



retail/commercial uses as well as up to 10 percent of the developable land being utilized for multifamily development.

In March, 2000, the Planning and Zoning Commission heard a similar request for this property and recommended denial unanimously citing incompatibility with the adjacent single family neighborhood. The P&Z stated that the PUD master plan submitted in 2000 did not provide enough detail. The Board of County Commissioners acted on the P&Z's recommendation on April 11, 2000, and denied the rezoning request to PUD. At both meetings staff recommended approval of the rezoning request.

The property owner sued the County, and on February 5, 2001, the 18<sup>th</sup> Judicial Circuit for Seminole County found that the Board's decision to deny the request "was arbitrary and was not supported by competent substantial evidence and must be quashed." The decision has been remanded to the County for further consideration. The Circuit Court's decision was upheld by the District Court of Appeals as well. A copy of the ruling is attached.

The application before the Board of County Commissioners is the property owner's attempt at having the County reconsider the application for PUD zoning. There are some differences between the 2000 application and the 2003 application which are detailed in the staff report.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the requested rezoning from C-2 to PUD for approximately 16.5 acres of land located on the south side of West Carrigan Avenue, the north side of Econ River Place, and the west side of Alafaya Trail, based on staff findings and subject to conditions contained in the attached development order. Kenneth W. Wright, applicant.

#### **PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission at its meeting of April 2, 2003, recommended approval 3 to 1 of the requested rezoning subject to staff conditions except for the following:

Delete condition eleven of staff recommendation which is the requirement for a 150 foot setback. After further discussion with the applicant at the meeting, staff has revised its recommendation regarding the setback to match the condition placed on the Shadow Creek Apartments located at Red Bug Lake Road and Dodd Road, which is 120 feet.

Modify condition three to delete the requirement for a masonry wall and instead require heavy landscaping.

**THE TRADITION AT ALAFAYA PUD**

APPLICANT:	Shutts& Bowen Llp / Kenneth W Wright, Esq		
PROPERTY OWNER:	David E Tr & Tulp Louis Axel P Tr & Wagner Robert A Tr Etal,		
REQUEST:	Rezone from C-2 (Retail Commercial District) to PUD (Planned Unit Development District)		
HEARING DATES(S):	P&Z:	04/02/03	BCC: 05/13/03
PARCEL ID NO.:	34-21-31-300-0220-0000		
PROJECT LOCATION:	West Side Alafaya Trail, South of Carrigan Avenue, North of Econ River Place		
FUTURE LAND USE:	C-2		
FILE NUMBER:	Z2003-006 / 03-20500002		
COMMISSION DISTRICT:	District 1- Commissioner Maloy		

**OVERVIEW**

**Zoning Request:**

Rezone approximately 16.5 acres from C-2 to PUD, to create a mixed use development that will allow multi-family development of up to 20 dwelling units per net buildable acre as well as commercial/retail uses.

**Existing Land Uses:** The existing zoning designations and land uses are as follows:

DIRECTION	EXISTING ZONING	FUTURE LAND USE
North -	R-1B (single family) & PCD (Planned Commercial Development)	MDR (medium density residential) and Commercial
South -	PUD (Brossier Apartments)	Commercial
East -	C-2 (Retail Commercial)	Commercial
West -	M-1A (very light industrial)	Industrial

For more detailed information regarding zoning and land use, please refer to the attached map.

**SITE ANALYSIS**

**Facilities and Services:**

1. Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified.

2. The proposed zoning is consistent with the adopted future land use designation assigned to the property and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Seminole County Vision 2020 Plan.
3. Seminole County water and sewer service will be available to serve the site.
4. At this time, the applicant has elected to defer concurrency review. Prior to approval of any final site plan, the applicant/developer must submit for full concurrency review, including a traffic study.

**Compliance with Environmental Regulations:**

There are no jurisdictional wetlands on the site. Gopher tortoise burrows were observed on the site. A listed species survey, a gopher tortoise management plan and copies of any FFWCC permits are required prior to final site plan approval. Also, the development must comply with the requirements of the Econlockhatchee River Protection Overlay Standards Ordinance.

**Compatibility with Surrounding Development:**

Currently, the area has a Commercial Land Use Designation. The proposed PUD zoning is compatible with the Land Use Designation land use designation. Based upon the conditions contained within the attached development order that address setbacks, buffering and landscaping, the proposed development is compatible with surrounding uses.

**ADDITIONAL INFORMATION**

The table below provides a brief comparison of the PUD plan denied in April, 2000, with the PUD plan under consideration currently:

	2000 PUD plan	2003 PUD plan
Acres	23.2	16.5*
# of parcels	3	2
North buffer	75 feet	50 feet
Bldg. Height	40 ft.	35 ft. +10% for architectural features.

\*The site has been reduced in acreage due Florida Department of Transportation taking 4 acres for a retention pond to accommodate the widening of Alafaya Trail and the northeast corner of the original site being sold to Hess

The applicant is requesting to construct a six foot tall, steel frame, stucco wall along the north property line abutting the existing single family lots. Staff does not recommend this, but instead, recommends constructing a six foot tall masonry or brick wall.

Also, it should be noted that since the adoption of Ordinance 2000-13 by the Board of County Commissioners, the lands with industrial or commercial land use or zoning adjacent to the proposed PUD will not be required to provide active/passive buffering.

Finally, the applicant is requesting that alcoholic beverage establishments be permitted throughout the project. Staff recommends that this use be prohibited within the project, except for beer and wine sales that are an incidental use.

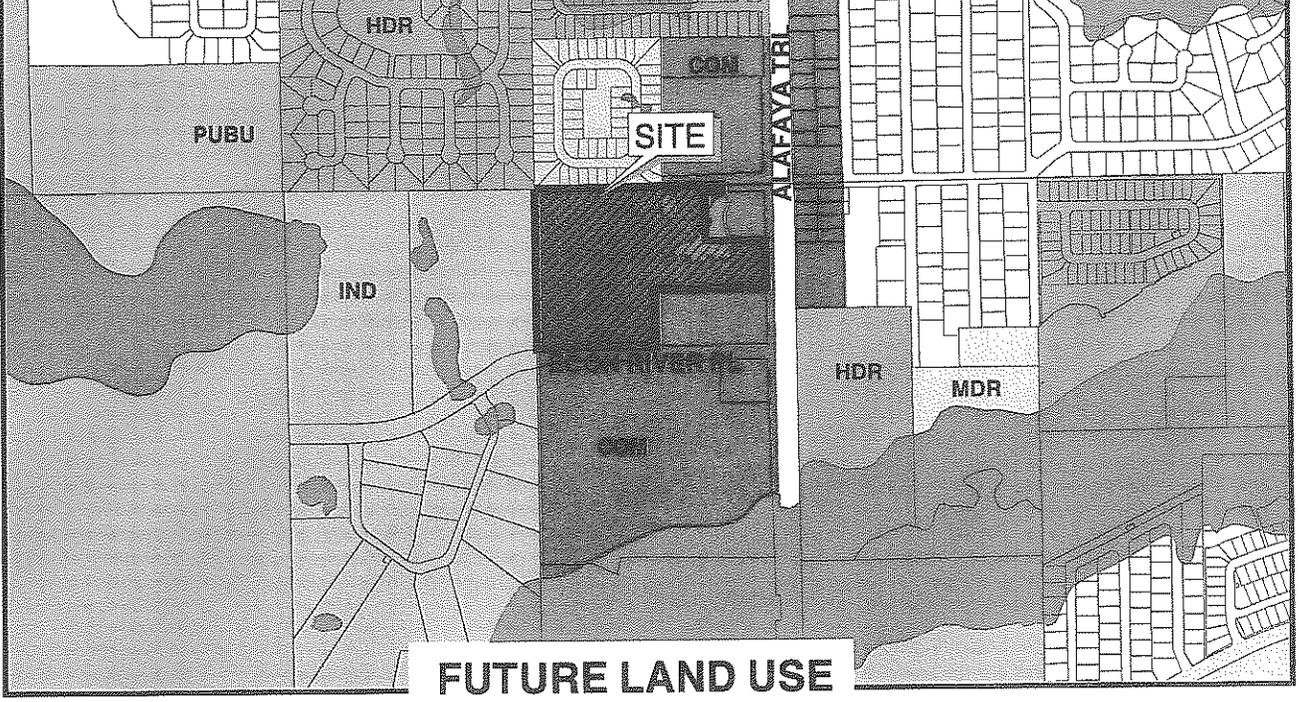
### **STAFF RECOMMENDATION**

Staff recommends approval of the requested rezoning from C-2 to PUD for approximately 16.5 acres of land located on the south side of West Carrigan Avenue, the north side of Econ River Place, and the west side of Alafaya Trail, based on staff findings and subject to conditions contained in the attached development order. Kenneth W. Wright, applicant. The attached ordinance contains the following conditions:

