

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: OLD LOCKWOOD ROAD; REZONING FROM A-1 (AGRICULTURE) TO R-1AA (SINGLE FAMILY DWELLING)

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

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Kathy Fall **EXT.** 7389

Agenda Date 4/8/03 **Regular** **Consent** **Work Session** **Briefing**
Public Hearing – 1:30 **Public Hearing – 7:00**

MOTION/RECOMMENDATION:

1. Enact an Ordinance to Approve the alternate rezoning from A-1 (Agriculture) to R-1AAA (Single Family Dwelling District) for approximately 13 acres located on the east side of Old Lockwood Road approximately 1/2 mile north of McCulloch Road, with staff findings and recommendations (Shutts & Bowen, applicant); or
2. Enact an Ordinance to Approve the requested rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District) for approximately 13 acres located on the east side of Old Lockwood Road approximately 1/2 mile north of McCulloch Road (Shutts & Bowen, applicant); or
3. Deny the requested rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling District) for approximately 13 acres located on the east side of Old Lockwood Road approximately 1/2 mile north of McCulloch Road (Shutts & Bowen, applicant); or
4. Continue the proposed rezoning to a date certain.

Commissioner Maloy – BCC District 1 Kathy Fall, Senior Planner

BACKGROUND

The applicant, Shutts & Bowen (on behalf of A.G. Construction & Development Co.), is requesting a rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling) for approximately 13 acres located on the east side of Old Lockwood Road approximately 1/2 mile north of McCulloch Road. The site and surrounding area is designated Low Density Residential land use (see enclosed site map).

STAFF RECOMMENDATION

Recommend approval of alternate R-1AAA zoning, with staff findings and recommendations.

PLANNING & ZONING COMMISSION RECOMMENDATION

The Planning & Zoning Commission, at its 3/5/03 meeting, recommended approval of the proposed R-1AA zoning, based on the applicant's voluntary commitment for a minimum 2100 square foot house size.

Reviewed by:	<u>KSC</u>
Co Atty:	<u>KSC</u>
DFS:	<u>MWJ</u>
Other:	<u>SPB</u>
DCM:	<u>SPB</u>
CM:	<u>SPB</u>
File No.	ph700pdp06

Attachments: Site maps, Ordinance

OLD LOCKWOOD ROAD REZONING

APPLICANT	Shutts & Bowen, LLP	
PROPERTY OWNER(S)	Richard & Merlyn Roy, Vincent & Effie Murray	
REQUEST	Rezoning from A-1 (Agriculture) to R-1AA (Single Family Dwelling)	
HEARING DATE(S)	LP/P&Z: March 5, 2003	BCC: April 8, 2003
SEC/TWP/RNG	36-21-31	
LOCATION	East side of Old Lockwood Road approximately ½ mile north of McCulloch Road	
APPROXIMATE SIZE	13 acres	
FUTURE LAND USE DESIGNATION	Low Density Residential	
ZONING CLASSIFICATION	A-1 (Agriculture)	
FILE NUMBER	Z2002-114	
COMMISSION DISTRICT	#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-1AAA after adding points for access to a paved road and potable water becoming available in the near future.

In support of this finding, staff believes that the R-1AAA zoning is the most appropriate transitional density from the more intense development farther west and south to the less intense to the east. As development occurs from west to east, the lot size could transition from smaller to larger.

SITE ANALYSIS

Comprehensive Plan

The requested zoning is 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.

Water and Sewer

There is a 12" water main approximately 1150 feet north on Old Lockwood Road. There is also an 8" force sewer main approximately 1150 feet north on Old Lockwood Road. In about 18 months, the potable water line along with a reclaimed water line will be installed in Old Lockwood Road.

Compliance with Environmental Regulations

Wetlands occur along the eastern portion of the parcel. A conservation easement must be dedicated to the county for the wetlands and required 50-foot buffers.

Trails

Seminole County has a planned minor trail along Old Lockwood Road which will likely be located on the east side of the road. At this time, the trail is not funded or programmed for construction. The developer will be required to construct a 5 foot sidewalk along Old Lockwood Road or contribute to the County's trails fund for future construction in conjunction with the planned trail.

