



subject property will be from Business Center Drive on the east and/or from AAA Drive on the east; and access from Banana Lake Road for the subject property will be prohibited.

The applicant is requesting to amend the future land use designation from Suburban Estates to Planned Development and to rezone 26.48 acres from A-1 (Agriculture) to PUD (Planned Unit Development), proposing 36 dwelling units at a net density of 3.92 units per acre for property located on the west side of Banana Lake Road approximately 3400' south of CR 46A.

#### **STAFF RECOMMENDATION:**

The following staff recommendation is subject to staff receiving a signed agreement, prior to the July 22, 2003, Board of County Commissioners public hearing, providing access for the subject property from Business Center Drive on the east and/or from AAA Drive on the east. **If the aforementioned agreement is not received by staff, prior to the July 22, 2003, Board of County Commissioners public hearing, then staff recommends denial of the applicant's request.**

Approve the proposed Planned Development land use with staff findings and adopt the PUD (Planned Unit Development) zoning for 26.43 acres located on the west side of Banana Lake Road, approximately 3,400 feet south of CR 46A. The enacting ordinance for this land use change is the Spring Cycle amendment ordinance which also includes the Energy Element and Lake Jesup Woods amendment. A copy of this ordinance, absent Appendix C, is attached to this memo. This rezoning will be enacted by a separate ordinance and development order, attached to this memo.

#### **LPA/P&Z RECOMMENDATION:**

At its meeting of February 19, 2003, the Planning and Zoning Commission recommended denial.

#### **DEPARTMENT OF COMMUNITY AFFAIRS:**

The Department raises no objections to the proposed amendment. However, the Department recommends that the County provide an analysis of the availability of potable water relative to the allocation allowed under the consumptive use permit for the proposed Future Land Use Map Amendment (see attached comments from the Department of Community Affairs).

#### **BOARD OF COUNTY COMMISSIONERS ACTION (04/8/03):**

Unanimously approved transmittal with the following conditions:

1. Net density will be no greater than 4.0 units per acre; and
2. The 60' (1.43 acres) buffer to the south of the subject property may be included as developable area; and
3. Access for the subject property will be from Business Center Dr. on the east and/or from AAA Dr. on the east; and
4. Access from Banana Lake Rd. for the subject property will be prohibited.

## EXECUTIVE SUMMARY

<b>Suburban Estates to Planned Development and Rezoning from A-1 (Agriculture) to PUD (Planned Unit Development)</b>		Amendment 02S.FLU04 & Z2001-044
<b>REQUEST</b>		
<b>APPLICANT</b>	James H. Fant	
<b>PLAN AMENDMENT</b>	Suburban Estates to Planned Development	
<b>REZONING</b>	A-1 (Agriculture) to PUD (Planned Unit Development)	
<b>APPROXIMATE GROSS ACRES</b>	26.48 acres (including wetlands) 9.19 acres - developable	
<b>LOCATION</b>	West side of Banana Lake Road, approximately 3400' south of CR 46A	
<b>SPECIAL ISSUES</b>	<p>In 1998, to the south of the subject property, the Board approved a large scale land use amendment from Suburban Estates to Planned Development and associated rezoning from A-1 to PUD for Colonial Realty Limited Partnership. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between the Colonial Realty, Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties. The developers of the Colonial Grand apartments deeded a portion of the 200 foot buffer to Mr. Edwards who agreed not to seek a rezoning or land use amendment on the strip deeded to him for a period of five (5) years from the effective date of the settlement agreement.</p>	
<b>BOARD DISTRICT</b>	#5 – Commissioner McLain	

**Suburban Estates  
to Planned Development  
and Rezoning from A-1 (Agriculture) to  
PUD (Planned Unit Development)**

Amendment  
02S.FLU04  
& Z2001-044

**RECOMMENDATIONS AND ACTIONS**

**STAFF  
RECOMMENDATION  
June 24, 2003**

**PLAN AMENDMENT:** The following staff recommendation is subject to staff receiving a signed agreement, prior to the July 22, 2003, Board of County Commissioners public hearing, providing access for the subject property from Business Center Drive on the east and/or from AAA Drive on the east. **If the aforementioned agreement is not received by staff, prior to the July 22, 2003, Board of County Commissioners public hearing, then staff recommends denial of the applicant's request.**

Recommend approval of Planned Development land use with staff findings subject to the attached Development Order. The enacting ordinance for this land use change is the Spring Cycle amendment ordinance which also includes the Energy Element and Lake Jesup Woods amendment. The Planned Development land use, as proposed, would be:

1. Consistent with Plan policies related to the Planned Development land use designation; and
2. Consistent with adjacent Planned Development and Suburban Estates land uses; and
3. Consistent with development within the Heathrow International Business Center PUD to the east; and
4. Consistent with Plan policies related to roadway access; and
5. Consistent with Plan policies identified at this time.

**STAFF  
RECOMMENDATION  
June 24, 2003**

**REZONE:** The following staff recommendation is subject to staff receiving a signed agreement, prior to the July 22, 2003, Board of County Commissioners public hearing, providing access for the subject property from Business Center Drive on the east and/or from AAA Drive on the east.

**Suburban Estates  
to Planned Development  
and Rezoning from A-1 (Agriculture) to  
PUD (Planned Unit Development)**

Amendment  
02S.FLU04 &  
Z2001-044

**RECOMMENDATIONS AND ACTIONS**

If the aforementioned agreement is not received by staff, prior to the July 22, 2003, Board of County Commissioners public hearing, then staff recommends denial of the applicant's request.

Based on the above analysis and findings, staff recommends enacting an ordinance adopting the proposed PUD zoning with staff findings subject to the attached Development Order:

1. The request, with attached Development Order, would be compatible with surrounding development; and
2. The request, with the attached Development Order, would be consistent with the Seminole County Land Development Code regarding PUD zoning.

**LPA/P&Z  
RECOMMENDATIONS  
February 19, 2003**

Unanimously recommended denial.

**BCC  
ACTIONS  
March 11, 2003**

Continued to April 8, 2003, at 7:00 pm.

**BCC  
ACTIONS  
April 8, 2003**

Unanimously approved transmittal with the following conditions:

5. Net density will be no greater than 4.0 units per acre; and
6. the 60' (1.43 acres) buffer to the south of the subject property may be included as developable area; and
7. access for the subject property will be from Business Center Dr. on the east and/or from AAA Dr. on the east; and
8. access from Banana Lake Rd. for the subject property will be prohibited.

# STAFF ANALYSIS

## Suburban Estates to Planned Development and Rezoning from A-1 (Agriculture) to PUD (Planned Unit Development)

Amendment  
02S.FLU04  
& Z2001-044

1. **Property Owners:** Fred and Carmen Edwards
2. **Tax Parcel Numbers:**  
01-20-29-300-0080-0000  
01-20-29-300-0050-0000  
01-20-29-300-0040-0000
3. **Applicant's Statement:** Planned Development land use allows the County to insure that adequate buffers will occur between the site and the adjacent single family residential neighborhoods. In addition, the proposed land use will insure that wetlands will be protected from development.
4. **Development Trends:** Development along Banana Lake Road has been large lot estates with single family residences. To the south of the subject property, development will consist of 252 multi-family units in two-story buildings on 28.5 acres. There is dense single family residential development to the west of the subject property. Finally, to the east is part of the Heathrow International Business Center.
5. **History of Project:** Previously, a request was submitted for a large scale land use amendment from Suburban Estates to Planned Development and associated rezoning from A-1 (Agriculture) to PUD (Planned Unit Development), with a proposal of a development of townhomes consisting of 82 dwelling units at a net density of approximately 9.9 units per acre. At their February 6, 2002, public hearing, the Land Planning Agency/Planning & Zoning Commission unanimously recommended denial of this request. At the March 26, 2002, public hearing, the BCC unanimously voted to continue the proposed land use amendment and rezoning until the Fall 2002 Large Scale Land Use Amendment Cycle.

This item was then continued from the March 26, 2002, Board of County Commissioners meeting at the request of the property owner's representative. The applicant requested continuance of this item until the Spring 2003 Large Scale Land Use Amendment Cycle in order to resolve a number of development issues.

This proposal was subsequently revised to a development of single family homes consisting of 43 dwelling units at a net density of 6.05 units per acre, and was scheduled for the January 8, 2003, Planning Agency/Planning & Zoning Commission meeting; however, it was continued at the request of the applicant. The applicant requested a continuance until

February 19, 2003, in order for the applicant to demonstrate his plan and intent to modify Banana Lake Road to county standards or to seek access south through Heathrow International Business Center. Consequently, if there existed adequate right-of-way, the applicant was seeking the prior and had generally demonstrated to staff his plan and intent to modify Banana Lake Road to county standards. Staff would review all final detailed improvements to the road at the final engineering stage of the approval process.

Should the applicant not have demonstrated the existence of sufficient right-of-way to improve the length of Banana Lake Road to County standards, prior to the second scheduled public hearing for this item, staff was recommending denial of adoption of the comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development).

This item was scheduled for the March 11, 2003, Board of County Commissioners public hearing. The applicant requested continuance of this item until April 8, 2003, to modify the proposed plan and address access issues with neighboring property owners. The Board of County Commissioners continued the item as requested.

Further, with regard to surrounding properties, in 1998 the Board of County Commissioners approved a large scale land use amendment from Suburban Estates to Planned Development, and associated rezoning from A-1 to PUD for the property to the south. When completed, the project will consist of 252 apartment units in two-story buildings on 28.5 acres. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, the property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between Colonial Realty (applicant), Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties.

## *SITE DESCRIPTION*

### **1) EXISTING AND PERMITTED USES:**

- a) The existing Suburban Estates land use and A-1 zoning would permit development of single-family homes at a net density of no greater than one dwelling unit per net buildable acre. The A-1 zoning district also permits a variety of agricultural and non-residential uses, such as churches.
- b) The requested Planned Development land use and PUD zoning, as proposed, would permit the development of single family homes and their accessory uses at a net density of approximately 4.0 dwelling units per acre.

Location	Future Land Use*	Zoning*	Existing Use
Site	Suburban Estates	A-1	<i>Single family residential</i>
North	Suburban Estates	A-1	Single family residential
South	Planned Development	PUD	Multi-family residential
East	City of Lake Mary	PUD	Heathrow International Business Center (HIBC)
West	Planned Development	PUD	Single family residential

\* See enclosed future land use and zoning maps for more details.

## COMPREHENSIVE PLAN CONSISTENCY

- 2) **PLAN PROGRAMS** - Plan policies address the continuance, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction. Each application for a land use designation amendment will include a description and evaluation of any Plan programs (such as the affect on the timing/financing of these programs) that will be affected by the amendment if approved.

**Summary of Program Impacts:** The proposed amendment does not alter the options or long-range strategies for facility improvements or capacity additions included in the Support Documentation to the Vision 2020 Plan. The amendment request would not be in conflict with the Metroplan Orlando Plan or the Florida Department of Transportation's 5-Year Plan (Transportation Policy 14.1).

- a) **Traffic Circulation - Consistency with Future Land Use Element:** *In terms of all development proposals, the County shall impose a linkage between the Future Land Use Element and the Transportation Element and all land development activities shall be consistent with the adopted Future Land Use Element (Transportation Policy 2.1).*

Access to the subject property is via Banana Lake Road, a local road. There may be inadequate pavement width and right-of-way for Banana Lake. If approved, the developer shall be required to provide access from Business Center Drive. The developer will also be required to construct a turn around on Banana Lake Road at the point at which the subject property begins from the North and in addition to construct a masonry or brick wall across Banana Lake Road and to the South of the turn around to prevent access from Banana Lake Road to the subject property. Staff will review all final details at the final engineering stage of the approval process.



- b) **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service Area Maps:** *Figure 11.1 and Figure 14.1 are the water and sewer service area maps for Seminole County.*

The subject properties are within the Seminole County Utilities water and sewer service area.

- c) **Public Safety – Adopted Level of Service:** *The County shall maintain adopted levels of service for fire protection and rescue...as an average response time of five minutes (Public Safety Policy 12.2.2).*

The property is served by the Seminole County EMS/Fire Rescue. Response time to the site is less than 5 minutes, which meets the County's average response time standard of 5 minutes.

- 3) **REGULATIONS** - The policies of the Plan also contain general regulatory guidelines and requirements for managing growth and protecting the environment. These guidelines will be used to evaluate the overall consistency of the land use amendment with the Vision 20/20 Plan, but are not applied in detail at this stage.

- a) **Preliminary Development Orders: Capacity Determination:** *For preliminary development orders and for final development orders under which no development activity impacting public facilities may ensue, the capacity of Category I and Category III public facilities shall be determined as follows...No rights to obtain final development orders under which development activity impacting public facilities may ensue, or to obtain development permits, nor any other rights to develop the subject property shall be deemed to have been granted or implied by the County's approval of the development order without a determination having previously been made that the capacity of public facilities will be available in accordance with law (Implementation Policy 1.2.3).*

A review of the availability of public facilities to serve these properties indicates that there would be adequate facilities to serve this area, and that the proposed Plan amendment would create no adverse impacts to public facilities.

If approved, the developer shall be required to provide access from Business Center Drive, and to construct a turn around on Banana Lake Rd. at the point at which the subject property begins from the North and in addition to construct a masonry or brick wall across Banana Lake Road and to the South of the turn around to prevent access from Banana Lake Road to the subject property.

In addition, the Banana Lake Road is planned for extension of reclaimed water main by the County which would be available in the future for connection to this site. The developer shall construct a reuse line to serve this development and commit to connecting to the County's system when it becomes available and pay any applicable fees.

- b) **Flood Plain and Wetlands Areas - Flood Plain Protection and Wetlands Protection:** *The County shall implement the Conservation land use designation through the regulation of development consistent with the Flood Prone (FP-1) and Wetlands (W-1) Overlay Zoning classifications...(Policy FLU 1.2 and 1.3).*

Approximately 15 acres are considered to be either wetlands and/or flood prone. A mitigation plan approved by the County and/or State shall be required at the time of Final PUD Master Plan approval for any proposed on-site wetland impacts. An undisturbed buffer averaging 25 feet and not less than 15 feet will be required landward of the on-site wetland limits.

- c) **Protection of Endangered and Threatened Wildlife:** *The County shall continue to require, as part of the Development Review Process, proposed development to coordinate those processes with all appropriate agencies and comply with the US Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission Rules as well as other applicable Federal and State Laws regarding protection of endangered and threatened wildlife prior to development approval (Conservation Policy 3.13).*

A survey of threatened, endangered and species of special concern prior to final PUD master plan approval is required.

- 4) **DEVELOPMENT POLICIES** - Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the use, intensity, location, and timing of the proposed amendment.

- a) **Compatibility:** When the County's Future Land Use Map (FLUM) was developed in 1987, land use compatibility issues were evaluated and ultimately defined through a community meeting/hearing process that involved substantial public comment and input. When amendments are proposed to the FLUM, however, staff makes an initial evaluation of compatibility, prior to public input and comment, based upon a set of professional standards that include, but are not limited to criteria such as: (a) long standing community development patterns; (b) previous policy direction from the Board of County Commissioners; (c) other planning principles articulated in the Vision 2020 Plan (e.g., appropriate transitioning of land uses, protection of neighborhoods, protection of the environment, protection of private property rights, no creation of new strip commercial developments through plan amendments, etc.).

Based upon an initial evaluation of compatibility, Planned Development land use, as proposed, would be consistent with Plan policies identified at this time and therefore is consistent with the Seminole County Comprehensive Plan.

Applicable Plan policies include, but are not limited to, the following:

- 1) **Transitional Land Uses:** *The County shall evaluate plan amendments to insure that transitional land uses are provided as a buffer between residential and non-residential uses, between varying intensities of residential uses, and in managing the redevelopment of areas no longer appropriate as viable residential areas. "Exhibit FLU 2: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

Transition of land use and associated compatibility issues will be addressed through the use of the Planned Development land use designation and PUD. Staff believes that the prepared PUD plan provides for creative site design and appropriate standards for buffering, setbacks, lighting and building height, and that the request meets the intent of the Planned Development definition and PUD zoning classification.

Staff's primary concern is access to the site. The sole access to the site is via Banana Lake Road, a substandard local road. The applicant has not demonstrated the ability to improve the road to County standards. The 1998 approval of multi-family to the south was based in part on the applicant's ability to access the site through the existing apartments within the Heathrow International Business Center to the south. Staff indicated at that time that the orientation of the project towards a developed, higher-intensity PUD was a mitigating factor in the placement of high density uses at that location.