1. Permitted uses for lot 1 shall be those permitted and conditional uses listed under the C-2 zoning category, except that drive-in theaters, flea markets, paint and body shops, hospitals, nursing homes, outdoor advertising, communication towers, and alcoholic beverage establishments (unless incidental sales) which shall be prohibited.
2. Permitted uses for lot 2 shall be those permitted and conditional uses listed under the C-2 zoning category, except that drive-in theaters, flea markets, paint and body shops, hospitals, nursing homes, outdoor advertising, communication towers and alcoholic beverage establishments (unless incidental sales) which shall be prohibited, and those permitted and conditional uses listed under the R-4 zoning category, except boarding houses, communication towers, hospitals and nursing homes which shall be prohibited. Also, apartments shall be rented by the unit and not by the bedroom. No three bedroom/three bathroom or four bedroom/four bathroom units shall be permitted.
3. The buffer adjacent to the existing single family lots on the north side of the site shall be a minimum 50 feet in width, with a six foot masonry wall, and 8 canopy trees per 100 feet. Existing trees may satisfy some of the planting requirements of this condition. Existing trees within the buffer must be saved to the greatest extent possible.

4. The maximum building height shall not exceed 35 feet with a 10% allowance for architectural features.
5. At the final master plan stage, the applicant shall provide details of recreational and open space amenities to satisfy the open space requirements.
6. The residential density of the project shall not exceed 20 dwelling units per net buildable acre.
7. Maximum height of parking lot lights shall be 16 feet. Light fixtures shall have cut-off fixtures that direct light downward. Details of lighting shall be submitted with the final master plan. The minimum setback of a parking lot light source from any existing single family residential lot shall be 50 feet.
8. Dumpster/refuse areas shall be a minimum of 150 feet from any platted single family residential lot.
9. The developer shall provide a pedestrian circulation system giving access to all portions of the development as well as connecting to existing sidewalks outside the development.
10. The developer will comply with the Crime Prevention through Environmental Design (CPTED) concepts during final master plan review as recommended by the Seminole County Sheriff's Office.
11. After discussion with the applicant at the Planning and Zoning Commission meeting, staff has reduced its recommendation for a minimum building setback from 150 to 120 feet from any existing single family residential lot for any apartment building exceeding one story. 120 feet is consistent with the approval of the Shadow Creek Apartments located at the corner of Red Bug Lake Road and Dodd Road.

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.

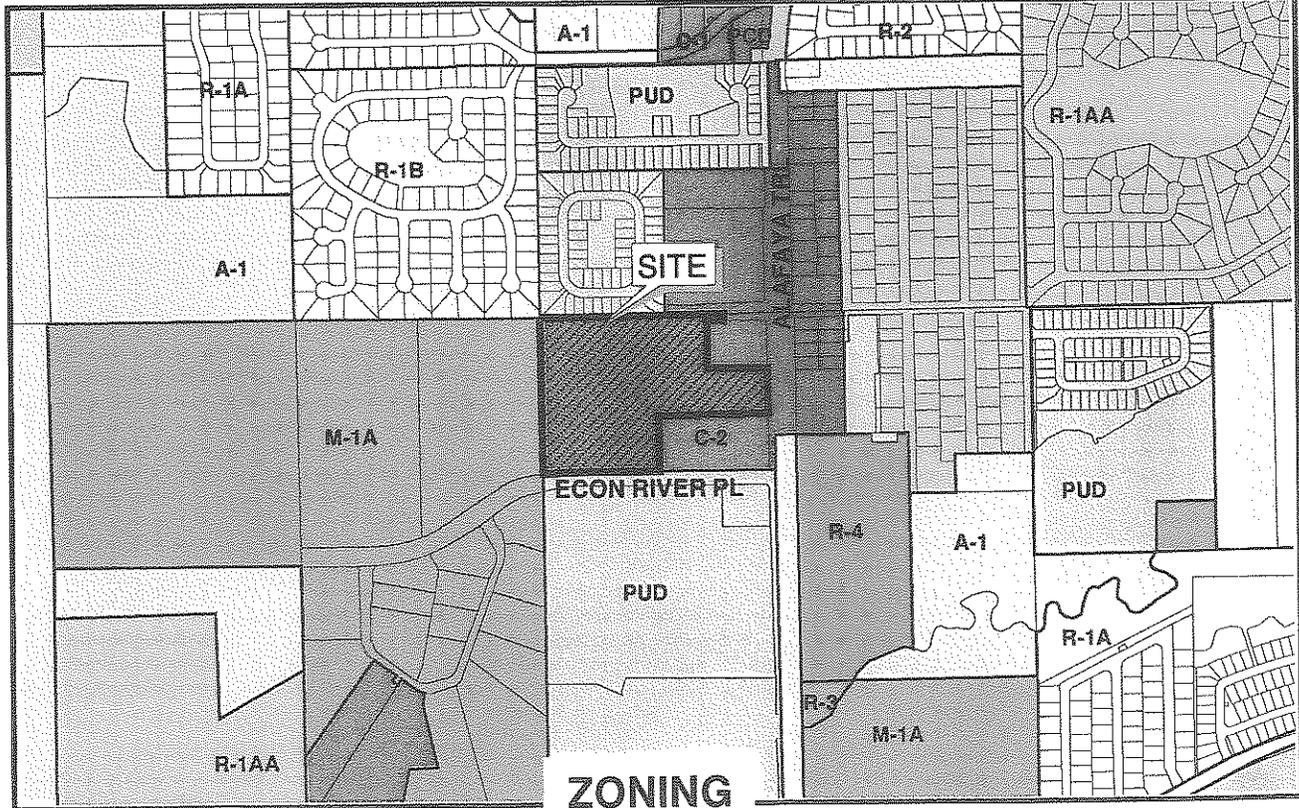


**FUTURE LAND USE**

Site 
  Municipality 
  COM 
  LDR 
  IND 
  MDR 
  HDR 
  PUBU 
  CONS

Applicant: Kenneth W. Wright, Esq. Shutts & Brown LLP  
 Physical STR: 34-21-31-300-0220-0000  
 Gross Acres: 16.563 BCC District: 1  
 Existing Use: Vacant Commercial  
 Special Notes: \_\_\_\_\_

	Amend/Rezone#	From	To
FLU	--	--	--
Zoning	Z2003-006	C-2	PUD



**ZONING**

A-1 
  C-1 
  C-2 
  M-1A 
  PCD 
  PUD 
  R-1A 
  R-1AA 
  R-1B 
  R-2 
  R-3 
  R-4



Rezone No. Z2003-006

From: C-2 To: PUD

-  Subject Property
-  Parcelbase



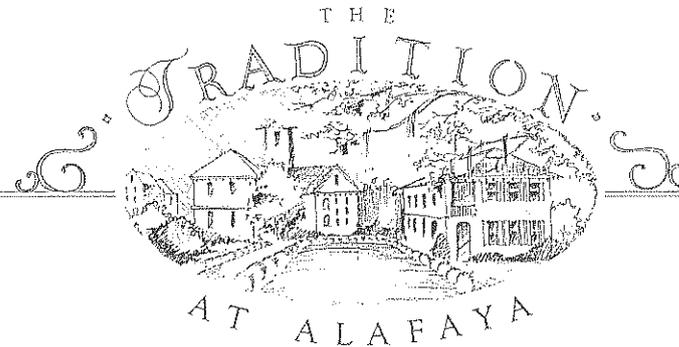
February 1999 Color Aerials

JANUARY 31, 2003

REVISIONS:  
FEBRUARY 25, 2003  
MARCH 26, 2003

# PRELIMINARY MASTER PLAN AND REZONING

FOR



PREPARED BY:

SHEET INDEX:

- 1- Topography, Boundary Survey
- 2- Preliminary Master Plan
- 3- Architectural Elevations

LANDSCAPE ARCHITECT:

Dix.Nance, Inc.  
150 W. Jessup Ave.  
Longwood, FL 32750  
(407) 667-1777

CIVIL ENGINEER:

Donald W. McIntosh & Associates  
300 Garfield Ave., Suite 300  
Winter Park, FL 32789  
(407) 644-4068

