

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** RUSTLING OAKS Rezone from A-1 to R-1AA

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

**AUTHORIZED BY:** Dan Matthys **CONTACT:** Mike Rumer **EXT.** 7431

<b>Agenda Date</b> <u>03/28/06</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/> <b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>
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**MOTION/RECOMMENDATION:**

1. APPROVE the request and enact an ordinance to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling District), located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road, based on staff findings, (Jim Bishop, applicant); or
2. DENY the request to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling District), located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road, based on staff findings, (Jim Bishop, applicant); or
3. CONTINUE the item to a time and date certain.

District 1 – Commissioner Dallari Mike Rumer, Senior Planner

**BACKGROUND:**

The applicant is requesting to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (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 11,700 square feet and lot width of 90 feet.

<b>Reviewed by:</b> <b>Co Atty:</b> <u>DM</u> <b>DFS:</b> _____ <b>OTHER:</b> _____ <b>DCM:</b> _____ <b>CM:</b> _____  <b>File #</b> <u>ph130pdp01</u>
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The Future Land Use designation of the subject site is LDR (Low Density Residential), which is consistent with the requested district. Under the LDR Future Land Use designation, the property may develop with a maximum of 4 dwelling units per net buildable acre. Under the requested R-1AA zoning, the property may develop with a maximum of 3.7 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 analysis supports rezoning to R-1AA.

**STAFF FINDING:**

The applicant is proposing R-1AA zoning on approximately 10.25 acres, located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road. The requested zoning classification would permit single family development on lots having a minimum of 11,700 square feet in size and 90 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-1AA for a maximum of 3.7 units per net buildable acre.

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 6.74, which corresponds to R-1AA.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

On February 1, 2006, the Planning and Zoning Commission voted (6-1) to recommend DENIAL of a request to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling District), located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of a request to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling District), located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road, based on staff findings.

**Attachments:**

Staff Analysis  
Location Map  
FLU/Zoning Map  
Aerial Photo  
Ordinance  
LPA/P&Z February Meeting Minutes  
February 23, 1988 Meeting Minutes  
July 11, 1995 Meeting Minutes

# Rustling Oaks Rezone / Z2005-072

## Rezone from A-1 to R-1AA

<b>APPLICANT</b>	Jim Bishop	
<b>PROPERTY OWNER</b>	Carrington & Pat Aylor	
<b>REQUEST</b>	Rezone from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling)	
<b>PROPERTY SIZE</b>	10.25 ± acres	
<b>HEARING DATE (S)</b>	P&Z: February 1, 2006	BCC: March 28, 2006
<b>PARCEL ID</b>	32-21-31-300-019A-0000	
<b>LOCATION</b>	North side of West McCulloch Road, 950 feet west of Iron Bridge Road	
<b>FUTURE LAND USE</b>	LDR (Low Density Residential)	
<b>ZONING</b>	A-1 (Agriculture District)	
<b>FILE NUMBER</b>	Z2005-072	
<b>COMMISSION DISTRICT</b>	#1 – Dallari	

### Proposed Development:

The applicant is proposing to develop a 25 lot single-family residential community on 10.25 ± acres.

### ANALYSIS OVERVIEW:

#### HISTORICAL ANALYSIS

Previous requests for rezoning have been denied and granted in the immediate area. On February 23, 1988, a request to rezone 25 acres west of the subject parcel from A-1 to R-1A was denied by the Board of County Commissioners. Staff recommended denial of the R-1A zoning request, however they had no opposition to a request for R-1AA zoning. The minutes from this meeting are attached. Conversely, on July 11, 1995; 20.52 acres to the east of the subject parcel were rezoned from A-1 to R-1AA for a 40 lot subdivision platted as Cardinal Glen. The staff findings for approval presented to the Board at that meeting were as follows (see attached minutes):

1. The request is in compliance with the provisions of the Seminole County Comprehensive Plan and the Seminole County Land Development Code; furthermore, a more restrictive zoning classification is not necessary to protect the health, safety and welfare of the general public;
2. R-1AA zoning would be compatible with the surrounding development;
3. The request is considered in the 20 year services analysis as part of the County's adopted plan, and no development is authorized without meeting concurrency requirements;
4. The request would be able to meet all environmental standards.

## ZONING REQUEST

The applicant, Jim Bishop, is requesting to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling). The subject property is located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road. 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-1AA (Single-Family Dwelling):

<b>DISTRICT REGULATIONS</b>	<b>Existing Zoning (A-1)</b>	<b>Proposed Zoning (R-1AA)</b>
Minimum Lot Size	43,560 square feet	11,700 square feet
Minimum House Size	N/A	1,300 square feet
Minimum Width at Building Line	150 feet	90 feet
Front Yard Setback	50 feet	25 feet
Side Yard Setback	10 feet	10 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
A-1 (existing)	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.	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.	1 acre

Zoning District	Permitted Uses	Special Exception	Minimum Lot Size
R-1AA (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.	11,700 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)			
	<b>LDR</b> Single-Family <i>A-1</i> <i>(Vacant)</i> <i>6.4 acres</i>	<b>LDR</b> Single-Family <i>A-1</i> <i>Vacant</i> <i>6.4 acres</i>	<b>LDR</b> Single-Family <i>A-1</i> <i>Vacant</i> <i>10.3 acres</i>	
(West)	<b>LDR</b> Single-Family <i>A-1</i> <i>10.0 acres</i> <i>2,200 sq. ft. house</i>	<b>LDR</b> Single-Family <i>A-1</i> <i>Vacant</i>	<b>LDR</b> Single-Family <i>A-1</i> <i>2.4 acres</i> <i>2,200 sq. ft. house</i>	(East)
	<b>ORANGE COUNTY</b> LDR <i>A-2</i> <i>(21,780 sq. ft. lots)</i>	<b>ORANGE COUNTY</b> LDR <i>A-2</i> <i>(21,780 sq. ft. lots)</i>	<b>ORANGE COUNTY</b> LDR <i>A-2</i> <i>(21,780 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 #590 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, there appears to be no wetlands on the subject site.

