

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Tuskawilla Administrative Land Use Amendment, Small Scale Land Use Amendment from Low Density Residential (LDR) to Office (Seminole County Board of County Commissioners, applicant).

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

AUTHORIZED BY: Donald Fisher **CONTACT:** Jeff Hopper EXT. 7431

Agenda Date <u>3/11/03</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>	Public Hearing – 7:00 <input checked="" type="checkbox"/>		

MOTION/RECOMMENDATION:

1. Enact an ordinance to APPROVE the proposed Small Scale Land Use Amendment from Low Density Residential (LDR) to Office to permit office development on 2.56 acres at the northeast corner of Tuskawilla and Dike Roads, per the attached staff report (Seminole County Board of County Commissioners, applicant);
2. DENY the proposed Small Scale Land Use Amendment from Low Density Residential (LDR) to Office to permit office development on 2.56 acres at the northeast corner of Tuskawilla and Dike Roads (Seminole County Board of County Commissioners, applicant); or
3. Continue the item to a time and date certain.

District 1 – Maloy

Jeff Hopper, Senior Planner

BACKGROUND:

In November 2002, the Board of County Commissioners was advised of four small parcels of property (including one owned by the County) on the 6-lane portion of Tuskawilla Road, having a land use of LDR. Board discussion indicated that residential development may not be practical along this portion of Tuskawilla. The Board directed staff to bring forward a plan amendment proposal to change the land use designation to Office.

STAFF RECOMMENDATIONS:

Staff recommends approval of the proposed small scale land use amendment per the attached Staff Report.

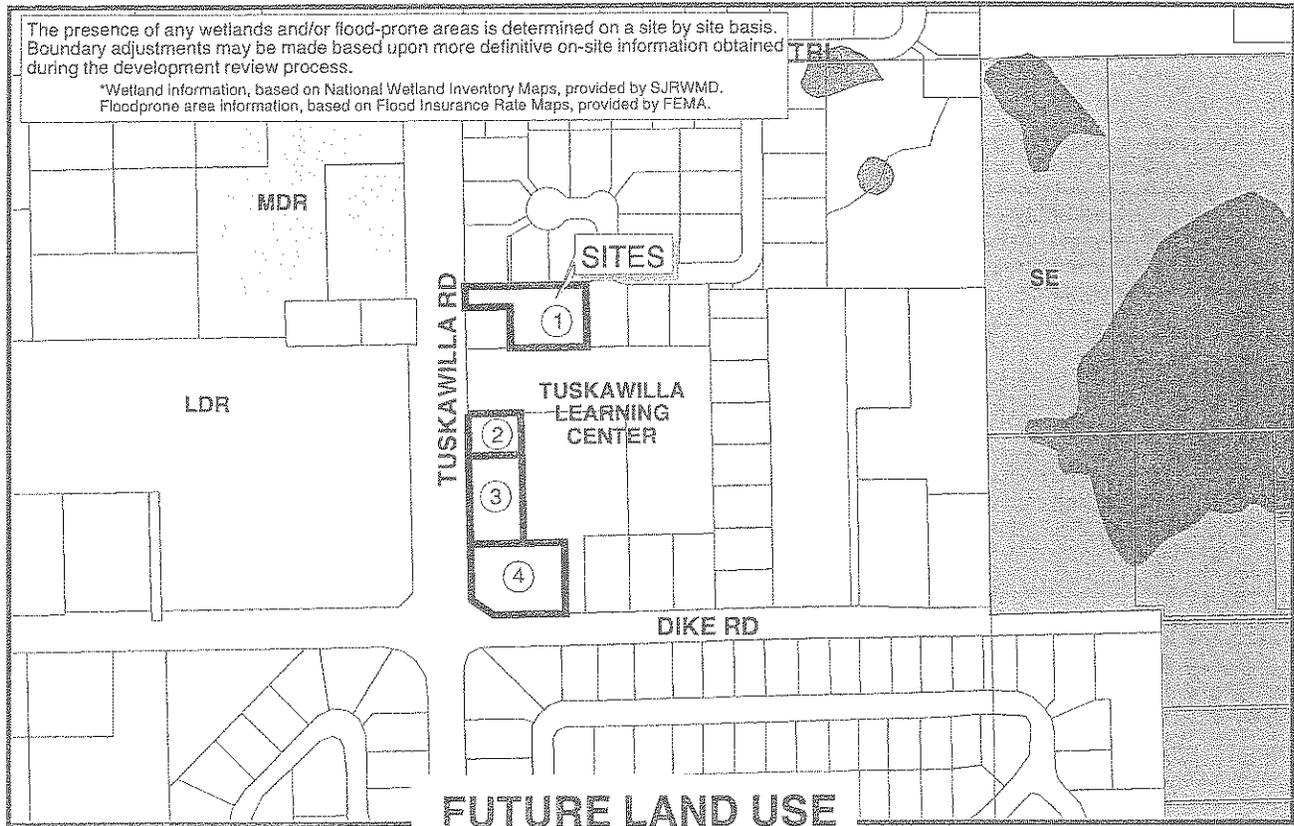
Reviewed by:	<u>SR</u>
Co Atty:	<u>SR</u>
DFS:	
OTHER:	<u>MW</u>
DCM:	<u>SS</u>
CM:	<u>KB</u>
File No.	<u>ph700pdp05</u>