Other applicable Plan policies include, but are not limited to:

Policy DES 1.9: Tree Canopy and Natural Vegetation

Policy DES 2.8: Visual Quality of Streets and Highways

Policy DES 30.3: Preserve and Protect Neighborhoods

Policy FLU 1.1: Conservation Land Use

Policy FLU 1.2: Floodplain Protections

Policy FLU 1.3: Wetlands Protection

Policy FLU 1.4: Conservation Easements

Policy FLU 2.11: Determination of Compatibility in the Planned Unit Development and Planned Commercial Development Zoning Classifications

Potable Water Policy 11.4.5: Extension of Service to New Development

Sanitary Sewer Policy 14.4.4: Extension of Service to New Development

Policy TRA 10.3: Review of Development Applications

- b) **Concurrency Review - Application to New Development:** *For purposes of approving new development subsequent to adoption of this Comprehensive Plan, all adopted public safety level of service standards and schedules of capital improvements...shall be applied and evaluated...consistent with policies of the Implementation Element... (Capital Improvements Policy 3.2).*

This policy provides for the adoption of level of service (LOS) standards for public facilities and requires that final development orders be issued only if public facilities meeting the adopted LOS are available or will be available concurrent with the development. Additionally, preliminary development orders shall only be issued with the condition that no rights to obtain final development orders or development permits, nor any other rights to develop the subject property are granted or implied by the County's approval of the preliminary development order.

- 5) **COORDINATION** - Each application for a land use designation amendment will be evaluated to assess how and to what extent any additional intergovernmental coordination activities should be addressed.

- a) **Plan Coordination:** *The County shall continue to coordinate its comprehensive planning activities with the plans and programs of the School Board, major utilities, quasi-public agencies and other local governments providing services but not having regulatory authority over the use of land (Intergovernmental Coordination Policy 8.2.12). Seminole County shall coordinate its comprehensive planning activities with the plans and programs of regional, State and Federal agencies by...as the County is now a charter County (Intergovernmental Coordination Policy 8.3.3).*

The Vision 2020 Plan fully complies with the State Comprehensive Plan adopted pursuant to Chapter 187, Florida Statutes, and the Strategic Regional Policy Plan of the East Central Florida Regional Planning Council pursuant to Chapter 163, Florida Statutes. Consistency with the State Plan and the Regional Policy Plan will be evaluated by individual review agencies during the Plan amendment review process.

### STAFF RECOMMENDATION

The following staff recommendation is subject to staff receiving a signed agreement, prior to the July 22, 2003, Board of County Commissioners public hearing, providing access for the subject property from Business Center Drive on the east and/or from AAA Drive on the east. **If the aforementioned agreement is not received by staff, prior to the July 22, 2003, Board of County Commissioners public hearing, then staff recommends denial of the applicant's request.**

Planning staff recommends approval of the proposed Planned Development land use with staff findings, to be enacted with a summary ordinance at the conclusion of the amendment cycle; and enactment of an ordinance adopting the PUD (Planned Unit Development) zoning with staff findings for 26.48 acres located on the west side of Banana Lake Road, approximately 3,400 feet south of CR 46A, subject to the attached Development Order.

### LPA/P&Z RECOMMENDATION

At its meeting of February 19, 2003, the Planning and Zoning Commission recommended denial.

### BCC ACTION

At its meeting of March 11, 2003, the Board of County Commissioners continued the item to April 8, 2003, at 7:00 pm. At the public hearing on April 8, 2003, the Board of County Commissioners unanimously approved transmittal with the following conditions:

1. Net density will be no greater than 4.0 units per acre; and
2. the 60' (1.43 acres) buffer to the south of the subject property may be included as developable area; and
3. access for the subject property will be from either Business Center Dr. on the east and/or from AAA Dr. on the east; and
4. access from Banana Lake Rd. for the property will be prohibited.

**FILE #**

**Z2001-044 02s.FLU04**

**DEVELOPMENT ORDER #01-23000005**

**SEMINOLE COUNTY DEVELOPMENT  
ORDER**

On July 22, 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:** FRED C. AND CARMEN S. EDWARDS  
748 BANANA LAKE RD  
LAKE MARY, FL 32746

**Project Name:** BANANA LAKE LAND USE AMEND. LARGE / REZONE

**Requested Development Approval:** Rezoning from A-1 (Agriculture) zoning classification to Planned Unit Development (PUD) 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: KENT CICHON  
1101 East First Street  
Sanford, Florida 32771

**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) This development is subject to the Settlement Agreement (DOAH CASE NO.: 99-0133GM) entered into by and between the State of Florida, Department of Community Affairs; Seminole County, Florida; Colonial Properties Trust, as general partner of Colonial Realty Properties Limited Partnership; and Fred Edwards, Jr. (attached hereto as Exhibit B).
- (4) The further 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 developer shall be required to provide vehicular and pedestrian access from Business Center Drive.
  - b. The developer shall be required to construct a vehicular turn around on Banana Lake Road at the point at which the subject property begins from the North and in addition to construct a masonry or brick wall across Banana Lake Road and to the South of the turn around to prevent access from Banana Lake Road to the subject property.
  - c. Homes will be restricted to a maximum of 2 stories, and with a restriction of 1 story along the northwest boundary of the subject property.
  - d. The developer shall construct a 6' brick wall along the northwest boundary, separating the Heathrow development to the North from the subject property, and with a 50' buffer to the south of the wall.
  - e. Use of motorized watercraft will be prohibited on Banana Lake and Island Lake.
  - f. Construct sufficient reclaimed water lines to provide reclaimed water, to all residential lots and open space tract(s), which shall be connected to the County's reclaimed water main when it becomes available and pay any applicable fees for such connection.
  - g. The maximum number of dwelling units shall not exceed 36 units.
  - h. The net density shall not exceed 4.0 dwelling units per acre.

- i. There shall be the following minimum building setbacks for each home:
  - 20' front
  - 20' rear
  - 5' side yard
  - 20' side street (corner lots).
- j. There shall be the following minimum setbacks for accessory structures of a size of 200 square feet or less:
  - 5' rear
  - 5' side yard
  - 20' side street (corner lots).
- k. There shall be the following minimum setbacks for accessory structures in excess 200 square feet:
  - 20' rear
  - 5' side yard
  - 20' side street (corner lots).
- l. All accessory structures in front yard shall be located behind the front building line of the dwelling unit.
- m. Minimum lot sizes and widths shall be 5,000 square feet with a minimum 50' width at building line. Corner lots shall be 15% larger and 15% wider than the aforementioned minimum lot sizes and widths.
- n. Maximum building height shall be 35'.
- o. Minimum pool and pool screen setbacks shall be 5' rear and 5' side.
- p. 5' wide sidewalks shall be constructed on both sides of all roadways constructed within this development.
- q. Open space and recreational amenities shall be determined during the review of the Final Master Plan.

(5) 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.

(6) 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.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of County  
Commissioners of Seminole  
County, Florida

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

FILE # Z2001-044 02s.FLU04

DEVELOPMENT ORDER #01-23000005

**OWNER'S CONSENT AND COVENANT**

COMES NOW, the owner, Fred C. Edwards Jr., on behalf of himself and his heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
FRED C. EDWARDS JR

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

**STATE OF FLORIDA**

**COUNTY OF SEMINOLE**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared FRED C. EDWARDS JR., and is personally known to me or who has produced \_\_\_\_\_ as identification and who acknowledged and executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

FILE # Z2001-044 02s.FLU04

DEVELOPMENT ORDER #01-23000005

**OWNER'S CONSENT AND COVENANT**

COMES NOW, the owner, Carmen S. Edwards, on behalf of herself and her heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
CARMEN S. EDWARDS

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

**STATE OF FLORIDA**

**COUNTY OF SEMINOLE**

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared CARMEN S. EDWARDS, and is personally known to me or who has produced \_\_\_\_\_ as identification and who acknowledged and executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

## EXHIBIT A

### LEGAL DESCRIPTION

COMMENCE at the Northeast corner of Government Lot 2, Section 1, Township 20 South, Range 29 East, said corner being a point on the Center Line of Banana Lake Road as shown on the Plat of Banana Lake Road as recorded in Plat Book 4, Page 72 of the public records of Seminole County, Florida; thence run North 89° 38' 43" West along the North Line of said Government Lot 2 a distance of 25.00 feet to a point lying on the Westerly right-of-way line of Banana Lake Road; thence continue North 89° 38' 43" West, 867.49 feet to the POINT OF BEGINNING of this description; thence continue North 89° 38' 43" West a distance of 892.49 feet; thence South 00° 42' 36" West a distance of 817.00 feet; thence South 89° 38' 40" East a distance of 1766.79 feet to a point on the aforementioned Westerly right-of-way line of Banana Lake Road; thence run North 00° 13' 57" East along said right-of-way line 277.00 feet; thence departing said right-of-way line, run North 76° 33' 03" West, 524.00 feet; thence North 00° 13' 57" East, 130.20 feet; thence North 89° 38' 43" West, 358.87 feet; thence run North 00° 31' 44" East, 291.00 feet to the POINT OF BEGINNING.

Containing 25.05 acres more or less.

### PLUS

A Parcel of Land Located in the North ½ of the Southwest 1/4 of Section 1, Township 20 South, Range 29 East, Seminole County, Florida, Being Described as Follows:

Begin at the Northeast Corner of Lot 8, Island Lake Park, as Shown in Plat Book 9, Page 89, of the Public Records of Seminole County, Florida, Thence Run S89°E52'48"E, a Distance of 1239.44 Feet to the Centerline of the Existing 50 Foot Wide Banana Lake Road Right-of-way (To Be Vacated); Thence S00°E 21'30"E, along the Centerline of Said Banana Lake Road Right-of-way 60.00 Feet; Thence Departing Said Centerline, Run N89°E 52'48"W, a Distance of 955.00 Feet; Thence N44°E52'48"W, a Distance of 63.64 Feet; Thence N89° 52'48"W, a Distance of 244.35 Feet to the Easterly Line of the Aforementioned Lot 8 of Island Lake Park; Thence N44°E34'00"W, along Said Easterly Lot Line, a Distance of 21.10 Feet, to the Point of Beginning.

Containing 1.434 acres more or less.

AN ORDINANCE AMENDING THE VISION 2020 SEMINOLE COUNTY COMPREHENSIVE PLAN; ADOPTING AN ENERGY ELEMENT; AMENDING FUTURE LAND USE DESIGNATIONS OF CERTAIN PROPERTIES; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County (hereinafter referred to as the "Board") enacted Ordinance Number 91-13, adopted the 1991 Seminole County Comprehensive Plan, which was subsequently amended in accordance with State law; and

WHEREAS, the Board enacted Ordinance Number 2001-21, which renamed the 1991 Seminole County Comprehensive Plan to the "Vision 2020 Seminole County Comprehensive Plan" (hereinafter referred to as the "Plan"); and

WHEREAS, Ordinance Number 2001-21 also amended eight elements of the Plan in accordance with the requirements of Seminole County's 1998 Evaluation and Appraisal Report (hereinafter referred to as the "EAR"); and

WHEREAS, Ordinance Number 2002-37 amended an additional seven elements of the Plan in accordance with the requirements of the EAR; and

WHEREAS, the Board has followed the procedures set forth in Sections 163.3184 and 163.3187, Florida Statutes, in order to further amend certain provisions of the Plan as set forth herein relating to Large Scale Plan Amendments; and

WHEREAS, the Board has substantially complied with the procedures set forth in the Implementation Element of the Plan regarding public participation; and

WHEREAS, the Seminole County Local Planning Agency held public hearings with all required public notice on February 5, 2003, February 19, 2003 and July 16, 2003 for the purpose of providing recommendations to the Board of County Commissioners with regard to the Plan amendments set forth herein; and

WHEREAS, the Board held public hearings on February 25, 2003, April 8, 2003 and July 22, 2003, with all required public notice for the purposes of hearing and considering the recommendations and comments of the general public, the Local Planning Agency, other public agencies, and other jurisdictions prior to final action on the Plan amendments set forth herein; and

WHEREAS, the Board hereby finds that the Plan, as amended by this ordinance, is internally consistent with and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, and the State Comprehensive Plan, and the Strategic Regional Plan of the East Central Florida Regional Planning Council; and

WHEREAS, the Plan amendments set forth herein have been reviewed by all required State agencies and the Objectives,

Recommendations and Comments Report prepared by the Department of Community Affairs has been considered by the Board; and

WHEREAS, a private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan; and

WHEREAS, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential fiscal impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has been prepared and has been made available for public review and copying prior to the enactment of this Ordinance in accordance with the provisions of the Seminole County Home Rule Charter,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. Legislative Findings.**

(a) The above recitals are true and correct in form and include legislative findings which are a material part of this Ordinance.

(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. Amendments To The Future Land Use Designation.**

(a) The Future Land Use Map of the Future Land Use Element of the Plan is hereby amended by changing the future land use designation assigned to property depicted therein and legally described in Appendix A (attached hereto and incorporated herein by this reference) from Suburban Estates to Planned Development. This amendment shall be identified as 02S.FLU04.

(b) The Future Land Use Map of the Future Land Use Element of the Plan is hereby amended by changing the future land use designation assigned to property depicted therein and legally described in Appendix B (attached hereto and incorporated herein by this reference) from Suburban Estates to Low Density Residential. This amendment shall be identified as 01F.FLU01.

**Section 3. Text Amendment.** The text of the Plan is hereby amended as set forth in Appendix C (attached hereto and incorporated herein by this reference) which adds a new Element to the Plan to be known as the Energy Element. This amendment shall be identified as 03F.TXT01.

**Section 4. Severability.**

(a) The enactment of this Ordinance includes two (2) amendments to the Future Land Use Map and one (1) text amendment. The amendments set forth in this Ordinance shall be treated separately in the event compliance issues arise.



(b) 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. Exclusion From County Code/Codification.**

(a) It is the intent of this Board that the provisions of this Ordinance shall not be codified into the Seminole County Code, but that the Code codifier shall have liberal authority to codify this Ordinance as a separate document or as part of or as a volume of the land Development Code of Seminole County in accordance with prior directions given to the said Code codifier.

(b) The Code codifier is hereby granted broad and liberal authority to codify and edit the provisions of the Seminole County Comprehensive Plan, as amended.

**Section 6. Effective Date.**

(a) 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 State law.

(b) This Ordinance shall take effect upon filing a copy of this Ordinance with the Florida Department of State by the Clerk

of the Board of County Commissioners; provided, however, that the effective date of the Plan amendments set forth herein shall be twenty-one (21) days after the Florida Department of Community Affairs' publication of a notice of intent to find the Plan amendments in compliance if no affected party challenges the Plan amendments, or, if an affected party challenges the Plan amendments, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendments are in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders or development permits, if dependent upon an amendment, may be issued or commence before an amendment has become effective. If a final order of noncompliance is issued by the Administration Commission adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

## Appendix A

COMMENCE at the Northeast corner of Government Lot 2, Section 1, Township 20 South, Range 29 East, said corner being a point on the Center Line of Banana Lake Road as shown on the Plat of Banana Lake Road as recorded in Plat Book 4, Page 72 of the public records of Seminole County, Florida; thence run North 89° 38' 43" West along the North Line of said Government Lot 2 a distance of 25.00 feet to a point lying on the Westerly right-of-way line of Banana Lake Road; thence continue North 89° 38' 43" West, 867.49 feet to the POINT OF BEGINNING of this description; thence continue North 89° 38' 43" West a distance of 892.49 feet; thence South 00° 42' 36" West a distance of 817.00 feet; thence South 89° 38' 40" East a distance of 1766.79 feet to a point on the aforementioned Westerly right-of-way line of Banana Lake Road; thence run North 00° 13' 57" East along said right-of-way line 277.00 feet; thence departing said right-of-way line, run North 76° 33' 03" West, 524.00 feet; thence North 00° 13' 57" East, 130.20 feet; thence North 89° 38' 43" West, 358.87 feet; thence run North 00° 31' 44" East, 291.00 feet to the POINT OF BEGINNING.

Containing 25.05 acres more or less.

### PLUS

A Parcel of Land Located in the North ½ of the Southwest ¼ of Section 1, Township 20 South, Range 29 East, Seminole County, Florida, Being Described as Follows:

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Containing 1.434 acres more or less.