*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:

<b>Public Facility</b>	<b>Existing Zoning (A-1)</b>	<b>Proposed Development*</b>	<b>Net Impact</b>
Water (GPD)	3,500	10,850	7,350
Sewer (GPD)	3,000	9,300	6,300
Traffic (ADT)	96	297	201
Schools			
Elementary	2	8	6
Middle	1	4	3
High	1	4	3

\* The Proposed Development is calculated on 20% of the property being dedicated for roads and retention and the proposed lot sizes of 11,700 square feet, for a total yield of 31 lots.

*Utilities:*

The site is located in the service area of Seminole County and will be required to connect to public utilities. However water capacity for new development is limited in the Southeast Service Area. Capacity availability for this project will be determined during the Concurrency process. There is a 12-inch water main and a 6-inch force main on the north side of McCulloch Road. Prior to final engineering plan approval and signing of the FDEP permit applications, capacity must be reserved. To reserve capacity, the applicant will need to submit capacity calculations, execute agreements and pay connection fees.

*Transportation / Traffic:*

The property is adjacent to West McCulloch Road, which is classified as a local road. West McCulloch Road is not currently programmed to be improved according to the County 5-year Capital Improvement Program. A 5' sidewalk is required along property frontage on McCulloch Road.



*School Impacts:*

Based on the formulas provided by the Seminole County School District, the proposed zoning change will generate approximately 20 school age children. This subject site is currently zoned for, and will affect, the following schools:

<b>Schools Impacted</b>	<b>Proposed Impact</b>	<b>Current Capacity</b>	<b>05/06 Enrollment</b>	<b>Percent Capacity</b>
Evans Elementary	8	863	952	90.7%
Tuskawilla Middle	4	1154	1420	73.1%
Lake Howell High	4	2249	2363	90.4%

*Public Safety:*

The nearest response unit to the subject property is Station # 65, which is located at 4999 North Orion Boulevard (a joint effort between Orange and Seminole Counties). Based on a response time of 2 minutes per mile, the estimated response time to the subject property is 4.6 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 Little Econlockhatchee Drainage Basin. Peak discharge rates for surface water management systems shall not exceed the pre-development peak discharge rate for the mean annual storm event (twenty-four (24) hour duration, two and three tenths (2.3) year return period, four and four tenths (4.4) inches of rainfall) and the twenty-five (25) year storm event (twenty-four (24) hour duration, eight and six tenths (8.6) inches of rainfall).

*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 open space.

**APPLICABLE POLICIES:**

**FISCAL IMPACT ANALYSIS**

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

**SPECIAL DISTRICTS**

The subject property is located within the Econlockhatchee River Protection Overlay; Econlockhatchee River Protection standards such as the following apply:

- 1) A survey of those species designated as an endangered species, a threatened species or a species of special concern pursuant to, Rules 39-27.003, 39-27.004

and 39-27.005, Florida Administrative Code, shall be required as part of all development applications where there is a reasonable expectation.

- 2) Where landscaping requirements and conditions are otherwise required as part of a development approval, the development design shall include the use of native plant species and shall minimize removal of vegetation to the greatest extent practical as determined by the County in order to insure that wildlife habitats will be preserved and maintained and to cause landscaped areas to blend into nearby and abutting natural areas.
- 3) Sufficient separation, as determined by the County, shall be provided between stormwater management structures and conservation areas.
- 4) Surface waters shall be managed to encourage the thriving of native vegetation where the vegetation does not impede water flow in the County's primary drainage system or otherwise cause any other adverse condition as determined by the County.
- 5) Wet detention treatment systems, as defined and provided for in Chapter 40C-42, Florida Administrative Code, and the St. Johns River Water Management District's Applicant's Handbook shall be required for those areas where dry retention/detention is not possible, as determined by the County, due to limited percolation capacity.
- 6) Upland buffers from property which is assigned the conservation land use designation pursuant to the Seminole County Comprehensive Plan or the FP-1 or W-1 zoning classification pursuant to the Land Development Code of Seminole County or which has been designated a conservation area, conservation easement or similar property which averages fifty (50) feet in width with a minimum of twenty-five (25) feet in width shall be provided.
- 7) Peak discharge rates for surface water management systems shall not exceed the pre-development peak discharge rate for the mean annual storm event (twenty-four (24) hour duration, two and three tenths (2.3) year return period, four and four tenths (4.4) inches of rainfall) and the twenty-five (25) year storm event (twenty-four (24) hour duration, eight and six tenths (8.6) inches of rainfall).
- 8) All proposed development within two thousand (2,000) feet of the stream's edge of the Big Econlockhatchee River and its tributaries shall submit, as part of the development application information, a statement from the Florida Division of Historical Resources of the Florida Department of State or qualified archaeological consultant describing the potential for any archaeological or historical resources to occur on the project site.
- 9) Rare upland habitats shall be preserved in order to maintain the essential characteristics and viability of the rare habitats. When determined to be feasible by the County, property which contains rare upland habitats should be connected to other communities through preservation of land as mitigation for wetland impacts which are authorized by law.