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-1AAA zoning would be compatible with 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

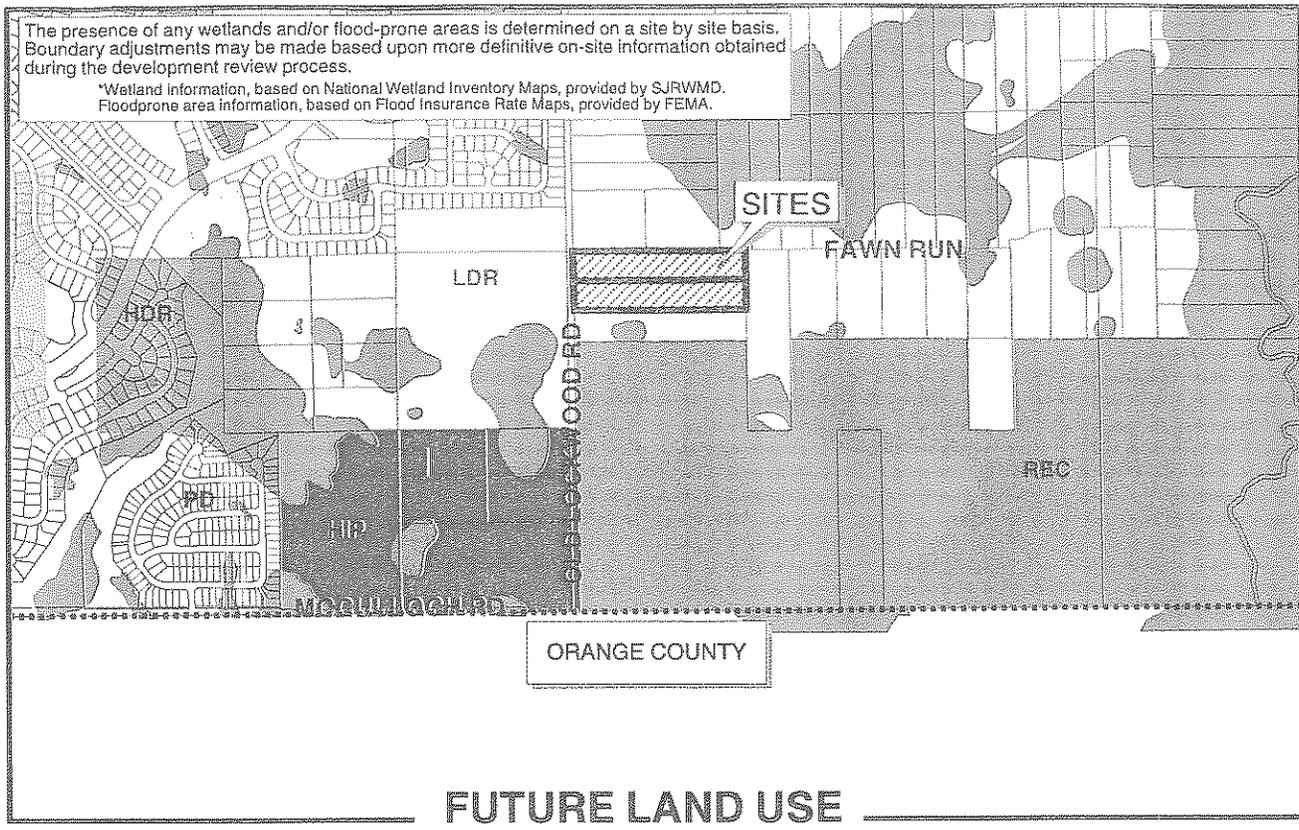
The following table shows surrounding use, future land use and zoning:

Direction	Existing Use	Future Land Use	Zoning
Site	SFR & Vacant (2 parcels)	Low Density Residential	A-1
North	SFR & Vacant	Low Density Residential	A-1
South	Vacant	Low Density Residential	A-1
East	Vacant	Low Density Residential	A-1
West	Vacant	Low Density Residential	A-1