PLANNING & ZONING COMMISSION RECOMMENDATIONS:

The Planning & Zoning Commission voted 6-1 to recommend DENIAL of the request.

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.
Flood-prone area information, based on Flood Insurance Rate Maps, provided by FEMA.



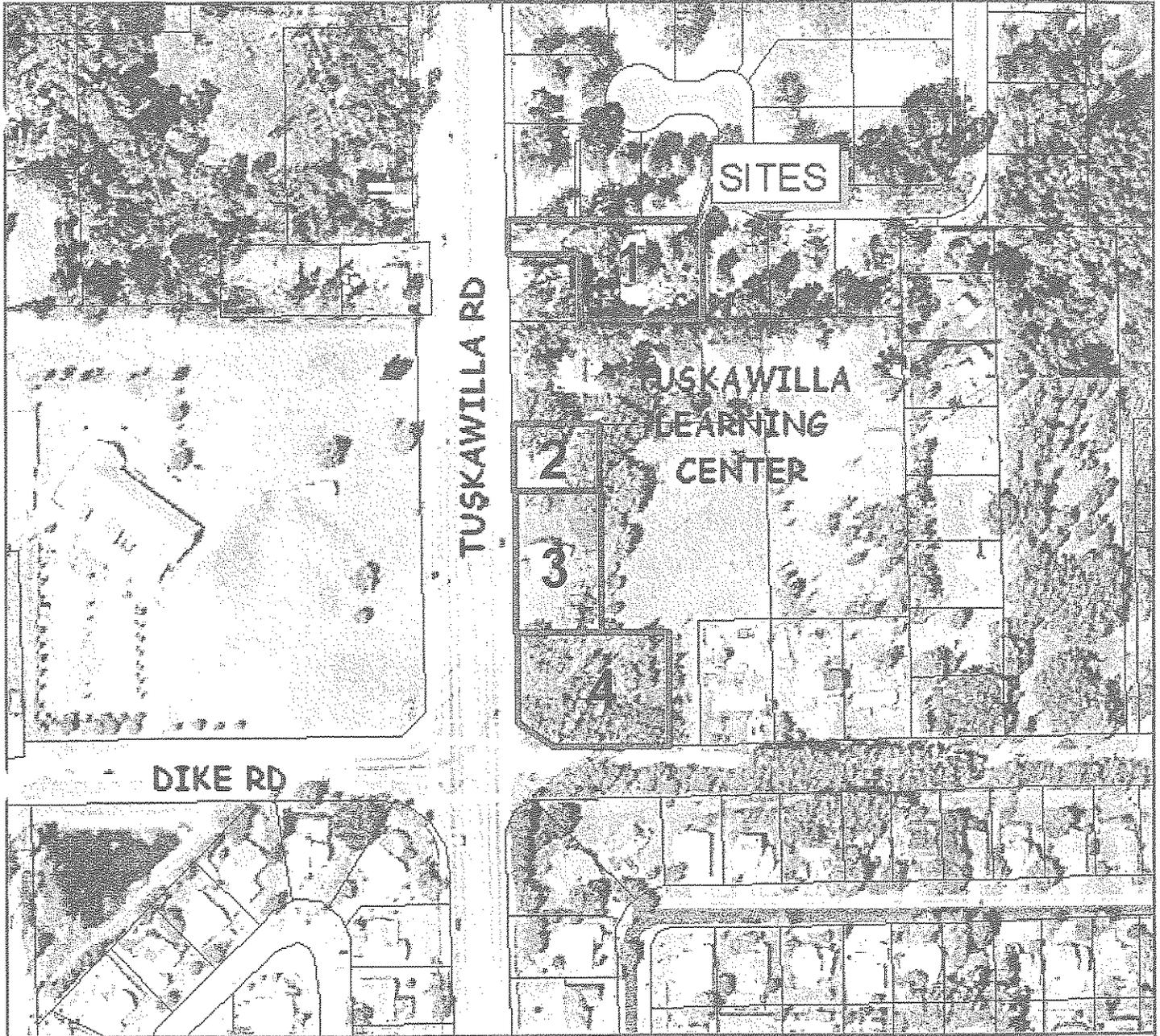
Site
 Municipality
 SE
 LDR
 CONS
 MDR

Applicant: Seminole County BCC
 Physical TRS: 25-21-30
 Gross Acres: 2.56 BCC Districts: 1
 Existing Use: Single Family Residential, Office, Vacant

	Amend/ Rezone#	From	To
FLU	01-03SS.02	LDR	OFF
Zoning	Z2003-002	--	--



A-1
 R-1A
 R-1AA
 R-1AAA
 PUD



Amendment No. 01-03SS.02
 From: LDR To: OFF

-  Subject Property
-  Parcelbase



February 1999 Color Aerials

Tuskawilla Adm. Land Use Amendment Staff Report

Low Density Residential (LDR) to Office

**Amendment
(Z2003-002
01-03SS.02)**

REQUEST

APPLICANT	Seminole County Board of County Commissioners
PLAN AMENDMENT	Low Density Residential (LDR) to Office
REZONING	NA
APPROXIMATE GROSS ACRES	2.56
LOCATION	Northeast corner of Tuskawilla Road and Dike Road
BCC DISTRICT	District 1 – Maloy

RECOMMENDATIONS AND ACTIONS

STAFF RECOMMENDATION	Recommend adoption of the Office future land use designation, as proposed, on subject properties adjacent to the east side of Tuskawilla Road, near the intersection of Dike Road.
PLANNING & ZONING COMMISSION RECOMMENDATION	On February 19, 2003 the Planning & Zoning Commission voted 7-0 to recommend DENIAL of the request.

STAFF ANALYSIS

Low Density Residential (LDR) to Office

**Amendment
(Z2003-002
01-03SS.02)**

1. Property Owners: Seminole County Board of County Commissioners
Aida C. Declet
Martine J. Priest
Geoffrey C. King

2. **Tax Parcel Numbers:** 25-21-30-300-006A-0000
 25-21-30-300-0050-0000
 25-21-30-300-0060-0000
 25-21-30-300-003B-0000