## **COMPREHENSIVE PLAN (VISION 2020)**

The following policies are applicable with the proposed project:

### **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 January 11, 2006. To date, no comments have been received.

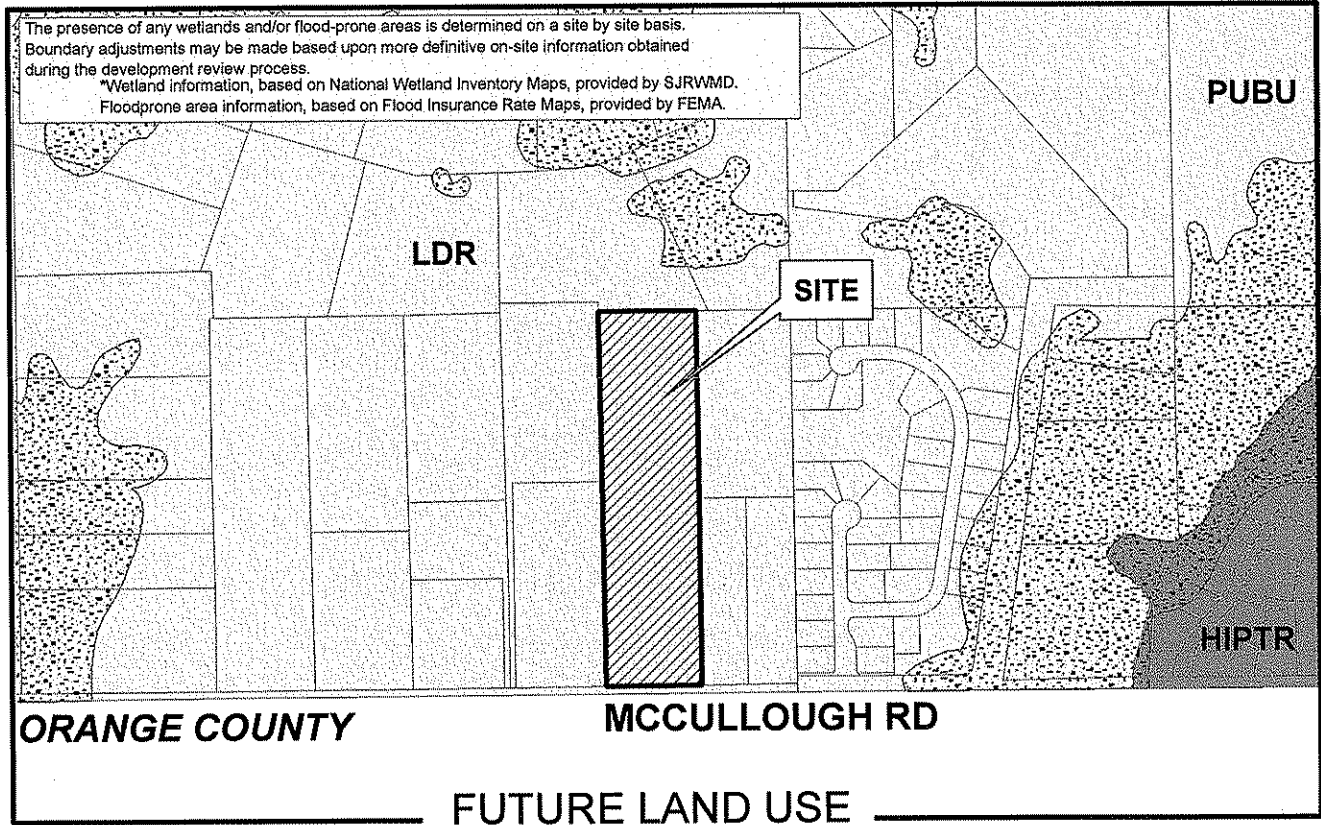
**LETTERS OF SUPPORT OR OPPOSITION:**

At this time, Staff has received no letters of support or opposition.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the request to rezone approximately 10.25 acres from A-1 (Agriculture District) to R-1AA (Single-Family Dwelling District), located on the north side of West McCulloch Road, 950 feet west of Iron Bridge Road.