APPLICANT:

Kenneth W. Wright, Esq.  
Shutts & Bowen, LLP.  
300 South Orange, Suite 1000  
Orlando, FL 32802  
(407) 423-3200

RECEIVED

MAR 26 2003







TRADITION

**Minutes for the Seminole County  
Planning and Zoning Commission  
April 2, 2003**

**The Tradition at Alafaya; Kenneth W. Wright, Esq./Shutts & Bowen,LLP, applicant; approximately 16.563 acres; rezone from C-2 (Commercial) to PUD (Planned Unit Development). Located on the west side of Alafaya Trail, south of West Carrigan Avenue, north side of Econ River Place. (Z2003-006)**

Commissioner Maloy – BCC District 1 Matthew West, Planning Manager

Matt West opened by giving some background on the site of the application. He stated that the size of the site of this request was smaller than previous applications which had been denied by the BCC and quashed by the appellant courts. Now the property owner is back with a Hess station in the upper corner of the site and a retention pond in the southern corner of the site. This application is asking for apartments with one commercial out parcel. The Land Use is commercial. The western portion is apartments. The tract had been 22.3 acres in the year 2000; now it is 16.5 acres; now it is 2 parcels. The north buffer adjacent to Remington is now 50 feet, where it had previously been 75 feet. Building height will be 35 feet with a 10% deviation for architectural features. The Land Development Code has changed, stating that the adjacent residential use provides the buffer, not the commercial use.

Staff recommendation is for approval of rezoning from C-2 to PUD subject to the conditions delineated in the staff report.

Mr. West stated that he had received an e-mail expressing concern for the level of traffic that this site would generate. Mr. West said that he had studied the site and estimated that a 180,000 square foot shopping center could go here and the small parcel could be a Walgreens. This would be 7,500 trips per day. The 272 apartments proposed will generate 3,100 trips per day. This property has been designated as commercial since the 1960's. Staff considers that from a traffic point of view, apartments are better.

Commissioner Harris read Dianne Kramer's comments into the record:

Item VI B --- while understanding and acknowledging the history of this proposal, the change does have a significant impact on the school system. The conditions placed upon the approval discourage university student housing, but encourage public school students. The 272 units would generate approximately 31 elementary students, 14 middle school students, and 16 high school students. The site is served by Evans Elementary, Chiles Middle School, and Oviedo High School. Chiles is the only school that currently has capacity for more students. Evans has 10

portables on campus and Oviedo has 12. Two new elementary schools will open in 2004 and provide additional capacity in the area. A new high school will open in 2005. The current enrollments are as follows:

Evans:	1021
Chiles	1160
Oviedo	2997

Dianne L. Kramer, Deputy Supt./Operations  
Seminole County Public Schools

Ken Wright of Shutts & Bowen spoke next, stating that Steve Walsh was also present. Mr. Walsh is an experienced real estate developer who is planning an upscale project, not to be construed as student housing. In the past this site was going to be housing for students. Judge Deborah Nelson in her decision said that there was not substantial evidence to deny the request. For subsequent denial, competent evidence must be found. Previously, there had been a request for 352 apartments, now there are to be 268 apartments. This request meets the compatibility analysis in table 2.1 of the County Comprehensive Plan. By virtue of the application of this table, this request is compatible.

Mr. Wright noted an area of concern: placement of the wall versus the 6 foot wooden fence on the north side of the property. The applicant proposes a 50-foot buffer in lieu of the 120-foot buffer on the plan submitted. The code requires a 100-foot buffer. This is not a site plan. We will work on the site plan with staff later to meet requirements. In the pre-application meeting we got suggestions and went to DRC. No 150-foot buffer was mentioned at DRC. We are asking for the LDC requirements. On the north side Mr. Wright stated that the best choice was for no wall or fence at all. A wall will be damaging to the land. Houses to the north have wooden fences. This issue can be addressed at the site plan review. The applicant would rather have landscaping than a wall. Remington Village was downzoned from commercial to MDR. No buffer was required at that time. In closing, Mr. Wright noted that the 35 foot height restriction with the 10% deviation allows for deviation in roof line design.

Patrick Precord of 2801 Joseph Circle, Oviedo, has the lot in the lower left corner of the FLU map in the yellow subdivision, adjacent to the site of the request. Mr. Precord said that this could become student housing. Three stories tall is a concern to him. He also pointed out that the industrial lot to the west has a block wall and it saved the vegetation and trees while putting in the wall. He would prefer a commercial use on the property. Use by college people could bring in 4 – 5 cars per unit.

Cynthia Gundy of 2897 Joseph Circle, Oviedo, is President of the Remington Homeowners' Association. She also lives in the yellow subdivision reflected on the FLU map for the project. She is not opposed to development of the area. This was not proposed as student housing before; there had been limitations. Her concern is for the main entrance being on W. Carrigan. The back entrance

on Little Econ River Place would lead to cut throughs to W. Carrigan. This will not be gated as the previous version years ago was to be. The plan shows barely more than one parking space per unit. Her main concern is the impact to traffic in the area.

Ken Lauver of 194 Sawyerwood Place, Oviedo, stated that he was concerned with traffic patterns and that he wanted leases for 12 months or higher.

Robert Reese of 952 Moss Lane, Winter Park, is the owner of the Grand Villa at Riverplace. He stated that he worked with the neighbors prior to taking his proposal to the BCC. He stated that his project is gated and that the lease holders have no co-signers.

Bert Locke, Jr. of 3044 Salisbury Cove, Oviedo, stated that commercial is the highest and best use of the site. Commercial is a good buffer. He requested preservation of the C-2 buffer to make a transition.

Ken Wright stated in rebuttal that must point out that there is no basis to deny the zoning from a legal standpoint. Once the use is shown as compatible it falls back on the County. Judge Nelson stated that lay testimony of traffic and noise is not credible; conditions must be based upon competent evidence. Should there be the same conditions as Mr. Reese asked for, they are unconstitutional. This is not student housing. A person should be allowed to have con-signers or a 6 month lease. The staff recommendation supports the request. We will work on the active passive buffer.

Commissioner Harris stated that the request was for multiple uses on Lot 2.

Matt West stated that the site could be commercial or multi-family.

Mr. Wright stated that the applicant wants to develop multi-family uses on the site. They will work on the buffers.

At this time the public hearing was closed.

Commissioner Harris stated that the argument made previously holds here: if you are in a two story building, a 6 foot wall is not a visual barrier. Heavy vegetation is the best.

**Commissioner Harris made a motion to recommend approval of the rezoning with the inclusion of staff recommendations. Staff report condition number 3 shall be a minimum of a 50 foot buffer with heavy landscaping and trees. Condition number 11 will be eliminated until the site plan approval step in the process.**

**Commissioner Dorworth seconded the motion.**

In discussion Commissioner Tucker stated that he would be voting against the motion since he felt that the zoning was incompatible with the sewer plant next door. He felt that the site should be developed as a commercial site.

**The vote was 3 – 1 in favor of the motion.** Commissioner Tucker voted “no.”

FILE # Z2003-006

DEVELOPMENT ORDER #03-20500002

**SEMINOLE COUNTY DEVELOPMENT  
ORDER**

On May 13, 2003, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit A.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

**Property Owners:**

David E. Axel Trust, 600 Lake Mills Road, Chuluota, Florida 32766

Robert A. Wagner Revocable Trust, 2400 Pandora Lane, Chuluota, Florida, 32766

THOMAS R. ENGLAND, 1760 Lake Mills Road, Chuluota, Florida 32766

THE LOUIS P. TULP TRUST P.O. Box 621024, Oviedo, Florida 32762-1024

**Project Name:** TRADITION AT ALAFAYA, THE

**Requested Development Approval:** Rezoning from C-2 (Retail Commercial District) zoning classification to PUD (Planned Unit Development District) zoning classification

The Development Approval sought is consistent with the Seminole County *Comprehensive Plan* and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: MATTHEW E WEST

1101 East First Street  
Sanford, Florida 32771

Order

**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

1. Permitted uses for lot 1 shall be those permitted and conditional uses listed under the C-2 zoning category, except that drive-in theaters, flea markets, paint and body shops, hospitals, nursing homes, outdoor advertising, communication towers, and alcoholic beverage establishments (unless incidental sales) which shall be prohibited.
2. Permitted uses for lot 2 shall be those permitted and conditional uses listed under the C-2 zoning category, except that drive-in theaters, flea markets, paint and body shops, hospitals, nursing homes, outdoor advertising, communication towers and alcoholic beverage establishments (unless incidental sales) which shall be prohibited, and those permitted and conditional uses listed under the R-4 zoning category, except boarding houses, communication towers, hospitals and nursing homes which shall be prohibited. Also, apartments shall be rented by the unit and not by the bedroom. No three bedroom/three bathroom or four bedroom/four bathroom units shall be permitted.
3. The buffer adjacent to the existing single family lots on the north side of the site shall be a minimum 50 feet in width, with a six foot masonry wall, and 8 canopy trees per 100 feet. Existing trees may satisfy some of the planting requirements of this condition. Existing trees within the buffer must be saved to the greatest extent possible.
4. The maximum building height shall not exceed 35 feet with a 10% allowance for architectural features.
5. At the final master plan stage, the applicant shall provide details of recreational and open space amenities to satisfy the open space requirements.

