

Item # 49

SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

**SUBJECT:** LAKE HAYES RD; REZONING FROM A-1 (AGRICULTURE DISTRICT)  
TO R-1AA (SINGLE FAMILY DWELLING DISTRICT)

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

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Earnest McDonald **EXT.** 7430

<b>Agenda Date</b> <u>04/8/03</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 type="checkbox"/> <b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>

**MOTION/RECOMMENDATION:**

1. Enact an ordinance to adopt the proposed rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District) for approximately 7.98 acres located on the north side of Lake Hayes Road, approximately 1/2 mile east of Alafaya Trail, with staff findings and recommendations (Shutts & Bowen, applicant); or
2. Deny the proposed rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District) for approximately 7.98 acres located on the north side of Lake Hayes Road, approximately 1/2 mile east of Alafaya Trail (Shutts & Bowen, applicant); or
3. Continue the public hearing to a time and date certain.

Commissioner Maloy – BCC District 1      Earnest McDonald, Principal Coordinator

**BACKGROUND:**

The applicant, Shutts & Bowen (on behalf of Mag Development Co., Inc.), is requesting a rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District) for approximately 7.98 acres located on the north side of Lake Hayes Road, approximately 1/2 mile east of Alafaya Trail. The site and surrounding area is designated Low Density Residential land use (see enclosed site map).

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed R-1AA zoning, based on the findings enumerated in this report.

**PLANNING & ZONING COMMISSION RECOMMENDATION:**

At its March 5, 2003 regular meeting, the Planning & Zoning Commission recommended approval of the proposed R-1AA zoning, based on the applicant's commitments to a minimum 2,100 square feet house size and no access through the 50 foot easement to Beverly Avenue. Residents of the area expressed concern about drainage and the width of the Lake Hayes Road right-of-way.

Reviewed by:
Co Atty: <u>RC</u>
DFS: _____
Other: <u>MW</u>
DCM: <u>MS</u>
CM: <u>MB</u>
File No. <u>ph700pdp05</u>

**Attachments:**      Site maps, P&Z/LPA Meeting Minutes,  
Proposed Ordinance

## LAKE HAYES REZONING

APPLICANT	Shutts & Bowen, LLP	
PROPERTY OWNER(S)	Tommy E. Rewis	
REQUEST	Rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District)	
HEARING DATE(S)	LPA/P&Z: March 5, 2003	BCC: April 8, 2003
SEC/TWP/RNG	27-21-31	
LOCATION	North side of Lake Hayes Road, approximately ½ mile east of Alafaya Trail	
APPROXIMATE SIZE	7.98 acres	
FUTURE LAND USE DESIGNATION	Low Density Residential	
ZONING CLASSIFICATION	A-1 (Agriculture)	
FILE NUMBER	Z2002-113	
COMMISSION DISTRICT	#1 – Maloy	

### **OVERVIEW:**

The Low Density Residential (LDR) future land use designation assigned to this property allows for a range of zoning districts. The appropriate zoning for the property and corresponding density of development is dependent upon a number of factors, including character of the surrounding area and physical characteristics of the land. In this case, Seminole County's lot size compatibility ordinance was applied. This ordinance establishes a procedure for determining zoning compatibility, based on the intensity of surrounding zoning and uses. The analysis resulted in a compatible zoning of R-1AA.

### **SITE ANALYSIS:**

Comprehensive Plan. The requested and alternate zoning districts are consistent with the adopted future land use designation of Low Density Residential assigned to the property and do not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Seminole County Comprehensive Plan (Vision 2020).

Concurrency. Adequate facilities and services must be available concurrent with the impacts of development. The applicant has submitted a Concurrency Review Deferral application. A full concurrency review will be required at time of preliminary subdivision review.

Transportation. The site fronts on Lake Hayes Road. It is estimated that a total of 290 average daily trips will be generated by this development, as opposed to 80 trips under the existing zoning. There are no identified traffic problems on Lake Hayes Road, although residents of the area have commented that traffic volume is a problem at the intersections of nearby arterial roadways.

Water and Sewer. The site is served by Seminole County utilities. There is a 12” water main approximately 1,050 feet west on Lake Hayes Road, and a 16” force main approximately 950 feet west on Lake Hayes Road.

Compliance with Environmental Regulations. There are no identified flood prone areas or wetlands on this property.