3. **Development Trends:** Development along this section of Tuskawilla Road is primarily low-density single family residential, with certain supporting nonresidential uses, such as churches and day care facilities, permitted by Special Exception. The designated future land use of most surrounding properties is LDR. However, Medium Density Residential was approved in November of 2002 on a 6.7 acre site near the subject property on the west side of Tuskawilla Road. Higher intensity commercial and residential uses in the vicinity of Red Bug Lake Road have been limited to areas north of Howell Creek.

SITE DESCRIPTION

1. **EXISTING AND PERMITTED USES:** The future land use designation of Low Density Residential, currently assigned to the subject properties, permits single family residential development at a maximum density of 4 dwelling units per acre. Existing A-1 zoning allows agricultural and related low-intensity uses. Two of the parcels are vacant, while the other two have existing single family homes.

Location	Future Land Use*	Zoning*	Existing Use
Site	Low Density Residential (LDR)	A-1	vacant, single family residential
North	Low Density Residential (LDR)	R-1AAA	single family residential
South	Low Density Residential (LDR)	A-1	single family residential
East	Low Density Residential (LDR)	A-1	vacant, single family residential
West	Low Density Residential (LDR), Medium Density Residential (MDR)	A-1 and PUD	church, single family residential, townhouses (approved)

• See enclosed future land use and zoning maps for more details.

COMPREHENSIVE PLAN CONSISTENCY

2. **PLAN PROGRAMS** - Plan policies address the continuance, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction. Each application for a land use designation amendment will include a description and evaluation of any Plan programs (such as the effect on the timing/financing of these programs) that will be affected by the amendment if approved.

Summary of Program Impacts: The proposed amendment does not alter the options or long-range strategies for facility improvements or capacity additions included in the Support Documentation to the Vision 2020 Plan. The amendment request would not be in conflict with the Metroplan Orlando Plan or the Florida Department of Transportation's 5-Year Plan (Transportation Policy 14.1).