6. The residential density of the project shall not exceed 20 dwelling units per net buildable acre.
7. Maximum height of parking lot lights shall be 16 feet. Light fixtures shall have cut-off fixtures that direct light downward. Details of lighting shall be submitted with the final master plan. The minimum setback of a parking lot light source from any existing single family residential lot shall be 50 feet.
8. Dumpster/refuse areas shall be a minimum of 150 feet from any platted single family residential lot.
9. The developer shall provide a pedestrian circulation system giving access to all portions of the development as well as connecting to existing sidewalks outside the development.
10. The developer will comply with the Crime Prevention through Environmental Design (CPTED) concepts during final master plan review as recommended by the Seminole County Sheriff's Office.
11. Minimum building setback of 120 feet from any existing single family residential lot for any apartment building exceeding one story.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

**Done and Ordered on the date first written above.**

By: \_\_\_\_\_  
Daryl G. McLain, Chairman  
Board of County Commissioners









Exhibit A

Legal Description

TRADITION AT ALAFAYA

DESCRIPTION:

The Northwest 1/4 of Section 34, Township 21 South, Range 31 East, Seminole County, Florida, lying North of Econ River Place (formerly Iron Bridge Road), and lying West of State Road 520 (Alafaya Trail).

Less and except the following described parcels of land:

Lot 1, CARRIGAN-HESS, according to the plat thereof, as recorded in Plat Book 59, Page 16, Public Records of Seminole County, Florida.

That portion of said land conveyed to Seminole County, a political subdivision of the State of Florida recorded April 13, 1999, in Official Records Book 3628, Page 920.

That portion of said land conveyed to Seminole County, a political subdivision of the State of Florida recorded April 13, 1999, in Official Records Book 3628, Page 925.

That portion of said land taken by the State of Florida Department of Transportation by Stipulated Order of Taking and Final Judgment recorded October 3, 2001, in Official Records Book 4185, Page 298.

Containing 16.563 acres more or less and being subject to any rights-of-way, restrictions and easements of record.

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 C-2 (RETAIL COMMERCIAL DISTRICT) ZONING CLASSIFICATION THE PUD (PLANNED UNIT DEVELOPMENT DISTRICT) 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 The Tradition at Alafaya PUD.

(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 C-2 (Retail Commercial District) to PUD (Planned Unit Development District):

**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 on the recording date of the Development Order # **03-20500002** in the Official Land Records of Seminole County.

ENACTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

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

Exhibit A

Legal Description

TRADITION AT ALAFAYA

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That portion of said land conveyed to Seminole County, a political subdivision of the State of Florida recorded April 13, 1999, in Official Records Book 3628, Page 920.

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That portion of said land taken by the State of Florida Department of Transportation by Stipulated Order of Taking and Final Judgment recorded October 3, 2001, in Official Records Book 4185, Page 298.

Containing 16.563 acres more or less and being subject to any rights-of-way, restrictions and easements of record.

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR SEMINOLE COUNTY, FLORIDA

APPELLATE DIVISION

WEAT LAND PARTNERS II,  
A florida general partnership,

Case No.: 00-33  
L.T. Case No.: 99-1176-CA-16

Petitioner,

vs.

SEMINOLE COUNTY, a political  
subdivision of the State of Florida,

Respondent.

Decision filed February 5, 2001.

Miranda F. Fitzgerald, Esquire  
for Petitioner

Stephen P. Lee, Esquire  
for Respondent

*entered  
Feb 6/01  
Mandate issued*

In this petition for writ of certiorari, Weat Land Partners II (Weat) is seeking review of a 2/1 decision of the Seminole County Board of County Commissioners (BCC) denying Weat's request to rezone its property from C-2 to PUD. Weat's property is located approximately one mile from The University of Central Florida (U.C.F.). It abuts the Remington Village subdivision to the north. Further north but still close by are the Remington Park and Stillwater subdivisions. The property comprising Remington Village had been rezoned a number of years ago from C-2 to medium density single family residential. At the public hearing before the BCC, a number of residents and representatives from all three subdivisions spoke in opposition to the rezoning request.

Weat's property consists of three parcels, referred to at the hearing as parcels A, B, and C. Parcel A consists of 14.45 net buildable acres and is adjacent to Remington Village. Parcels B and C have 1.6 and 3.15 net buildable acres, respectively. Weat's PUD

proposal was to have a mixture of retail commercial (C-2, restaurants and convenience stores) and residential (apartments) on its property. Weat's proposal indicated that Weat desired to break down the uses amongst the parcels in any of the following manners:

- 1) All three commercial.
- 2) A, R-4 (high density residential- including apartments), B, commercial, and C, R-4
- 3) A, R-4, B, commercial, and C, commercial

However, it is apparent from the hearing transcript that the property likely would be developed according to the second or third option, and that an apartment complex consisting of up to 352 units would be constructed on the property. The neighbors were opposed to this primarily because they felt that the target market for the complex would be U.C.F. students, with an attendant increase in noise, crime, traffic and irresponsible drivers.

A nearby landowner, Brossier, Inc., had recently obtained a rezoning of its property from C-2 to PUD to develop it as a combination of retail commercial/ apartment complex in a manner substantially similar to the development proposed by Weat. To avoid opposition by the three subdivisions, Brossier met with representatives of the subdivisions and made a number of concessions to allay their concerns about potential problems caused by student residents. The concessions were designed to reduce the number of students residing at the complex and address problems caused by students who did live there, and included the following conditions:

- 1) None of the leases would be cosigned.
- 2) A Seminole County deputy sheriff would be allowed to live in one of the units rent free.
- 3) None of the leases would be for less than twelve months.

Weat had also met with representatives of the three subdivisions, and agreed to all of the same concessions given by Brossier, except for the above three. With respect to the above three concessions Weat:

- 1) Agreed to limit the number of cosigned leases to 15% of the units, done on an as available basis rather than concentrating them in one spot. Weat stated that it wanted the 15% flexibility to accommodate domestic situations, ie. a separating or divorcing spouse seeks an apartment but does not have the necessary credit on his/her own to obtain one.
- 2) Agreed to limit the number of seven month leases to 20% of the units. Weat stated that it wanted this 20% flexibility to accommodate corporate relocations and house hunters.
- 3) Rejected the concession of having a deputy sheriff residing at the complex for even 50% of the regular rental.

As mentioned, Weat did agree to a number of the concessions made by Brossier, including not allowing subleasing, not having any four bedroom apartments or three bedroom three bath apartments, and renting by the unit rather than by the room. Additionally, the complex would be gated, it would be set back 75 feet from the Remington Village subdivision and separated from it by a brick wall and planting, and no balcony apartments would overlook the Remington Village homes.

The neighbors refused to withdraw their opposition to the rezoning unless Weat agreed to the identical concessions given by Brossier.

Weat submitted its proposed preliminary master plan for the rezoning to Planning and Zoning (P&Z) for approval. This proposed plan had little detail regarding the rezoning of the parcels because Weat did not yet have a developer for the project. However, as the P&Z staff noted, little detail for these preliminary plans is required by the Land Development Code (LDC), and Weat's plan met these requirements. The staff held a public hearing at which the neighbors voiced their opposition to the rezoning.

In its report to the P&Z Commission, the staff stated that, even if Weat did not give the three disputed concessions given by Brossier, the plan met all requirements, including compatibility with the surrounding areas. The staff recommended approval of the rezoning. The Commission, however, unanimously recommended denial of the rezoning on the grounds that rezoning was incompatible with the surrounding area, and the proposed preliminary master plan lacked sufficient detail. Weat appealed to the BCC.