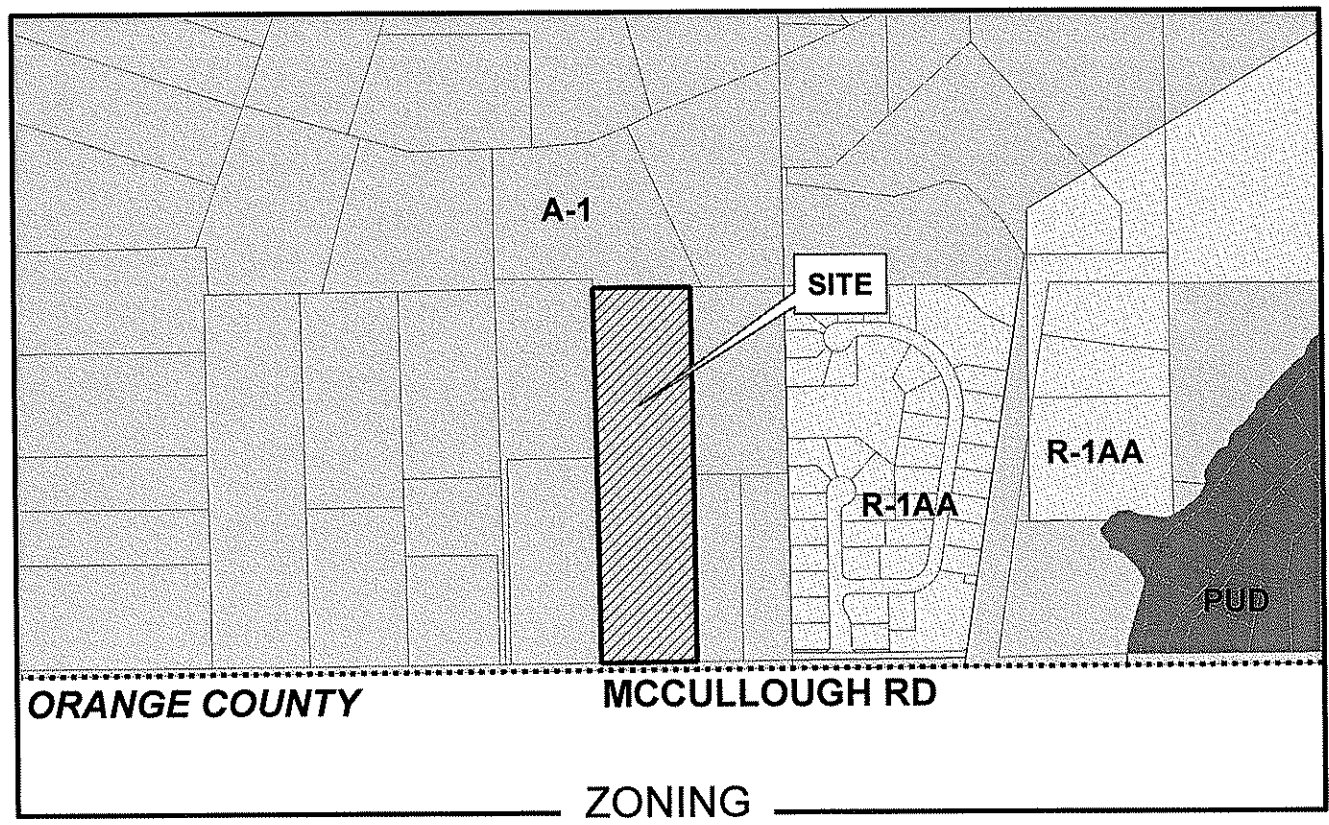




Site
  Municipality
  LDR
  PUBU
  HIPTR
  CONS

Applicant: Jim Bishop  
 Physical STR: 32-21-31-300-019A-0000  
 Gross Acres: 10.25 BCC District: 1  
 Existing Use: mobile.home/manufactured  
 Special Notes: None



	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2005-072	A-1	R-1AA



A-1
  R-1AA
  PUD
  FP-1
  W-1



Rezone No: Z2005-072  
From: A-1 To: R-1AA

-  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-1AA (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 "Rustling Oaks 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-1AA (Single-Family Dwelling District):

The W 1/2 of the E 1/2 of the SE ¼ of the SE ¼ Section 32 Twp 21 South Rge 31 E Seminole County, Fla.

**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 MARCH 2006.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Carlton D. Henley  
Chairman



**MINUTES FOR THE SEMINOLE COUNTY LAND PLANNING AGENCY /  
PLANNING AND ZONING COMMISSION  
FEBRUARY 1, 2006**

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

**Member absent:** Rob Wolf

**Also present:** Tony Walter, Planning Manager; Dan Matthys, Director of Planning and Development; Kim Laucella, Assistant County Attorney; Cynthia Sweet, Planner; Chris Schmidt, Senior Planner; Tom Radzai, Senior Engineer, Development Review; and Candace Lindlaw – Hudson, Senior Staff Assistant.

**D. Rustling Oaks; Jim Bishop, applicant;** approximately 10 acres; Rezone from A-1 (Agriculture District) to R-1AA (Single Family Residential District) for a Single Family Subdivision; located on the north side of W. McCulloch Road; approximately 950 feet west of Iron Bridge Road. (Z2005-072)

Commissioner Dallari - District 1

Chris Schmidt, Senior Planner

Chris Schmidt stated that the future land use designation for the subject property is LDR (Low Density Residential) and the applicant is proposing a 25 lot single-family subdivision with lot sizes of 11,700 square feet. A lot compatibility analysis yielded a determination of R-1AA zoning. Staff recommendation is for approval of the request.

Thomas Skelton of American Civil Engineering was present on behalf of the applicant to answer questions.

Commissioner Tucker asked if the applicant had met with area homeowners.

Mr. Skelton said that he had not.

Michael Dugre stated that he was in opposition to the request.

Phillip Z. Fretwell spoke about the rural country atmosphere of the neighborhood. This project would increase the density too much. He had a petition signed by over 50 people in opposition to the project. There were environmental concerns with the development of the land. There are many farm animals in the area. Adding 250 car trips per day to the local road is a concern. Mr. Fretwell lives on 5 acres immediately adjacent to the site of the application. His home is worth \$1.5 million. Many houses in the area are worth in excess of \$800 thousand. These homes would pull down property values in the area. That is unfair to the citizens of the neighborhood. There was a previous application in 1988 which was denied. Quality of life in the area was a major

consideration for that application's denial. The Aylor's and the Carrington's were opposed to the rezoning at that time on the basis of the potential changes of the rural county life style. Mr. Fretwell was also concerned about the drainage in the area. Safety with the farm animals and farm equipment were also mentioned. Mr. Fretwell then played a short video showing the rural country lifestyle his property and that of the general area. Farm animals and fields were shown adjacent to the subject property.

Mike DuGre said that he lived close to the property and was objecting to the request. He presented a map of the area which had different color spots on various parcels. The orange dots represented property owners who object to the rezoning. The pink dots were owners who could not be contacted in time for the meeting. All owners contacted were opposed to the request. Mr. DuGre said that he had concerns with increasing density and increased vandalism. He would like to see the density be what it is in the area now. There are many pedestrians in the area, particularly on Rocking Horse Road. Increased auto traffic would present a major safety issue. He submitted a list of property owners of more than 200 acres in the areas. There are no homes on less than 2.5 acres, with most on 5 and 10 acre tracts in the neighborhood.

Vernon Schmid said that most of the land in the area was in the Jenkins Land Trust. There was a denial on a rezone in the area previously. Fox Chase had to go with R-1AAA zoning. This request is not consistent with the neighborhood. Cardinal Glen and River Walk are opposed to this proposal. Mr. Schmid discussed the packet that was given to the commissioners concerning the past rezoning denial. At that time Harry Hagel and Commissioner Strom were in strong opposition to the request. Commissioner Kerchel said that the 1988 request was the equivalent of spot zoning.

Henry Fitzgibbon said that drainage is a problem in the area, due to the fact that several homes stand on a knoll. The subject property is low. The rezoning request on this property has caused Mr. Fitzgibbon to lose the sale of his property. That was not fair.