STAFF FINDINGS AND RECOMMENDATIONS

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

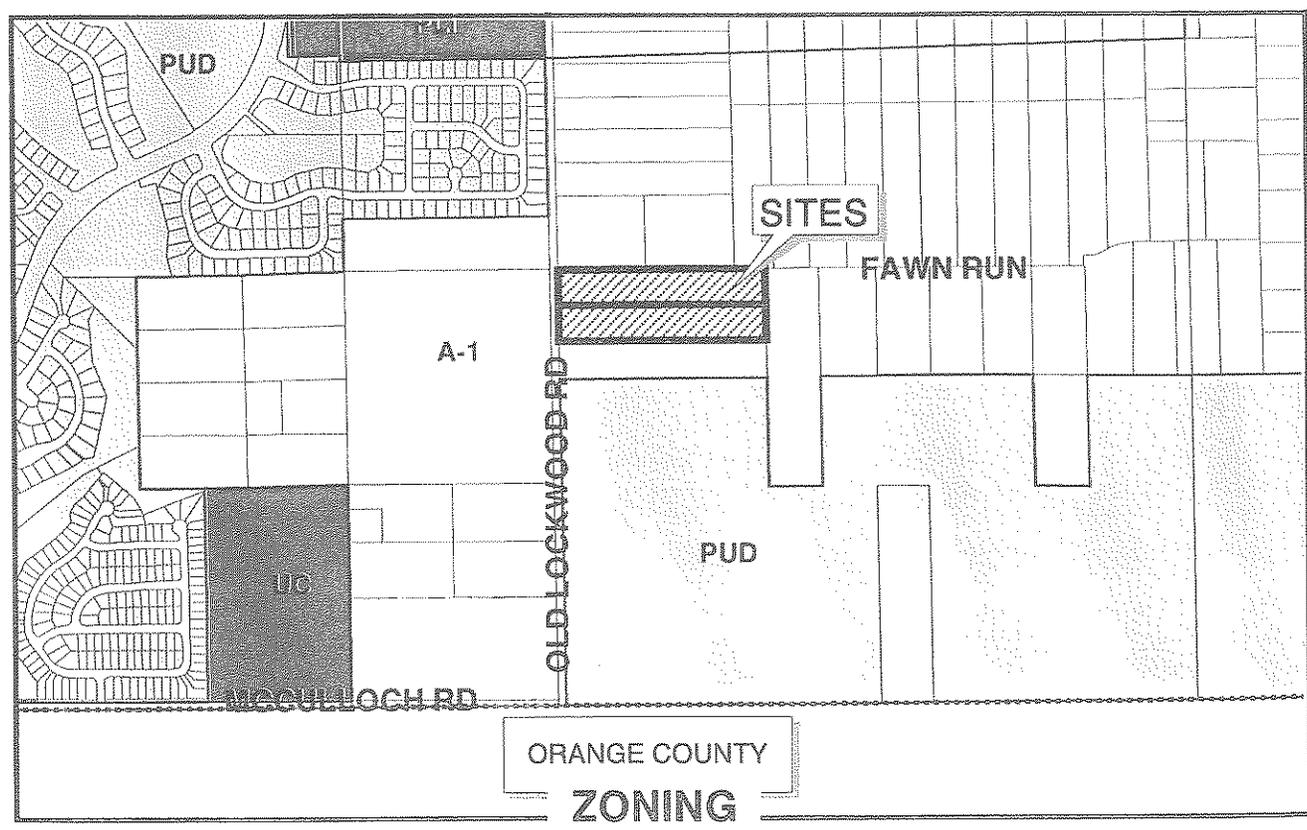
1. R-1AAA zoning meets the minimum level of presumptive compatibility as provided for in the "Lot Size Compatibility Ordinance" of the Land Development Code of Seminole County.
2. R-1AAA zoning is consistent with Vision 2020 Plan policies relative to the Low Density Residential future land use designation.
3. R-1AAA zoning is compatible with 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.