## APPENDIX B

23-20-30-5AQ-0000-1090

Leg Lots 109 + 110 (Less North 8 ½ feet for road) Eureka Hammock Plat Book 1,  
Page 106

23-20-30-5AQ-0000-1150

Leg Lots 115, 116 & 117 Eureka Hammock Plat Book 1, Page 106

23-20-30-5AQ-0000-1030

Leg Lots 103 to 105 Eureka Hammock Plat Book 1, Page 106

## Appendix C

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATION ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY; ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURE) 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 document titled "Executive Summary".

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. REZONING.** The zoning classification assigned to the following described property is changed from the A-1 (Agriculture) to the PUD (Planned Commercial Development District) zoning classification.

**LEGAL DESCRIPTION ATTACHED AS 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 take effect upon filing the Ordinance with the Department of State and recording Development Order #01-23000005 in the Public Records of Seminole County, Florida.

ENACTED this 22<sup>nd</sup> day of July 2003

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

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

## EXHIBIT A LEGAL DESCRIPTION

### Z2001-044 (A-1 to PUD)

COMMENCE at the Northeast corner of Government Lot 2, Section 1, Township 20 South, Range 29 East, said corner being a point on the Center Line of Banana Lake Road as shown on the Plat of Banana Lake Road as recorded in Plat Book 4, Page 72 of the public records of Seminole County, Florida; thence run North 89° 38' 43" West along the North Line of said Government Lot 2 a distance of 25.00 feet to a point lying on the Westerly right-of-way line of Banana Lake Road; thence continue North 89° 38' 43" West, 867.49 feet to the POINT OF BEGINNING of this description; thence continue North 89° 38' 43" West a distance of 892.49 feet; thence South 00° 42' 36" West a distance of 817.00 feet; thence South 89° 38' 40" East a distance of 1766.79 feet to a point on the aforementioned Westerly right-of-way line of Banana Lake Road; thence run North 00° 13' 57" East along said right-of-way line 277.00 feet; thence departing said right-of-way line, run North 76° 33' 03" West, 524.00 feet; thence North 00° 13' 57" East, 130.20 feet; thence North 89° 38' 43" West, 358.87 feet; thence run North 00° 31' 44" East, 291.00 feet to the POINT OF BEGINNING.

Containing 25.05 acres more or less.

### PLUS

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Containing 1.434 acres more or less.



## EXHIBIT A

### LEGAL DESCRIPTION

COMMENCE at the Northeast corner of Government Lot 2, Section 1, Township 20 South, Range 29 East, said corner being a point on the Center Line of Banana Lake Road as shown on the Plat of Banana Lake Road as recorded in Plat Book 4, Page 72 of the public records of Seminole County, Florida; thence run North 89° 38' 43" West along the North Line of said Government Lot 2 a distance of 25.00 feet to a point lying on the Westerly right-of-way line of Banana Lake Road; thence continue North 89° 38' 43" West, 867.49 feet to the POINT OF BEGINNING of this description; thence continue North 89° 38' 43" West a distance of 892.49 feet; thence South 00° 42' 36" West a distance of 817.00 feet; thence South 89° 38' 40" East a distance of 1766.79 feet to a point on the aforementioned Westerly right-of-way line of Banana Lake Road; thence run North 00° 13' 57" East along said right-of-way line 277.00 feet; thence departing said right-of-way line, run North 76° 33' 03" West, 524.00 feet; thence North 00° 13' 57" East, 130.20 feet; thence North 89° 38' 43" West, 358.87 feet; thence run North 00° 31' 44" East, 291.00 feet to the POINT OF BEGINNING.

Containing 25.05 acres more or less.

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Containing 1.434 acres more or less.

*Extra Copy*

EXHIBIT B

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FRED C. EDWARDS, JR.,

Petitioner,

DOAH CASE NO.: 99-0133GM

vs.

DEPARTMENT OF COMMUNITY  
AFFAIRS AND SEMINOLE COUNTY,

Respondents,

and

COLONIAL PROPERTIES, INC.,

Intervenor.

---

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the State of Florida, Department of Community Affairs (hereinafter "DCA"); Seminole County, Florida (hereinafter "Seminole County"); Colonial Properties Trust, as general partner of Colonial Realty Properties Limited Partnership (hereinafter "Colonial"); and Fred C. Edwards, Jr. (hereinafter "Edwards"), the parties being all of the parties to the above-styled proceeding, as a complete and final settlement of all claims raised in the above-styled proceedings.

WHEREAS, DCA is the state land planning agency and has the authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, Seminole County on or about October 13, 1998 approved the request of Colonial to amend the Seminole County Comprehensive Plan by adopting Ordinance No. 98-46 approving Seminole County Comprehensive Plan Amendment 98S.FLU5, which re-designated the future land use of that certain property therein described from Suburban Estates to PD; and

concurrently approved the rezoning of the said property from Agriculture to PUD, allowing development of multi-family apartments in accordance with the PUD plan, subject to various conditions; and

WHEREAS, on or about December 9, 1998 DCA issued a Notice of Intent to find Seminole County Comprehensive Plan Amendment 98S.FLU5 "in compliance" with Sections 163.3177, 163.3178, 163.3180, 163.3191, 187.201, Florida Statutes, the applicable strategic regional plan and Chapter 9J-5, Florida Administrative Code; and

WHEREAS, Edwards, as an affected person pursuant to Section 163.3184, Florida Statutes, has initiated the above-styled formal administrative proceeding challenging Seminole County Comprehensive Plan Amendment 98S.FLU5; and

WHEREAS, Colonial has intervened in the above-styled proceeding; and

WHEREAS, the parties wish to avoid the expense and delay of lengthy litigation and future appellate proceedings, and to resolve this proceeding under the terms set forth herein, and it is in their respective mutual best interests to do so;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein below set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Effective Date. This Settlement Agreement shall not become effective until approved by the Board of County Commissioners of Seminole County at a duly noticed public meeting, and executed by each of the parties hereto. The effective date shall be the date of signing by the last party signing.

2. Dismissal of Administrative Proceeding. Upon this Settlement Agreement becoming effective, the parties shall file a stipulated notice of dismissal with prejudice in the

above-styled proceeding in the form attached hereto as Exhibit A, with each party to bear its own attorneys fees and costs.

3. Abatement. The parties acknowledge that they have had their respective counsel join in a Notice of Pending Settlement and Request for Stay of Proceedings, a copy of which is attached hereto as Exhibit B, in order to allow sufficient time for the preparation and implementation of this Settlement Agreement.

4. Final Order Approving Plan Amendment. Upon filing of the Stipulated Notice of Dismissal, Seminole County Comprehensive Plan Amendment 98S.FLU5 shall stand approved and DCA shall issue a final order determining it to be in compliance in accordance with Section 163.3184, Florida Statutes.

5. Enhancement of Buffer Conditions. The parties acknowledge that the PUD zoning of the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5 was approved by Seminole County with various conditions, among which were the establishment of a 200-foot wide buffer area along the northern boundary of the said property, with the said buffer to be comprised as follows:

- a. A 15-foot wide area along the northern boundary to be planted with a double row of off-set trees;
- b. A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm, to be located at least fifteen (15) feet from the northern boundary;
- c. A double row of off set trees to be planted south of the wall described in item (b);
- d. No structures or parking lots to be located in the 200-foot buffer, except the southern one hundred fifty (150) feet of the said buffer may be utilized for stormwater control and retention facilities.

The parties agree that the said conditions shall be enhanced to provide for the 200-foot wide buffer to be comprised as follows:

- i. A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm, to be located at least sixty-one (61) feet from the northern boundary of the PUD, except the wall may be located fifteen (15) feet from the northern boundary as depicted on the sketch attached hereto as Exhibit "C"; and in the one hundred year flood plain area adjacent to Island Lake in lieu of the wall an 8-foot tall vinyl-coated chain link fence may be installed to the normal high water elevation of Island Lake;
- ii. A row of off-set trees to be planted within the area fifteen (15) feet north of the above-described wall;
- iii. A row of off-set trees to be planted south of the above-described wall;
- iv. No structures or parking lots to be located in the 200-foot buffer, except stormwater control and retention facilities may be located in that portion of the buffer area located south of the above-described wall.

Colonial, or its successor developer, shall bear the cost and perform the work appropriate to establish each element of the said buffer. Edwards shall bear the cost and perform the work of maintaining and irrigating trees planted on the Exhibit "C" Property (as hereinbelow described) upon the Exhibit "C" Property being conveyed to him. The parties acknowledge and agree that the above-stated enhancements of the buffer conditions do not affect the intent or character of the development proposed by Colonial and therefore do not constitute a major or substantial

change in the approved PUD. The enhanced conditions shall be effective upon approval of this Settlement Agreement by the Seminole County Board of County Commissioner and shall be completed as provided in the Development Order to be issued by Seminole County. The parties agree that this Settlement Agreement shall be attached to and incorporated by reference in the Development Order issued by Seminole County authorizing Colonial's proposed development, which shall include as conditions for development that Colonial, or its successor developer, comply with and perform all obligations established by this Settlement Agreement. The Development Order shall further provide that no modifications of the Development Order may alter or amend the foregoing enhanced buffer conditions without a formal major amendment to the PUD being duly processed and approved after hearing upon notice to all affected persons, including but not limited to Edwards, his heirs, successors and assigns.

6. Conveyance of Property to Edwards. Colonial represents to Edwards that it owns the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5, except for that certain property owned by Duke University (hereinafter referred to as "the Duke Property"). The legal description of the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5 is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South ½ of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said Section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45 ° along the Northeasterly line of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

and

Lot 8, ISLAND LAKE PARK, according to the Plat thereof as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida.

and

Lots 1 through 7, ISLAND LAKE PARK, according to the plat thereof as recorded in Plat Book 8, Page 89 of the Public Records of Seminole County, Florida.

(hereinafter referred to as "the Development Property"). Colonial further represents to Edwards that it has entered into a contract to purchase the Duke Property and that the said contract obligates Colonial to purchase the Duke Property subject to various conditions, among which is the condition that Colonial obtain development approvals and permits authorizing Colonial's proposed development. The legal description of the Duke Property is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South ½ of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said Section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45°E. along the Northeasterly line of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

Colonial, on behalf of itself, its affiliated companies, successors and assigns, hereby agrees to sell to Edwards, and Edwards hereby agrees to buy that certain portion of the Development Property, described as follows:

A PARCEL OF LAND LOCATED IN THE NORTH ½ OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST, SEMINOLE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTH EAST CORNER OF LOT 8, ISLAND LAKE PARK, AS SHOWN IN PLAT BOOK 9, PAGE 89, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA. THENCE RUN S89°52'48"E, A DISTANCE OF 1239.44 FEET TO THE CENTER LINE OF THE EXISTING 50 FOOT WIDE BANANA LAKE ROAD RIGHT-OF-WAY (TO BE VACATED); THENCE S00°21'30"E, ALONG THE CENTERLINE OF SAID BANANA LAKE ROAD RIGHT-OF-WAY 60.00 FEET; THENCE DEPARTING SAID CENTERLINE, RUN N89°52'48"W, A DISTANCE OF 955.00 FEET; THENCE N44°52'48"W, A DISTANCE OF 63.64 FEET; THENCE N89°52'48"W, A DISTANCE OF 244.35 FEET TO THE EASTERLY LINE OF THE AFOREMENTIONED LOT 8 OF ISLAND LAKE PARK; THENCE N44°34'00"W, ALONG

SAID EASTERLY LOT LINE, A DISTANCE OF 21.10 FEET,  
TO THE POINT OF BEGINNING.

CONTAINING 1.434 ACRES MORE OR LESS

(referenced to herein as "the Exhibit "C" Property") or such portion of the Exhibit "C" Property as to which Colonial, its affiliated companies, successors and assigns, possess title currently or at any time in the future, including all of Colonial's rights, title, after acquired title, and interest in, on, and to all improvements, fixtures, easements, rights-of-way, licenses, privileges, tenements, reversions and appurtenances belonging or appertaining to the 60-foot Property, on the terms and conditions set forth below. In the event Colonial, its successors, assigns or an affiliated company, does not purchase the Duke Property, whether pursuant to the existing contract or an amended, modified, extended or substituted contract, Colonial's obligation under this Paragraph (6) shall be limited to selling to Edwards that portion of the Exhibit "C" Property which Colonial does own or hereafter acquires, with the obligation to convey to Edwards any remaining portion of the Exhibit "C" Property remaining a development condition under the Development Order to be entered by Seminole County. In the event Colonial's contract to acquire the Duke Property is terminated, and in the future Colonial, or an affiliated company or a person in privity with Colonial, nonetheless acquires the Duke Property, or any portions thereof, by a different contract or by other means, the obligations of this Settlement Agreement shall continue in effect and any portion of the Exhibit "C" Property not previously conveyed to Edwards shall be promptly conveyed by Colonial, its successors, assigns, or affiliates, to Edwards on the terms hereinbelow set forth. The terms and conditions for the sale and purchase of the Exhibit "C" Property, or any portion thereof in the event the ownership is of less than all of the Exhibit "C" Property, shall be as follows:

- a. The purchase price shall be \$1 .00, payable at Closing.



b. Within thirty (30) days of Colonial acquiring the Duke Property, or any portion thereof, Colonial, and such other owners of any portion of the Exhibit "C" Property as may then be, shall convey to Edwards fee simple title to the Exhibit "C" Property, or such portion thereof as is owned by Colonial, or such other owners as may then be, by general warranty deed(s) subject only to: (A) real estate taxes and special assessments for the year of Closing, (B) the PUD conditions applicable to the Exhibit "C" Property as set forth above in this Settlement Agreement, and (C) the easement for ingress and egress to the Edwards' home located at 748 Banana Lake Road, Lake Mary, Florida. No representation or title warranties are made or will be made with respect to the beds or bottoms of lakes, rivers or other bodies of water located on, contiguous to or within the Exhibit "C" Property. The date for delivery of said general warranty deed to Edwards shall be the Closing Date.

c. There shall be no mechanics' liens, construction liens, claims of lien or other claims against the property conveyed except governmental assessments, and all bills for all work done or materials supplied to the property conveyed will have been paid as of delivery of the general warranty deed(s) to Edwards. This representation will be true at Closing and shall survive Closing. Colonial agrees to indemnify and hold Edwards harmless from any unrecorded liens, claims of lien or other claims against the Exhibit "C" Property occurring or arising for work or services performed prior to the Closing Date. At closing there shall be delivered to Edwards, and/or a Title Company issuing a Commitment, an affidavit in form sufficient to allow a Title Company to insure the gap at the time of Closing. In addition, the grantor(s) of the deed(s) shall cause to be eliminated from the title insurance policy the printed exceptions for unrecorded mechanics' liens, parties in possession, unrecorded easements, and survey exceptions (if a survey is obtained by Edwards), and taxes or special assessments not shown as existing liens by the public records, other than those for the year of Closing which are not yet due and payable.

d. From and after the effective date of this Settlement Agreement, Colonial shall not, without obtaining Edwards' prior written consent in each instance, create, incur, consent to or permit to exist, any easement, restriction, right-of-way, reservation, mortgage, lien, pledge, encumbrance, lease, license, occupancy agreement or other legal or equitable interest, which encumbers the Exhibit "C" Property or any portion thereof, other than the PUD conditions applicable to the Exhibit "C" property as set forth above in this Settlement Agreement.

e. In the event Edwards obtains an owner's marketable title insurance policy or obtains a survey of the Exhibit "C" Property, same shall be at his own expense.

f. Edwards shall pay for documentary stamps on the warranty deed and Colonial shall pay for recording curative instruments. Edwards shall bear the costs of title searches and updates, and the Title Policy if one is obtained. Edwards shall pay for the survey, if one is obtained, the cost of recording the warranty deed, and for any title endorsements required by Edwards. Edwards

shall pay the cost of preparing closing documents and any closing fees in connection therewith. Each party shall pay its own respective attorneys fees.