Elaine Addington said that she has been an area resident of the area for many years. R-1AA zoning will not be compatible with the area. People come to the neighborhood to see the animals and natural environment. Jogging and bike riding would be dangerous if this rezone takes place. There are no sidewalks here. The property is appropriately a small horse farm now. Please keep it that way. Please protect the environment and our way of life.

Patricia Zeh lives immediately adjacent to the site of the request. She showed pictures of the adjacent properties with barns and homes in the area. The properties are 2.5 to 10 acres.

Peter Patenaude said that he moved to the area because of the country atmosphere. He lives on a 10 acre parcel. Values in the area for homes range from \$600 thousand to \$2 million. This rezoning will diminish property values and endanger wildlife in the area. Only the property owner and the developer will benefit from this rezone. The 1988 decision to deny the rezoning was correct then and is still right.

Len Zamonis was also opposed. The current owner of the property is not here tonight because he must be ashamed of what he is doing. Mr. Carrington has owned this property for years. He will benefit from the sale of the property no matter what he sells it for. This property is right in the middle of an area of less density. Please deny this.

Beth Brunner said that there is only one road into and out of the area. This area is a jewel which is unique and should be preserved as a special environment that benefits both Seminole and Orange Counties.

Clyde Shaffer lives in Cardinal Glen. He represents the residents and presented a petition on behalf of all of the homeowners in his neighborhood. The entire association is opposed. This will start a dangerous precedent.

Thomas Patenaude is the current owner of the property which was the site of the failed rezoning request back in 1988. He is very happy to own the 10 acre parcel. The community has a farm atmosphere. There has been an incident of a child who was not familiar with farms being bitten by a horse. We want to preserve the rural atmosphere.

Mr. Skelton said that growth is coming here. The homes will be 2.5 units per acre. People are leaving here and going to Ocala to buy land. 2.5 units per acre is not a big impact. It is only doubling what is allowed now. There will be 1/3 acre lots. The future land use change was done after staff recommending R-1AA zoning. Drainage will have to meet all of the county criteria of St John's River Water Management District and Seminole County.

The public hearing was now closed.

Commissioner Brodeur asked the builder what the average square footage and average value would be.

Phillip Bressler said that the average square footage will be over 3,000 square feet and be priced starting around \$600,000. He showed pictures of the elevations of typical houses.

Commissioner Hattaway asked if Mr. Carrington was living on the subject property in a mobile home that was unpermitted. Why wouldn't people object to the trailer?

Mr. Schmid stated that the mobile home special exception was about to expire after 10 years. It had not been opposed when it was granted in the past. You cannot see the trailer from the road. Time is up for it.

Commissioner Hattaway asked staff if there was any information on the trailer.

Dan Matthys said that he did not have any information. The Board of Adjustment used to do 10 year approvals.

Commissioner Tucker stated that he was on the Board of Adjustment at that time and that the board rarely did approvals for more than 10 years at that time.

Commissioner Hattaway asked if this is the only piece of vacant land here.

Mr. Schmid said that there are more vacant lots, all of which are 5 and 10 acre parcels. Many are deed restricted to lot size.

Wendy Tricano lives on Rocking Horse Road. She said that Mr. Carrington's home was a manufactured home. It looks like a house. There is one vacant wooded land parcel near Mr. Aylor's land. That is the only one.

Commissioner Tucker asked about the map with the colored lines on it.

Tony Walter said that this was an old map which showed possible routes of realignment of roads over to Dean Road. There was a road called Oak Road. The red line was an alternate road to connect to McCullough.

Commissioner Brodeur asked about the advantage of deferring concurrency review. The applicant has done this.

Commissioner Tucker said that when concurrency is done, water, road, school and sewer impacts are examined. This will be Seminole County.

Dan Matthys said that Orange County may have a water line running up there. Mr. Matthys stated that concurrency is a two step process, done in a preliminary review and a final review. The final review is when you lock in all of the capacities and pay the fees. This is typically done in the final stage. Preliminary concurrency is more or less a test to see what is out there. There are seven areas that are covered: water, sewer, roads, parks, mass transit, drainage, and parks and recreation. Schools will be added to this soon.

Commissioner Brodeur asked what the biggest hurdles were in doing concurrency.

Mr. Matthys said that in the past roads were the biggest concern. As of 2008 there will be schools as an issue.

Commissioner Brown said that this is not a neighborhood in transition. The homes and atmosphere are quite enjoyable. How the development got in at the end of the road is a mystery. Now those residents don't want the changes.

Commissioner Tucker said that the same thing happened with Autumn Chase in the Myrtle Street area.

Commissioner Brown said that Autumn Chase does not have the same price homes. That became an urban conservation village.

Commissioner Tucker said that the people are at risk with the LDR future land use designation.

Commissioner Brown said that there were many options.

Commissioner Tucker said there will be growing pressure to change the use.

Commissioner Bates said that there was a lot of compelling information. If this particular project does not go forward, the people have to be alert. There will be others. He stated that he felt that the project does not fit into the character of the neighborhood. It is a gem of the county. He will not support the project going forward because it does not fit the character of the area.

Commissioner Hattaway said that the community is still united against this. She said that the people have to protect themselves. Developers can pay lots of money for property, more than individuals. Property owners need to get with the county and protect themselves. She cannot support this application.

Commissioner Tucker said that a new road alignment will go in on McCullough Road. The land use and road plans do not do not address the life style of the area. Citizens of the area must protect themselves.

Commissioner Brodeur said that he was disappointed that the property owner was not present. Back in 1988 they had been opposed to such action by another person. The same rights and privileges that apply to the neighbors apply to the applicant. The zoning requested falls within the future land use of the area.