At the public hearing before the BCC, P&Z staff once again recommended approval of Weat's plan even without the additional three concessions. Weat's counsel, Ms. Fitzgerald, was qualified and testified as an expert witness in the field of land use law. A traffic engineering professional, Mr. Dervish, also was qualified and testified as an expert on behalf of Weat. Ms. Fitzgerald testified as to the concessions Weat had made. She also testified that the developer for the Remington Village subdivision had sought and obtained down-zoning of that property from C-2 to medium density residential, but that the approved Remington Village development plan had not included the buffers that should have been placed between this rezoned lower intensity use and the abutting C-2 property. She testified that much of the adjacency problems being raised by the neighbors opposed to Weat's plan were created by the improper approval of the development plan for Remington Village.

Several provisions of the LDC and the Seminole County Comprehensive Plan (CP) were discussed which support approval of Weat's proposed PUD. The CP contains Table 2.1 which sets forth compatible transitional uses with respect to existing adjacent zoning designations. The table has two categories- uses which are per se compatible and those which are compatible transitional uses if conditions are imposed. Weat's proposal was a per se compatible transitional use. Furthermore, the policy section of the CP at 2.52 provides that to prevent urban sprawl the county **shall** encourage commercial property to

be developed as PUD, mixed use residential /commercial, including apartments (emphasis added). Also, the housing element introduction to the CP provides that, also to discourage urban sprawl, the CP recommends promoting medium to high density residential development along highly developed roadways. Ms. Fitzgerald testified that Weat's property fronts just such a roadway, Alafaya Trail, and that Alafaya Trail has been designated by the Department of Transportation to be further widened in the near future.

The neighbors' preference for the development was that it remain entirely commercial, including office space. The neighbors contended that keeping the parcels commercial, or requiring Weat to give the identical concessions given by Brossier, would result in:

- 1) Less traffic congestion from the development.
- 2) Less noise from student rented apartments.
- 3) Less crime generated from student rented apartments.

#### TRAFFIC CONGESTION

The neighbors offered only lay opinion testimony in support of their argument that the proposed rezoning would create excessive traffic congestion in the area. Because lay opinion testimony without factual support does not constitute competent substantial evidence, Weat was not required to put on any rebuttal evidence. However, the neighbors' lay opinions were, in fact, refuted by the testimony of Weat's expert, Mr. Dervish, who stated that developing the property as proposed by Weat would result in significantly less traffic in the area, even during peak traffic periods.

#### NOISE AND CRIME

A number of the neighbors opposing the rezoning referred to traffic, crime and noise problems experienced in proximity to "student housing" developments near U.C.F.

such as Knight's Crossing and Northgate Lakes. However, evidence in the record reveals that such traditional apartment student housing involves renting by the room and subletting.

The Seminole County LDC does not have a definition for student housing. However, it does have a definition for "rooming apartments" which appears to encompass student housing. It provides that rooming apartments are rented, in whole or in part, by the room and not as a single unit, and that complexes that rent apartments with each room having its own bathroom facilities, and which is located within one (1) mile from a college or university shall be presumed to be a rooming apartment complex.

None of the neighbors testified that the identified problem complexes were similar to that proposed by Weat, with its prohibitions on 4/4, 4/3, and 3/3 rentals, renting by the bedroom, subleasing, and its restrictions limiting cosigning and seven month leases. Weat did not dispute that students would be able to rent apartments at its proposed complex. But the record reflects that Weat had taken steps to ensure that the complex would not have the high concentration of student tenants (and its associated problems) like that present at complexes such as Knight's Crossing. Thus, the neighbor's testimony did not establish that Weat's plan could result in the excessive crime, traffic and noise problems feared by the neighbors as a result of their experiences with complexes such as Knight's Crossing and Northgate.

#### DEPRESSED PROPERTY VALUES

One neighbor testified that Weat's proposed development would depress the property values in the subdivisions. However, the only concrete factual support which she gave for that statement was that the value of her home had been depressed for a lengthy period of time due to a complex which had been built on SR 434 (Alafaya). She did not identify whether that complex was similar to Weat's or was a student housing project like

Knight's Crossing. Furthermore, Weat's counsel testified as an expert that well maintained and managed complexes do not depress the property values in nearby subdivisions, and gave several examples.

BCC's reasons for denying the rezoning are not clear, but the denial appears to be based on the fact that Weat would not agree to all the concessions given by Brossier, and because the proposed development was close to single family homes.

A landowner seeking rezoning of property has the initial burden of proving that the landowner has complied with all procedural requirements of the zoning ordinance and that rezoning is consistent with the comprehensive plan. The burden then shifts to the County to prove that maintaining the existing zoning accomplishes a legitimate public purpose. Board of County Commissioners of Brevard County v. Snyder, 627 So.2d 469 (Fla. 1993). Weat met both parts of its initial burden in this case. It proved that its proposal was consistent with the CP- it was per se compatible with the adjoining uses, and furthered the CP policy of encouraging PUD zoning and promoting medium to high density zoning along highly developed roads. Furthermore, although Weat's plan was sparse on detail, P&Z staff testified that no more detail than Weat provided was required by the LDC. Therefore, Weat proved that it had complied with the procedural requirements of the zoning ordinance. The burden thus shifted to the County to prove that maintaining the existing zoning would accomplish a legitimate public purpose such as the promotion of public health, safety or welfare.

In reviewing a rezoning decision this court is confined to consideration of the record of the BCC hearing. The court must determine whether BCC afforded Weat procedural due process, complied with the essential requirements of law, and whether the decision of the BCC is supported by competent substantial evidence. Degroot v. Sheffield, 95 So. 2d 912 (Fla. 1957); ABG Real Estate Development Company v. St.

Johns County, 608 So.2d 59 (Fla. 5<sup>th</sup> DCA 1992) rev. den. 613 So2d 8 (Fla. 1993). As is often the case in these petitions, the third prong appears to be primarily at issue although the second prong is also at issue.

In determining whether competent substantial evidence supports a rezoning decision, this court may not reweigh the evidence, and must affirm if a reasonable person, after considering the competent evidence in the record, could reach the same result. Lee County v. Sunbelt Equities II, L. P. 619 So.2d 996 (Fla. 2<sup>nd</sup> DCA 1993); Department of Natural Resources v. Sailfish Club of Florida, Inc. 473 So.2d 261 (Fla. 1<sup>st</sup> DCA 1985). However, generalized lay opinion testimony regarding noise, traffic etc., which is not substantiated by factual testimony and evidence, does not constitute competent evidence. Metropolitan Dade County v. Blumenthal, 675 So. 2d 598 (Fla. 3<sup>rd</sup> DCA 1995).

The testimony of the neighbors did not constitute competent substantial evidence which would support denial of the rezoning, because it was mostly generalized lay opinion, and the factual testimony was not tied to the neighbors' experiences with a complex such as that proposed by Weat. Rather, the neighbor's factual testimony appeared to relate entirely or almost entirely to problems experienced as a result of student housing projects like Knight's Crossing. Therefore, the County did not meet its burden of proving that denial of the rezoning request advanced a legitimate public purpose, and the burden never shifted back to Weat to rebut the County's evidence. However, even though the burden never shifted back to Weat, the testimony of P&Z staff and Weat's experts constituted competent substantial evidence in favor of approval of Weat's proposal.

Seminole County argues that PUD zoning is different from other types of zoning in that it necessarily involves negotiation of conditions of approval between the landowner, the governing body and neighboring landowners. Hence, it contends that

BCC was justified in denying rezoning because Weat would not agree to the three additional concessions given by Brossier. The procedure for obtaining PUD zoning does differ significantly from obtaining traditional rezoning. PUD zoning typically involves a large tract of land. It affords a developer more flexible use of property because a mixture of zoning classifications can be placed on the property. For example, the C-2 designation of Weat's property only permitted Weat to put 10% of the property to residential use. With PUD zoning, Weat would be able to put portions of the property to a much higher density residential use. Because PUD zoning permits a mixture of land uses not permitted on adjoining land which is not zoned PUD, a landowner seeking PUD zoning must agree to conditions which will mitigate the impact on adjoining lands caused by the mixed uses on the PUD zoned land. City of New Smyrna Beach v. Andover Development Corp., 672 So.2d 618 (Fla. 5<sup>th</sup> DCA 1996). Thus, approval of a PUD is similar to approval of a special exception, special use, or a variance. Bender, Zoning and Land Use Controls, Section 32.03(2).