A. **Traffic Circulation - Consistency with Future Land Use Element:** *In terms of all development proposals, the County shall impose a linkage between the Future Land Use Element and the Transportation Element and all land development activities shall be consistent with the adopted Future Land Use Element (Transportation Policy 2.1).*

Access to the subject property is via Tuskawilla Road, an Arterial road. The existing Level of Service (LOS) on this portion of Tuskawilla Road is "B", with an adopted LOS standard of "E".

B. **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service Area Maps:** *Figure 11.1 and Figure 14.1 are the water and sewer service area maps for Seminole County*

The subject property is within the Seminole County water and sewer service area. Water and sewer service are currently available to the site

C. **Public Safety – Adopted Level of Service:** *The County shall maintain adopted levels of service for fire protection and rescue...as an average response time of five minutes (Public Safety Policy 12.2.2).*

The property is served by the Seminole County EMS/Fire Station #27 (Red Bug Station). Response time to the site is less than 5 minutes, which meets the County's average response time standard of 5 minutes.

3. REGULATIONS - The policies of the Plan also contain general regulatory guidelines and requirements for managing growth and protecting the environment. These guidelines will be used to evaluate the overall consistency of the land use amendment with the Vision 2020 Plan, but are not applied in detail at this stage.

A. **Preliminary Development Orders: Capacity Determination:** *For preliminary development orders and for final development orders under which no development activity impacting public facilities may ensue, the capacity of Category I and Category III public facilities shall be determined as follows...No rights to obtain final development orders under which development activity impacting public facilities may ensue, or to obtain development permits, nor any other rights to develop the subject property shall be deemed to have been granted or implied by the County's approval of the development order without a determination having previously been made that the capacity of public facilities will be available in accordance with law (Implementation Policy 1.2.3).*

A review of the availability of public facilities to serve this property indicates that there would be adequate facilities to serve this area, and that the proposed Plan amendment would create no adverse impacts to public facilities.

B. Flood Plain and Wetlands Areas - Flood Plain Protection and Wetlands Protection: *The County shall implement the Conservation land use designation through the regulation of development consistent with the Flood Prone (FP-1) and Wetlands (W-1) Overlay Zoning classifications...(Policy FLU 1.2 and 1.3).*

The site contains less than 5% wetlands or flood prone areas, and can be developed within requirements of the Vision 2020 Plan and Land Development Code.

C. Protection of Endangered and Threatened Wildlife: *The County shall continue to require, as part of the Development Review Process, proposed development to coordinate those processes with all appropriate agencies and comply with the US Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission Rules as well as other applicable Federal and State Laws regarding protection of endangered and threatened wildlife prior to development approval (Conservation Policy 3.13).*

A threatened and endangered species report shall be required prior to final engineering approval for any proposed development on the subject property.

4. DEVELOPMENT POLICIES - Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the use, intensity, location, and timing of the proposed amendment.

A. Compatibility: When the County's Future Land Use Map (FLUM) was developed in 1987, land use compatibility issues were evaluated and ultimately defined through a community meeting/hearing process that involved substantial public comment and input. When amendments are proposed to the FLUM, however, staff makes an initial evaluation of compatibility, prior to public input and comment, based upon a set of professional standards that include, but are not limited to criteria such as: (a) long standing community development patterns; (b) previous policy direction from the Board of County Commissioners; (c) other planning principles articulated in the Vision 2020 Plan (e.g., appropriate transitioning of land uses, protection of neighborhoods, protection of the environment, protection of private property rights, no creation of new strip commercial developments through plan amendments, etc.).

Based upon an initial evaluation of compatibility, the proposed Office land use would be consistent with Plan policies identified at this time and therefore is consistent with the Vision 2020 Plan.

Applicable Plan policies include, but are not limited to, the following:

Transitional Land Uses: *The County shall evaluate plan amendments to insure that transitional land uses are provided as a buffer between residential and non-residential uses, between varying intensities of residential uses, and in managing the redevelopment of areas no longer appropriate as viable residential areas. "Exhibit FLU: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

“Exhibit FLU: Appropriate Transitional Land Uses” indicates that Office use is an appropriate transitional use adjacent to Low Density Residential (LDR) with sensitive site design elements such as sufficient buffers, limited building heights, architectural controls, and limited hours of operation. These issues can be addressed at the time of development through site plan review required in conjunction with the OP and RP zoning classifications.