g. Real and personal property taxes for the year of Closing, installments on public improvement liens, special assessments, municipal services taxing unit charges, rents, and insurance premiums, if any, and other proratable items pertaining to the Exhibit "C" Property shall be prorated as of the Closing Date. Colonial's prorata share of such taxes, assessments and MSTU charges as determined by the Seminole County Property Appraiser, the Seminole County Tax Collector and/or other applicable governmental authority shall be paid at Closing to the Seminole County Tax Collector's office. Delivery of such tax payment to the Seminole County Tax Collector's office shall be the responsibility of Edwards and shall occur immediately after Closing. Edwards shall incur the proratable expenses for the Closing Date. All real estate special assessments, personal property taxes and ad valorem taxes for prior years shall be paid by Colonial. For proration purposes, it will be assumed real estate and personal property taxes are paid upon the tax due date. If the real property ad valorem taxes, personal property taxes, general assessments and MSTU charges applicable to the Exhibit "C" Property are not available at Closing, then they shall be estimated upon the most recent information available. If the foregoing are estimated, Colonial agrees to pay any unpaid amounts once the bill for same is received. Colonial shall receive any refund that may be due from Seminole County for overpayment. Edwards shall have no obligations for any assessments relative to infrastructure improvements benefiting the PUD, either before or after Closing.

h. No default in regard to the purchase and sale of the Exhibit "C" Property shall be claimed or charged by Edwards or Colonial against the other until notice of thereof has been given to the defaulting party in writing, and such default remains uncured for a period of ten (10) days after the defaulting's party's receipt of such notice. Notwithstanding the foregoing, the Closing Date shall not be changed, delayed, postponed or extended by any requirement for notice of default, if such default consists of failure to appear at Closing. In the event Edwards defaults on his obligation to purchase the Exhibit "C" Property and the conditions precedent to Edwards' obligation to purchase same have been fulfilled in the time(s) required herein, and provided Colonial is not in default, then Colonial's sole remedies shall be, upon giving written notice to Edwards, as hereinabove provided, to recover damages, specific performance or obtain injunctive relief, but Colonial may not rescind or terminate this Settlement Agreement unless Colonial affirmatively acts to bring about the repeal or cancellation of Seminole County Comprehensive Plan Amendment 98S.FLU5, so as to re-establish the Suburban Estates land use designation for the Development Property. In the event Colonial refuses or is unable to comply with and perform in accordance with the provisions of this Settlement Agreement for the purchase and sale of the Exhibit "C" Property, and provided Edwards is not in default, Edwards may elect to seek enforcement of the development conditions in the Development Plan, seek specific performance, obtain injunctive relief or recover damages, but may not rescind or terminate this Settlement Agreement.

i. Colonial hereby represents and warrants to Edwards that it has full power, right, and authority, and is duly authorized to enter into this Settlement Agreement, and perform each and all of the matters and acts herein provided in connection therewith, and to execute and deliver all documents provided hereunder in connection with such sale and purchase; and that the purchase and sale of the Exhibit "C" Property in accordance with the terms and obligations hereof, does not contravene any provisions of law, trust, indenture, or agreement binding upon Colonial, and that when executed, the instruments required hereunder shall constitute valid and binding obligations of Colonial in accordance with their terms. Colonial agrees to provide Edwards with copies of all environmental inspection reports currently in its possession, custody or control relating to the Exhibit "C" Property, or which came into its possession, custody or control prior to the conveyance of title to Edwards.

j. The provisions of all subsections of this Paragraph 6 of this Settlement Agreement concerning purchase and sale of the Exhibit "C" Property, including the representations and warranties set forth therein, are intended to survive the Closing, shall so survive, and shall not be merged into the warranty deed.

k. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to be duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., facsimile transmission) or within three (3) days after depositing with United States postal service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service, from which a receipt may be obtained, and addressed as follows:

To Colonial: Colonial Properties Trust  
c/o Charles A. McGehee  
Executive Vice President  
Suite 750  
2101 6th Avenue, North  
Birmingham, Alabama 35202

With copy to: Kenneth W. Wright, Esquire  
Shutts & Bowen, LLP  
20 North Orange Avenue  
Suite 1000  
Orlando, Florida 32801-4626  
Telephone: (407) 423-3200  
Facsimile: (407) 425-8316

To Edwards:  
Fred C. Edwards, Jr.  
748 Banana Lake Road  
Lake Mary, Florida 32746

With copy to: Michael P. McMahon, Esquire  
Akerman, Senterfitt & Eidson, P.A.  
Post Office Box 231  
Orlando, Florida 32802-0231  
Telephone: (407) 843-7860  
Facsimile: (407) 843-6610

Edwards and Colonial may from time to time notify the other of changes with respect to where and to whom notices should be sent.

7. Future Plan Amendment/Rezoning. Colonial agrees with Edwards that if in the future Edwards desires to have the Exhibit "C" Property rezoned and/or have the Seminole County Comprehensive Plan land use designation of the Exhibit "C" Property amended to authorize a residential zoning or land use, that Colonial, its successors and assigns, will consent thereto and shall not object thereto. The parties acknowledge and stipulate that neither Seminole County nor DCA make any agreement or commitment in regard to any possible future re-designation of authorized land use of the Exhibit "C" Property under the Seminole County Comprehensive Plan, nor in regard to any possible future rezoning of the Exhibit "C" Property.

8. DCA/Seminole County Not Parties to Purchase/Sale. It is acknowledged and agreed that neither Seminole County nor DCA are obligated by the purchase and sale provisions of Paragraph 6 of this Settlement Agreement; and that, while each has knowledge of the transaction contemplated by Paragraph (6) and does not object thereto, neither Seminole County nor DCA shall have any liability for performance or non-performance of any of the purchase and sale provisions of Paragraph (6) by either Colonial or Edwards, their successor developers or assigns.

9. Rezoning: Freeze. Edwards, on behalf of himself, his successors and assigns, hereby agrees, and commits to Seminole County that upon-conveyance of the Exhibit "C" Property, or any portion thereof, to Edwards, his successors or assigns, he shall not seek an amendment to the Seminole County Comprehensive Plan proposing a re-designation; or the

authorized land use of the Exhibit "C" Property nor seek a re-zoning of the Exhibit "C" Property for a period of five (5) years from the effective date of this Settlement Agreement. In the event the Exhibit "C" Property is not conveyed to Edwards, his successors and assigns, as contemplated under Paragraph (6), above, Edwards shall not be limited in his rights by the provisions hereof.

10. Exclusion From DRI. The parties acknowledge that Colonial intends to seek inclusion of its proposed development of a multi-family apartment project in the Heathrow International Business Center DRI ("HIBC"). It is hereby agreed that the Exhibit "C" Property shall not be made a part of the HIBC, nor any other Development of Regional Impact, without the express written consent and affirmative joinder of Edwards, which Edwards may withhold in his absolute personal discretion. It is acknowledged that Edwards intends to refuse to consent to the Exhibit "C" Property being joined into any DRI. The parties acknowledge that Seminole County may include the Exhibit "C" Property in its calculations for density requirements for purposes of the PUD and HIBC DRI approvals to the extent doing so does not limit Edwards, his successors and assigns, from installing a public street on the Exhibit "C" Property in the future.

11. Waiver of Future Opposition. Edwards, on behalf of himself, his successors and assigns, agrees that upon the effective date of this Settlement Agreement, unless this Settlement Agreement is terminated in accordance with the terms hereof, he shall not take any action in opposition to the proposed development project of Colonial, as long as same remains consistent with the PUD conditions approved by Seminole County prior hereto, and as enhanced by the provisions of this Settlement Agreement, and shall not oppose the inclusion of Colonial's proposed development in the Heathrow DRI, excepting as to the Exhibit "C" Property.

Edwards agrees to cooperate with Colonial to extent of communicating non-objection and

consent in writing to governmental agencies reviewing or permitting any aspect of Colonial's proposed development, and personally appearing at public hearings conducted in Seminole County, Florida on a date and at a time when Edwards is in Seminole County and not previously engaged, subject to there being no modification of the proposed development inconsistent with the PUD conditions approved by Seminole County on or about October 13, 1998, as enhanced by the provisions of this Settlement Agreement.

12. No Establishment of Precedent. The parties enter into this Settlement Agreement in a spirit of cooperation for the purposes of resolving disputes which have arisen between them. The acceptance of proposals for purposes of this Settlement Agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances or by any other governmental body.

13. Multiple Originals/Facsimiles/Counterparts. This Settlement Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose. This Settlement Agreement may be executed by facsimile transmission and in counterparts, all of which taken together shall constitute a single complete agreement.

14. Captions. The captions inserted in this Settlement Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this Settlement Agreement.

15. Successors and Assigns. The rights and obligations established by this Settlement Agreement shall be binding upon and shall accrue to the benefit of the successors, assigns and heirs of the parties hereto. It is agreed that Edwards may assign his right to receive the

conveyance of title to the Exhibit "C" Property to Fred C. Edwards, Jr., as Trustee of the Fred C. Edwards, Jr. Living Trust.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be signed as of the dates indicated hereinbelow.

Barbara R. Mascia  
Witness (Signature)

BARBARA R. MASCIA  
Witness (Print Name)

[Signature]  
Witness (Signature)

Michael P. McMatton  
Witness (Print Name)

Fred C. Edwards, Jr.  
FRED C. EDWARDS, JR.

Date: July 29, 1999

DEPARTMENT OF COMMUNITY AFFAIRS

By: J Thomas Beck  
J Thomas Beck, Director  
Division of Community Planning

Date: August 16, 1989

SEMINOLE COUNTY, FLORIDA

By: Carlton Henley  
Chairman  
Board of County Commissioners

Approved by the Seminole County Board of County Commissioners on the 13 day of July, 1999.

Attest: [Signature]  
Clerk of the Board of County Commissioners

COLONIAL REALTY PROPERTIES LIMITED PARTNERSHIP

By: Colonial Properties Trust, its general partner

By: Carl A. McHale

Title: Executive Vice-P

Aimee' B. Richard

-Witness (Signature)

Aimee' B. Richard

Witness (Print Name)

Melanie Mann

Witness (Signature)

Melanie Mann

Witness (Print Name)



STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged and subscribed before me by FRED C. EDWARDS, JR. on this 29<sup>th</sup> day of July, 1999, and who is personally known to me ~~and~~ as identification.

Michael P. McMahon

Notary Public, State of Florida

(Print, Type or Stamp Commissioned Name of Notary Public)



Michael P McMahon  
My Commission CC736745  
Expires June 5, 2002

STATE OF Alabama

COUNTY OF Jefferson

The foregoing instrument was acknowledged and subscribed before me by Charles A. McGeehee, as Executive V.P., of Colonial Properties Trust, General Partner of COLONIAL REALTY LIMITED PARTNERSHIP, on this 2<sup>nd</sup> day of Aug, 1999, and who is personally known to me ~~or who has produced~~ as identification.

Patricia C. Bradford  
Notary Public, State of Alabama  
Patricia C. Bradford

(Print, Type or Stamp Commissioned Name of Notary Public)

Shutts & Bowen/Colonial Grand  
Suburban Estates to Planned Development

RECOMMENDATIONS	
<p>BOARD OF COUNTY COMMISSIONERS</p> <p>SEPTEMBER 22, 1998</p>	<p>The Board of County Commissioners voted to continue the amendment and rezoning to their October 13, 1998, meeting.</p>
<p>BOARD OF COUNTY COMMISSIONERS</p> <p>OCTOBER 13, 1998</p>	<p>Plan Amendment:: The Board of County Commissioners voted 4-1 to adopt Planned Development land use with staff findings.</p> <p><u>Rezone:</u> In a related action, the Board of County Commissioners voted to adopt PUD (Planned Unit Development) zoning on the site, subject to:</p> <ol style="list-style-type: none"> <li>1. First tier of buildings along the lakefront and along the north buffer to be a maximum of two (2) stories. Buildings on the remainder of the site may be three (3) stories, with a maximum height of 35'.</li> <li>2. No parking areas to be located adjacent to the lake.</li> <li>3. Apartment buildings to be similar in scale and architecture as the existing buildings in Phase I.</li> <li>4. The applicant to maintain a 200' buffer along the north property line. There shall be no buildings or other structures, parking, or roadways within the buffer; however, stormwater retention ponds may be located within the south 150' of the buffer. Within the north 50' of the buffer, the applicant shall provide a 50-foot wide strip of vegetative plantings. The applicant shall construct a 5-foot high brick wall on a 2' high berm (or a 5-foot brick wall on a 3' high berm), to be located 15' from the north property line. Design of the brick wall shall be consistent with the design of the existing HIBC wall to the east, and the required wall shall connect to the existing HIBC wall. Plantings within the 50' strip south of the wall to be a minimum of two staggered rows of canopy trees at 25' intervals, with at least two tree species utilized. Plantings north of the wall to consist of two staggered rows of trees. Applicant to provide additional tree plantings throughout the buffer, with the exception of stormwater pond sites. Applicant to be responsible for maintenance of the wall and plantings.</li> </ol>

Shutts & Bowen/Colonial Grand  
Suburban Estates to Planned Development

**RECOMMENDATIONS**

BOARD OF COUNTY  
COMMISSIONERS  
  
OCTOBER 13, 1998

5. There shall be no access to the First tier of buildings along the lakefront and along the north buffer to be a north via Banana Lake Road.
6. Applicant to retain existing pine trees on the "peninsula" area to the greatest extent practical. Where necessary, supplemental plantings of canopy and understory trees will be required to "break up" the view of the complex from neighboring properties. Supplemental plantings to be determined during site plan review.
7. Applicant to preserve existing specimen trees to the greatest extent practical. Where necessary, replacement tree plantings in accordance with County arbor regulations will be required. Replacement tree requirements to be determined during site plan review.
8. Site lighting to be cut-off/shoebox type, with a maximum height of 20', including fixtures. Lighting to be located no closer than 50' to the north property line or lakefront, and footcandles at the north and west property lines may not exceed 0.5.
9. Applicant may provide boardwalks and other passive amenities along the lakefront. However, no personal watercraft or boats to be permitted.
10. Minimum buffer along the lake to be 50' in width, with an additional 20' building setback. Only minor recreational uses (boardwalks, picnic tables, and similar uses) are permitted within the buffer.

Shutts & Bowen/Colonial Grand Suburban Estates to Planned Development		
RECOMMENDATIONS		
BOARD OF COUNTY COMMISSIONERS  OCTOBER 13, 1998	<ol style="list-style-type: none"> <li data-bbox="737 485 1507 576">11. Applicant to investigate means to cooperatively improve and maintain Island Lake, including partnerships with HOAs within Heathrow or other applicable entities.</li> <li data-bbox="737 612 1507 825">12. In Phase I (existing apartments), applicant to provide additional canopy tree plantings to enhance buffering along the lake. Plantings to consist of scattered fast-growing canopy trees of at least two (2) species. Majority of the plantings to be utilized at the three apartment buildings along the lake and closest to the satellite dish location.</li> <li data-bbox="737 861 1507 1044">13. In Phase I (existing apartments), applicant to provide additional buffering at the satellite dish location. Plantings on the side facing the lake to consist of a hedge and staggered row of understory trees. Alternatively, the satellite dish installation may be relocated interior to the site.</li> </ol>	

# ***Seminole County Facility Capacity Evaluation of Amendments to the Plan Spring 2003***

This evaluation assesses whether the transmitted large scale future land use amendments would create a deficit in facility capacity and, if so, how that deficit could be addressed. The dwelling units and employees shown on the attached "Future Land Use Change - Assessment of Growth Impacts" sheets under "Adjustment Required" represent the incremental change in the growth projection for 2020 due to the proposed amendments. The growth projections, adopted in 2001, were used to update the Capital Improvements Element of the Vision 2020 Comprehensive Plan.

For all facility elements other than transportation, the calculated change in service demand is tested against each facility's fifth year available capacity. For transportation, the impact assessment sheets are used to calculate Average Daily Trips and a separate facility capacity evaluation sheet is done for each individual amendment.

**NOTE:** This form is used for general site evaluation and information purposes only at preliminary development order stage. See staff report for the preliminary analysis of the impact of the proposed amendment on services and facilities, prepared consistent with the methodology used to prepare the Comprehensive Plan. This is not a Concurrency evaluation. An analysis of facility capacity for the purposes of Concurrency review must be conducted prior to the final development order which precedes construction. No development or construction is authorized without meeting concurrency requirements of the Comprehensive Plan.

