

Item # 69

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Hawthorn Glen Rezone

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

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

| | | | | |
|-----------------------------------|---|--|--|--|
| Agenda Date <u>6/24/03</u> | Regular <input type="checkbox"/> | Consent <input type="checkbox"/> | Work Session <input type="checkbox"/> | Briefing <input type="checkbox"/> |
| | Public Hearing – 1:30 <input type="checkbox"/> | Public Hearing – 7:00 <input checked="" type="checkbox"/> | | |

MOTION/RECOMMENDATION:

1. Enact an ordinance to approve the requested rezoning from UC to PUD for approximately 45.97 acres located on the northwest corner of McCullouch Road and Old Lockwood Road, with staff findings and subject to conditions contained in the development order (Tom Daly, applicant); or
2. Deny the requested rezoning from UC to PUD for approximately 45.97 acres located on the northwest corner of McCullouch Road and Old Lockwood Road (Tom Daly, applicant); or
3. Continue the proposed rezoning to a date and time certain.

Commissioner Maloy-District 1

Kathy Fall, Senior Planner

BACKGROUND:

The applicant, Tom Daly, is requesting approval to rezone 45.97 acres from UC (University Community) to PUD (Planned Unit Development) which is located at the northwest corner of McCulloch Road and Old Lockwood Road.

The proposed PUD will consist of townhomes and commercial uses. The preliminary site plan has 250 2-story townhomes and a 1.2 acre commercial tract. The PUD zoning classification allows for 10% of the gross acreage of the development to be commercial uses. This site plan's commercial uses will be approximately 2.6% of the site.

The future land use of HIP allows for residential and non-residential uses which include medium density residential, high density residential, office, commercial, and industrial land uses. The proposed townhome development has 9.11 units per net buildable acre which classifies it as a medium density development. The commercial use which will consist of 2.6% of the site is proposed to have 15, 681 square feet of convenience commercial including self service gasoline pumps and drive-thru's as an accessory use.

| | |
|---------------------|-----------------------------|
| Reviewed by: | <u>KFC</u> |
| Co Atty: | <u>KFC</u> |
| DFS: | <u> </u> |
| Other: | <u>MW</u> |
| DCM: | <u> </u> |
| CM: | <u> </u> |
| File No. | <u>ah700ndq01</u> |

Along the west property line, active/passive buffers apply adjacent to the Madison Park development. The applicant proposes a 175 foot setback from the property line to the nearest townhome which exceeds the minimum code requirement of 50 foot. Landscaping is proposed, within a 30' foot wide buffer adjacent to Madison Park. The landscape buffer will include the existing native plants and trees and will be supplemented with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on west property line.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission at its June 4, 2003 meeting, recommended approval 4 to 0 of the requested rezoning subject to staff conditions with the following additional conditions recommended by the P & Z:

1. Lease restrictions, as submitted by the applicant, as conditions to the development order.
2. Increase the landscape buffer on the east property line from 40 feet to 50 feet and the rear yard setback from 15 feet to 20 feet for townhomes abutting Old Lockwood Road.

STAFF RECOMMENDATION:

Staff recommends approval of the requested rezoning from UC to PUD for approximately 45.97 acres of land located at the northwest corner of McCulloch Road and Old Lockwood Road, based on staff findings and subject to conditions contained in the attached development order.

**HAWTHORN GLEN
REZONING FROM UC TO PUD**

| REQUEST INFORMATION | |
|----------------------------|---|
| APPLICANT | Tom Daly |
| PROPERTY OWNER | Cloonfush Properties, LLC |
| REQUEST | Rezoning from UC (University Community) to PUD (Planned Unit Development) |
| HEARING DATE (S) | P&Z: June 4, 2003 BCC: June 24, 2003 |
| SEC/TWP/RNG | 35-21-31-300-0070-0000 & 36-21-31-300-0050-0000 |
| LOCATION | Northwest corner of McCulloch Road and Old Lockwood Road |
| FUTURE LAND USE | High Intensity Planned Development (HIP) |
| FILE NUMBER | Z2003-012 |
| COMMISSION DISTRICT | District 1, Commissioner Maloy |

OVERVIEW

Zoning Request:

The applicant, Tom Daly, is requesting approval to rezone 45.97 acres from UC (University Community) to PUD (Planned Unit Development) which is located at the northwest corner of McCulloch Road and Old Lockwood Road.

The proposed PUD will consist of townhomes and commercial uses. The preliminary site plan has 250 2-story townhome units and a 1.2 acre commercial tract. The PUD zoning classification allows for 10% of the gross acreage of the development to be commercial uses. This site plan's commercial uses will be approximately 2.6% of the site.

Existing Land Uses:

| | EXISTING ZONING | FUTURE LAND USE |
|--------------|--|--|
| NORTH | A-1 (Agriculture) | High Intensity Planned Development (HIP) |
| SOUTH | Orange County - University Estates (Single-Family) Low Density Residential | Low Density |
| EAST | Econ Wilderness – Natural Lands Property | Recreation |
| WEST | PUD (Planned Unit Development/Madison Park) | Planned Development |
| SITE | A-1 (Agriculture) | High Intensity Planned Development (HIP) |

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 PUD zoning classification 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 Comprehensive Plan.
3. Seminole County sewer is available to the site. Orange County has agreed to provide water to the site.

Compliance with Environmental Regulations: This site is located in the Econlockhatchee River Protection area. The site plan indicates no encroachment into the wetlands and has the 50 foot buffer around the wetlands as required by the Seminole County Land Development Code (Sec. 30.185).

Compatibility with surrounding development: Policy FLU 2.11 of the County's Vision 2020 Plan addresses compatibility issues for proposed PUD projects and adjacent developments. The Planned Unit Development zoning district allows the Board of County Commissioners to place development standards, specific to the project, on the property. The property to the north which has a Low Density land use is buffered by an 11.9 acre wetland in which there is no encroachment and a 50 foot upland buffer. The remainder of the property to the north has a HIP land use. The property to the west is a single family development with a Planned Development land use. The following are conditions that address compatibility next to this development and are included in staff's recommendations and the draft development order:

1. The owner shall provide a 30' wide landscaped buffer consisting of the existing native plants and trees and to supplement with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on west property line.
2. The building setback will be 175 feet from the west property line.
3. The applicant, at Final Master Plan, shall provide the County a plan to preserve existing trees and plants when grading for the retention pond along the west property line.