**Commissioner Bates made a motion to deny the request.**

**Commissioner Hattaway seconded the motion.**

**The motion passed 4 – 1. Commissioner Brodeur voted “no.”**

**(F) REZONINGS FROM A-1 to R-1BB, Michael Maloney  
& FROM A-1 to R-1BB, SECEF Utilities, Inc.**

Proofs of publication, as shown on page \_\_\_\_\_, calling for a public hearing to consider a request for change of zone from A-1 Agriculture to R-1A Single Family Dwelling District for property described as 15 acres located on the north side of McCulloch Road, 3/4 mile east of Dean Road, Michael Maloney; and, request for a change of zone from A-1 Agriculture to R-1A Single Family Dwelling District for property described as ten acres located on the north side of McCulloch Road, 3/4 of a mile east of Dean Road, SECEF Utilities, Inc., received and filed.

Mr. Hardin advised the requests for rezoning would allow 1,100 square foot homes on 9,000 square foot lots. A 35 foot half right-of-way is required on McCulloch Road. A five foot sidewalk and left and right turn lanes will be required on McCulloch Road. Staff is requesting a commitment from the developer for the Maloney parcel to pay \$5,000 towards the signalization of McCulloch and Dean Road and \$3,000 for the SECEF Utilities parcel. Seminole County will provide central water and sewer. A 12" water main must be brought from Dean Road. Seminole County will pay for the oversizing of the line from 8" to 12". Staff does not recommend the R-1A, but has no opposition to the R-1AA zoning. The Planning & Zoning Commission did not recommend the requests.

Upon inquiry by the Chairman, no one had any objections to hearing the Maloney and SECEF Utilities, Inc. requests together.

Mike Maloney, applicant, addressed the Board to advise he will be also representing SECEF Utilities, Inc. He stated he is requesting a rezoning of the subject

properties to a zoning category which is compatible with the County's revised Comp Plan and with the surrounding community.

Rick Neil, representing SECEF Utilities, Inc., addressed the Board to advise Mr. Maloney has his permission to speak for him.

Mr. Maloney displayed large aerial maps (reduced copies were received and filed) of the area in question, pointing out the subject properties and the zoning and uses of the adjacent properties. He stated that after the Planning & Zoning Commission meeting, they elected to do some additional research to confirm the reasonableness of their request. He said the subject properties are right in the middle of what is currently agriculturally-zoned property. Also on each side of the properties are R-1AA zonings and to the west of Foxchase is R-1A zoning. Maps of the area showing area zonings and land uses were received and filed. He advised that they prepared this map in order to demonstrate that there is precedent for low density residential zoning in this area as that zoning is located on both sides and within very close proximity. He said that although the request before the Board is not for R-1AA zoning, the plan they are proposing does produce over-sized lots which are very similar to R-1AA standards. That, with the buffer they are proposing, is consistent with the R-1AA zoning. He reminded the Board that the County spent a year in meetings on the Comp Plan Update and determined that this area should be upgraded to low density residential. He said they attended the task force meetings on the Update and there was never anything said that this type of zoning requested was considered inappropriate for this site. All of the infrastructures are in place or they are being provided by the developer. He outlined the infrastructures that will be needed. He stated that one of the arguments used at the Planning & Zoning Commission meeting against the rezoning was that R-1A is inconsistent with the surrounding neighborhood. In answer to that, they conducted an indepth survey of each surrounding lot and the assessed value on those lots and homes. He said that over half of the surrounding property is vacant. Only 35% is occupied by single family homes. He displayed a large site plan of the project which was received and filed (R-1 Drawer) and explained in detail their plan. He advised that not only will they have over-sized lots, but are also proposing to construct a house size of not less than 2,000 square feet in the three subsection neighborhood area. They also will agree to develop a 20 foot landscaped buffer around the perimeter and will agree to construct an opaque barrier. He advised to further research the issue that the proposed development will devalue the surrounding homes, they went back over the tax assessors assessed values for those homes and they are around \$135,000. The homes they are proposing to build will be valued at

between \$120,000 and \$150,000. Photographs of the surrounding property were received and filed. They believe this development will create jobs for people who live in Seminole County and homes for the many people who are projected to relocate into the County.

Bill Wesley, area resident and property owner, addressed the Board to state that rather than talk about a 3 to 5 mile radius of the subject property, he is going to talk about the immediate neighborhood. He displayed a large map (received and filed - R-1 Drawer) of the surrounding property showing that there are not a lot of houses in the immediate area. He said they are not opposed to growth and they recognize that development is going to be required, but what they would like to do is have a small area that is consistent with a lifestyle they are now experiencing. He advised the surrounding neighborhood consists of 250 acres, of which the proposed rezoning consists of 25 acres. He displayed a large topo map (received and filed - R-1 Drawer) of the neighborhood showing that the neighborhood has a natural boundary of wetlands and conservation area that runs into the Little Econ River. Another piece of the boundary is the Iron Bridge Facility. On another large map, (received and filed - R-1 Drawer) he indicated the five acre lots that are part of the Jenkins Trust. He submitted for the Record a Petition, as shown on page \_\_\_\_\_, consisting of the immediately surrounding residents and property owners in opposition to the proposed rezoning on the basis that it is in direct conflict with the rural ranch style life they have chosen. He indicated on a large map (received and filed - R-1 Drawer) the values of the surrounding properties, advising the average property value is \$340,700. He also submitted photographs of the properties and real estate advertisings showing asking prices and what properties have sold for in the area. He also advised that the average lot size surrounding the subject property is 5.2 acres and the smallest is 2 acres. He pointed out on a large map (received and filed - R-1 Drawer) the types of farm animals and pets that are kept on the surrounding properties. He stated that there is a lifestyle that has been established in this area and they would like to have that lifestyle remain. He said they do not want to see 75 lots on 25 acres right in the middle of their neighborhood. He stated that the real point is that this project could be put on any 25 arce plot. The developers do not own it, they only have an option to purchase. He also said they would like to have this area preserved and there are residents who are prepared to make an offer on this property if the current contract for sale is terminated. Large Summary Sheets were submitted for the Record (R-1 Drawer).