Compatibility with Surrounding Development. Staff has conducted a lot size compatibility analysis, as required by the Land Development Code and Vision 2020 Plan Policy FLU 2.10 and 12.7. Based on the results of this analysis, staff believes that R-1AA zoning would be compatible with surrounding development and development trends in the area. The following table shows building and area regulations for the proposed R-1AA zoning and R-1AAA for comparison:

	R-1AAA Zoning	Proposed R-1AA Zoning
Lot size	13,500 square feet	11,700 square feet
House size	1,600 square feet	1,300 square feet
Width at building line	100 feet	90 feet
Front setback	25 feet	25 feet
Side setback	10 feet	10 feet
Rear setback	30 feet	30 feet

The following table shows surrounding use, future land use and zoning for the subject and abutting properties:

Direction	Existing Use	Future Land Use	Zoning
Site	Single Family Residential	Low Density Residential	A-1
North	Single Family Residential	Low Density Residential	A-1
South	Single Family Residential	Low Density Residential	R-1AA
East	Single Family Residential	Low Density Residential	A-1
West	Single Family Residential	Low Density Residential	R-1AA

**STAFF FINDINGS AND RECOMMENDATIONS:**

Staff recommends approval of the proposed R-1AA (Single Family Dwelling) zoning, with findings that:

1. R-1AA zoning meets the minimum level of presumptive compatibility as provided for in the “Lot Size Compatibility Ordinance” of the Land Development Code of Seminole County;
2. R-1AA zoning is consistent with Vision 2020 Plan policies relative to the Low Density Residential future land use designation;
3. R-1AA zoning is compatible with adjacent single family residential development and development trends in the area; and
4. Development must comply with the applicable provisions of the Seminole County Comprehensive Plan (Vision 2020) and Land Development Code of Seminole County.

**MINUTES FOR THE SEMINOLE COUNTY  
LPA/P&Z COMMISSION  
MARCH 5, 2003**

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

**Also present:** Matt West, Planning Manager, Rob Walsh, Principal Coordinator Planning Division, Jeff Hopper, Senior Planner, Cynthia Sweet, Planner, Tony Matthews, Principal Planner, Mahmoud Najda, Development Review Manager, Karen Consalo, Deputy County Attorney, and Candace Lindlaw-Hudson, Senior Staff Assistant

**Lake Hayes Road; Shutts & Bowen, LLP, applicant;** approximately 7.98 acres; rezone from A-1 (Agriculture) to R-1AA (single family residential district); north side of Lake Hayes Road, approximately ½ mile east of Alafaya Trail. (Z2002-113)

Rob Walsh introduced the site of the application for a rezone of approximately 8 acres from A-1 (agriculture) to R-1AA (single family residential) zoning. Mr. Walsh described the zoning of adjacent land as follows: to the north, A-1 (agriculture), to the south is R-1AA (single family residential), to the east is A-1 (agriculture) and to the west is R-1AA (single family residential). Mr. Walsh said that the site fronts on Lake Hayes Road which has no identified traffic problems. However, Mr. Walsh noted that he had received numerous calls from the public complaining about traffic volume problems on intersections at major arterial streets.

The area is served by Seminole County utilities and is served by a 12 inch water main located approximately 1050 feet west on Lake Hayes Road and a 16 inch forced sewer main approximately 950 feet west on Lake Hayes Road. A lot size compatibility study made a determination that the requested zoning is compatible with the surrounding area. Staff is making the recommendation for approval, with the conditions stated in the staff report.

Meredith Harper of Shutts and Bowen spoke for the applicant and opened by saying that the applicant has done other projects in the area, such as Wentworth Estates and Mayfair Oaks. She showed pictures of homes similar to what would be put on the project. The applicant saves trees. Ms. Harper said that she concurred with staff analysis. R-1AA is compatible with the zoning trends in the area. Stillwater to the south is R-1AA. The entire area is moving toward R-1AA zoning. To the west on Beverly Street are 10 lots of R-1AA zoning. Ms. Harper stated that the applicant can commit to a minimum house size of 2,100 square feet. The western side is the lower side, and retention will be located there, which will provide lots on Beverly Street with a buffer.

Dick Zimmerman of 2486 Paddock Way, Oviedo, said that he was opposed. Water on Paddock Way is a problem. He presented pictures of flooding and standing water in the area. He stated that when he bought his home 17 years ago his land was high and dry. Now it takes over 2 weeks for the water to subside after a rain. He stated that the subdivisions north of Chapman Road are causing the flooding. Lake Hayes Road is tarred and substandard. Traffic is a problem. He moved there for tranquility. He urged denial.

Lawrence J. Cass of 2358 Beverly Street, Oviedo said that the County is uninformed. There are no areas allotted for road water run off. The County had dug swales. There is now water standing on his property. A culvert was put across the street. This new development will bring more water onto Lake Hayes Road and further flood his property.