STAFF RECOMMENDATION:

Staff recommends approval of the requested PUD zoning classification per the following conditions of the development order:

1. The owner shall provide a 30' wide landscaped buffer consisting of the existing native plants and trees and to supplement with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on west property line.
2. The building setback shall be 175 feet from the west property line.
3. The applicant, at Final Master Plan, shall provide the County a plan to preserve existing trees and plants when grading for the retention pond along the west property line.
4. The applicant shall provide a letter from Florida Power & Light approving the location of improvements including parking and buildings in the easement in the Final Master Plan.
5. The buildings shall be setback a minimum of 50 feet from the right-of-way line along McCulloch Road and Old Lockwood Road.
6. The owner shall provide a 40' wide landscaped buffer, outside of the rear yard setbacks of the townhomes, consisting of the existing native plant and trees and to supplement with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on east property line.
7. The commercial tract shall provide active setbacks and buffers along the north and the west property lines that are adjacent to the residential use. Such setback and buffer shall entail an active buffer of 25 feet in width with a six foot masonry wall, a double row of canopy trees and a 50 foot-wide building setback.
8. Cross access easement between the commercial tract and the townhome development must be provided prior to the first Certificate of Occupancy being issued.
9. Permitted uses on the commercial tract are those permitted uses within the CS (Commercial Convenience) District. Self service gasoline pumps are permitted as an accessory use. Uses may also include restaurants and banks with drive-ins.
10. Lighting on the commercial tract's gas pump canopy structures shall be recessed. A lighting plan must be submitted as part of Final PUD Master Plan.
11. The commercial tract's architectural design and scale shall reflect neighborhood commercial standards to ensure compatibility with the surrounding residential uses. These standards will be addressed in the Final PUD Master Plan.
12. Operating hours for any business shall be limited to the hours between 7:00 am and 11:00 pm.
13. Developer shall record a deed restriction on all residential lots prohibiting the lease of any residential unit for a period of less than six months; prohibiting more than one lease per residential unit per year; prohibiting lease of any residential unit to more than one party and prohibiting lease of individual rooms within the same residential unit.

**Minutes for the Seminole County LPA/ P&Z Commission
Wednesday, June 4, 2003**

Members present: Alan Peltz, Chris Dorworth, Ben Tucker, Thomas Mahoney, Dudley Bates

Members absent: Dick Harris, Beth Hattaway

Also present: Denny Gibbs, Planner, Michael Rumer, Planner, Jeff Hopper, Senior Planner, Kathy Fall, Senior Planner, Matt West, Planning Manager, Cathleen Consoli, Senior Planner, Karen Consalo, Assistant County Attorney, Candace Lindlaw-Hudson, Senior Staff Assistant

Commissioner Peltz was not present at the meeting during the hearing on Item H.

H. Hawthorn Glen; Daly Design Group / Thomas Daly, applicant; approximately 45.970 acres; rezone from UC to PUD for townhomes and commercial uses; located on the northwest corner of Old Lockwood Road and East McCulloch Road. (Z2003-012)
Commissioner Maloy – District 1
Kathy Fall, Senior Planner

Kathy Fall outlined the major points of the staff report and stated that the traffic study performed in the area indicated that this project was within the allowed parameters. Impact on schools in the area would be minimal. Staff recommendation was for approval with the conditions stated in the staff report.

Ken Wright of Shutts and Bowen represented the property owner. He stated that he was concerned with the commercial tract. The application is for Medium Density Residential (MDR), which is allowed by the County Comprehensive Plan. The corner will be neighborhood commercial, which is allowable. The County Comprehensive Plan provides for commercial uses imbedded in residential areas. The Comprehensive Plan's table 2.1 allows for MDR to be adjacent to neighborhood residential. One of the neo-traditional elements of Baldwin Park's smart growth is to imbed commercial uses in residential to reduce trips outward.

John Polasek of 2731 Newark Way, Orlando, spoke on behalf of his parents, the property owners. He stated that his parents have owned the property since 1982. It had UC zoning then. UC zoning permits anything found in a university. When Future Land Use (FLU) changed in 1986, it was designated HIP. As far as he is concerned, UC zoning allowed the proposed uses. This townhouse project has less than 10 units per acre.

Thomas Daly, of Daly Design Group, Winter Park, represents Centex Homes. He stated that the corner piece will be retained by the Polasek family. The previous application on this site had been for student housing. Map 1 shows existing land uses. 7 different land uses are found in the area: 5 subdivisions, the Econ Wilderness Area, Tivoli and Northgate Apartments and a Winn Dixie. There is a commercial site with mixed uses. There are 4 schools in the area. The largest uses in the area are Seminole Community College and the University of Central Florida. UCF has plans to grow. SCC has plans to grow. There could be 7,500 employees of the two colleges with 100,000 students in this area. This proposed project addresses housing needs in this area.

Mr. Daly stated that he had met with people who had been active in the Portofino case. He had been told that neighbors want single family residential there. There had been no discussion of setbacks or buffers at this meeting.

Mr. Daly stated that this is a conceptual plan, with access aligned with University Estates. This will be the only vehicular access to the site. Centex Homes also did Aloma and Tuskawilla projects. The projected price point for this project is to be \$120,000. dollars with 1,300 to 1,500 square feet units. There will be a home owner association and will be deed restricted. There could be an addendum to the contract. Mr. Daly showed a contract from the Waterford Lakes area. Such an addendum could set minimum leases at 6 months and disallow leasing by the bedroom. Each purchaser would be approved by the home owners' association. Mr. Daly stated that Centex does not build student housing.

Mr. Daly stated that he concurred with staff recommendations. This is the last piece of HIP transitional land in Seminole County. Town homes and commercial uses have already been approved by this board. Mr. Daly stated that this project is two stories and buildings will be a maximum of 150 feet in length. It will have 15 percent impervious use. This has less impact than the formerly proposed student housing projects.

Mr. Daly stated that he had gotten e-mails indicating that many people thought that this parcel had been zoned for single family residential use. It is not currently.

Mr. Daly said that the project had been approved for concurrency by staff. The density proposed is medium density, not high density.

Commissioner Tucker stated that he had received 5 public comment forms from people in the audience who objected to the project, but did not wish to speak.

Mike Cole of 2516 Fawn Run stated that there are multi-family dwellings in the area, close in.

Tim Philips of 14945 Loughton Circle represented the home owners of University Estates. He stated that the proposed rezoning is not compatible with the Rybolt Property West. He was opposed to multi-family uses and stated that the Tivoli and Northgate apartments were over one mile away. He estimated that there would be approximately 679 bedroom units in this proposal.