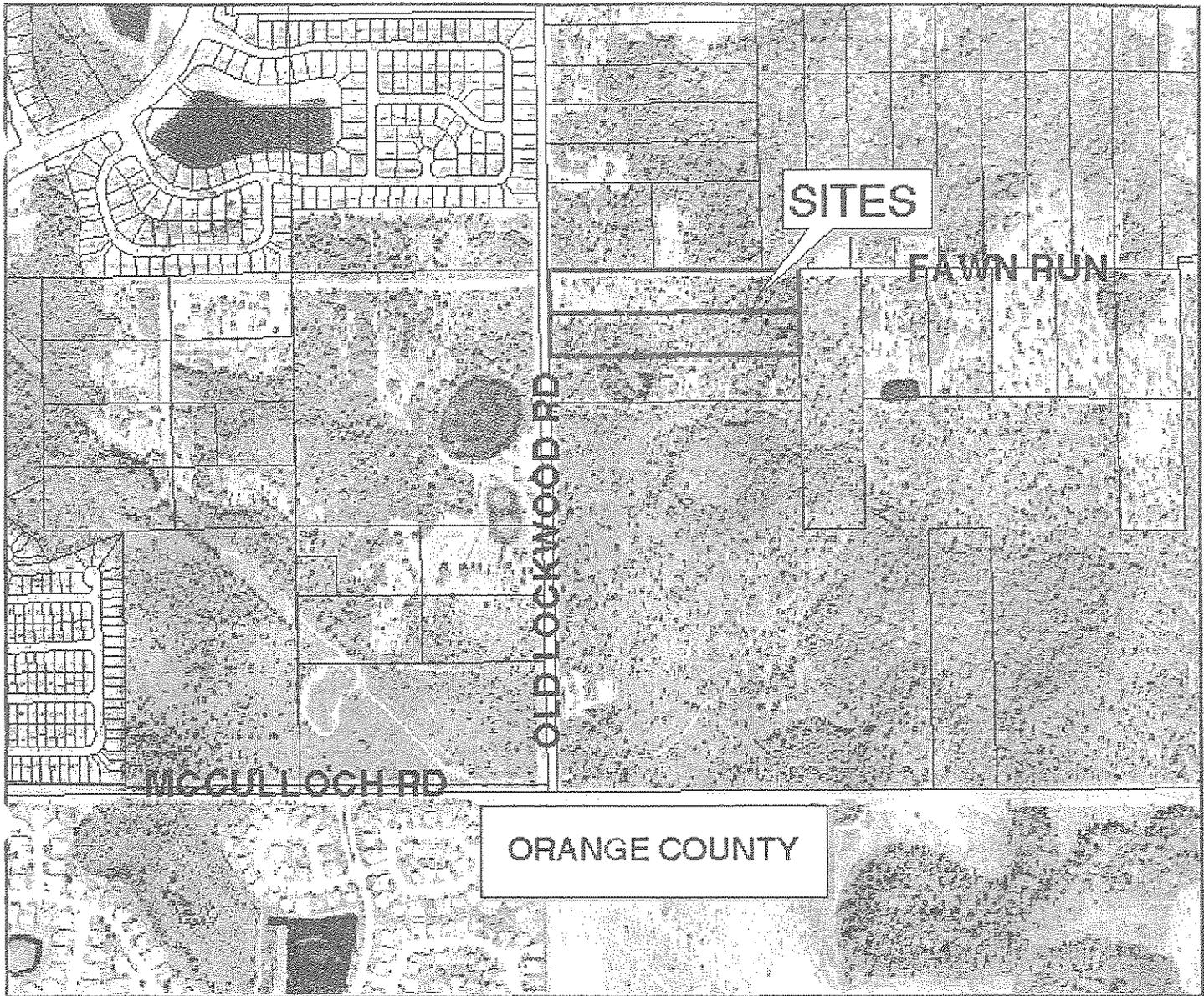
Site
 Municipality
 PUB
 LDR
 HIP
 PD
 HDR
 REC
 CONS

Applicant: A.G. Construction & Development Co.
 Physical STR: 36-21-31-300-001F & 001G-0000
 Gross Acres: 13 BCC District: 1
 Existing Use: Vacant Single Family
 Special Notes: _____

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2002-114	A-1	R-1AA



A-1
 PLI
 PUD
 UC



Rezone No. Z2002-114
From: A-1 To: R-1AA

-  Subject Property
-  Parcelbase



February 1999 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 (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 ZONING CLASSIFICATION THE R-1AAA 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 documents titled "Old Lockwood Road 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. REZONINGS. The zoning classification assigned to the following described property is changed from A-1 to R-1AAA.

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-1AAA)

Being a parcel of land located within Section 36, Township 21 South, Range 31 East, lying and being in Seminole County, Florida and further described as follows:

The Northern 1/3 of the Northern Quarter of the Eastern Half of the Southwest Quarter (Less the Road).

Together With:

The Southern Half of the Northern 2/3 of the Northern Quarter of the Eastern Half of the Southwest Quarter (Less the Road).

Consisting of 12.94 acres, more or less.