John I. Malcolm of 220 Pennsylvania Avenue, Oviedo, stated that everyone cuts through the area and speeds. He is opposed to the request.

Michelle Wynn of 245 Lake Hayes Road, Oviedo, said that the area is over developed. There is a trend to put R-1AA nearby. There are very bad traffic problems and speeding is an issue. She also is concerned about flooding. She is opposed to the application.

Vivian Luscuskie of 872 Lake Hayes Road stated that she was representing approximately 30 people in the audience who have 5 acre parcels. She is the adjacent property owner to the east. Most of the new homes would abut her land. There is a drainage problem from the road. Water flow is generally to the south toward the Econ River. Property in the area is sandy and flooding problems abound. She is opposed to the application.

Brenda Bardette of 726 Onslow Avenue stated that there is a serious flooding issue in the area.

John Offineer of 665 Onslow, Oviedo, was concerned about the serious traffic problems on Lake Hayes Road. He also referred to the water problems. He lives at the end of Onslow where flooding is coming into his property from the new subdivision. Beverly Street floods. The proposed development will be higher than his lands. His septic system is now under water. Steve Novack from Stormwater proposed ditches for runoff. He was told by the County that Onslow is a private road. If the Board authorizes this, his property will be under water.

Bart Leskesky of 872 Lake Hayes Road lives east of the proposed site. He stated that there is not a normal road to the site. He would like to know about access.

Meredith Harper stated in rebuttal that neighbors had built their homes without stormwater review. They are in a flood plain. This development will have to pass

permitting with the St. John's River Water Management district. There will be no access to Beverly Street. Access is to Lake Hayes Road. If a traffic light is needed, a study could be done to determine this. A full median opening has been approved on 434 to Lake Hayes. The development will have to keep all of its water run off on the site.

The public hearing was closed.

Commissioner Tucker asked about the design of the median on 434.

Mr. Najda said that there is a full median cut on 434.

Commissioner Tucker asked about the northeast corner of Lake Hayes and 434. He inquired about the drainage retention pond. Was it a DOT project.

Mr. Nadja said that it was.

Commissioner Tucker asked if Onslow is a County Road.

Mr. Nadja stated that if the County is reluctant to work on Onslow, it may not be a public road.

Mr. West said that he would check the list of roads the County has agreed to maintain. Not every public right of way or easement has been accepted.

Commissioner Tucker said that as he remembered, there was a dedicated drainage ditch on the south side of Lake Hayes.

Mr. Nadja stated that when this project comes in for final engineering, Staff will determine what needs to be done for the road right of way for Lake Hayes to meet County standards. The far eastern end of Lake Hayes appears to be substandard.

Mr. Nadja said that there would be no flow of water from this project onto adjacent properties. Staff is looking into drainage problems and he will assist.

Commissioner Mahoney asked about the condition of Lake Hayes Road.

Mr. Nadja stated that he did not know the level of service. There are drainage problems to the west. Staff will address this. With Bentley Cove and Winding Cove there are more problems with water.

Commissioner Tucker asked about the 30 foot drainage ditch.

Mr. Nadja stated that the ditch went both directions.

Mr. Cass stated that there is 9 inches of water on Lake Hayes Road.

After a short recess Commissioner Tucker stated that he had checked a 1926 plat and saw that there was not a 50 foot right of way dedicated for Onslow to be a regular County road. As for Lake Hayes, it is a County road.

Commissioner Harris stated that it is the intent of the Comprehensive Plan and our own tool for compatibility that the applicant's request is compatible.

**Mr. Harris made the motion to approve the rezone request including the developer's commitment to have a minimum house size of 2,100 square feet and the non utilization of the 50 foot easement to Beverly Avenue with the recommendation that Staff examine the drainage issues in the area.**

**Mr. Mahoney seconded the motion.**

**The vote was 7 – 0 in favor of the motion.**

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    MDR    PUBC

Applicant: Mag Development Co. Inc.  
 Physical STR: 27-21-31-300-0040-0000  
 Gross Acres: 7.98      BCC District: 1  
 Existing Use: Single Family Residential  
 Special Notes: \_\_\_\_\_