Vernon Schmid, area resident, addressed the Board to advise on one of the parcels is an existing homestead which was there when he purchased his home. The



developer will have to tear down this homestead. He submitted for the Record a copy of the August 18 & 19, 1987 BCC Minutes referring to the subject properties.

Frank Arnold, area resident, addressed the Board to advise that one of the highlights of the Planning & Zoning Commission was when one of the members on the Commission said it is possible that when they made the Land Use Plan, they made a mistake by allowing or indicating that this type of density was permissible and maybe that land use should be changed.

No one else spoke in support or in opposition.

Motion by Commissioner Christensen, seconded by Commissioner Sturm that request for change of zone from A-1 Agriculture to R-1A Single Family Dwelling District for property described as 15 acres located on the north side of McCulloch Road, 3/4 mile east of Dean Road, as described in the proof of publication, Michael Maloney; and, request for change of zone from A-1 Agriculture to R-1A Single Family Dwelling District for property described as ten acres located on the north side of McCulloch Road, 3/4 of a mile east of Dean Road, as described in the proof of publication, SECEF Utilities, Inc., be and the same, is hereby denied.

Under discussion, Commissioner Kirchhoff stated that there is a natural boundary around this property and it does make sense that the natural geographic boundary also be a zoning boundary.

Districts 1, 2, 3, 4 and 5 voted AYE.

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located east of I-4, west of Raymond Avenue and north of Hillcrest Street, as described in the proof of publication, Hubert Earley, be and the same, is hereby rezoned to R-1AA, subject to staff recommendations, and approval of Development Order, as shown on page \_\_\_\_\_.

Under discussion and upon request by the Board, Mr. Semanisin clarified that staff's recommendation #2 is to pave to the nearest County paved road in accordance with the Land Development Code.

Districts 1, 2, 3, 4 and 5 voted AYE.

~~REZONE FROM A-1 TO R-1AA~~  
~~Larry Dale~~

Proof of publication, as shown on page \_\_\_\_\_, calling for a public hearing to consider request to Rezone from A-1 (Agriculture) to R-1AA (Single Family Residential); property described as 20.5 acres, located at the northwest corner of McCulloch Road and Iron Bridge Road, Larry Dale, received and filed.

Commissioner McLain advised he received several documents on this issue. He added he has had several meetings concerning this issue and he has seen a video of the site. He disclosed ex parte communication with the following: Frank Arnall, Jeannine Weingartner, Mary Kostenbauder, Charles Weingartner and Veron Schmid, who are in opposition of the request. He stated he also received two letters from the Wesleys and the Wells opposing this request. He said he met with Mr. Dale who explained what his wishes were. All disclosure forms were received and filed.

Commissioner Adams stated he went through the same procedure as Commissioner McLain.

Commissioner Warren stated she also went through the same procedure. She stated she met with Gil Daigneau, Sue Terraglio and

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surrounding neighbors, Mr. Dale and Tim Wells on the site. She added she spoke to several residents and also received letters from the Wesleys and the Wells.

Commissioner Van Der Weide advised he spoke to anybody who asked to discuss this request. He stated this will not influence him in making a judgement on this request.

Mr. Dwyer advised the rezoning would allow 1,300 sq. ft. homes on 11,700 sq. ft. lots. The site is undeveloped and abutting land uses on the east and west are single family. Property to the north is an existing borrow pit lake and undeveloped to the south in Orange County. Approximately 30% of the property may lie within the flood prone area per existing flood studies for the area. A definitive post flood prone elevation will be determined during final engineering review. Development of the property will be subject to the provisions of the Econ River Protection Ordinance. He stated the area is indicated as low density residential on the land use plan and the requested rezoning is consistent with the plan.

Mr. Dwyer continued by stating the rezoning request would be compatible with development trends to the north, R-1AA zoning to the east, and the area zoned for 100 ft. wide lots to the south in Orange County. Staff feels the request: (1) Is in compliance with the provisions of the Seminole County Comprehensive Plan and the Seminole County Land Development Code. Furthermore, a more restrictive zoning classification is not necessary to protect the health, safety and welfare of the general public; (2) R-1AA zoning would be compatible with surrounding development; (3) Is considered in the 20 year services analysis as part of the County's adopted plan and no development is authorized without meeting Concurrency requirements; and, (4) Would be able to meet all environmental standards. Therefore, staff has no objections to the request

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subject to the following: (1) Rezoning only the portion of the site located above the post development flood prone elevation; (2) Dedication of additional right-of-way for a 40 ft. half right-of-way on McCulloch Road; and, (3) Dedication of appropriate conservation easements for areas located below the post development flood prone elevation and appropriate tract for preservation of the drainage flow-way through the property. The Planning & Zoning Commission recommended the proposed rezoning and the deciding vote found compatibility with 39 lots on 20.5 acres. Those in opposition preferred an alternative less dense zoning classification.

Larry Dale, applicant, addressed the Board to state he concurs with staff recommendations. He stated the property complies with the Comprehensive Plan and it meets all of the criteria of the Growth Management Plan.

Hugh Harling, representing the applicant, addressed the Board to state he has analyzed the traffic in that area and the traffic numbers, as referred to by staff, seem to be a little higher than they anticipate. He stated the water, sewer and road capacity at the intersection of Dean Road will service this development without any degradation and quality of service of those types of facilities to the area. He added a tract has been set aside to protect the flow-through easement the County desires at the northeast corner of the project.

George Torn addressed the Board to state when he drives in this area he sees a totally different view of what the Board does. He stated he is a taxpayer and he feels the Board's job is to protect his and other citizens' rights. The proposed rezoning will create 40 more homes in that area. He said he feels this is basically a disservice to those who have been out there for many years.