In Seminole County, the landowner seeking PUD rezoning must submit a preliminary master plan to P&Z for approval. This preliminary plan typically is not detailed, because after it is approved, the owner must submit a detailed final master plan. P&Z can impose conditions on approval of the preliminary plan to mitigate adverse effects of PUD zoning. Once the preliminary master plan is approved, a site-specific zoning ordinance is drafted for the PUD and is enacted after a public hearing. The developer's final master plan cannot deviate from the requirements of that ordinance without obtaining amendment of the ordinance after another public hearing. The developer then has a five year period of time to submit its final master plan to P&Z for approval. P&Z must approve that master plan if it complies with the ordinance implementing the preliminary master plan, and all other provisions of the LDC.

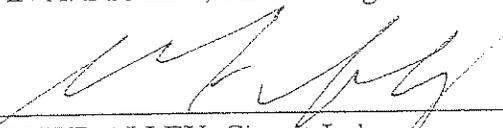
Reference Seminole County LDC at Sections 30.444, 30.445, 30.449, 30.450, and 30.451. Had Weat decided to develop its property consistent with the existing C-2 zoning, these steps would have been unnecessary. Weat would have only been required to submit a site plan for approval, and P&Z would have been required to approve it without imposition of further conditions so long as it complied with the LDC.

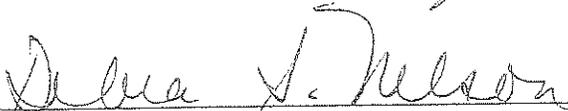
Although P&Z and the BCC can impose conditions on approval of a preliminary master plan for a PUD, the conditions cannot be arbitrary. That is, the conditions must be reasonably designed to promote the public health, safety or welfare. It is a departure from the essential requirements of law to impose conditions which do not further one or more of these goals. Proof that the conditions do so is the County's burden of proof, and that the County did not meet it. It was arbitrary to deny approval simply because Weat did not agree to all conditions given by Brossier, where there was no proof that requiring those conditions would promote the public welfare. Likewise, although lack of compatibility with the surrounding area (the proximity of the development to U.C.F. and residences) was also given as a reason for denial, this was not proved, and in fact the proposal was per se compatible with the surrounding area under the CP.

The decision to deny rezoning was arbitrary and was not supported by competent substantial evidence and must be quashed. However, Seminole County correctly argues that, if the decision is quashed, this court cannot remand with directions to approve the rezoning. Rather, this court must remand for further proceedings consistent with the opinion. Seminole County Bd. of County Commissioners v. Eden Park Village, Inc., 699 So.2d 334 (Fla. 5<sup>th</sup> DCA 1997) rev. den. 707 So.2d 1126 (Fla. 1998); St. Johns County v. Smith, 25 Fla. L. Weekly D1887 (Fla. 5<sup>th</sup> DCA, Aug. 11<sup>th</sup>, 2000).

The decision under review is QUASHED, and this cause is REMANDED for further proceedings consistent with this opinion.

  
ALANA DICKEY, Circuit Judge

  
NANCY F. ALLEY, Circuit Judge

  
DEBRA S. NELSON, Circuit Judge



Bert Locke  
Supporting Services  
PM Realty Group  
Orlando-2S  
Ext. 11899

To: plandesk@co.seminole.fl.us  
cc: bbl5220@aol.com  
Subject: The Tradition at Alafaya

03/28/2003 09:33 AM

Thank you for the notice of public hearing on April 2nd regarding The Tradition at Alafaya. As a concerned resident I look forward to attending the hearing to better understand the issues.

My first concern however is the intended change of use from commercial to apartments. The County can ill afford to reduce the amount of land zoned for commercial development. Commercial development is the County's "highest and best" use since it better serves the community by helping create jobs, helping enhance revenues through improved property tax and sales tax revenues, while at the same not requiring 24 hour County services. A conversion to apartments will increase the demand for County services including water and especially public safety services such as fire and sheriff's services.

As important as the strain on County services is the issue of compatibility. An area zoned commercial creates a buffer between the high density housing of an apartment complex zone and the single family homes near by. The single family homes in the adjacent developments enjoy a quality of life Seminole County is known for. Allowing a high density housing project to disrupt that quality of life is counter productive to Seminole County and it's image.

UCF, Orange County, and Seminole County have an opportunity ahead to plan for the future needs of the University. Allowing short sighted changes to the zoning of this property only serves to degrade that process and to diminish the desired outcome for all interested parties except of course the lone developer.

PLEASE - do not allow this rezoning to occur. Preserving the buffer is essential to preserving the quality of life your residents have entrusted you to maintain.

Bert Locke, Jr.  
3044 Salisbury Cove  
Oviedo, FL 32765  
407-366-9025  
bbl5220@aol.com

A large, handwritten signature in black ink, appearing to read "Bert Locke, Jr.", written in a cursive style.



Dianne Eswine  
03/27/2003 03:20 PM

To: Matt West/Seminole@Seminole  
cc:  
Subject: Proposed Apartment Project next to Remington Village

Matt,

As requested would you enter this as statement for the record.....

Thanks, Dianne

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 03/27/2003 03:25 PM -----



"Chris Middleton"  
<middleton.c@earthlink.net>

03/27/2003 06:03 PM  
Please respond to "Chris Middleton"

To: <deswine@co.seminole.fl.us>  
cc: "CINDY GUNDY (E-mail)" <Cynthia.Gundy@bus.ucf.edu>, "Goodrum; John" <jgoodrum@ced-concord.com>  
Subject: Proposed Apartment Project next to Remington Village

Mr. Malloy

I am a resident of the Remington Village community that is adjacent to the property that, once again, is up for rezoning. The property is zoned C-2 and is up for changing to a PUD. I appreciate your support in the past for our community and want to express my concern if this is approved. I feel the county has set a precedent already by refusing this request in the past so I simply ask that the county and yourself stand firm on this decision base on non-compatibility with our neighboring community. Its simply too close to our community and would increase the already high traffic on our streets. Since I will not be able to be present myself at the public hearing next Wednesday, please enter this as my statement for the record. I welcome a call if necessary to discuss this matter further.

Again I appreciate your support against this type of rezoning and welcome commercial development on that land instead.

Sincerely,

Chris Middleton  
2963 Joseph Circle  
Oviedo, FL 32765  
407-365-0605



Dianne Eswine  
04/03/2003 10:08 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: Community Update

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:13 AM -----



CLT3072@aol.com  
03/26/2003 11:37 AM

To: Bgerjoint4@aol.com, Sbro99@aol.com, cac@duda.com,  
ECOLLINS@STIS.NET, bogie925@mpinet.net, SEberle@cfl.rr.com,  
Bach28@aol.com, gmaloy@co.seminole.fl.us, MSHORB3@aol.com,  
MARKTOMS@aol.com, dwongfl@yahoo.com  
cc: kbarr2@cfl.rr.com, William.Froehlich@swpc.siemens.com,  
jgoody@mindspring.com, jgoodrum@ced-concord.com,  
cynthia.gundy@bus.ucf.edu, amj1213@netscape.net,  
navyk@juno.com, jeepbaby99@earthlink.net,  
remingtonpark@hotmail.com, rbreese@attglobal.net (Robert Reese),  
JBStiver@cfl.rr.com, Gju2977@aol.com, binki1@email.msn.com,  
finster@finsters.org, JFohr@bsaorl.com  
Subject: Community Update

The Traditions at Alafaya Apartment Complex to be located on West Carrigan is scheduled to be presented to the P&Z on April 2 at 7:00 PM in Sanford. Only a bubble plan has been submitted so far and unless approved by the P&Z and the BCC only then will a Master Plan be submitted. The project manager has been changed to Matt West if you are interested in obtaining any further details.

They are requesting a zoning change from C-2 to PUD at this meeting and the property is already zoned for high density so we may be looking at 268 apartments in the near future. This all depends on the actions of Remington Village who will be directly affected by this complex. This will be housing for more students unless the same restrictions are placed on this project that Bob Reese agreed to for his Luxury Complex.

Just wanted to let you know it has been scheduled.

