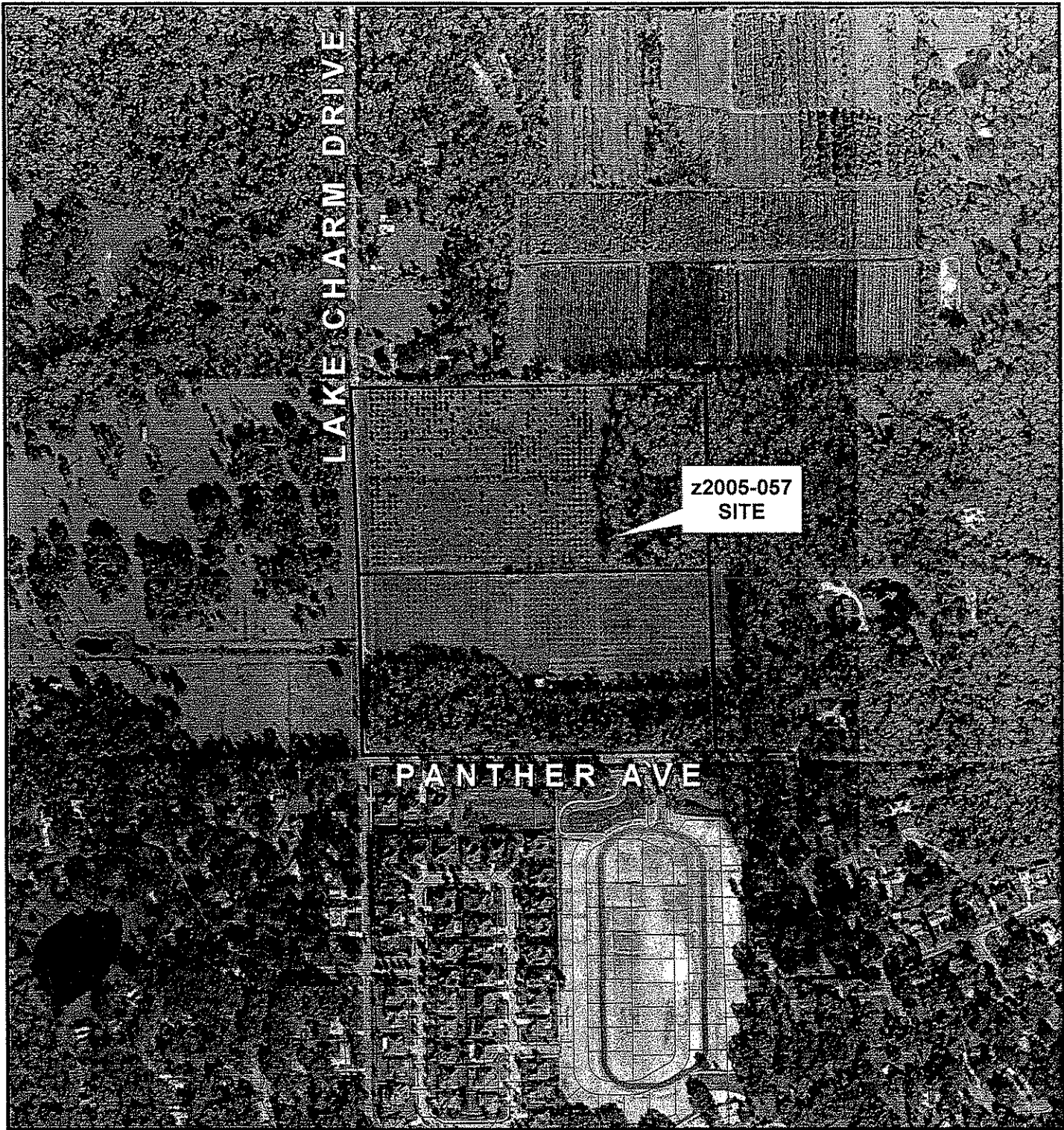
Site
 Municipality
 LDR
 R5
 SE
 CONS

Applicant: Brian Harris, Harris Construction Grp.
 Physical STR: 03-21-31-300-0120-0000 & 0130-0000
 Gross Acres: 36.01 +/- BCC District: 2
 Existing Use: Vacant
 Special Notes: None

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2005-057	A-1	R-1A



A-1
 A-5
 R-1A
 FP-1
 W-1



Rezone No: Z2005-057

From: A-1 To: R-1A

 Parcel

 Subject Property



January 2004 Color Aerials

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY; ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURAL DISTRICT) ZONING CLASSIFICATION THE R-1A (SINGLE-FAMILY DWELLING DISTRICT) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. LEGISLATIVE FINDINGS.