Roman Kozarski of 3804 Beacon Tree said that he lives in Madison Park and is Vice President of the Carillon HOA, representing 833 homes. He asked for a recommendation of denial. He said that the proposal is incompatible with the Comprehensive Plan. It is close to a nature preserve. He acknowledged that the project serves a need, but the project should be located elsewhere.

John Keriazis of 14806 Faversham Circle stated that he was also opposed.

Ken Wright said that the County would never use the proximity to the Econ Wilderness Park as a reason for denial. He reiterated that the staff was in support of the request.

The public hearing was now closed.

Commissioner Tucker asked Matt West about flooding in the Econ Wilderness Area.

Mr. West said that the County is still studying the damage done recently in the area. Mr. West said that the proposed development will not impede drainage.

Jim Potter of the Seminole County Development Review Division stated that the site flows north to the Econ and has no adverse impact to the area. Drainage issues are to be addressed at the final engineering site plan stage.

Commissioner Mahoney asked Mr. Daly about the setbacks in the request.

Mr. Daly stated that the town homes have 40 foot natural buffers. The commercial will have buffering which will be addressed in final engineering. The buildings will be 55 feet from the right of way. Emergency access may be onto Old Lockwood Road. He said that the site plan is a concept only. There will be a 30 foot wide landscape buffer on the west property line. The buildings shall be 175 feet from the west property line.

Commissioner Tucker asked about the density of the residential area.

Mr. Daly said that there would be 250 units, with 6 units per acre.

Commissioner Mahoney read the comments from School Board representative Dianne Kramer concerning this project:

- Item VI H will add 250 townhouses and generate approximately 29 elementary students, 13 middle school students, and 14 high school students. Although the actual impact may be minimal, multi-family residential school impact is very dynamic and difficult to predict. Rental units can have an especially dramatic impact. The schools that currently serve this area are as follows:

| | | |
|---------------------|-----------------|--------------|
| Carillon Elementary | 995 enrollment | no portables |
| Chiles Middle | 1158 enrollment | no portables |
| Oviedo High | 2988 enrollment | 12 portables |

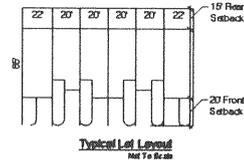
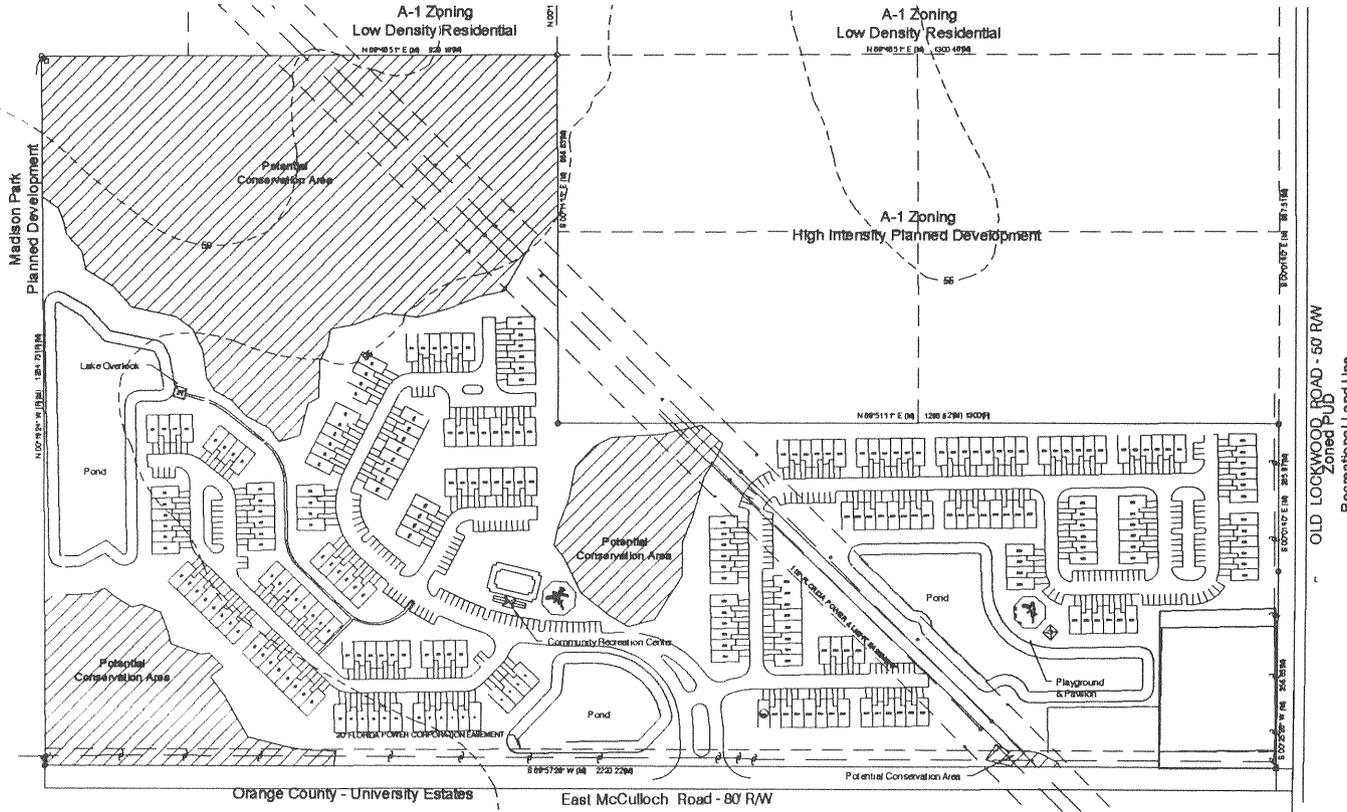
Capacity at the elementary level will added effective school year 2004 / 05, and a new high school will open in school year 2005/06 at the site of the current Chiles Middle School.

Commissioner Mahoney stated that he had been opposed to the last application for student housing. Student housing is designed specifically for students. Nothing about this is designed for students. Seminole County needs less expensive homes. This High Intensity Planned Development is one such place. These units are less than 150 feet in length and have no direct access onto Old Lockwood Road. This project is of lesser impact than the previous application.