**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

Old Lockwood Road; Shutts & Bowen, LLP, applicant; 13 acres; Rezone from A-1 (Agriculture) to R-1AA (Single Family Residential) for single family subdivision; east side of Old Lockwood Road approximately 1/2 mile north of McCulloch Road (Z2002-114)

Commissioner Maloy – District 1

Rob Walsh, Principal Coordinator

Mr. Walsh introduced the application and stated that site was surrounded in all directions by large lot single family homes. The site fronts on Old Lockwood Road which is a paved road. The site is serviced by a 12 inch water main located approximately 1250 feet north of Old Lockwood Road which is scheduled to be extended to the south. There is also an 8 inch forced sewer main approximately 1150 feet north on Old Lockwood Road. As required by the Land Development Code, Staff ran a Lot Size Compatibility Analysis which determined that R-1AAA would be most compatible with the development trends in the area, rather than the requested R-1AA zoning. Both the R-1AA and R-1AAA are consistent with the Future Land Use designation. We recommend approval of the R-1AAA zoning based on the conditions found in the Staff report. Mr. Walsh stated that he had received an e-mail from Linda Rossel which asked for R-1AAAA zoning.

Representing the applicant was Ken Wright of the lawfirm of Shutts and Bowen. He stated that he supports the staff report and the findings except for one. He stated that he supported staff recommendation #2, for the R-1AA zoning. With regard to the straight zoning request, he found that the lot compatibility finding with a difference in zoning accounting for 2 lots more or less. The table on page

3 of the staff report shows the differences between the requirements for a 100 foot lot and a 90 foot lot. The difference in the loss of 2 lots would create a significant economic loss for his clients. The house size, which is most important to the neighbors, for R-1AA is 1,300 square feet and for R-1AAA is 1,600 square feet. Mr. Wright stated that these homes will be a minimum of 2,100 square feet. He is willing to make a commitment to the house size.

Mr. Wright said that on the Fawn Run side the lot sizes will not be reduced due to the way they are configured in the plan. There will be 7 lots on the Fawn Run side not matter what is planned due to storm water retention.

Mr. Wright showed rough configurations for a 27 lot and a 25 lot plan. Mr. Wright stated that the difference was on the southern edge there would be an extra house in the 27 house configuration, along with an interior addition of an extra house. Mr. Wright suggested that the analysis of compatibility is a presumptive one which goes along with his request.

Mr. Wright said that Fawn Run is a dirt unimproved road. He said that with proper engineering on his project, some of the stormwater problems that are on Fawn Run may be alleviated.

In closing, the staff report recommends right of way donation. This is a straight zoning, not a PUD. There can be a rational nexus between the request and a donation of the right of way. Also the wetland buffer will be dealt with at site plan review and permitting. Mr. Wright requested that the Board adopt number 2 from the staff report that grants the R-1AA zoning , with deletion of the language dealing with the right of way and the wetlands issue.

Commissioner Mahoney made the clarification that double fronted lots (backing up to Fawn Run) require a brick or masonry wall .

Mr. Wright said yes, he was aware of that condition.

Commissioner Mahoney read the memo from Dianne Kramer of the School Board concerning school capacity and projected conditions and changes in the schools in the area.

Linda Rossel of 2476 Fawn Run spoke next. She had sent the e-mail referred to by Mr. Walsh. She lives on Fawn Run. She stated that this is a low density area, generally one home per 5 acres. The lot in yellow has one house on it at this time. To turn the 2 lots into the proposed density is incompatible with the area. She showed a proposed density for 13 acres based on R-1AA zoning. She stated that she is retracting the statement she made to Mr. Walsh in her e-mail about R-1AAAA zoning being a minimum requirement for consideration. She now wants one home per acre. Run off is a problem in this area. This kind of intensity will not work. There is a lot of wildlife and wetland area there. No

sidewalks from the area exist for children to get to schools safely. The residents of Woodlands Estates urge one house per acre.

Commissioner Peltz stated that Ms. Rosell's conceptual drawing had 40 homes on it for R-1AA zoning.

Ms. Rosell agreed.

Larry Tanney of 2471 Fawn Run read a letter from his neighbors. A number of years ago Mr. Roy asked to divide this property, taking the rear 4.5 acres for a second home and was denied. Now the Board is looking to permit 15 homes on the same property. The County has since purchased land in the area to create a nature preserve. Property on Fawn Run and Scrub Oak have standing water on all lots. Water was not there until Orange County paved nearby. This proposal will cause flooding and diminish property values. The applicants will not live there. We want a country like setting. He requested denial.

Chairman Tucker stated that Mrs. Cynthia Tanney had turned in a speakers form stating that she is opposed to this application, but that she does not want to speak.

William Sloan of 3535 Old Lockwood Road said that his concern is that this is a mature area of 5 acre lots. He lives immediately south of the site. He said that 75 to 80 percent of the area is built out. This is in the middle of an established community. It is spot zoning and will open the window for further spot zoning in the area. He said that immediately south of his home is the Econ Wilderness, not heavily developed, and to the east is the nature preserve. This development will separate him from his neighbors.