Other applicable plan policies include:

FLU 2.1 Subdivision Standards.

FLU 2.2: Regulation of Active Uses.

FLU 5.5: Water and Sewer Service Expansion

Office Future Land Use Definition

B. Concurrency Review - Application to New Development: *For purposes of approving new development subsequent to adoption of this Comprehensive Plan, all adopted public facilities level of service standards and schedules of capital improvements...shall be applied and evaluated...consistent with policies of the Implementation Element... (Capital Improvements Policy 3.2).*

This policy provides for the adoption of level of service (LOS) standards for public facilities and requires that final development orders be issued only if public facilities meeting the adopted LOS are available or will be available concurrent with the development. Additionally, preliminary development orders shall only be issued with the condition that no rights to obtain final development orders or development permits, nor any other rights to develop the subject property are granted or implied by the County’s approval of the preliminary development order.

AN ORDINANCE AMENDING THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF A SMALL SCALE DEVELOPMENT AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTIES FROM LOW DENSITY RESIDENTIAL TO OFFICE; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM THE SEMINOLE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County enacted Ordinance Number 2001-21 which adopted the Vision 2020 Seminole County Comprehensive Plan ("the Plan"); and

WHEREAS, the Board of County Commissioners has followed the procedures set forth in Sections 163.3184 and 163.3187, Florida Statutes, in order to further amend certain provisions of the Plan as set forth herein relating to a Small Scale Development Amendment; and

WHEREAS, the Board of County Commissioners has substantially complied with the procedures set forth in the Implementation Element of the Plan regarding public participation; and

WHEREAS, the Seminole County Land Planning Agency held a Public Hearing, with all required public notice, on February 19, 2003, for the purpose of providing recommendations to the Board of County Commissioners with regard to the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners held a Public Hearing on March 11, 2003, with all required public notice for the purpose of hearing and considering the recommendations and comments of the general public, the Land Planning Agency, other public agencies, and other jurisdictions prior to final action on the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners hereby finds that the Plan, as amended by this Ordinance, is internally consistent, is consistent and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, the State Comprehensive Plan, and the Strategic Regional Policy Plan of the East Central Florida Regional Planning Council, based upon the "Tuskawilla Administrative Land Use Amendment Staff Report".

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

Section 1. RECITALS/LEGISLATIVE FINDINGS:

- (a) The above recitals are true and correct in form and include legislative findings which are a material part of this Ordinance.
- (b) The Board of County Commissioners 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. AMENDMENT TO COUNTY COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:

The Future Land Use Element's Future Land Use Map as set forth in Ordinance Number 2001-21, as previously amended, is hereby further amended by amending the

future land use designation assigned to the property which is depicted on the Future Land Use Map and further described below:

LEGAL DESCRIPTION ATTACHED AS APPENDIX "A"

<u>Amendment Number</u>	<u>Amendment</u>
01-03SS.02	Amendment from Low Density Residential to Office

Section 3. SEVERABILITY:

If any provision of this Ordinance or the application 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. EXCLUSION FROM COUNTY CODE/CODIFICATION:

(a) It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall not be codified into the Seminole County Code, but that the Code Codifier shall have liberal authority to codify this Ordinance as a separate document or as part of the Land Development Code of Seminole County in accordance with prior directions given to said Code Codifier.

(b) The Code Codifier is hereby granted broad and liberal authority to codify and edit the provisions of the Seminole County Comprehensive Plan, as amended.

Section 5. EFFECTIVE DATE:

(a) 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 and 163.3187, Florida Statutes.

This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however, that the effective date of the Plan amendment set forth herein shall be thirty-one (31) days after the date of enactment by the Board of County Commissioners or, if challenged within thirty (30) days of enactment, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendment is in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent on an amendment may be issued or commence before an amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, the affected amendment may nevertheless be made effective by the Board of County Commissioners adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

ENACTED this 11th day of March, 2003.