## Demand Calculation Factors for Other Facilities

<b>Household size</b>	2.6 persons per household
<b>Solid Waste Level of Service</b>	
Landfill	4.2 lbs/day/dwelling unit
Landfill	4.7 lbs/day/employee
Transfer station	4.4 lbs/day/dwelling unit
Transfer station	4.9 lbs/day/employee
<b>Parks Level of Service</b>	
Total Acreage	3.6 acres/1000 resident
Deveoped acreage	1.8 acres/1000 resident
<b>Libraries Level of Service</b>	
Books	1.0 per resident
<b>Public Safety Level of Service</b>	
Sufficient Unit Response Vehicles to meet 5 minutes average response time	1.0 unit per 4100 ERUs
<b>Mass Transit Level of Service</b>	
1.03 Revenue Miles per capita	1.52 per dwelling unit 3.12 per employee
<b>Potable Water Level of Service</b>	
Water delivery	350 gallons per day/dwelling unit
<b>Sanitary Sewer Level of Service</b>	
Sewage treatment/disposal	300 gallons per day/dwelling unit
<b>Drainage Level of Service</b>	
Drainage levels of service are currently determined on a site-by-site basis. If each site is developed in compliance with the Land Development Code provisions (which are also adopted in the Comprehensive Plan), then it has met the adopted level of service standard. See <i>Exhibit CIE: Facility LOS - Drainage</i> in the Capital Improvements Element of the Comprehensive Plan.	

## Available Capacity - Seminole County Other Facilities

AMENDMENT NUMBER and APPLICANT NAME	2020 Change (1)		SOLID WASTE		PARKS		LIBRARIES	PUBLIC SAFETY	MASS TRANSIT
	DUs	Emp.	(Countywide)		(Countywide)		(Countywide)	(Unincorp)	(Trans Srv. Area)
<i>Measure of Service:</i>			Landfill Tons/Yr	Transf St. Tons/Day	Total Acres	Developed Acres	Book Volumes	Response Units	Revenue Miles
<i>Level of Service Standards:</i>			3.84 pcd	3.50 pcd	3.6 ac/1000	1.8 ac/1000	1 book/cap	5 min. response	1.03 rev miles/cap
<b>Available Capacity 2006 (2):</b>			22,992,807	996	508	625	91,369	0.000	222,730
<b>Spring 2003 Amendments (3)</b>									
1 02S.FLU04 Banana Lake/Fant F.Edwards	32	0	24.53	0.07	0.30	0.15	83	0.008	49
2			-	-	-	-	-	-	-
3			-	-	-	-	-	-	-
4			-	-	-	-	-	-	-
5			-	-	-	-	-	-	-
<b>Total Amendment Demand</b>			24.53	0.07	0.30	0.15	83	0.008	49
<b>2006 Surplus/Deficit Capacity (4)</b>			22,992,782	996	508	625	91,286	-0.008	222,681

1 DU and Emp figures are from the "Amendment Requested" line of the attached "FLU Change - Assessment of Growth Impact" sheet(s).

2 Available capacity is based on current capacity plus new capacity programmed for construction in the five year CIE program improvements schedule minus total projected demand in the 5th year. The increased demand is then deducted from the remaining capacity to determine if additional capacity is needed.

3 List of large scale amendments transmitted in this amendment cycle. The amendment number may reflect that the amendment was continued from a previous cycle.

4 Test of whether the remaining 5th year available capacity is sufficient or not to meet the change in projected service demand.

Public Safety Deficiency: A new station, engine and crew are being programed in the 2003/04 CIE for service to this area by 2005.

## Available Capacity - Seminole County Water/Sewer Facilities

AMENDMENT NUMBER and APPLICANT NAME	2020 Change (1)		SC Northwest Service Area		SC Southeast Service Area		SC Southwest Service Area	
	DUs	Emp.	Water	Sewer	Water	Sewer	Water	Sewer
<i>Measure of Service:</i>			Gallons Per Day	Gallons Per Day	Gallons Per Day	Gallons Per Day	Gallons Per Day	Gallons Per Day
<i>Level of Service Standards:</i>			350 gpd	300 gpd	350 gpd	300 gpd	350 gpd	300 gpd
<b>Available Capacity 2006 (mgd) (2):</b> (Mark active service area with "1")			5.958 1	3.805 1	5.778	3.411	1.316	0.214
<b>Spring 2003 Amendments (3)</b>								
1 02S.FLU04 Banana Lake/Fant F.Edwards	32	0	11200.0	9600.0	0.0	0.0	0.0	0.0
2			-	-	-	-	-	-
3			-	-	-	-	-	-
4			-	-	-	-	-	-
5			-	-	-	-	-	-
<b>Total Amendment Demand</b>			0.011	0.010	0.000	0.000	0.000	0.000
<b>2006 Surplus/Deficit Capacity (4)</b>			5.947	3.795	5.778	3.411	1.316	0.214

- 1 DU and Emp figures are from the "Amendment Requested" line of the attached "FLU Change - Assessment of Growth Impact" sheet(s).
- 2 Available capacity is based on current capacity plus new capacity programmed for construction in the five year CIE program improvements schedule minus total projected demand in the 5th year. The increased demand is then deducted from the remaining capacity to determine if additional capacity is needed.
- 3 List of large scale amendments transmitted in this amendment cycle. **NOTE:** For water and sewer, amendments are matched by Traffic Zone to their respective facility service area. Amendments showing a change in 2020 figures for the other facilities but zero for water and sewer indicates the use of well and/or septic.
- 4 Test of whether the remaining 5th year available capacity is sufficient or not to meet the change in projected service demand.



## Available Capacity - Seminole County Transportation

<b>Amendment Number:</b>		02S.FLU04															
<b>Project/Applicant Name:</b>		Banana Lake/Fant (Fred Edwards)															
Major Roadways Serving Site			Existing FDOT	LOS	Number of Lanes			Existing		With Existing FLU				With Proposed FLU			
Road Name:	From:	To:	Class	Stand.	2001	2006	2020	2001		2006		2020		2006		2020	
								ADT	LOS	ADT	LOS	ADT	LOS	ADT	LOS	ADT	LOS
Banana Lake Rd (1)																	
Business Center Drive (2)																	
AAA Drive (2)																	
International Prkway	CR 46A (Paola Rd)	Wayside Dr.	Collect	E	4	4	4	Note 3		19,082	B	30,037	D	19,082	B	30,037	D

- (1) No access will be permitted from this roadway.
- (2) These are local roadways and are not represented in the Seminole County travel forecasting model, and therefore there is no LOS determination.
- (3) This is a new roadway that opened in 2002; no counts are available at this time.

**Special Amendment Notes:** The proposed amendment does not alter the LOS for transportation improvements beyond those identified in the Comprehensive Plan to address Plan growth projections. The proposed amendment will not alter the options or long-range strategies for facility improvements or capacity additions included in the support documentation to the Plan.

LOS - Level of Service  
FLU - Future Land Use

ADT - Average Daily Trips  
ROW - Right of Way

MSV - Maximum Service Volumes  
FDOT - Florida Department of Transportation

**General Notes:** Figures from the "FLU Change - Assessment of Growth Impact" sheet, "Adjustment Required" line are the basis of the above calculations.

This form is used for general site evaluation and information purposes only at this preliminary development order stage. See staff report for the preliminary analysis of the impact of the proposed amendment on services and facilities prepared consistent with the methodology used to prepare the Comprehensive Plan. This is not a Concurrency evaluation or analysis which must be conducted prior to the first final development order. No final development order may be issued without Concurrency.

## Future Land Use Change - Assessment of Growth Impact

Applicant: Fant (Fred Edwards)	DRC#:	AMD#: 02S.FLU04
From FLU: SE	To FLU: PD	TZ: 5
Gross Acres: 25.1	Conserv Ac: 15.0	Devb'l Ac: 10.1

By: RK

	Single Family Dwelling Units	Multiple Family Dwelling Units	Total Dwelling Units	Employment
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*Growth Projection*

1998	1,025	210	1,235	998
2020	2,908	1,155	4,063	998
1998-2020	1,883	945	2,828	0

*Committed Development*

1998-2020	1,760	945	2,705	0
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*Background Growth*

1998-2020	123	0	123	0
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*Amendment(1)*

Requested: 2020	32	0	32	0
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*Adjustment Required*

+/- 2020:	0	0	0	0
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*Revised Projection*

New 2020	2,908	1,155	4,063	998
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*Comments*

*Action:*

Background growth is sufficient to cover this request in 2020. No adjustment is required to the projections.

*Assumptions:*

Planned Development (PD) occurs with density or numbers of development units indicated in this specific plan:  
40 SF units

*Notes:*

**Data and Analysis**

*Sources:*

Estimates and projections by TZ are from Socio-economic Data Series adopted May 8, 2001 as prepared for the Comprehensive Plan Major Update.

This draft data is the current "best available data", but is subject to change.



CM  
P.J.D. Dir.

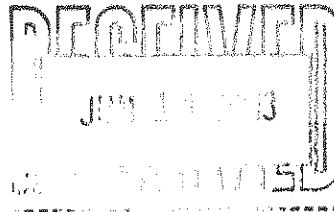
STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
*"Dedicated to making Florida a better place to call home"*

JEB BUSH  
Governor

COLLEEN CASTILLE  
Secretary

June 10, 2003

The Honorable Daryl G. McLain, Chairman  
Seminole County Board of County Commissioners  
1101 East First Street  
Sanford, Florida 32771-1468



Dear Chairman McLain:

The Department has completed its review of the proposed Comprehensive Plan Amendment for Seminole County (DCA 03-1), which was received on April 23, 2003. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for review and their comments are enclosed.

The Department has reviewed the proposed amendment for consistency with Rule 9J-5, Florida Administrative Code (F.A.C.), Chapter 163, Florida Statutes (F.S.), and the adopted Seminole County Comprehensive Plan. The Department raises no objections to the proposed amendment, and this letter serves as the Department's Objections, Recommendations and Comments Report. However, the Department recommends that the County provide an analysis of the availability of potable water relative to the allocation allowed under the consumptive use permit (CUP) for the proposed Future Land Use Map Amendment.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the East Central Florida Regional Planning Council.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100  
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781  
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE  
2796 Overseas Highway, Suite 212  
Marathon, FL 33050-2227  
(305) 289-2402

COMMUNITY PLANNING  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-2356

EMERGENCY MANAGEMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-7956

The Honorable Daryl G. McLain  
June 10, 2003  
Page Two

Please contact Marina Pennington, Regional Planning Administrator, at (850) 922-1809, or Brenda Winningham, Principal Planner, at (850) 922-1800, if we can be of further assistance.

Sincerely,



Charles Gauthier, AICP  
Chief, Comprehensive Planning

CG/bw

Enclosures: Review Agency Comments

cc: Matt West, Planning Manager, Seminole County  
Sandra Glenn, Executive Director, East Central Florida Regional Planning Council

## TRANSMITTAL PROCEDURES

Upon receipt of this report, the County has 60 days in which to adopt, adopt with changes, or determine that the County will not adopt the proposed amendment. The process for adoption of local comprehensive plan amendments is outlined in s. 163.3184, Florida Statutes, and Rule 9J-11.011, Florida Administrative Code.

Within ten working days of the date of adoption, the County must submit the following to the Department:

Three copies of the adopted comprehensive plan amendment;

A copy of the adoption ordinance;

A listing of additional changes not previously reviewed;

A listing of findings by the local governing body, if any, which were not included in the ordinance; and

A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

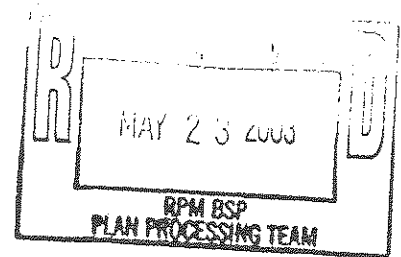
The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to Sandra Glenn, Executive Director of the East Central Florida Regional Planning Council.

Please be advised that Section 163.3184(8)(c), Florida Statutes, requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department *when you transmit your adopted amendment package* for compliance review. In the event no names, addresses are provided, please provide this information as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

East Central Florida  
**REGIONAL  
PLANNING  
COUNCIL**

*RMF*  
*5-23-03*



**M E M O R A N D U M**

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Lake County

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Jon B. Rawlson  
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Phone  
407.623.1075  
Fax 407.623.1084

Suncom 334-1075  
Suncom Fax  
334.1084

Website:  
www.ecfrpc.org

**TO:** D. Ray Eubanks, FDCA, Community Program Administrator  
Marina Pennington, FDCA

**FROM:** Kimberly Neal

**DATE:** May 23, 2003

**SUBJECT:** Comprehensive Plan Amendment Review

**LOCAL GOVERNMENT:** Seminole County  
**LOCAL AMENDMENT #:**  
**DCA AMENDMENT #:** 03-1

Council staff has completed a technical review of the above referenced comprehensive plan amendment. The review was conducted in accordance with the provisions of the East Central Florida Regional Planning Council's current contract with the Florida Department of Community Affairs for Plan and Plan Amendment Reviews.

We have not identified any significant and adverse effects on regional resources or facilities, nor have any extrajurisdictional impacts been identified that would adversely effect the ability of neighboring jurisdictions to implement their comprehensive plans.

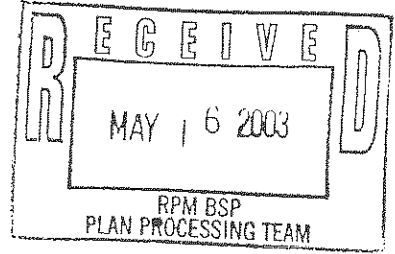
The East Central Florida Regional Planning Council is available to assist in the resolution of any issues that should arise in the course of your review. If you should have any questions, please contact me at SunCom 334-1075 x327. Thank you.

cc: Local Government Contact: Mr. Matt West, Planning Manager  
File

6/14  
5-16-03



FLORIDA DEPARTMENT OF STATE  
Glenda E. Hood  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES



May 14, 2003

Mr. Ray Eubanks  
Department of Community Affairs  
Bureau of State Planning  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

Re: Historic Preservation Review of the Seminole County (03-1) Comprehensive Plan Amendment Request (Received by DHR on 04/29/03)

Dear Mr. Eubanks:

According to this agency's responsibilities under sections 163.3177 and 163.3178, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document to decide if data regarding historic resources have been given sufficient consideration in the request to amend the Seminole County Comprehensive Plan.

We reviewed one proposed change to the Future Land Use Map in addition to the new Energy Element to consider the potential effects of these actions on historic resources. Our cursory review suggests that the proposed new element should have no adverse effects on historic resources. However, for the land use change, although this tract does not contain any sites listed in the Florida Master Site File or the *National Register of Historic Places*, it remains the county's responsibility to ensure that potentially significant historic resources will not be adversely affected by this action. This parcel seems to have at least moderate probability for potentially significant archaeological or historical sites to be encountered. The most effective way to protect and preserve such sites is for the county to sponsor historic resource surveys so that it can ensure its archaeological resources and historic structures more than 50 years old will be considered when substantive changes in land use are proposed.

If you have any questions regarding our comments, please feel free to contact Susan M. Harp of the Division's Compliance Review staff at (850) 245-6333.

Sincerely,

*Janet Snyder Matthews*

*JSM* Janet Snyder Matthews, Ph.D., Director

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

Director's Office  
(850) 245-6300 • FAX: 245-6435

Archaeological Research  
(850) 245-6444 • FAX: 245-6436

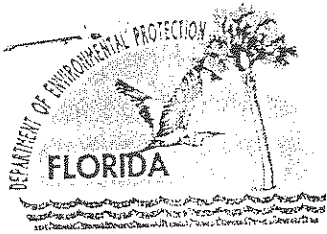
Historic Preservation  
(850) 245-6333 • FAX: 245-6437

Historical Museums  
(850) 245-6400 • FAX: 245-6433

Palm Beach Regional Office  
(561) 279-1475 • FAX: 279-1476

St. Augustine Regional Office  
(904) 825-5045 • FAX: 825-5044

Tampa Regional Office  
(813) 272-3843 • FAX: 272-2340



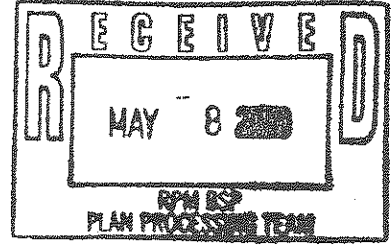
# Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

Jeb Bush  
Governor

May 8, 2003



19  
5803

Mr. D. Ray Eubanks  
Bureau of Local Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

Re: Seminole County, 03-1, Comprehensive Plan Amendment

Dear Mr. Eubanks:

The Office of Intergovernmental Programs of the Department of Environmental Protection has reviewed the proposed amendment under the procedures of Chapter 163, Part II, Florida Statutes, and Chapters 9J-5 and 9J-11, Florida Administrative Code, and offers the following comments.