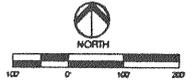
Commissioner Mahoney made a motion to recommend approval for the rezone of the property from UC to PUD with the 12 staff recommendations and two more: 1) proposed contract restrictions introduced by Mr. Daly and 2) recommendation to increase buffering on Old Lockwood Road to 50 feet with a 20 ft. building setback.

Commissioner Bates seconded the motion.

The motion passed by a unanimous vote of 4 – 0. (Commissioner Peltz had left the meeting prior to the beginning of this item.)



NOTE:
This plan is for informational purposes only. Final layout and design will be determined during the Final Master Plan/Preliminary Subdivision Plan process.



Thomas Daly
Registered Landscape
Architect
Reg. # 1235
Date: _____

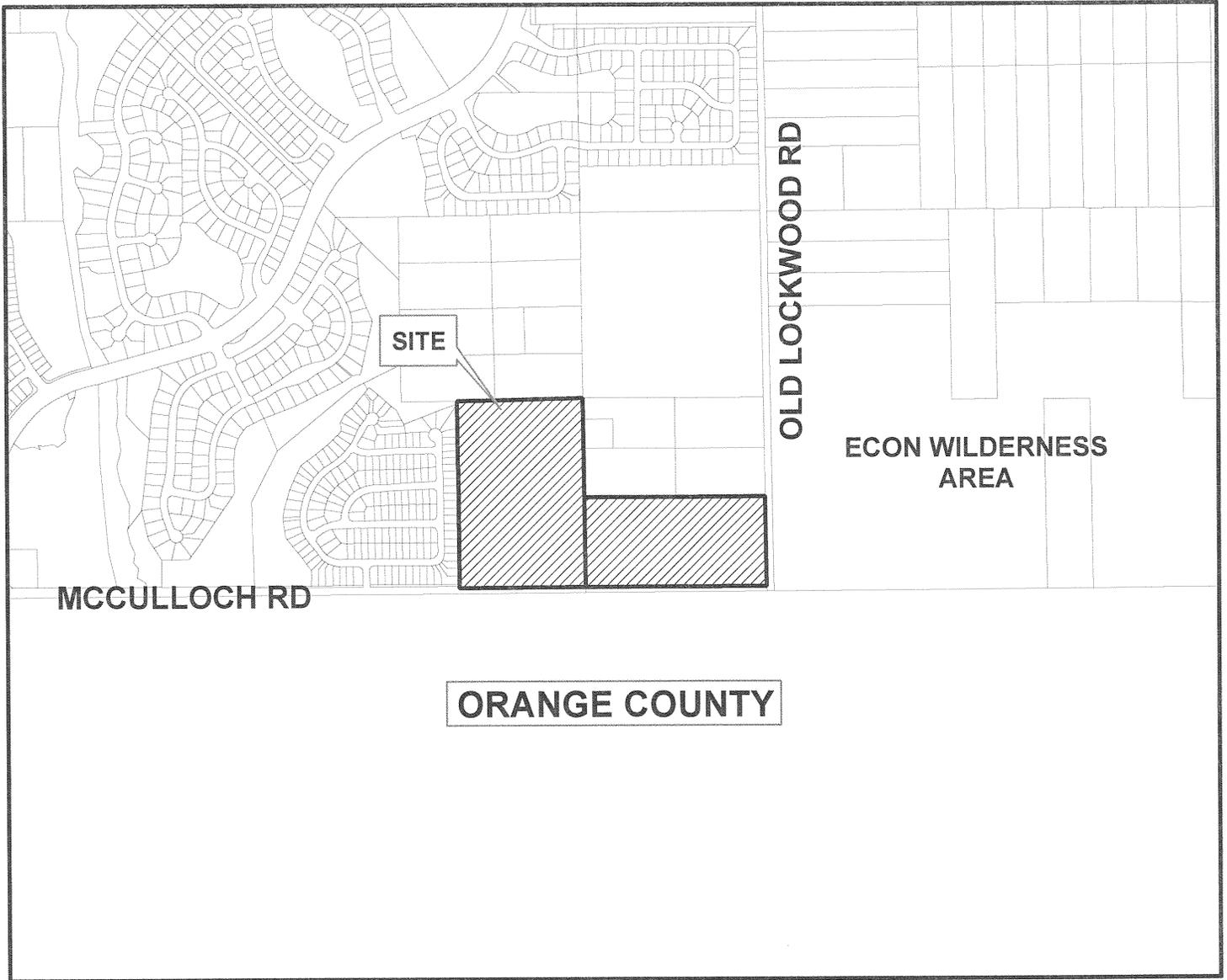
PROJECT NO.
2303
SCALE
1"=100'
DATE
April 2003
1 OF 1

daly design group inc.
Land Planning, Landscape Architecture, Project Management, Development Consulting
813 N. Pennsylvania Ave., White Oak, Florida, 32786 (407) 760-2323 www.dalydesign.com