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain,
Chairman

EXHIBIT A

LEGAL DESCRIPTION:

LEG SEC 25 TWP 21S RGE 30E N 170 FT OF S 190 FT OF E 275 FT OF W 300 FT OF NE 1/4 OF NE 1/4 (LESS RDS)

LEG SEC 25 TWP 21S RGE 30E S 210 FT OF N 465 FT OF W 210 FT OF SW 1/4 OF NE 1/4 OF NE 1/4 (LESS RD)

LEG SEC 25 TWP 21S RGE 30E S 105 FT OF N 255 FT OF W 210 FT OF SW 1/4 OF NE 1/4 OF NE 1/4 (LESS RD)

SEC 25 TWP 21S RGE 30E BEG 515 FT S OF NW COR OF NE 1/4 OF NE 1/4 RUN S 45 FT E 185 FT S 100 FT E 173 FT N 145 FT W TO BEG

**Minutes for the Seminole County
LPA/P&Z Board
September 19, 2003**

Members present: Alan Peltz, Dick Harris, Chris Dorworth, Thomas Mahoney, Ben Tucker, Beth Hattaway, and Dudley Bates

Also present: Matt West, Planning Manager, Mahmoud Najda, Development Review Manager, Kent Cichon, Financial Manager, Jeff Hopper, Senior Planner, Rob Walsh, Principal Coordinator, Cynthia Sweet, Planner, and Candace Lindlaw-Hudson, Sr. Staff Assistant.

E. Tuskawilla Administrative Land Use Amendment; Seminole County B.C.C., applicant; 2.56 acres; Small Scale Land Use Amendment from Low Density Residential (LDR) to Office; northeast corner of Tuskawilla Road and Dike Road. (01-03SS.02, Z2003-002).

Commissioner Maloy – District 1

Jeff Hopper, Senior Planner

Jeff Hopper stated that a November, 2002 BCC recommendation brings this forth. The Vision 2020 Comprehensive Plan suggests this use is compatible. Changes do not necessarily authorize development. They must first be rezoned and undergo site plan approval. Mr. Hopper said that staff recommendation was for approval.

George Yeh stated that this is incompatible with the area and asked for denial.

Patrick Bagley of 4528 Old Carriage Trail, spoke as President of the Stonehurst Homeowners Association. . Any change in use will impact our neighborhood. A natural boundary south of Howell Creek to Aloma exists. Only Churches and schools are there. This change indicates that they cannot be single family homes. These plots should continue to be single family homes. The Stonehurst development was required to have separation at the entrances. The area south of Howell Creek should be kept as single family residential.

Cliff Chelemy of 4565 Old Carriage Trail stated that he bought his house because of the potential development of the area south of Howell Creek. Recent developments are high end projects such as Stonehurst and Antiqua. He asked to keep the area the way it is now: single family homes.

Tom Phelps, owner of the Tuskawilla Learning Center stated that he was opposed to this. Lot 1 does not meet code requirements. 100 feet of road frontage is required, and this lot has 45 feet of frontage. Lot 2 does not meet minimum lot size and has a home on it. Lot 3 has a problem since the water retention requirements cannot be met. There is flooding in the area, with no room for retention from water off of the parking lots. Mark Flomerfield from the

County said that Lot 4 may be needed for water retention. Water, arbor, and setbacks are all problems.

Nadine Jackson of 1164 Cardinal Creek Place was also opposed. She stated that the BCC had said in 2001 that Howell Creek to the south will be single family residential. She asked that the neighborhood be kept single family residential.

Don Nicely of Stonehurst on site sales said that Howell Creek is a dividing line. This is not a commercial area. The County has set a land use requirement. The development of Stonehurst requires that the character of the neighborhood be kept. Developers want to keep the character of the area residential.

Ben Esposito of 4561 Old Carriage Trail stated that his house is his biggest investment. He would like to see LDR or MDR uses here.

Matt West stated that the Madison Place townhome development is MDR zoning and there is a vet clinic to the north. As for Lot 1, there is no 100 foot street frontage. Lot 2 could be RP zoning. In the Comprehensive Plan table of transitional uses such a use is deemed compatible. The BCC saw that these lots have access to a major arterial street. A low intensity professional use is compatible. Property owners have been contacted and agreed.

The public hearing was now closed.

Commissioner Mahoney stated that this item would make sense if a line were drawn at 2, 3, and 4. He cannot support the item as presented.

Commissioner Mahoney made a motion to deny the application as written. Commissioner Peltz seconded the motion to deny.

In discussion, Commissioner Mahoney stated that he could support the item if it included lots 2, 3, and 4 sitting opposite the church. He will vote "no." Commissioner Peltz stated that he will vote "no." The area needs to remain the same. Keep all lots as they are.

Commissioner Hattaway stated that she was also against this. All lots should be kept the same.

Commissioner Harris stated that in the past apartment buildings on the west side of Howell Creek were voted down because commercial and non-residential stopped at Howell Creek. He is not in favor of this request.

The vote was 7 – 0 to deny the request.