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2002-113	A-1	R-1AA



A-1    R-1AA    R-2    PUD



Rezone No. Z2002-113  
From: A-1 To: R-1AA

-  Subject Property
-  Parcelbase



February 1999 Color Aerials

<b>LAKE HAYES REZONING</b>	
<b>APPLICANT</b>	Shutts & Bowen, LLP
<b>PROPERTY OWNER(S)</b>	Tommy E. Rewis
<b>REQUEST</b>	Rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District)
<b>HEARING DATE(S)</b>	<b>LP/P&amp;Z:</b> March 5, 2003 <b>BCC:</b> April 8, 2003
<b>SEC/TWP/RNG</b>	27-21-31
<b>LOCATION</b>	North side of Lake Hayes Road, approximately ½ mile east of Alafaya Trail
<b>APPROXIMATE SIZE</b>	7.98 acres
<b>FUTURE LAND USE DESIGNATION</b>	Low Density Residential
<b>ZONING CLASSIFICATION</b>	A-1 (Agriculture)
<b>FILE NUMBER</b>	Z2002-113
<b>COMMISSION DISTRICT</b>	#1 – Maloy

**OVERVIEW**

The Low Density Residential (LDR) future land use designation assigned to this property allows for a range of zonings. The specific zoning of the property and corresponding density of development is dependent upon a number of factors, including character of the surrounding area and physical characteristics of the land. In this case, Seminole County’s zoning compatibility ordinance is applicable. This ordinance establishes a procedure for numerically calculating the compatible zoning of a site, based on the intensity of surrounding zoning and uses. The analysis results in a compatible zoning of R-1AA, which is consistent with staff’s professional judgment.

**SITE ANALYSIS**

Comprehensive Plan

The requested and alternate zonings are consistent with the adopted future land use designation of Low Density Residential assigned to the property and do not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Seminole County Comprehensive Plan (Vision 2020).

Concurrency

Adequate facilities and services must be available concurrent with the impacts of development. The applicant has submitted a Concurrency Review Deferral application. A full concurrency review will be required at time of preliminary subdivision review.

Transportation

The site fronts on Lake Hayes Road. It is estimated that a total of 290 average daily trips will be generated by this development, verses 80 trips under the existing zoning. There are no identified traffic problems on Lake Hayes Road, although residents of the area have commented that traffic volume is a problem at intersections with nearby arterial roadways.

### Water and Sewer

The site is served by Seminole County utilities. There is a 12" water main approximately 1050 feet west on Lake Hayes Road, and a 16" force main approximately 950 feet west on Lake Hayes Road.

### Compliance with Environmental Regulations

There are no identified flood prone areas or wetlands on this property.

### Compatibility with Surrounding Development

Staff has conducted a lot size compatibility analysis, as required by the Land Development Code and Vision 2020 Plan Policy FLU 2.10 and 12.7, and has determined that R-1AA zoning would be compatible with surrounding development and development trends in the area. The following table shows building and area regulations for the proposed R-1AA zoning and R-1AAA for comparison:

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The following table shows surrounding use, future land use and zoning:

<b>Direction</b>	<b>Existing Use</b>	<b>Future Land Use</b>	<b>Zoning</b>
<b>Site</b>	Single family residential	Low Density Residential	A-1
<b>North</b>	Single family residential	Low Density Residential	A-1
<b>South</b>	Single family residential	Low Density Residential	R-1AA
<b>East</b>	Single family residential	Low Density Residential	A-1
<b>West</b>	Single family residential	Low Density Residential	R-1AA

### **STAFF FINDINGS AND RECOMMENDATIONS**

Recommend approval of R-1AA (Single Family Dwelling) zoning, with findings that:

1. R-1AA zoning meets the minimum level of presumptive compatibility as provided for in the "Lot Size Compatibility Ordinance" of the Land Development Code of Seminole County.
2. R-1AA zoning is consistent with Vision 2020 Plan policies relative to the Low Density Residential future land use designation.
3. R-1AA zoning is compatible with adjacent single family residential development and development trends in the area.
4. Development must comply with the applicable provisions of the Seminole County Comprehensive Plan (Vision 2020) and Land Development Code of Seminole County.

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 ZONING CLASSIFICATION THE R-1AA ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; 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 document titled "Lake Hayes Rezoning".

(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. REZONING.** The zoning classification assigned to the following described property is changed from A-1 to R-1AA.

**SEE ATTACHED EXHIBIT A**

**Section 3. CODIFICATION.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

**Section 4. 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 5. 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 upon filing with the Department of State.

ENACTED this 8th day of APRIL, 2003.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Daryl G. McLain  
Chairman

**EXHIBIT A  
LEGAL DESCRIPTION**

**Z2002-113 (A-1 to R-1AA)**

Being a parcel of land located within Section 27, Township 21, Range 31 East, lying and being in Seminole County, Florida and further described as follows:

The Eastern half of the Southeastern Quarter of the Northeastern Quarter, Less The Northern 400 Feet and Southern 33 Feet for Right-of-way and the Eastern 265 Feet.

Consisting of 7.982 acres, more or less.