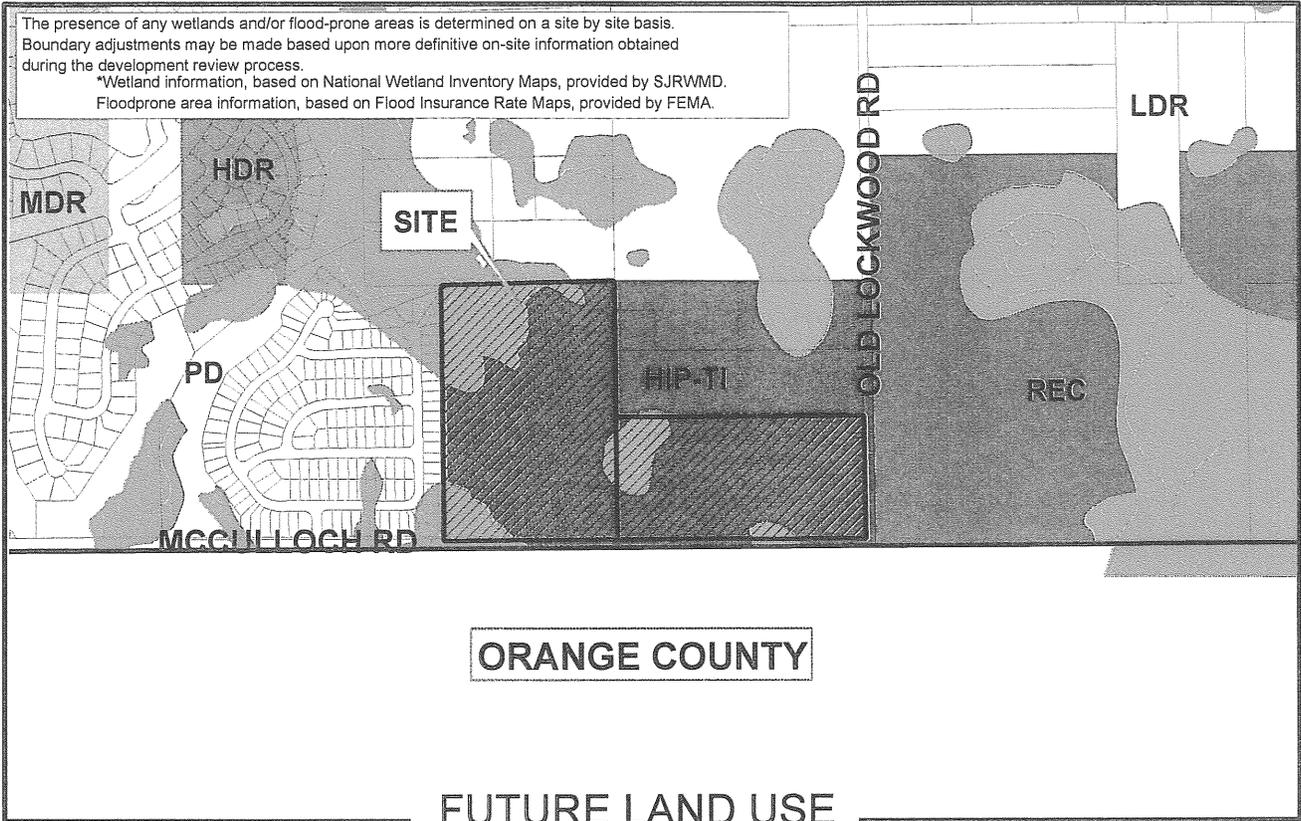
| REV | DATE | DESCRIPTION |
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Conceptual Preliminary Master Plan
Preliminary Master Plan
Hawthorn Glen
Summit County, Florida





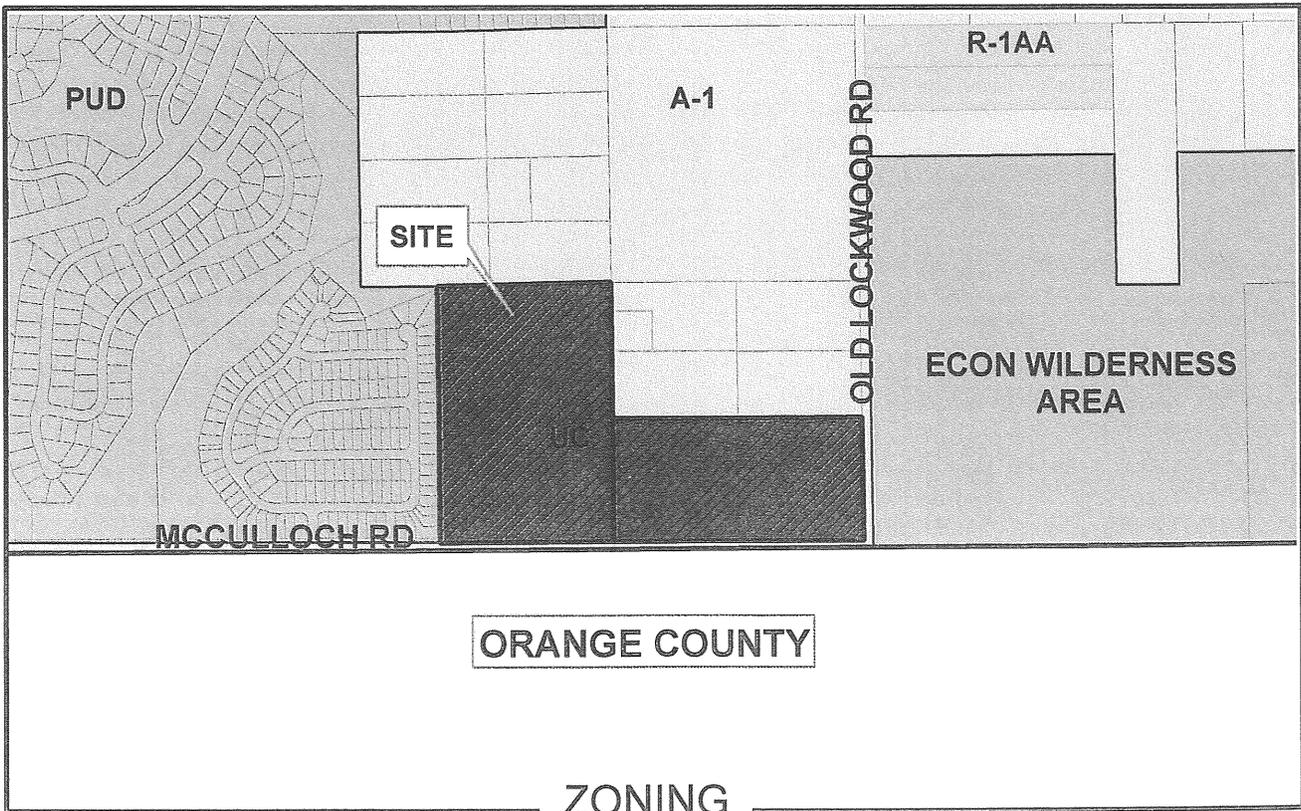
The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.
 *Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