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled "Lake Charm Rezone".

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

Section 2. REZONINGS. The zoning classification assigned to the following described property is changed from A-1 (Agricultural District) to R-1A (Single-Family Dwelling District):

THE SOUTH ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ AND THE NORTH ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼; SECTION 3, TOWNSHIP 21 SOUTH, RANGE 31 EAST; LESS THE SOUTH 40 FEET FOR ROAD PURPOSES.

Section 3. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. EFFECTIVE DATE. A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective on the recording date of the Development Order # in the Official Land Records of Seminole County.

ENACTED this 28th day of FEBRUARY 2006.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Carlton D. Henley
Chairman

**MINUTES FOR THE SEMINOLE COUNTY
LAND PLANNING AGENCY/PLANNING & ZONING COMMISSION
JANUARY 11, 2006**

Members present: Rob Wolf, Beth Hattaway, Matt Brown, Ben Tucker, Dudley Bates, Walt Eismann, and Jason Brodeur.

Also present: Dan Matthys, Director of Planning & Development; Tony Walter, Planning Manager; Tom Radzai, Senior Engineer; Tyrone K. Smith, Senior Planner; Chris Schmidt, Senior Planner; Kim Laucella, Assistant County Attorney, and Candace Lindlaw-Hudson, Senior Staff Assistant.

D. Lake Charm Rezone; Brian Harris, Harris Construction Corporation, applicant. Rezone from A-1 (Agriculture District) to R-1A (Single Family Residential District); located on the northeast corner of Lake Charm Drive and Artesia Avenue. (Z2005-057)

Commissioner Morris – District 2
Chris Schmidt, Senior Planner

Chris Schmidt stated that the applicant is requesting to rezone 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District). Staff has determined that in this case, the requested higher-intensity zoning of R-1A would be compatible with surrounding uses based on the following factors: 1) Zoning and lot sizes to the west of the subject site are consistent with the requested zoning of R-1A; 2) Zoning and lot sizes to the northwest, north, and northeast of the subject site skews the compatibility analysis by awarding a base weight of only 2 points. Mr. Schmidt said that the trend in the area is consistent with R-1A zoning designation. The proposed number of lots and resulting net density serves as a transition between properties to the south and west to those to the north and east.

Staff recommends approval of a request to rezone approximately 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street; based on staff findings.

Commissioner Wolf asked about transitions planned for the northern part of the parcel.

Mr. Schmidt stated that such issues would be addressed at the site development stage.

Jean Abi-Aoun of the Florida Development Group stated that this project has 2 to 6 acres of wetlands. He is asking for a gross density of 1.67 per acre. The starting price of the houses would be around \$400,000.00.

Commissioner Wolf said that his calculations came out to be 2.654 units per net buildable acre. Oviedo does not approve of the density of the subdivision across the street called Lake Charm.

Tony Walter explained that the other subdivision had not been transmitted to the Department of Community Affairs for approval. An annexation agreement is still being worked out. This property will have varied lots.

Jim Logue spoke on behalf of the Black Hammock Association. He stated that this project will be annexed into the City of Oviedo. The water must come from the City of Oviedo. This rezoning process is wasting time.

Linda Smart said that she lives next door to the project on Lake Charm Drive. She opposed this due to its impact on area traffic.

Jean Abi-Aoun said that the City of Oviedo will not process anything until March 3, 2006. Construction on this project should start in May. He is planning 65 lots. This project is 23 lots less than the other neighborhood. The density is more like 1.68 units per acre. There will be a pond. He will work to make this an attractive development. The current project is flat. There is a vegetative buffer on the north end of the proposed project.

The public hearing was now closed.

Commissioner Brodeur stated that the traffic would be handled by final engineering, with the road being upgraded as required.

Dan Matthys stated that concurrency will handle the roads. There would be final handling of the roads at the time of final subdivision planning, depending on annexation.

Commissioner Hattaway asked if the County had heard from the City of Oviedo on this project.

Mr. Matthys said that the County had not heard from Oviedo.

Commissioner Hattaway asked if there would be another area school built, since Lawton Elementary School is at 105 % capacity now.

Mr. Matthys said that he did not know.

Commissioner Brown asked Mr. Matthys how he felt about annexing.

Mr. Matthys said that the County takes all applications. They are processed as if they were going to be developed within the County. There will be negotiations with the City of Oviedo. The applicant would have to answer as to why he chose to come to the County at this time.