Colleen



Dianne Eswine

04/03/2003 10:07 AM

To: Matt West/Seminole@Seminole

cc:

Subject: Re: Community Update

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:13 AM -----



"Cynthia Gundy"

<cgundy@bus.ucf.edu

>

03/26/2003 12:34 PM

To: <CLT3072@aol.com>, <Bgerjoint4@aol.com>, <Sbro99@aol.com>, <cac@duda.com>, <ECOLLINS@STIS.NET>, <bogie925@mpinet.net>, <SEberle@cfl.rr.com>, <Bach28@aol.com>, <gmaloy@co.seminole.fl.us>, <MSHORB3@aol.com>, <MARKTOMS@aol.com>, <dwongfl@yahoo.com>  
cc: <kbarr2@cfl.rr.com>, <William.Froehlich@swpc.siemens.com>, <jgoody@mindspring.com>, <jgoodrum@ced-concord.com>, <cynthia.gundy@bus.ucf.edu>, <amj1213@netscape.net>, <navyk@juno.com>, <jeeppbaby99@earthlink.net>, <remingtonpark@hotmail.com>, "Robert Reese" <rbreese@attglobal.net>, <JBStiver@cfl.rr.com>, <Gju2977@aol.com>, <binki1@email.msn.com>, <finster@finsters.org>, <JFohr@bsaorl.com>

Subject: Re: Community Update

Hello All,

First, let me thank Colleen for always keeping us informed! Secondly, Remington Village is; needless to say, very concerned about this project receiving approval.

Our HOA is already in the process of rallying homeowners to attend next Wednesday's P&Z meeting. We appreciate your communities' support of this matter as well. As we plan to defend our property values, your comments / suggestions are most welcome.

Feel free to give me a call any time about this or any other community issue, (407) 359-7723. If I am unavailable, please leave a message and I will return your call promptly.

Kind regards,  
Cyndi Gundy  
President  
Remington Village HOA

----- Original Message -----

**From:** [CLT3072@aol.com](mailto:CLT3072@aol.com)

**To:** [Bgerjoint4@aol.com](mailto:Bgerjoint4@aol.com) ; [Sbro99@aol.com](mailto:Sbro99@aol.com) ; [cac@duda.com](mailto:cac@duda.com) ; [ECOLLINS@STIS.NET](mailto:ECOLLINS@STIS.NET) ; [bogie925@mpinet.net](mailto:bogie925@mpinet.net) ; [SEberle@cfl.rr.com](mailto:SEberle@cfl.rr.com) ; [Bach28@aol.com](mailto:Bach28@aol.com) ; [gmaloy@co.seminole.fl.us](mailto:gmaloy@co.seminole.fl.us) ; [MSHORB3@aol.com](mailto:MSHORB3@aol.com) ; [MARKTOMS@aol.com](mailto:MARKTOMS@aol.com) ; [dwongfl@yahoo.com](mailto:dwongfl@yahoo.com)

**Cc:** [kbarr2@cfl.rr.com](mailto:kbarr2@cfl.rr.com) ; [William.Froehlich@swpc.siemens.com](mailto:William.Froehlich@swpc.siemens.com) ; [jgoody@mindspring.com](mailto:jgoody@mindspring.com) ; [jgoodrum@ced-concord.com](mailto:jgoodrum@ced-concord.com) ; [cynthia.gundy@bus.ucf.edu](mailto:cynthia.gundy@bus.ucf.edu) ; [amj1213@netscape.net](mailto:amj1213@netscape.net) ; [navyk@juno.com](mailto:navyk@juno.com) ; [jeeppbaby99@earthlink.net](mailto:jeeppbaby99@earthlink.net) ; [remingtonpark@hotmail.com](mailto:remingtonpark@hotmail.com) ; [Robert Reese](mailto:Robert Reese) ; [JBStiver@cfl.rr.com](mailto:JBStiver@cfl.rr.com) ; [Gju2977@aol.com](mailto:Gju2977@aol.com) ; [binki1@email.msn.com](mailto:binki1@email.msn.com) ; [finster@finsters.org](mailto:finster@finsters.org) ; [JFohr@bsaorl.com](mailto:JFohr@bsaorl.com)

**Sent:** Wednesday, March 26, 2003 11:37 AM

**Subject: Community Update**

The Traditions at Alafaya Apartment Complex to be located on West Carrigan is scheduled to be presented to the P&Z on April 2 at 7:00 PM in Sanford. Only a bubble plan has been submitted so far and unless approved by the P&Z and the BCC only then will a Master Plan be submitted. The project manager has been changed to Matt West if you are interested in obtaining any further details.

They are requesting a zoning change from C-2 to PUD at this meeting and the property is already zoned for high density so we may be looking at 268 apartments in the near future. This all depends on the actions of Remington Village who will be directly affected by this complex. This will be housing for more students unless the same restrictions are placed on this project that Bob Reese agreed to for his Luxury Complex.

Just wanted to let you know it has been scheduled.

Colleen



Dianne Eswine

04/03/2003 10:07 AM

To: Matt West/Seminole@Seminole

cc:

Subject: Apartment Project - Iron Bridge/West Carrigan

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:13 AM -----



LRashman@aol.com

03/26/2003 11:34 PM

To: deswine@co.seminole.fl.us

cc: miriam@centralpropertymgmt.com, middleton.c@earthlink.net,  
cgundy@bus.ucf.edu, jgoodrum@ced-concord.com,  
carrol.williams@swpc.siemens.com

Subject: Apartment Project - Iron Bridge/West Carrigan

Mr. Malloy

I am a resident of the Remington Village community that is adjacent to the property that, once again, is up for rezoning. The property is zoned C-2 and is up for changing to a PUD. In the past you have been very faithful to us and the neighboring communities in helping us defeat this change. At the last proposal, the owner had made numerous changes to his plan and the board of commissioners still defeated the change. It all comes down to compatibility. Two hundred and sixty plus units possibly holding four students, is not compatible next to a sixty-one home community. You supported us in the past against this apartment monster, please support us again. Thanks in advance for your help in this matter.

Larry Rash  
2896 Joseph Circle  
Ovideo, FL  
407-359-5798



Dianne Eswine

04/03/2003 10:07 AM

To: Matt West/Seminole@Seminole

cc:

Subject: Proposed Apartment Project next to Remington Village

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:12 AM -----



"Chris Middleton"

<middleton.c@earthlink.net>

03/27/2003 06:03 PM  
Please respond to "Chris Middleton"

To: <deswine@co.seminole.fl.us>

cc: "CINDY GUNDY \ (E-mail)" <Cynthia.Gundy@bus.ucf.edu>, "Goodrum; John" <jgoodrum@ced-concord.com>

Subject: Proposed Apartment Project next to Remington Village

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Sincerely,

Chris Middleton  
2963 Joseph Circle  
Oviedo, FL 32765  
407-365-0605



Dianne Eswine  
04/03/2003 10:06 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject:

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:12 AM -----



"Nancy Hewitt"  
<nancyh@butlerandho  
sch.com>

To: <deswine@co.seminole.fl.us>  
cc:  
Subject:

03/28/2003 08:16 AM

Dear Mr. Maloy:

My name is Nancy Hewitt and my husband and I live at 2770 Joseph Circle, Oviedo, FL, Remington Village.

We are writing to you to advise that we are strongly opposed to the apartments being proposed behind Hess Station. We feel like the value of our home will diminish and also that the traffic of an apartment complex would just be unfair to our quiet neighborhood.

Please work for us homeowners, and do not sign the rezoning being requested.

Thank you for your attention,

Nancy and Stephen Hewitt  
2770 Joseph Circle  
Oviedo, FL 32765

DISCLAIMER: This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender by replying to this message and then delete it from your system. Use, dissemination or copying of this message by unintended recipients is not authorized and may be unlawful. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.



Dianne Eswine  
04/03/2003 10:06 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: Proposed Apartment Project adjacent to Remington Village

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:12 AM -----



"Goodrum; John"  
<jgoodrum@ced-conc  
ord.com>  
03/28/2003 09:51 AM

To: "deswine@co.seminole.fl.us" <deswine@co.seminole.fl.us>  
cc: "CARROL WILLIAMS (E-mail)" <carrol.williams@swpc.siemens.com>,  
"CHRIS MIDDLETON (E-mail)" <middleton.c@earthlink.net>, "CINDY  
GUNDY (E-mail)" <Cynthia.Gundy@bus.ucf.edu>, "LARRY RASH  
(E-mail)" <LRASHMAN@aol.com>  
Subject: Proposed Apartment Project adjacent to Remington Village

Mr. Maloy,

I am a resident of the Remington Village community which is adjacent to the property set for proposed rezoning from C-2 to PUD for the Traditions at Alafaya apartment community. This proposal was already defeated when proposed as the Sam Carr project over two years ago.. Your support was crucial in getting this proposal rejected. That took great courage even in the face of a lawsuit against the county which was filed later and then withdrawn.