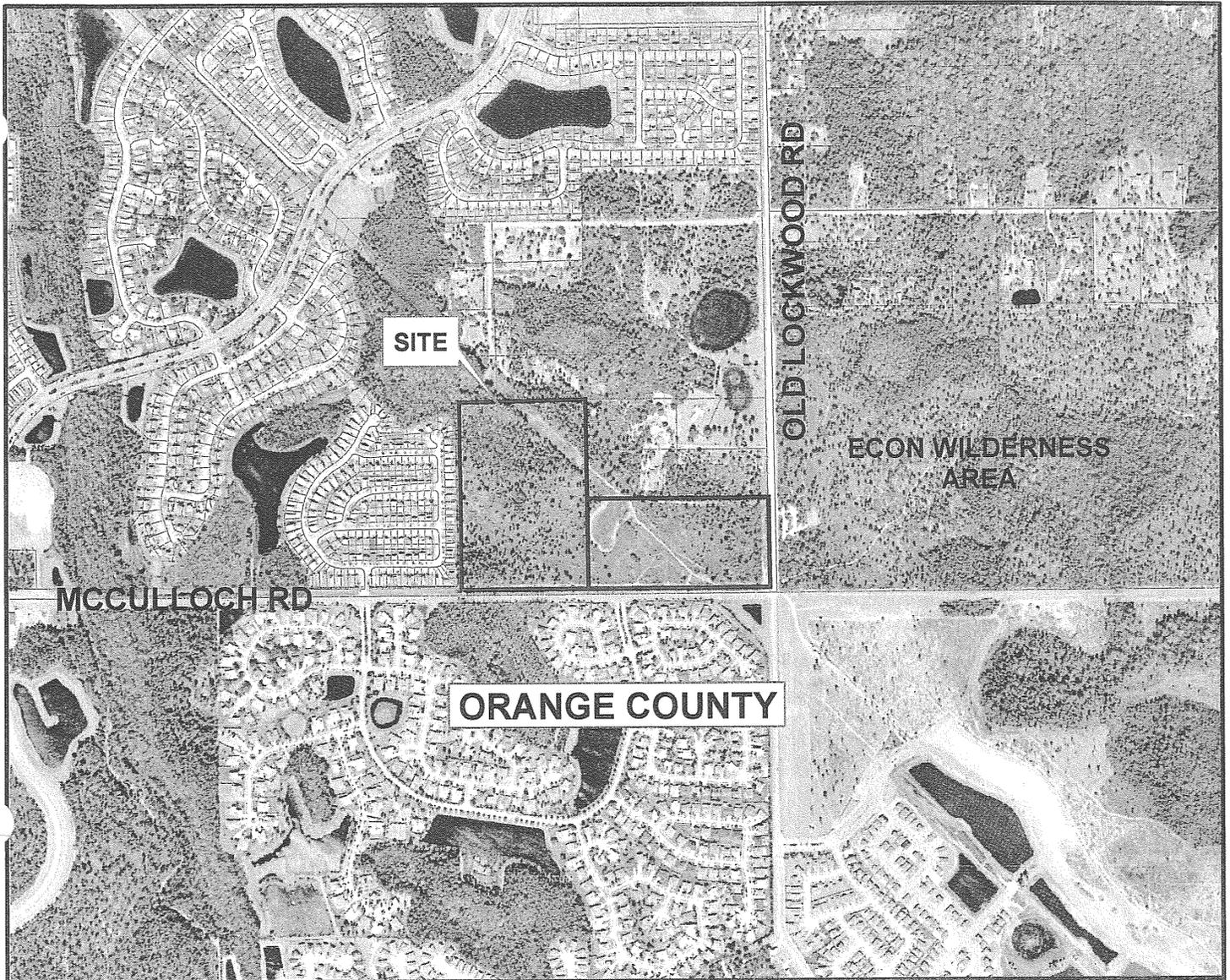
Site
 Municipality
 LDR
 MDR
 HIP
 REC
 HDR
 CONS

Applicant: Daly Design Group, Inc.
 Physical STR: 35-21-31-300-0050 & 36-21-31-300-0070-0000
 Gross Acres: 45.970 BCC District: 5
 Existing Use: Vacant
 Special Notes: _____

| | Amend/ Rezone# | From | To |
|--------|-------------------|------|-----|
| FLU | -- | -- | -- |
| Zoning | Z2003-012 | UC | PUD |



A-1
 PUD
 UC
 R-1AA



Rezone No: Z2003-012
From: UC To: PUD

-  Parcel
-  Subject Property



NOT TO SCALE

February 1999 Color Aerials

CENTEX HOMES ADDENDUM TO CONTRACT

WATERFORD VILLAS HOMEOWNERS ASSOCIATION DISCLOSURE OF LEASING REGULATIONS

AS OUTLINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (DCCR's)

The following an excerpt and is meant to highlight the points that are explained in the detail of Article III – Use and Conduct of the DCCR's.

Article III, section I(b) – Leasing is the regular exclusive occupancy of a dwelling by any person other than the Owner, for which the owner receives any consideration or benefit, including, without limitation, a fee, service, or gratuity. Separate rooms within the same dwelling may not be separately leased.

All leases shall be in writing and shall have a term of at least six months. No owner may rent all or a portion of a Lot more than once in any twelve month period, even if tenant defaults on lease or abandons the Lot before the expiration of the lease term.

All leases shall include an acknowledgment by the tenant that the tenant and all occupants are bound by and obligated to comply with the Governing Documents and that the tenant has received a copy of the Governing Documents. The Owner shall be responsible for providing the documents to the tenant prior to the execution of the Lease.

Each lease shall set forth the name, address, and telephone number of the Lot's Owner and of the tenant(s); the date the tenant's occupancy commences and ends; a description of each motor vehicle owned or operated by the tenant or members of the tenant's household; a description of all pets to be kept at the Lot. An Owner proposing to lease a Lot may submit to the Board a copy of the proposed lease with rental amounts and deposits obscured so long as submitted lease contains all of the information listed above.

Within ten days of a lease being signed for a Lot, the owner shall notify the Board or the Association's managing agent of the lease and provide a copy of such lease and such additional information the Board may reasonably require.

(e) Lodging; Timeshares. No Lot may be used as a hostel, or hotel. Timesharing or similar arrangements involving more than two ownership interests in a Lot are prohibited.

ACKNOWLEDGMENT: I/We, the Purchaser(s) under the attached New Home Sales Agreement, acknowledge that I/we have read and understand this disclosure.

Community: Waterford Villas Building Letter _____ Lot Number _____

PURCHASER(S):

Signature _____

Signature _____

**SEMINOLE COUNTY DEVELOPMENT
ORDER**

On June 24, 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 Owner: Cloonfush Properties, LLC
25 Interlaken Road
Orlando, FL 32804

Project Name: Hawthorn Glen

Requested Development Approval: Rezoning from UC (University Community) zoning classification to PUD (Planned Unit Development) 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: Kathy Fall
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:

- a. The owner shall provide a 30' wide landscaped buffer consisting of the existing native plants and trees and to supplement with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on west property line.
- b. The building setback shall be 175 feet from the west property line.
- c. The applicant, at Final Master Plan, shall provide the County a plan to preserve existing trees and plants when grading for the retention pond along the west property line.
- d. The applicant shall provide a letter from Florida Power & Light approving the location of improvements including parking and buildings in the easement in the Final Master Plan.
- e. The buildings shall be setback a minimum of 50 feet from the right-of-way line along McCulloch Road and Old Lockwood Road.
- f. The owner shall provide a 40' wide landscaped buffer, outside of the rear yard setbacks of the townhomes, consisting of the existing native plant and trees and to supplement with additional native plants and trees in creating 100% opacity to a height of six feet (6') located on east property line.
- g. The commercial tract shall provide active setbacks and buffers along the north and the west property lines that are adjacent to the residential use. Such setback and buffer shall entail an active buffer of 25 feet in width with a six foot masonry wall, a double row of canopy trees and a 50 foot-wide building setback.
- h. Cross access easement between the commercial tract and the townhome development must be provided prior to the first Certificate of Occupancy being issued.