Commissioner Brown said that there will be different processes with the City of Oviedo.

Commissioner Tucker stated that he has some real issues with the border projects and how they annex. The fight is with the City. We all know that this is contingent on the obtaining of sewer and water. The City has overturned our approved density in the past. A letter was sent to the City in December. No one has responded to us. We will not resolve this. The water and sewer will resolve this. Commissioner Tucker stated that he will be voting against the rezoning. They should not side-step concurrency. He is not opposed to single family development in this area.

Commissioner Wolf asked if this is built, would Seminole County assume the costs of paving from the north side of this project all the way down the road to Florida Avenue.

Commissioner Tucker said that was a good question, but for another time.

Commissioner Brown asked if any to the transitions are carried by those on the rural side. Is the City of Oviedo looking at that?

Tony Walter stated that 150 feet of buffer had been put in the other project across the street.

Commissioner Brown said this project should have something similar.

Commissioner Wolf made a motion to deny the request.

The motion died for lack of a second.

Commissioner Brown asked if was not fair to move the project on, in reference to the developer?

Commissioner Tucker said that it was fair to move it on. His objection was about the process.

Commissioner Brown made a motion to recommend approval of the application, with Staff comments.

Commissioner Eismann seconded the motion for the purpose of discussion.

Commissioner Wolf asked Mr. Abi-Aoun how he would address the transitional buffers on the urban-rural boundary.

Mr. Abi-Aoun said that he had no problem with putting in an average of 150 foot of buffer, similar to what is in the other subdivision to the west. A buffer with dense vegetation, and a well landscaped pond will go into this. Right now there is nothing but a band of trees.

Commissioner Wolf asked about the project being gated and having a playground and recreation area.

Mr. Abi-Aoun said that he has spoken to the City of Oviedo and he is aware of the commitments they want from the other subdivision to the west. The wetland area will be left alone. The playground will put in. This project is different from the one across the road, since it has room for buffers and transitions. He would commit to a minimum house size of 2,200 square feet.

Commissioner Hattaway asked why the developer needed this rezone approved by the County if he was going to the City of Oviedo in March?

Mr. Abi-Aoun said that the pre-annexation could begin in March. He could get his rezone from the County and have the infrastructure done, prior to getting approval from the City. The pre-annexation agreement will become binding.

Commissioner Eismann pointed out that County staff winds up doing all of the work under that process. This does not make any sense.

Commissioner Hattaway called for the vote.

The vote was 4 to 3 in opposition to the motion.

Commissioner Wolf made a motion to recommend denial of the request.

Commissioner Eismann seconded the motion.

Dan Matthys pointed out that the County does collect fees for this process.

Commissioner Brown wondered if the City of Oviedo would annex this property if it were vacant.

Mr. Matthys said that the JPA agreement with the City says that the City may annex the property if it is vacant land.

Commissioner Tucker asked what the waiting period for annexation would be if the County denied this application for the rezone.

Mr. Matthys said that he did not know of any waiting period if it were denied without prejudice; otherwise, there would be a waiting period of one year with the County.

Commissioner Brodeur said that the City can annex and the rezoning can progress.

Mr. Matthys said that if this is denied by the BCC, the property owner can go to the City and progress.

Commissioner Brown said that he felt this is hurting the property owner.

Commissioner Eismann pointed out that the applicant would pay new fees with the City of Oviedo.

Commissioner Brown pointed out that this denial would be against the property owner. He will not vote in favor of the motion.

Commissioner Tucker said that based on concurrency, the County has a right to deny based on density and the County's ability to supply sewer and water.

The vote was 6 – 1 in favor of the motion. The application was recommended for denial.

PLANNING AND DEVELOPMENT DEPARTMENT
PLANNING DIVISION



February 9, 2006

City of Oviedo
Planning Division
Development Services Department
400 Alexandria Boulevard
Oviedo FL 32765

Re: Lake Charm Landing Rezone located on the northeast corner of Lake Charm Drive and Panther Street (f.k.a. Artesia Avenue)

This is to advise you that at the Board of County Commissioners meeting for February 28, 2006, there is a request for a rezone at the northeast corner of Lake Charm Drive and Panther Street. The applicant is requesting to rezone 38.67 ± acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District). The Future Land Use designation of the subject site is LDR (Low Density Residential).

Attached you will find documentation regarding this request. If you have any further questions, please contact me at 407-665-7440.

Sincerely,

Chris Schmidt
Senior Planner

Attachment

Agenda memo
Staff report
Planning and Zoning Commission minutes