### Land Use Amendment 02.FLU04

#### Project Description:

This 25.05 acre parcel is located between Banana Lake and Island Lake, in Seminole County. Fifteen acres of the parcel is wetlands. The amendment would change the current land use designation from Suburban Estates (1 du/acre) to Planned Development (6.05 du/acre). According to the St. Johns River Water Management District's Water Supply Needs and Sources Assessment, the parcel is located in a Priority Water Resource Caution Area (PWRCA), which indicates that water supply problems have become critical or are projected to become critical by the year 2010. This assessment indicates that projected water use may result in unacceptable impacts to natural systems and to groundwater quality. The assessment further indicates that harm to native vegetation potentially could occur as a result of a decline in the water table, primarily affecting wetland vegetation. The assessment has also determined that saltwater intrusion could potentially occur impacting drinking water supplies for the County.



Mr. Ray Eubanks  
May 8, 2003  
Page 2

**Recommendations:**

The Department recommends that the proposed development designation changes be limited to upland areas only. Wetlands and floodplains within the parcel should be designated as "Conservation" to prevent future encroachment. As the parcel is located in a PWRCA, the applicant should consider a full range of planning strategies to minimize impacts to groundwater and nearby wetlands by:

- Limiting impervious surfaces.
- Implementing water conserving Xeric landscaping techniques.
- Designing stormwater treatment systems to protect groundwater and surface water resources.

Prior to finalizing infrastructure development plans, we strongly recommend that delineation and state verification of the landward extent of wetlands and surface waters be obtained, in accordance with the guidelines of Rule 62-340, F.A.C. Projects located adjacent to wetlands should be designed to minimize potential adverse impacts to water quality and habitat function.

Thank you for the opportunity to comment on the proposed comprehensive plan amendment. If I may be of further assistance, please do not hesitate to contact me at (850) 245-2172.

Sincerely,



Suzanne E. Ray  
Office of Intergovernmental Programs

/ser



# St. Johns River Water Management District

Kirby B. Green III, Executive Director • John R. Wehle, Assistant Executive Director

em  
5-29-03

Post Office Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500

May 21, 2003

D. Ray Eubanks, Administrator  
Plan Review and Processing Team  
Florida Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100



Subject: Proposed Comprehensive Plan Amendment  
DCA Amendment # Seminole County 03-1

Dear Mr. Eubanks:

St. Johns River Water Management District (District) planning staff have reviewed the above-referenced proposed comprehensive plan amendment. The proposed amendment includes the addition of an Energy Element to the comprehensive plan and one change to the future land use map. Staff comments and recommendations are provided below.

### Energy Element

It is commendable that the County proposes to adopt an optional energy element. One of the benefits of energy conservation measures will be increased water conservation. Water conservation is mentioned briefly on pages ERG-4 and ERG-5 of the proposed element. We suggest including more background information regarding the interrelated nature of energy use and water consumption, and an estimate of the amount of water that may be conserved through energy-saving measures. We also suggest addressing the relationship of energy conservation and water conservation in the goals, objectives, and policies. For example, there are several water conservation policies in the Conservation and Potable Water elements of the comprehensive plan that could be referenced in this element.

### Future Land Use Map Amendment

The District's *Water Supply Assessment—1998* identified the east-central area of Florida, including Seminole County, as a priority water resource caution area (PWRCA). In a PWRCA, water supply needs may not be able to be met without causing harm to water resources, related natural systems, and other existing legal users. Information included in the District's *Water Supply Assessment—1998* and the *District Water Supply Plan (2000)* indicates a serious shortfall of groundwater to supply future water demand in the east-central Florida region. In addition, Seminole County is in an area that is currently under a District water shortage order. The District strongly recommends that the County participate in the implementation phase of the District's East-Central Florida Water Supply Planning Initiative. The goal of this planning process is to find regional solutions for potential water supply problems, including the development of alternative water sources to supplement the groundwater supply.

#### GOVERNING BOARD

Duane Ottenstroer, CHAIRMAN JACKSONVILLE	Ometrias D. Long, VICE CHAIRMAN APOPKA	R. Clay Albright, SECRETARY EAST LAKE WEIR	David G. Graham, TREASURER JACKSONVILLE
W. Michael Branch FERNANDINA BEACH	John Sowinski ORLANDO	William Kerr MELBOURNE BEACH	Ann T. Moore BUNNELL
			Catherine A. Walker ALTAMONTE SPRINGS

The amendment package states that potable water is available. There are not sufficient data and analysis provided to determine potable water availability relative to the allocation allowed under the consumptive use permit (CUP) issued by the District. District staff recommend that for this amendment and in the future, applicants for land use changes, or the County, perform a full analysis of the following:

- The current capacity and the District-permitted volume of the utility
- The amount of water currently being used
- The amount of water needed to serve each proposed development
- The amount of water needed to serve other approved developments not yet under construction

A cumulative summary should be provided when a package contains multiple amendments. Also, it is suggested that the submittal package for this, and future amendments involving land use changes, include a letter from the utility servicing the project that indicates the following:

- The infrastructure is available.
- The cumulative amount of water to serve the proposed land uses is available under the utility's CUP from the District after consideration of previously committed allocations for existing users and approved development.

We appreciate the opportunity to provide comments. If you have any questions or need additional information, please contact District Policy Analyst Peter Brown at 386-329-4311/Suncom 860-4311 or [pbrown@sjrwmd.com](mailto:pbrown@sjrwmd.com).

Sincerely,



Linda Burnette, Director  
Office of Communications and Governmental Affairs

LB/PB

cc: Grant Maloy, Seminole County Commission  
Randy Morris, Seminole County Commission  
Carlton Henley, Seminole County Commission  
Matt West, Seminole County  
Sandra Glenn, ECFRPC  
Linda McDowell, FDEP  
Jeff Cole, SJRWMD  
Nancy Christman, SJRWMD  
Peter Brown, SJRWMD

*Minutes for the Seminole County  
LPA/P&Z Board*

**WEDNESDAY, FEBRUARY 19, 2003  
7:00 P.M.**

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

Also present: Matt West, Planning Manager, Mahmoud Najda, Development Review Manager, Kent Cichon, Financial Manager, Jeff Hopper, Senior Planner, Rob Walsh, Principal Coordinator, Cynthia Sweet, Planner, Candace Lindlaw-Hudson, Sr. Staff Assistant.

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

Also present: Matt West, Planning Manager, Mahmoud Najda, Development Review Manager, Kent Cichon, Financial Manager, Jeff Hopper, Senior Planner, Rob Walsh, Principal Coordinator, Cynthia Sweet, Planner, Candace Lindlaw-Hudson, Sr. Staff Assistant.

**Banana Lake PD; James H. Fant, applicant;** approximately 25.05 acres; Large Scale Plan Amendment from Suburban Estates to Planned Development; 02S.FIU04; Rezone from A-1 (Agriculture) to PUD (Planned Unit Development); west of Banana Lake Road, approximately 3,400 feet south of CR-46A (Z2001-044)

Commissioner McLain - District 5

Kent Cichon, Financial Manager

Kent Cichon outlined the main points of the request and stated that there had been two public meetings on this issue with Staff this past month. The applicant is requesting to develop up to 43 lots at a net density of 6.05 dwelling units per acre. He noted that the conceptual site plan reflects this formula, but the staff report contains a previously used figure of 5.7 dwelling units per acre. Future Land Use designation for the subject property is suburban estates. Access to the site will be from Banana Lake Road on the east, which the developer will improve to County standards. Mr. Cichon stated that Staff recommendation was for transmittal of the development order, but does not recommend adoption until the applicant demonstrates the existence of sufficient right of way to improve the length of Banana Lake Road to County standards. Mr. Cichon said that the applicant had held two public meetings during the past month which were attended by County staff.

Commissioner Tucker asked if the right of way issues involved a third party. Mr. Cichon stated that there was a third party involved with the right of way.

Commissioner Tucker pointed out that Mr. Cichon was making a recommendation contingent on a third party involvement.

Larry Ray of 3347 Edge Cliff Drive, Orlando, representing the owner, stated that there were issues with the right of way. Plats were not clear on the right of way. In the next 90 days he will conduct a title search to research the right of way prior to going to the BCC. He introduced a letter from Colonial Properties, the property owner to the south and the east which states that they approve of the request.

Mr. Ray stated that there are 7 things that the owners have agreed to do in addition to the development order, once the property has been rezoned.

- 1) All boat access to Island Lake will be restricted to the adjacent future property owners. A common gazebo will be permitted on the lake.
- 2) No gas motors will be allowed on Island Lake.
- 3) A private wall will be built between the Heathrow property and the Edwards property. (property to the north)
- 4) Only single story homes will be allowed to be built on the lakeside line near Heathrow.
- 5) A privacy wall will be built between the wetlands and the lake along the property line between Mr. Springfield's property and Edward's property. This wall will separate the Edward's property from the subdivision.
- 6) Lake access to Banana Lake will be restricted to adjacent property owners to the lake.
- 7) No motor boats will be allowed on Banana Lake.

No one else spoke in favor of the request.

Mr. Sims spoke for the Homeowner's Advisory Board for Heathrow. Mr. Sims was representing 80 homes between Island Lake and Banana Lake. He stated that the area on the isthmus was zoned for a rural setting. If the applicant meets the tests to get the request granted Mr. Sims asked that the privacy wall be a brick wall of at least 8 feet in height. Further, Mr. Sims requested that the buffer of 50 feet be kept as a natural, vegetative buffer. The reason for this was the presence of wildlife. The retention pond will destroy the character of the neighborhood. It will cause flooding. We are opposed to the retention pond. If the proposal is amended to have a natural, vegetative buffer and 8 foot privacy wall, the objections would be significantly reduced.

Wendell Springfield of 770 Banana Lake Road, north of the proposed project said that he agrees with the wall proposed. His lot is 360 feet deep. He stated that his land is approximately 10 feet lower than the subject property. He is concerned about drainage and overflow coming from the lots and proposed buildings. The number of proposed houses (43) is too large. 25 houses would be more in line with the transition between Colonial Apartments and Heathrow Complex. He is zoned suburban estates/A-1 Agriculture. He has a concern for the congestion that 43 homes will cause on Banana Lake Road. Mr. Springfield requested that the number of houses be limited to 25. There is a wetland on the property which has been a retention area. He would like to see a culvert to carry water from Banana Lake to Island Lake. In conclusion Mr. Springfield stated that the area has been a haven for wild life and a key recharge area through the wetlands. He would like to see a 100 foot buffer provided from the water. Also, Banana Lake Road will not stand up to any more traffic. He would like to see this project postponed until the Board can see what is being done with Banana Lake Road.

Janice Real Springfield stated she has owned land on Banana Lake for 40 years. Banana Lake is 41 acres, and her house is 10 feet from the lake. When Heathrow was approved the County agreed that access to Banana Lake was to be kept to one acre per house. She requested the buffer continue to

the Edwards property to the south. She also would like the number of houses to be limited to 25 houses. She also stated that sidewalks are needed on the east side of the road. Ms. Springfield also noted that there had been flooding in the area and pointed out the importance of the culvert which feeds into Banana Lake.

Mark Brewer of 800 Banana Lake Road stated that he lives next to Wendall Springfield. Mr. Brewer said that there is supposed to be a 100 foot buffer around the lake. He stated that 43 homes are too many. He thought 25 homes were also too many for the area allotted. Another concern for Mr. Brewer was access to Banana Lake Road. His lot had also been flooded recently.

Tyrone Wilson of 910 Banana Lake Road has owned his home for 2 months. He has a sinkhole on his property. He was concerned about flooding. Would the change in drainage bring waters to the sinkhole on his property. His septic system has been unusable due to water. He would like to see a consistent 100 foot setback. Mr. Wilson asked where the water draining off the road would go.

Elisa McIntosh of 864 Banana Lake Road stated that 43 homes would not be in keeping with the character of the rest of the neighborhood. She lives on a house that is close to the road and must back her car out onto Banana Lake Road. Safety was an issue to her, with the rural character to the road as it is now. Vibrations from the road can be felt in her home.

Lynn Shields of 552 Lakeworth Circle is a member of the Town Advisory Committee in Heathrow. She stated that the greenbelt/wetland area should be preserved for already existing homes and the Heathrow neighbors. She requested that if the property is rezoned it should include only single story homes. Also, a buffer of natural vegetation should be included within the plan and an 8 foot security wall. On the lake there should be a restriction on boat size and motors. Ms. Shields would also like this to be a gate restricted community.

Janice Farrell of 874 Banana Lake Road said that a gazebo on the lakefront would be a problem. She lives on the west side of the lake, below the grade of the road. There is a grade that slopes toward the lake. Water in the sinkhole is very high. If Banana Lake Road is to be widened, her drainage field is near the road. She has no other place on her property for her septic field. Also, she must back out onto the road as does her neighbor. She is concerned about traffic and congestion as well as road widening. Ms. Farrell asked that the 100 foot buffer be kept around the lake. Also, she has a stability problem with the sinkhole nearby. The density of the proposed development should be kept to 25.

Cindy Crane of 820 Banana Lake Road, Lake Mary, has lived in her home since 1963. The sinkhole near the road is on her property. She asked to have a density of 25 homes. This needs to be a secure, high quality project, limited to one story homes. An exit road on the east through HIBC to the business center driveway is a good alternate way to access this development which would eliminate the use of Banana Lake Road. Ms. Crane would like to see a brick wall on the north and south boundaries of the Edwards property.

Larry Ray spoke in rebuttal saying that his project is avoiding the wetlands. He is meeting all of the state and county requirements for drainage and protecting endangered species. He will deal with St. John's River Water Management District regulations. There has been an engineering analysis done on the road and they will work with Development Review. Widening will be on the east side of the road. Buffers with Heathrow will be 50 feet, which may be used for retention. They will not flood the

Springfield home. As for density, we will have higher density on the south side and higher density to the north. A lot of issues need to be answered at the next step. Now he is concerned about adequate right of way.

Commissioner Mahoney read Dianne Kramer's memo into the record concerning the potential population and impact on area schools and this development.

Commissioner Harris stated that the area residents have been accommodating to this project. He cannot find a single element which is attractive. A retention pond is incompatible; and a great deal of work is required to make the isthmus livable. There are drainage problems with this development. The development of Colonial Grand needed a 200 foot buffer to Mr. Edward's property.

**Commissioner Harris made a motion to deny this request.  
Commissioner Mahoney seconded the motion.**

Commissioner Mahoney stated that this is a change in land use plan. There has not been enough discussion of the change to the character. 43 homes on 50 by 100 foot lots will give easily 400 trips on Banana Lake Road, which is incompatible with the lifestyle of the people in the area. Heathrow International Business Center has significant buffers to adjacent residential areas. We must preserve the current environment.

Commissioner Hattaway stated that the area is a fragile one.

Commissioner Bates concurred with the previous comments.

Commissioner Tucker agreed also. He stated that he was concerned about this matter being brought forth without the right of way issues being determined.

**The vote was 7 – 0 to deny the request.**

April 8, 2003

Ordinance amending Billboard regulations, he supports both of the recommended changes to the ordinance, one is tri-vision language and the other is on the 15% cutout.

Chairman McLain recessed the meeting at 8:12 p.m., reconvening at 8:18 p.m.

COMPREHENSIVE PLAN AMENDMENT/REZONE/Carmen & Fred Edwards

Continuation of a public hearing to consider Comprehensive Plan Amendment from Suburban Estates to Planned Development; and Rezone from A-1 (Agriculture) to PUD (Planned Unit Development); property described as 25.05 acres located on the west side of Banana Lake Road, approximately 3,400 feet south of CR 46A, as described in the proof of publication, Carmen and Fred Edwards/James H. Fant.