- i. Permitted uses on the commercial tract are those permitted uses within the CS (Commercial Convenience) District. Self service gasoline pumps are permitted as an accessory use. Uses may also include restaurants and banks with drive-ins.
- j. Lighting on the commercial tract's gas pump canopy structures shall be recessed. A lighting plan must be submitted as part of Final PUD Master Plan.
- k. The commercial tract's architectural design and scale shall reflect neighborhood commercial standards to ensure compatibility with the surrounding residential uses. These standards will be addressed in the Final PUD Master Plan.
- l. Operating hours for any business shall be limited to the hours between 7:00 am and 11:00 pm.
- m. Developer shall record a deed restriction on all residential lots prohibiting the lease of any residential unit for a period of less than six months; prohibiting more than one lease per residential unit per year; prohibiting lease of any residential unit to more than one party and prohibiting lease of individual rooms within the same residential unit.

(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"
DESCRIPTION

A Tract of land being a portion of Section 35 & 36, Township 21 South, Range 31 East, Seminole County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 35; thence North 00° 13' 35" West along the East line of the Southeast 1/4 of said Section 35 for a distance of 40.00 feet to the POINT OF BEGINNING; thence South 89° 57' 28" West along the North right-of-way of McCulloch Road and a line 40.00 feet North of and parallel to the South line of the Southeast 1/4 of said Section 35 for a distance of 926.01 feet; thence North 00° 19' 24" West along the East line of the West 400.00 feet of the Southeast 1/4 of the Southeast 1/4 of said Section 35 and the East line of Tract 301 at Carillon per Plat thereof recorded in Plat Book 46, Page 31-37 Public Records of Seminole County, Florida, for a distance of 1284.74 feet; thence North 89° 48' 32" East along the North line of the Southeast 1/4 of the Southeast 1/4 of Section 35 for a distance of 928.18 feet; thence South 00° 13' 35" East along the East of the Southeast 1/4 of said Section 35 for a distance of 663.57 feet; thence North 89° 58' 56" East along the North line of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 36, Township 21 South, Range 31 East for a distance of 1299.92 feet; thence South 00° 06' 39" East along a line 25.00 feet West of and parallel to the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 36 and the West right-of-way of Lockwood Road per Plat Book 5, Page 82 Public Records of Seminole County, Florida, for a distance of 623.72 feet; thence South 89° 59' 20" West along a line 40.00 feet North of and parallel to the South line of the Southwest 1/4 of the Southwest 1/4 of said Section 36 and the North right-of-way of McCulloch Road for a distance of 1298.66 feet to the POINT OF BEGINNING.

Contains: 45.970 Acres, more or less.

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 (AGRICULTURE) ZONING CLASSIFICATION TO THE PUD (PLANNED UNIT DEVELOPMENT) 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 "Hawthorn Glen Rezoning from UC to 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 A-1 to PUD.

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. This Ordinance shall be effective upon its filing with the Department of State and recording of the Development Order 03-20500005 in the Public Records in Seminole County, Florida.

ENACTED this 24th day of JUNE, 2003

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

EXHIBIT "A"

DESCRIPTION

A Tract of land being a portion of Section 35 & 36, Township 21 South, Range 31 East, Seminole County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 35; thence North 00° 13' 35" West along the East line of the Southeast 1/4 of said Section 35 for a distance of 40.00 feet to the POINT OF BEGINNING; thence South 89° 57' 28" West along the North right-of-way of McCulloch Road and a line 40.00 feet North of and parallel to the South line of the Southeast 1/4 of said Section 35 for a distance of 926.01 feet; thence North 00° 19' 24" West along the East line of the West 400.00 feet of the Southeast 1/4 of the Southeast 1/4 of said Section 35 and the East line of Tract 301 at Carillon per Plat thereof recorded in Plat Book 46, Page 31-37 Public Records of Seminole County, Florida, for a distance of 1284.74 feet; thence North 89° 48' 32" East along the North line of the Southeast 1/4 of the Southeast 1/4 of Section 35 for a distance of 928.18 feet; thence South 00° 13' 35" East along the East of the Southeast 1/4 of said Section 35 for a distance of 663.57 feet; thence North 89° 58' 56" East along the North line of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 36, Township 21 South, Range 31 East for a distance of 1299.92 feet; thence South 00° 06' 39" East along a line 25.00 feet West of and parallel to the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 36 and the West right-of-way of Lockwood Road per Plat Book 5, Page 82 Public Records of Seminole County, Florida, for a distance of 623.72 feet; thence South 89° 59' 20" West along a line 40.00 feet North of and parallel to the South line of the Southwest 1/4 of the Southwest 1/4 of said Section 36 and the North right-of-way of McCulloch Road for a distance of 1298.66 feet to the POINT OF BEGINNING.

Contains: 45.970 Acres, more or less.

T03-A97

**Minutes for the Seminole County LPA/ P&Z Commission
Wednesday, June 4, 2003**

Members present: Alan Peltz, Chris Dorworth, Ben Tucker, Thomas Mahoney, Dudley Bates

Members absent: Dick Harris, Beth Hattaway

Also present: Denny Gibbs, Planner, Michael Rumer, Planner, Jeff Hopper, Senior Planner, Kathy Fall, Senior Planner, Matt West, Planning Manager, Cathleen Consoli, Senior Planner, Karen Consalo, Assistant County Attorney, Candace Lindlaw-Hudson, Senior Staff Assistant

Commissioner Peltz was not present at the meeting during the hearing on Item H.

H. Hawthorn Glen; Daly Design Group / Thomas Daly, applicant; approximately 45.970 acres; rezone from UC to PUD for townhomes and commercial uses; located on the northwest corner of Old Lockwood Road and East McCulloch Road. (Z2003-012)

Commissioner Maloy – District 1
Kathy Fall, Senior Planner

Kathy Fall outlined the major points of the staff report and stated that the traffic study performed in the area indicated that this project was within the allowed parameters. Impact on schools in the area would be minimal. Staff recommendation was for approval with the conditions stated in the staff report.