It now appears the owners are going to try again and it is just as important this time that the rezoning request be rejected as it was the last time. There is no compatibility between a 268 unit apartment community which will inevitably be mostly students and a residential community adjacent to each other. I would rather have commercial projects adjacent to my subdivision that apartments particularly when we know that the owner/developer is not willing to make any serious concessions to the residential community as has already been proven. Again you were instrumental in trying to get the owner/developer to work with us, but he adamantly refused to do so or made worthless concessions.

Please continue your support of our efforts to reject this rezoning request and if you have any questions or concerns, please do not hesitate to contact me.

Thank you in advance for your continued support and efforts.

John

John D Goodrum  
2968 Joseph Circle  
(407) 359-0476 Home (407) 741-8660 Office FAX (407) 551-2320  
jgoodrum@ced-concord.com

\*\*\*\*\*  
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[www.mimesweeper.com](http://www.mimesweeper.com)

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Dianne Eswine

04/03/2003 10:05 AM

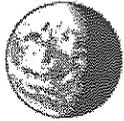
To: Matt West/Seminole@Seminole

cc:

Subject: Property re-zone for Apartment Complex - Wednesday, April 2, 2003

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:11 AM -----



"chris&kristi"  
<kconner@cfl.rr.com>

03/31/2003 11:35 AM

To: <deswine@co.seminole.fl.us>

cc:

Subject: Property re-zone for Apartment Complex - Wednesday, April 2, 2003

Commissioner Maloy:

As homeowners in Remington Village Subdivision (W. Carrigan, Oviedo), We are very upset that once again, a contractor is requesting to build an unwanted apartment complex in our backyards.

There are 2 brand new apartment complexes in this immediate area and a new complex on McCulloch, none of which are full. One is advertising 2 months free rent to get people in. Why would there be a need for another complex when the ones we have are not full (while UCF is in session). Not to mention this will drive down our property values as no one is interested in living next door to an apartment complex, especially with college students as tenants.

Contractors do not think about the residential homes, because they do not live in our neighborhood. If this were in their backyard, they would fight it also. We have a small, quiet, safe neighborhood for ourselves and our children to play. Please help us to keep it.

We urge you to vote "NO" in the re-zoning request on Wednesday, April 2, 2003 as you did before 3 years ago.

Thank you in advance for your support.

Christopher & Kristi Conner  
2987 Joseph Circle  
Oviedo, FL 32765

Matthew Terwelp  
2993 Joseph Circle  
Oviedo, FL 32765



Dianne Eswine

04/03/2003 10:05 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: rezoning

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:11 AM -----



"j.b. duncand"  
<jbduncan007@bellsouth.net>

03/31/2003 06:06 PM

To: "grant maloy" <deswine@co.seminole.fl.us>  
cc: <deswine@co.seminole.fl.us>  
Subject: rezoning

Sir i am e-mailing you this in reference to the rezoning issue involving property located on West Carrigan in front of the Remington Village sign in which i am a home owner in said so subdivision. When looking for my home i investigated the zoning in the area and was please to find out it was not zone for apartment living. Now i have invested alot into my home and feel i should not have to move because of someone who purchase property knowing what said property was zone for, and who now wants to have said property to be rezoned for his own investment. If you need further comment from my family please feel free to contact me at my e-mail address [jbduncan007@bellsouth.net](mailto:jbduncan007@bellsouth.net) or please forward me a letter at my home address of 2849 Joseph Circle, Oviedo, Fl 32765.

Thank you,

John and Linda Duncan



Dianne Eswine  
04/03/2003 10:05 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: Rezoning hearing April 2nd

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:10 AM -----



PBoinky@aol.com  
04/01/2003 10:04 AM

To: deswine@co.seminole.fl.us  
cc: plandesk@co.seminole.fl.us  
Subject: Rezoning hearing April 2nd

To: Grant Maloy

Mr. Maloy,

I am writing to express my great concern that the rezoning from C-2 to PUD for the property located behind the Hess station and adjacent to Remington Village would devastate our tranquil community. In particular with the entrance next to our sign and so close to the only entrance and exit to our community we would have constant traffic.

Additionally the noise that would be generated by an apartment of that size would certainly be disruptive to our community. We are a small, quiet family oriented community where the children can safely play in their yards and the street. Everyone is considerate and diligent in maintaining that family atmosphere. The addition of 268 apartments which could house over 1,000 students would certainly be a detriment to our way of life as well as our property values.

I urge you to deny this request and allow us to continue to live in the manner that we had expected when we built our homes here and in keeping with the family neighborhood atmosphere that we enjoy now.

Thank you for your consideration.

Shirley A. Perdue  
Remington Village  
2831 Joseph Circle  
Oviedo, FL 32765  
407-359-2698



Dianne Eswine

04/03/2003 10:04 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: west carrigan

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:10 AM -----



"David F Scudder"  
<dscudder@cfl.rr.com  
>

To: <deswine@co.seminole.fl.us>  
cc:  
Subject: west carrigan

04/02/2003 04:23 PM  
Please respond to  
"David F Scudder"

Just say no to irrational rezoning at West Carrigan behind the new Hess gas station like you did three years ago.

Hundreds of units of apartments in that neighborhood will nullify all the work done on 434 and reproduce the terrible conjection with a wider road.

We do not need more sprawl and conjection. We need better planning to locate housing concentrations closer to the destinations of intended residents. It is time to say no to hodge-podge development and get a rational plan. Otherwise it is simply not possible to build enough roads. Land use has become a 100% public issue. Let's get on with a rational public plan. Just because someone's grandfather had a celery farm on a country road 100 years ago does not mean that they can force irrational development on everyone else. Who is in charge here anyway, the public or single individuals that own a few acres by happenstance?

David & Marjorie Scudder  
1951 Joseph Cir.  
Oviedo, FL  
[dscudder@cfl.rr.com](mailto:dscudder@cfl.rr.com)  
407-963-5319  
Fax 407-695-7256



Dianne Eswine

04/03/2003 10:04 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: west carrigan

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:09 AM -----



"David F Scudder"  
<dscudder@cfl.rr.com  
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To: <deswine@co.seminole.fl.us>  
cc:  
Subject: west carrigan

04/02/2003 04:23 PM  
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407-963-5319  
Fax 407-695-7256



Dianne Eswine

04/03/2003 10:04 AM

To: Matt West/Seminole@Seminole  
cc:  
Subject: west carrigan

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:09 AM -----



"David F Scudder"  
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To: <deswine@co.seminole.fl.us>  
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407-963-5319  
Fax 407-695-7256



Dianne Eswine

04/03/2003 10:03 AM

To: Matt West/Seminole@Seminole

cc:

Subject: Rezoning land by Remington Village

Dianne Eswine  
Executive Assistant to  
Grant Maloy  
District 1 Commissioner

----- Forwarded by Dianne Eswine/Seminole on 04/03/2003 10:08 AM -----



"Mullane, Michelle"  
<Michelle.Mullane@FL  
HOSP.ORG>

04/02/2003 05:37 PM

To: "deswine@co.seminole.fl.us" <deswine@co.seminole.fl.us>

cc:

Subject: Rezoning land by Remington Village

Dear Mr. Maloy,

I had the pleasure of meeting you a few years ago when we were discussing this same issue of rezoning the property on Alafaya Trail at West Carrigan. I have been watching all the news about the war and have learned a few things. Most importantly, you have to fight for what is right and what you believe in. Therefore, I am once again asking you to vote, "NO", to this change in rezoning. I have nothing against the college kids. I myself am a graduate of The Ohio State University.

I bought my first home in 1999 in Remington Village at the age of 39. It took me a long time to save the money for this investment. My parents died when I was 16. So I did this all on my own. Now, in just one night all my hard work may be for nothing if you let this rezoning happen. Please don't decrease my hard earned property value by letting this pass. We already have enough apartments in the vicinity. The students pull out in front of us and come through Remington Village to turn around. I don't even think the newest apartments are in full capacity. The addition of more apartments is just not compatible with the family atmosphere of Remington Village, Remington Park, Stillwater, Easton Park, Carrigan Woods and other communities. We do not need the added traffic down that little Carrigan road. Nor do we need the addition of crime, drinking, and erratic driving so close to our neighborhoods with families to raise. Even in our own community we have a rental house where the police have been called because of late night parties.

I am entrusting that my vote for you will not have been in vain. Please represent the best interests of our families, our future with a vote of "NO" to rezoning this land.

Sincerely,

Michelle Mullane  
2842 Joseph Circle

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