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Gilbert Daigneau, 400 New York Ave., addressed the Board to display and review a map (received and filed) of his property and the surrounding area. He stated he feels Mr. Dale has the right to make a living and they welcome families into their neighborhood. He said he would like to demonstrate how this development is not compatible with the neighborhood and is not a reasonable request. The Board's decision will not only affect his neighborhood, but it will have a far-reaching affect of many people who seek out their neighborhood for horseback riding and other activities. He submitted and read into the Record Mr. VanDerworp's comments dated Dec. 8, 1991 (received and filed), relative to what the future land use represents on property in the County. He also referred to and reviewed the Snyder ruling of action between Board of County Commissioners of Brevard County v. Snyder. Mr. Daigneau continued by displaying and reviewing slides (received and filed) of houses on 5 and 10 acres, and the culvert on the southern and northern end of Mr. Dale's property. He also displayed and reviewed photographs of houses and the surrounding area off the main road. He reviewed and indicated on the map the area that is designated as wetlands.

Tom Kostenbauder addressed the Board to state he lives on the property that is adjacent to the proposed property. He briefly spoke with regard to the issue of liability and safety.

Mr. Daigneau briefly reviewed the history of the property. He stated on both sides of the 39 acre borrow pit, located between this property and Aloma Woods, the Department of Environmental Protection (DEP) has two 5 acre easements that will forever separate these developments and no roads will be connecting them. He submitted into the Record a video showing the site. He submitted and reviewed the following: Letter from Orange County relative to zoning verification of property across the street; two

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copies of Econlockhatchee River Flow Rate and Relationships to Surficial Aquifer Levels; Econlockhatchee Hydrologic Balance; Orange County and Seminole County Flood Insurance Studies; copy of a topographical map in which Mr. Daigneau indicated where the 100 year flood plain area is on the proposed property; and a copy of the Little Econ River Restoration Study. He also submitted petitions, as shown on page \_\_\_\_\_, of 45 property owners' signatures opposing the rezoning. Mr. Daigneau stated the community that affected his neighborhood, after it was built, was Fox Chase. He stated after the first rainfall his neighborhood had to dig a canal in order to drain the water from their properties. He added he feels this same situation will occur with the proposed development. He requested the Board to restrict Mr. Dale's development to one house per acre with a six foot brick wall in order to keep the children from mixing with the dangerous livestock animals. He stated he hopes the Board will restrict this rezoning to one that is more compatible for the area.

Mr. Harling discussed the issue of density and safety, stating they are actually proposing to develop two units to the acre. He stated the largest area of misinformation is flood prone elevation, whereupon, he displayed and reviewed a map (received and filed) showing same. He referred to the date of the last revision of same. He displayed and reviewed the Preliminary Subdivision Plan (received and filed). He added the subdivision will include a brick wall along the perimeter. Phase Four of the Westinghouse development DRI to the west will require the development to 4-lane McCulloch Road from Alafaya to Dean Road. That phase is programmed to come into effect in the year 2,000.

Mr. Dale stated he sought out this property because it meets the Comprehensive Plan and Growth Management Plan. He stated he will not be impacting Iron Bridge Road as it is a deadend. He

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will place a brick wall along McCulloch Road and Iron Bridge Road and a fence on the west side. The St. Johns River Management District (SJRWMD) was on the property and they did a delineation of the wetlands and none is shown on the map. He indicated on the map the area that is not flood prone but is a depression area. The SJRWMD is treating it as wetlands.

Mr. Dwyer reviewed the land use and zoning of the area.

Upon inquiry by the Board, Mr. Semanisin advised the Fox Chase developer and the Public Works' staff have indicated that the traditional outflow to the south has been blocked and staff is working with them to get that open. He said Mr. Dale must provide a survey of special concern, threatened and endangered species. He also must provide evidence that there will be no adverse impact to the habitat of those species. There are additional buffers from the river, the wetlands and the flood prone area. Additional restrictions relative to the stormwater design criteria are required. A survey of historical and archaeological resources must be approved by a State division that protects historical records. All of these must be conducted prior to any development plan.

No one else spoke in support or in opposition.

Public Comment Sheets were received and filed.

District Commissioner Warren stated she believes the request is appropriate and believes the fair thing to do, based on the location of the property, is to grant the rezoning.

**Motion** by Commissioner Warren, seconded by Commissioner Adams that change of zone from A-1 (Agriculture) to R-1AA (Single Family Dwelling District); property described as 20.5 acres, located at the northwest corner of McCulloch Road and Iron Bridge Road, as described in the proof of publication, Larry Dale, be and the same, is hereby rezoned to R-1AA, with staff recommendations, approval of the Development Order, as shown on page \_\_\_\_\_,

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and, subject to bringing this item back to the Board for the final preliminary plat approval following the permitting from other agencies.

Districts 1, 2, 3, 4 and 5 voted AYE.

County Manager (Continued)

Mr. Rabun stated he wrote a memo dated April 4, 1995 with regard to getting an early start on the Budget Work Sessions. He stated he would like the Board's consensus relative to same. The Board had no objections.

DISTRICT COMMISSIONERS' REPORTS

Motion by Commissioner Van Der Weide, seconded by Commissioner McLain to reappoint Mike Bass to the Program Review Committee for a two-year period ending January 1, 1997; and, appoint Joe Fernandez to the Swimming Pool Contractors Board for a term ending January 1, 1996.

Districts 1, 2, 3, 4 and 5 voted AYE.

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Commissioner Adams stated he would like for the Road Impact Fee Citizens Advisory Committee to review the issues relating to the traffic impact and curb cuts going into the Oviedo Crossings Mall area. He stated he would like this done as soon as possible.

Chairman Morris stated he feels that obtaining additional input will cause a needless delay of the upcoming Oviedo Crossings hearing and would take some incredible briefings by staff.

Commissioner McLain stated he is wondering if the Road Impact Fee Committee can convene and report to this Board without further delaying the decision of the Oviedo Crossings issue. He stated he would not support this request if they have to postpone the hearing on April 25.