Ken Wright of Shutts and Bowen represented the property owner. He stated that he was concerned with the commercial tract. The application is for Medium Density Residential (MDR), which is allowed by the County Comprehensive Plan. The corner will be neighborhood commercial, which is allowable. The County Comprehensive Plan provides for commercial uses imbedded in residential areas. The Comprehensive Plan's table 2.1 allows for MDR to be adjacent to neighborhood residential. One of the neo-traditional elements of Baldwin Park's smart growth is to imbed commercial uses in residential to reduce trips outward.

John Polasek of 2731 Newark Way, Orlando, spoke on behalf of his parents, the property owners. He stated that his parents have owned the property since 1982. It had UC zoning then. UC zoning permits anything found in a university. When Future Land Use (FLU) changed in 1986, it was designated HIP. As far as he is concerned, UC zoning allowed the proposed uses. This townhouse project has less than 10 units per acre.

Thomas Daly, of Daly Design Group, Winter Park, represents Centex Homes. He stated that the corner piece will be retained by the Polasek family. The previous application on this site had been for student housing. Map 1 shows existing land uses. 7 different land uses are found in the area: 5 subdivisions, the Econ Wilderness Area, Tivoli and Northgate Apartments and a Winn Dixie. There is a commercial site with mixed uses. There are 4 schools in the area. The largest uses in the area are Seminole Community College and the University of Central Florida. UCF has plans to grow. SCC has plans to grow. There could be 7,500 employees of the two colleges with 100,000 students in this area. This proposed project addresses housing needs in this area.

Mr. Daly stated that he had met with people who had been active in the Portofino case. He had been told that neighbors want single family residential there. There had been no discussion of setbacks or buffers at this meeting.

Mr. Daly stated that this is a conceptual plan, with access aligned with University Estates. This will be the only vehicular access to the site. Centex Homes also did Aloma and Tuskawilla projects. The projected price point for this project is to be \$120,000. dollars with 1,300 to 1,500 square feet units. There will be a home owner association and will be deed restricted. There could be an addendum to the contract. Mr. Daly showed a contract from the Waterford Lakes area. Such an addendum could set minimum leases at 6 months and disallow leasing by the bedroom. Each purchaser would be approved by the home owners' association. Mr. Daly stated that Centex does not build student housing.

Mr. Daly stated that he concurred with staff recommendations. This is the last piece of HIP transitional land in Seminole County. Town homes and commercial uses have already been approved by this board. Mr. Daly stated that this project is two stories and buildings will be a maximum of 150 feet in length. It will have 15 percent impervious use. This has less impact than the formerly proposed student housing projects.

Mr. Daly stated that he had gotten e-mails indicating that many people thought that this parcel had been zoned for single family residential use. It is not currently.

Mr. Daly said that the project had been approved for concurrency by staff. The density proposed is medium density, not high density.

Commissioner Tucker stated that he had received 5 public comment forms from people in the audience who objected to the project, but did not wish to speak.

Mike Cole of 2516 Fawn Run stated that there are multi-family dwellings in the area, close in.

Tim Philips of 14945 Loughton Circle represented the home owners of University Estates. He stated that the proposed rezoning is not compatible with the Rybolt Property West. He was opposed to multi-family uses and stated that the Tivoli and Northgate apartments were over one mile away. He estimated that there would be approximately 679 bedroom units in this proposal.

Roman Kozarski of 3804 Beacon Tree said that he lives in Madison Park and is Vice President of the Carillon HOA, representing 833 homes. He asked for a recommendation of denial. He said that the proposal is incompatible with the Comprehensive Plan. It is close to a nature preserve. He acknowledged that the project serves a need, but the project should be located elsewhere.

John Keriazis of 14806 Faversham Circle stated that he was also opposed.

Ken Wright said that the County would never use the proximity to the Econ Wilderness Park as a reason for denial. He reiterated that the staff was in support of the request.

The public hearing was now closed.

Commissioner Tucker asked Matt West about flooding in the Econ Wilderness Area.

Mr. West said that the County is still studying the damage done recently in the area. Mr. West said that the proposed development will not impede drainage.

Jim Potter of the Seminole County Development Review Division stated that the site flows north to the Econ and has no adverse impact to the area. Drainage issues are to be addressed at the final engineering site plan stage.

Commissioner Mahoney asked Mr. Daly about the setbacks in the request.

Mr. Daly stated that the town homes have 40 foot natural buffers. The commercial will have buffering which will be addressed in final engineering. The buildings will be 55 feet from the right of way. Emergency access may be onto Old Lockwood Road. He said that the site plan is a concept only. There will be a 30 foot wide landscape buffer on the west property line. The buildings shall be 175 feet from the west property line.

Commissioner Tucker asked about the density of the residential area.

Mr. Daly said that there would be 250 units, with 6 units per acre.

Commissioner Mahoney read the comments from School Board representative Dianne Kramer concerning this project:

- Item VI H will add 250 townhouses and generate approximately 29 elementary students, 13 middle school students, and 14 high school students. Although the actual impact may be minimal, multi-family residential school impact is very dynamic and difficult to predict. Rental units can have an especially dramatic impact. The schools that currently serve this area are as follows:

| | | |
|---------------------|-----------------|--------------|
| Carillon Elementary | 995 enrollment | no portables |
| Chiles Middle | 1158 enrollment | no portables |
| Oviedo High | 2988 enrollment | 12 portables |

Capacity at the elementary level will added effective school year 2004 / 05, and a new high school will open in school year 2005/06 at the site of the current Chiles Middle School.

Commissioner Mahoney stated that he had been opposed to the last application for student housing. Student housing is designed specifically for students. Nothing about this is designed for students. Seminole County needs less expensive homes. This High Intensity Planned Development is one such place. These units are less than 150 feet in length and have no direct access onto Old Lockwood Road. This project is of lesser impact than the previous application.

Commissioner Mahoney made a motion to recommend approval for the rezone of the property from UC to PUD with the 12 staff recommendations and two more: 1) proposed contract restrictions introduced by Mr. Daly and 2) recommendation to increase buffering on Old Lockwood Road to 50 feet with a 20 ft. building setback.

Commissioner Bates seconded the motion.

The motion passed by a unanimous vote of 4 – 0. (Commissioner Peltz had left the meeting prior to the beginning of this item.)