Kent Cichon, Planning, addressed the Board to review the size and location of the property as well as the preliminary PUD plan, surrounding land uses, and access to the site. He stated a new proposal has been presented regarding access to the site. He submitted a letter (received and filed) from Colonial Properties Trust relating to the proposed development. He said staff recommends transmitting the plan amendment to the Department of Community Affairs (DCA) subject to the following commitments: (a) The developer shall be required to obtain access from either Business Center Drive or Triple A Drive; (b) The developer shall be required to construct a turn around on Banana Lake Road at the point at which the subject property begins from the north and in addition to construct a masonry wall or brick wall across Banana Lake Road and the south of the cul de sac to the south of the turn around to prevent access from Banana Lake Road to the subject property. (c) The Banana Lake Road is part of a planned County extension of a reclaimed



April 8, 2003

water main. This water main would be available in the future for connection from the development subject to this agreement. The developer shall construct a reuse line to serve this development and connect to the County's reclaim water main when it becomes available and pay any applicable fees for such connection; (c) The maximum number of dwelling units shall not exceed 43 units; (d) The net density shall not exceed 6.05 du/ac.; (e) Following minimum building setbacks for each home: 20 ft. front, 20 ft. rear, 5 ft. side yard and 20 ft. side street (corner lots); (f) Following minimum setbacks for accessory structures of a size of 200 sq. ft. or less: 5 ft. rear, 5 ft. side yard, and 20 ft. side street (corner lots); (g) Following minimum setbacks for accessory structures in excess 200 sq. ft.: 20 ft. rear; 5 ft. side yard, and 20 ft. side street (corner lots); (h) All accessory structures in front yard shall be located behind the front building line of the dwelling unit; (i) Minimum lot sizes and widths shall be 5,000 sq. ft. with a minimum 50 ft. width at building line. Corner lots shall be 15% larger and 15% wider; (j) Maximum building height shall be 35 ft.; (k) Minimum pool and pool screen setbacks shall be 5 ft. rear and 5 ft. side; (l) Five ft. wide sidewalks shall be constructed on both sides of all roadways constructed within this development; and (m) Open space and recreational amenities shall be determined during the review of the Final Master Plan.

Upon inquiry by Commissioner Maloy, Mr. West advised the buffer is not part of this request as the overriding agreement is that the buffer would not be rezoned for a minimum of 5 years.

BK 0 2 9 4 PG 1 2 0 4

April 8, 2003

Upon inquiry by Commissioner Van Der Weide, Mr. Cichon advised the Planning & Zoning (P&Z) Commission recommended denial by a 7-0 vote.

Meredith Harper, Shutts & Bowen, addressed the Board to state a portion of the buffer was deeded to Mr. Edwards so he can ensure that that buffer would be in place. It is not part of this application but it would remain intact to separate the multi-family from the single family.

Upon inquiry by Commissioner Henley, Ms. Harper advised 1.6 acres of that buffer along the northern boundary was deeded.

Upon inquiry by Chairman McLain, Ms. Harper advised that buffer will remain in place to buffer the apartments from this new development. She stated this request is for a transitional use between the apartments to the south. She said 313 units of Phase I of the project have already been built and Phase II has been approved for 268 units, but it is vacant. The PUD request would allow for some creative, flexible site plan design to be sure that it is compatible with the Banana Lake residents.

Upon further inquiry by Chairman McLain, Mr. Cichon advised the entire buffer is 200 ft. in width.

Mr. West stated it appears the landowner owns about 50 ft. and the developer is not requesting any development on that 50 ft. section. He stated he believes there is a prohibition for rezoning that property for 5 years. He added there is a substantial portion of wetlands between the nearest lots and suburban estates to the north. There are a couple of areas that directly abut the suburban estates lots where the buildable lots may be. The applicant could go back if everyone agree to amend the tri-party agreement and allow that 1.6 acres be rezoned and added in the PUD.

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Ms. Harper stated she doesn't know if Colonial Properties would have any objections to that. She stated she doesn't believe they will have any objections to development of single-family homes on the other side of that wall.

Chairman McLain stated he would like to see more buffer being provided between suburban estates and the 6 units to the acre.

Ms. Harper addressed the issue of the developer connecting to the future reclaimed waterline and the buffering. She stated after the P&Z meeting, the main objection was the ability to improve Banana Lake Road to a condition that would allow additional traffic. The request is whether the right-of-way was adequate and after hearing the concerns of the Banana Lake Road residents, Mr. Edwards' representative has spoken to Colonial Properties numerous times about a possible access through HIBC. She stated possible alignments have been prepared and Colonial Properties are reviewing them. She displayed an aerial map (received and filed) indicating with a blue line of a possible future access to Mr. Edwards' site. The other option is to take Business Center Drive west bound, but she is not sure if that alignment works with a turning radius. She stated a couple of concerns came up with the neighbors within the Heathrow Subdivision and she has a copy of a letter that lists some of their concerns should this request be approved. One request was to restrict to single story homes along the northern boundary, a 6 ft. brick wall separating the Heathrow development along the northern boundary with a 50 ft. buffer to the south of the wall. The applicant could agree to saving as many trees as possible and the applicant could agree to prohibit motorized boats on Banana Lake and Island Lake.

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John Simes, 642 Lakeworth Circle, addressed the Board to state he represents 2000 plus homeowners in Heathrow. He read into the Record his comments relating to the area consisting largely of wetlands; the ten acres capable of limited development comprising of scrub and forest; numerous species of wildlife; the current greenbelt/wetland area to be preserved in its current state so future homeowners might have a chance to view the natural heritage; impact of further development on Banana and Island Lakes; and the increased potential for flooding of the lower elevation. He stated if the Board approves the rezoning request, the Heathrow residents are requesting the following: (1) Limit the house to single story for the lots behind Lakeside; (2) Negotiate an agreement with Heathrow and the developer regarding the proposed 50 ft. buffer area; (3) Limit the size of boats allowed on Island Lake; and (4) A restricted gated community of individual detached homes. He stated Heathrow views the existing proposal as superior to the previous proposal. He displayed and reviewed photographs (received and filed) showing the west portion of the applicant's property showing a large amount of wetlands and gopher tortoises' nesting area.

Wendell Springfield, 770 Banana Lake Road, addressed the Board to display and review a map (received and filed) showing his, Arnold Baker, Mark Brewer and Cindy Crain's lots as well as Banana Lake and various lot numbers. He said the Heathrow neighbors on the west side of the lake have been completely separated from his area and he doesn't think the Heathrow area should be used as a basis to allow 43 homes. He stated he also doesn't believe the apartment complex should be used as part of that determination. The wetland area on the northeast side of

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the project has been a natural retention area over the years. He stated he feels the water runoff could cause overflow into his property. The number of houses should be reduced and provide a means to prevent additional water from overflowing into his property. There is a natural ditch that acts as a relief valve from Banana Lake to Island Lake. A 100 ft. setback is on the west side of Banana Lake and he would like to have that extended around the project's property line. He suggested reducing the maximum of 25 houses to 25 houses on buildable acres. He also suggested providing for water retention to prevent water runoff going into wetlands, and to provide a 100 ft. setback on the water's edge. Banana Lake Road will not stand up to increased traffic and this will cause many problems for property owners. If an agreement between Colonial Properties and Mr. Edwards is finalized, the only requirement is to move the wall across Banana Lake Road up to his property line. He recommended that this project be delayed until these issues are resolved by the applicant.

Janice Springfield, 770 Banana Lake Road, addressed the Board to state her house sits 20 ft. from the lakefront and they have the only beach on their property. She displayed and reviewed a graph (received and filed) showing the daily average water levels for Banana Lake. She stated the average is 46 ft. above sea level and today it is at 48 ft. She displayed photographs (received and filed) showing flooded yards of surrounding properties and the water level of other properties as well as gopher tortoises in the area. She stated all of the homeowners on Banana Lake on the east side have one acre or more. She requested a 100 ft. buffer be extended around Mr. Edwards' property and there would be no access to the lake

April 8, 2003

unless that resident has one acre. The density should be much less than the developer has proposed. She stated she would like to maintain the quality of life on Banana Lake.

Elissa Mackintosh, 864 Banana Lake Road, addressed the Board to state in the four years she has lived in this area, she has experienced the problems with the water rising. She stated she feels that 43 units seems to be excessive on such a small piece of property. She asked the Board to look at the density as it is something that has not been looked at.

Cindy Crain, 820 Banana Lake Road, addressed the Board to state the residents of Banana Lake Road agree that access to Mr. Edwards' development should be either from the east or south through Heathrow International Business Center. In addition, they would recommend a solid brick wall be installed from east to west across Banana Lake Road in line with the southern property line of Mr. Springfield's property. The Banana Lake Road residences are classified as Suburban Estates or no more than one house per acre. She stated the residents are recommending that the entire project contain no more than 25 dwelling units and they should be no more than two stories high. A copy of Ms. Crain's comments was received and filed.

Tyrone Wilson, 910 Banana Lake Road, addressed the Board to state he agrees with what everyone has said. He stated his main concern is the water problems in the area. Altamonte Springs has had water restrictions for the last 5 years because of the shortage of water.

No one else spoke in support or in opposition.

Speaker Request Forms were received and filed.

Ms. Harper stated appropriate buffers would have to be placed around the wetlands to protect them. The drainage issues

BK 0 2 9 4 PG 1 2 0 9

April 8, 2003

would have to be approved by the St. Johns River Water Management District and the County. SJRWMD will also review any threatened endangered species and a full study of gopher tortoises will be done as well. She stated she can commit to having two-story homes within the proposed development and they have agreed to one-story along the boundary on the northwest end. She advised soil tests will be done before any structures are placed on that property.

Upon inquiry by Commissioner Van Der Weide, Ms. Harper advised a 50 ft. buffer will be to the south and if the residents of Heathrow prefer not having a 6 ft. brick wall, she can do away with that. She stated she doesn't believe that staff would recommend an 8 ft. wall, but she could agree to it.

District Commissioner McLain stated he wouldn't want this property developed at more than one unit per acre if any access is available on Banana Lake Road. If an agreement can be reached with Colonial Properties to access to this property and it not impact Banana Lake Road, he feels the Board can move forward with the transmittal. The applicant has committed to many of the neighbor's concerns and those issues needs to be addressed when it comes back. He stated 43 units with a density of 6.05 would work out to about 7.1 acres. He said he would recommend limiting that to 29 units, which is approximately 4 units per buildable acre, and if an agreement can be reached to eliminate the 50 ft. buffer among all parties, add the number of units that would equal to 4 units per net buildable acre. He stated he thinks that is adequate density for this property and Suburban Estates to the north needs to have Low Density Residential adjoining it.

April 8, 2003

Commissioner Henley stated he has trouble with the 35 units as he feels that is a little too dense.

**Motion** by Commissioner Maloy, seconded by Commissioner Van Der Weide to transmit the Comprehensive Plan Amendment from Suburban Estates to Planned Development; and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana Lake Road, approximately 3,400 ft. south of CR 46A, to the Department of Community Affairs, subject to capping the development to 4 units per acre.

Under discussion, Commissioner Henley stated there was a suggestion about a wall.

Chairman McLain stated included in the D.O., was that Banana Lake Road would be blocked off with no access to the south from Suburban Estates.

Districts 1, 3, 4 and 5 voted AYE.

Chairman McLain recessed the meeting at 9:10 p.m., reconvening at 9:17 p.m.

REZONE/Shutts & Bowen

Proof of publication, as shown on page \_\_\_\_\_, calling for a public hearing to consider Rezone from A-1 (Agriculture) to R-1AA (Single Family); property described as approximately 13 acres located on the east side of Old Lockwood Rd., ½ mile north of McCulloch Rd., Shutts & Bowen, received & filed.

Kathy Fall, Planning, addressed the Board to review the property designation and stated the requested zoning of the property depends on a number of factors. Staff believes that R-1AAA zoning is the most appropriate transitional density from the more intense development to the west and less intense development to the east. As development occurs from west to east, the lot size could transition from smaller to larger.

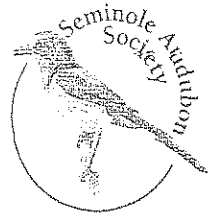


Seminole Audubon Society

P.O. Box 2977

Sanford FL 32772-2977

[www.seminoleaudubon.org](http://www.seminoleaudubon.org)



RECEIVED

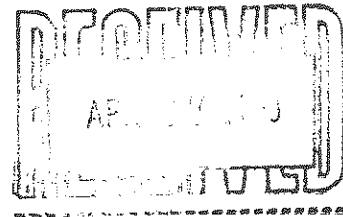
APR 10 2003

BCC  
CMS  
P & Z Dir.  
Planning Mgr.

April 2, 2003

Commissioner Daryl McLain, Chairman  
Seminole County Board of Commissioners  
1101 E. First Street  
Sanford FL 32771

RE: Agenda Item for April 8, 2003 Public Hearing  
Banana Lake PD, James Fant, Applicant



Dear Mr. Chairman:

Members of the Seminole Audubon Society Board of Directors were invited by a homeowner in Heathrow to view the parcel of land subject in this application. The homeowner lives adjacent to the west side of the proposed site. Viewing the parcel from the east side on Banana Lake Road does not provide sufficient access to understand the ecological value of the site and we appreciated the opportunity for more information.

From the backyards adjacent on the west side of the project area the picture is much different. We were surprised to find that the isthmus separating Banana Lake and Island Lake still remains in a natural condition where wildlife can forage and den without the threat of human disturbance. It was thickly wooded with a saw palmetto under story. In the wetlands on the Island Lake side we could see sandhill cranes tending young chicks. It appeared that the cranes enjoyed the quiet privacy here and we didn't even see any boats or canoes in the yards backed up to the lake. The area homeowners are evidently maintaining an attitude consistent for wildlife sanctuary. Our host also showed us a photograph and described how gopher tortoises are seen frequently on the narrow upland portion.

The site map shows only 10 of the 25 acres on this project site could be developed without impacting any seasonally inundated areas. We were astonished to learn that the Applicant is proposing to put forty-three homes on these uplands. That would virtually spell the death of all the upland creatures and most of the wetland creatures as well. Almost all wetland dependent creatures require uplands at some point in their life cycle, usually for reproduction. We were encouraged to hear that the P & Z Board had voted to recommend that the BCC deny this application. We certainly agree with them.

The staff report says that a mitigation plan approved by the county or state shall be required for any proposed onsite wetland impacts at the time of final PUD master plan.

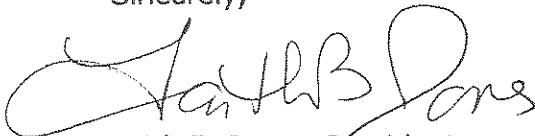
The intensity of the human disturbance of building and residing in 43 homes will likely discourage the cranes from nesting in this location even if no wetlands are impacted. We question whether any mitigation property could even be found that would duplicate the specific conditions that attract the cranes to this location. We are doubtful that a required twenty-five foot wetland buffer would be adequate to sustain the rich diversity of wetland microorganisms that contribute to the food chain that supports the cranes and other creatures.

The staff report also states that a survey of threatened, endangered and species of special concern is required prior to final PUD master plan approval. We disagree with the sequence of such an important report. We recommend that species surveys should always accompany the application when wetlands or wooded areas are present. With this sequence, staff could assess wildlife impacts and offer suggestions for avoidance before designs are finalized.

Maintaining the present land use and zoning is probably the best way to protect this unique remaining natural area. We understand that one unit per acre may not be the best solution, either. Other protective options might be studied. For instance, the cleared area adjacent to Banana Lake Road could conceivably support some sort of residential complex with a protective easement over the more ecologically sensitive area between the two lakes.

We thank you for your consideration of our concerns, and encourage you to deny this land use and zoning change request.

Sincerely,



Faith B. Jones, President

Cc: Grant Maloy  
Randall C. Morris  
Dick Van Der Weide  
Carlton D. Henley

Heathrow Government Affairs Committee  
1275 Lake Heathrow Lane  
Heathrow, FL 32746

BCC  
CM  
DEM (SS)

response-planning mgr.  
Dev. Rev. Mgr.

March 31, 2003

Commissioner Daryl G. McLain, Chairman - District 5  
Seminole Board of County Commissioners  
Seminole County Services Building  
1101 E. First Street  
Sanford, FL 32771

RECEIVED  
APR 01 2003

RECEIVED  
APR 4 2003  
PLANNING DIVISION

Subject: Proposed Rezoning of Property on the West Side of Banana Lake Road  
Approximately 3400' South of CR 46A

Dear Commissioner McLain,

There is an application before the Board of County Commissioners requesting an amendment to the future land use designation from Suburban Estates to Planned Development and to rezone a 25.05 acre parcel of land located on the west side of Banana Lake Road approximately 3400' south of CR 46A. This property adjoins Heathrow's Lakeside neighborhood and has access to Island Lake, which is shared by Heathrow Country Club, Heathrow's Breckenridge Heights and Wembley Park neighborhoods. The application filed by James H. Fant requests rezoning from A-1 (Agriculture) to PUD (Planned Unit Development), proposing 43 dwelling units at a net density of 5.7 units per acre for the property.