Mike Kolb of 2516 Fawn Run, Woodland Estates, said that he agrees with previous speakers. He wanted to emphasize the investment the County has in the wilderness area. This development will effect this area. The house size in the area is 3,000 square foot homes.

Roger Ausburn of 3173 Scrub Oak Trail at the end of Fawn Run has 3 acres of his land as wetlands. He has a 4,500 square foot house. His concern was for drainage and impact on the Seminole County Park. He is also concerned with the lack of sidewalks and the impact on traffic in the area. He requested denial.

Bruce Atwater of 3149 Scrub Oak Trail said that he moved there to be isolated. He has a 6 acre parcel. The presence of the nature preserve attracted him to the area. This application could start a development trend. He requested denial.

Charlie Ziezel of 2447 Fawn Run stated that he had lived there for 20 years and that he objects to the request.

Susan S. Tzareff of 3201 Old Lockwood Road said that she has lived there since 1979. She lives on the other side of the wall from the Carillon development with 5 acres. She has previously been told that no sidewalks will be done in the area. There are no streetlights. 27 homes on 13 acres is not rural. There is a large wetlands area and the Big Econ is down there. She does not understand how this can be compatible. The Carillon area is behind a wall. Traffic is bad. The left onto Old Lockwood from McCulloch is very bad. She is strongly opposed.

Diane Fraser of 2416 Fawn Run lives across from the proposed homes. The road is an easement through her land and she is concerned about speeders on the paved roads. She has been flooded out since the road was paved. This housing is not welcome. She gave up 1.11 acres for wetlands and easements to Roy's property. Please deny.

Cindy Moscato of 2452 Fawn Run wants to live in the country. Please keep it that way. This area has wetlands and she wants to protect nature. She has concerns with the private road. She is highly opposed to this request.

Mr. Ken Wright stated in rebuttal that the area is LDR, which allows R-1 and 70 foot lots, R-1A and 75 foot lots, R-1AAA and 100 foot lots, and R-1AAAA with 100 foot lots. Staff is recommending one of these uses. You cannot be punitive. The difference is 2 lots. These are not zero lot line homes. We will agree to a minimum house size of 2,100 square foot homes. The configuration shown by the previous speaker is 10 lots more than we are proposing. All plans will be reviewed by St. John's River Water Management and Development Review at the time of permitting. There would be a different presentation if the land were not already LDR. Issues made by the public are either already decided by the LDR designation or will be addressed later in the process.

The public hearing was closed.

Commissioner Harris stated that this is a difficult issue. We must follow the Comprehensive Plan. The Staff report shows that the request is compatible. The problem is a drainage one. Code has certain requirements which address these concerns. The issue comes down to 25 lots or 27 lots. Legal precedent says that the applicant has a right to the zoning.

Commissioner Mahoney stated that the designated land use is LDR, and that such land use designation gives the property owner limitations and rights as well. The Board is bound by the Code. The question is which of the last 3 designations is the choice. It is not a pleasant choice, but we are bound to make one. The applicant has a request and we must respond to it.

Commissioner Mahoney made the motion to deny the request to rezone to R-1AA. He wanted to make the recommendation to the BCC that the lot compatibility determination of R-1AAA would be appropriate.

The motion died for lack of a second.

Commissioner Tucker then asked Mr. West to address the issue of sidewalks and a wall on the north side and how drainage could be done.

Mr. West stated that the sidewalks and right of way issues are addressed at the Development Review stage. Typically "weep" holes are put in the bottom of a wall to allow drainage to pass through.

Mahmoud Najda stated that existing drainage patterns on these two parcels mainly drain to the east. The water flows to the wetlands and then to the north on Fawn Run. The applicants will have to meet code, with no negative impact to the land.

Commissioner Tucker asked how the water would be handled.

Mr. Najda stated that water would be held in a retention pond and drain to the wetlands.

Commissioner Tucker expressed concern for the property to the east and flooding potential.

Commissioner Peltz stated that he was not happy with the zoning change and that he wanted to keep things as they are in the area.

Comm. Harris made a motion to approve the R-1AA zoning as requested by the applicant with the stipulation for a minimum house size of 2,100 square feet as committed to by the developer at the meeting.

Commissioner Hattaway seconded.

The motion passed 5 -2. Commissioner Peltz and Commissioner Mahoney were dissenting.