On February 19, 2003, the Seminole County Planning and Zoning Commission rejected the proposed rezoning application on the basis of environmental concerns and the fact that the applicant had not demonstrated how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards would be addressed. The Planning and Zoning Commission recommended that the applicant return with a scaled down lower-density plan that include the necessary engineering for bringing Banana Lake Road up to County standards.

The Heathrow Community would obviously prefer that the zoning remain A-1 (one home per acre). The subject property contains an environmentally fragile isthmus, which consists largely of wetlands that serves as a transit zone for wildlife between Island Lake and Banana Lake. It is the only property left in the immediate area that supports numerous species of wildlife in their natural state. This includes but is not limited to foxes, sandhill cranes, various species of hawks, bobcats, and gopher tortoises. We also have concerns regarding the impact of further development on both Banana and Island Lakes, as well as the increased potential for flooding of the lower elevation Lakeside homes bordering the new development. Specifically, the applicant's proposed placement of retention ponds on the area adjoining Heathrow's Lakeside neighborhood is a major concern and an item that we vigorously oppose.

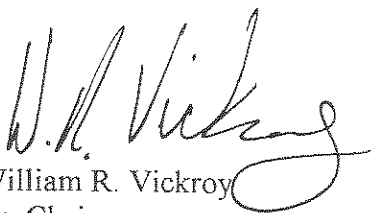
We would prefer that the current greenbelt/wetland area, located immediately behind the Heathrow Lakeside community and between the two lakes, be preserved in its current natural state as a 100-foot buffer to preserve the isthmus, as well as the property and aesthetic value of the already existing Heathrow Lakeside homes. The recommendation of the Planning and Zoning Commission that the applicant return with a scaled down lower-density plan might well achieve this purpose and deserves serious consideration.

Should the County Commission elect to overrule the Planning and Zoning Commission's February 19th unanimous rejection of the proposed development, and approve the rezoning application of the subject property to a total of 43 homes, the Heathrow Government Affairs Committee requests that Seminole County include the following conditions in the rezoning agreement:

- Restriction of single story houses for the lots behind Heathrow's Lakeside Neighborhood;
- A negotiated agreement between Seminole County, Heathrow and the developer regarding the proposed buffer area that adjoins the Heathrow Community to include an acceptable natural buffer and 8 foot high brick security wall to be maintained by the new development;
- Limits on the size of boats allowed, prohibition of motorized watercraft, and access to Island Lake restricted to those residents directly abutting it; and
- A restricted gated community of individual detached homes.

In conclusion, we strongly urge the County Commission to accept the February 19<sup>th</sup> recommendation of the Seminole County Planning and Zoning Commission. As a less desirable alternative, the Heathrow Government Affairs Committee would propose the inclusion of the above conditions in any order that overrules the Planning Commission's report. We would appreciate your support of our primary position and if you have any questions please contact the undersigned.

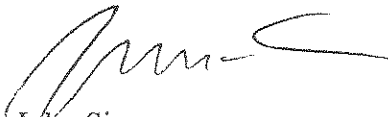
Sincerely,



William R. Vickroy  
Co-Chairman  
Heathrow Government Affairs Committee  
407-356-9916



Blaine Darrah  
Co-Chairman  
Heathrow Government Affairs Committee  
407- 833-0498



John Simes  
Heathrow Government Affairs Committee  
407-333- 9891

CC: Heathrow Master Association Board of Directors

Banana Lake Project (Suburban Estates to Planned Development)  
Seminole County  
Board of County Commissioners  
Meeting 4/8/03  
Agenda Item # 54

**Heathrow Town Advisory Council and Governmental Affairs Committee Concerns and Recommendations; John Simes Presenting**

Heathrow would prefer that the zoning remain A-1 (one home per acre). We are dealing with an environmentally fragile isthmus, which consists largely of wetlands. The ten acres that are capable of limited development, is composed mainly of scrub and forest. It is the only property left in the immediate area that supports numerous species of wildlife in their natural state. This includes but is not limited to foxes, sandhill cranes, different species of hawks, plus bobcats, and gopher tortoises. The isthmus and surrounding area serves as a transit zone for wildlife between Island Lake and Banana Lake. It also functions as a nesting and foraging area for the animals and birds.

We would prefer that this current greenbelt/wetland area located immediately behind the Heathrow Lakeside community and between the two lakes be preserved in its current state so that future generations of homeowners might have a chance to view firsthand our natural heritage. This would also preserve the property and aesthetic value of the already existing Heathrow Lakeside homes. The recommendation of the Planning and Zoning Commission that the applicant return with a scaled down lower-density plan might well achieve this purpose and deserves serious consideration. Independent of the final zoning, we have concerns regarding the impact of further development on both Banana and Island Lakes, as well as the increased potential for flooding of the lower elevation Lakeside homes bordering the new development. Specifically, the proposed placement of retention ponds above these Lakeside homes is a major concern and an item that we vigorously oppose.

In the alternative, should the Commission reject the unanimous recommendation of the Planning and Zoning Commission and in fact approve the rezoning application of the subject property to a total of 43 homes, Heathrow requests that the items listed below be included as conditions by the County in the rezoning agreement:

- Restriction of single story houses for the lots behind Lakeside;
- A negotiated agreement between Seminole County, Heathrow and the developer regarding the proposed 50 foot buffer area that adjoins

the Heathrow Community to include an acceptable natural buffer and 8 foot brick security wall to be maintained by the new development; it being nevertheless understood that a natural 100 foot vegetative buffer without a wall would be preferred both environmentally and aesthetically.

- Limits on the size of boats allowed, prohibition of motorized watercraft, and access to Island Lake restricted to those residents directly abutting it; and
- A restricted gated community of individual detached homes.

Pending inclusion of these items, Heathrow views the existing proposal as superior to the previously proposed more densely populated town home complex and acknowledges the efforts of the owners, Mr. & Mrs. Edwards and the developer, Mr. Fant in continuing to address some of the concerns of the existing residential communities. Superior still is the recommendation of the Seminole County Planning and Zoning Commission, which we would urge this Board to adopt.

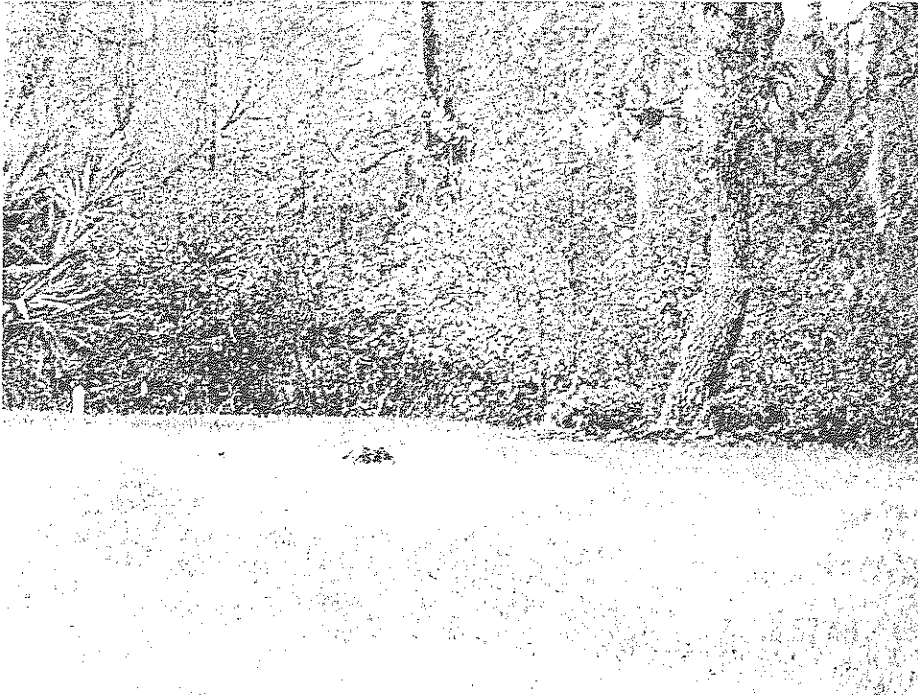
See Attached Schedule "A" – Photo Exhibits

Schedule "A" Photo Exhibits:

- 1) GopherTortoise1.jpg – Gopher Tortoise searching for nesting area. Photo taken on 3/2/2003 in backyard of 642 Lakeworth Circle, Heathrow, FL



- 2) GopherTortoise2.jpg – Same Gopher Tortoise shown emerging from Applicant's Northerly Boundary onto Southeast Corner of backyard 642 Lakeworth Circle, Heathrow, FL



Wetlands1.jpg -Photo of west portion of Applicant's property taken 3/10/2002 from backyard of 630 Lakeworth Circle, Heathrow, FL



Lower Elevation1.jpg & Greenbelt1.jpg – Westerly (L) and Easterly(R) view of Applicant's boundary with lower elevation Heathrow Lakeside homes taken 3/10/2002 from backyard of 642 Lakeworth Circle, Heathrow,FL







Seminole County Planning & Zoning Division  
Seminole County Administration Building  
1101 East First Street  
Sanford, Florida 32771

Re: Proposed Development of Fred Edwards' Property/Banana Lake Road


Ladies and Gentlemen:

Colonial Realty Limited Partnership ("Colonial") is the owner of property located directly south of Fred Edwards' property and west of Banana Lake Road. I understand that Mr. Edwards has proposed a Comprehensive Plan Amendment and concurrent Rezoning for his property, which is scheduled to be heard at the April 8, 2003 Board of County Commissioners meeting.

Colonial has had several conversations with Mr. Edwards' representatives regarding the possibility of allowing traffic to access the Edwards site through Heathrow International Business Center (HIBC). Colonial believes that the parties may be able to work out an arrangement on such access mutually acceptable to both parties. This would be subject to Colonial and Mr. Edwards agreeing on a satisfactory alignment of the roadway through HIBC and other issues such as responsibility for the costs of designing, permitting and constructing the roadway and its appurtenant facilities (including stormwater retention).

Colonial is happy to continue working with Mr. Edwards on the foregoing issues and feels that it would be appropriate to approve his request for rezoning and Comprehensive Plan Amendment, with a condition that access be through HIBC if such terms can be agreed upon with Colonial. Please feel free to contact me should you have any questions.

Very truly yours,

  
Charles A. McGehee  
Executive Vice-President



Seminole County Planning & Zoning Division  
Seminole County Administration Building  
1101 East First Street  
Sanford, Florida 32771

Re: Proposed Development of Fred Edwards' Property/Banana Lake Road

Ladies and Gentlemen:

Colonial Realty Limited Partnership ("Colonial") is the owner of property located directly south of Fred Edwards' property and west of Banana Lake Road. I understand that Mr. Edwards has proposed a Comprehensive Plan Amendment and concurrent Rezoning for his property, which is scheduled to be have its adoption hearing at the July 22, 2003 Board of County Commissioners meeting.

Colonial understands that during the April 8, 2003 Board of County Commissioners meeting, there were discussions about the Edwards' potential development of the 1.43 acre buffer parcel that was deeded from Colonial to the Edwards several years ago. Colonial has no objection to the Edwards' development of single family homes within the buffer area.

Again, Colonial is supportive of the land use approvals being proposed by the Edwards. We have met with Mr. Edwards' representatives to discuss the access issues and are in the process of drafting an agreement addressing access to Mr. Edwards' property. Please feel free to contact me should you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Charles A. McGehee". The signature is written in a cursive style with a large, prominent "C" and "M".

Charles A. McGehee  
Executive Vice-President



**ENGINEERING &  
ENVIRONMENTAL  
DESIGN, INC.**

Engineers, Environmental & Planning Consultants

December 19, 2002

12-20-02 A08:29 N

Mr. Kent Cichon  
Seminole County Planning and Development Department  
1101 East First Street  
Sanford, Florida 32771-1468  
Tel No.: 407.665.7126  
Fax No.: 407.665.7956

Banana Lake Large Scale Land Use Amendment and Rezoning  
EED Job No.: 2002.033

Dear Mr. Cichon:

This letter is to request a thirty (30) day extension from the January 8, 2003 Planning & Zoning Board meeting to the February Planning & Zoning Board Meeting, for the above referenced project.

It is my understanding that Ken Wright and Don Fischer have discussed this extension and that the thirty (30) day extension can be granted and allow the project to be transmitted to Department of Community Affairs for review as part of the spring submittal. This delay will allow the time necessary to fully analyze Banana Lake Road and complete an agreement with your department concerning what improvements are required.

Your earliest review and response to this request is greatly appreciated.

Very truly yours,

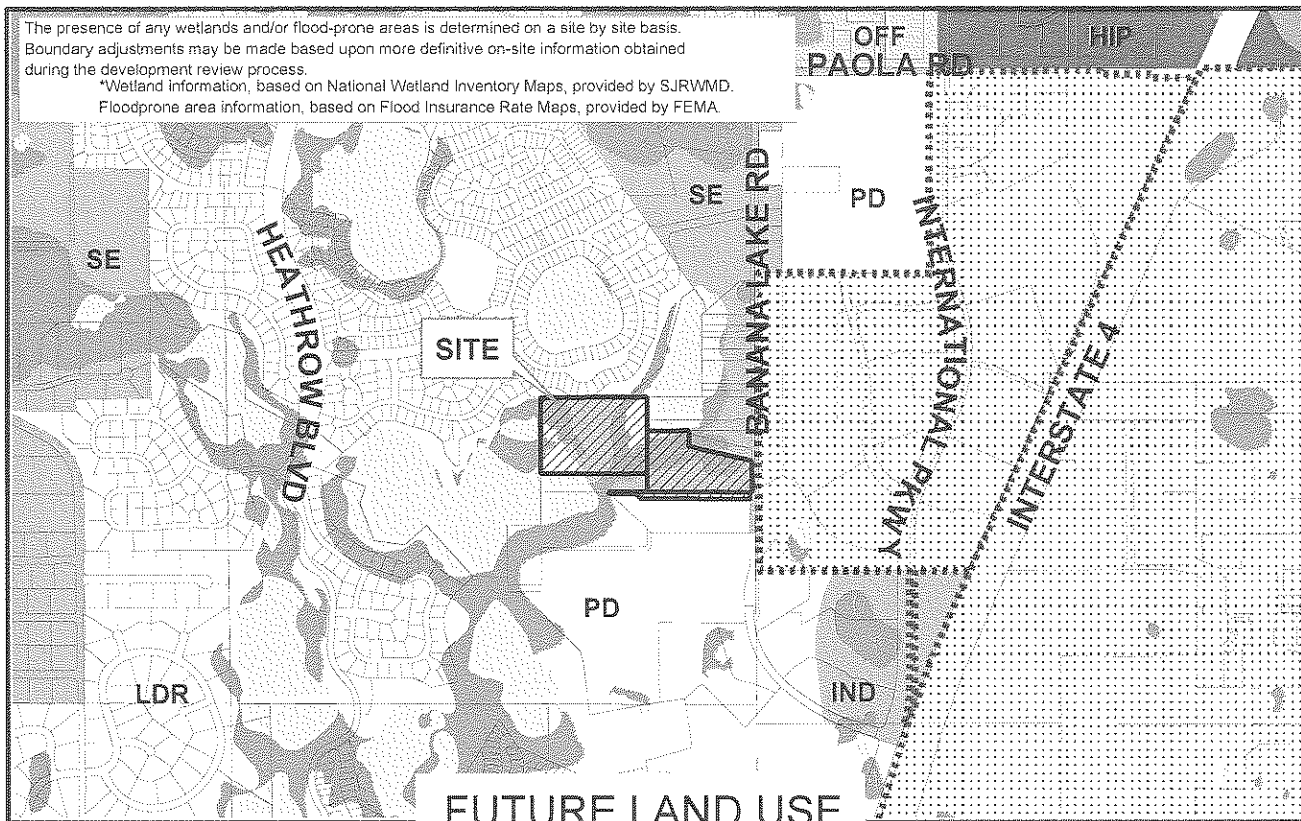
**ENGINEERING & ENVIRONMENTAL DESIGN, INC.**

Larry T. Ray, P.E.

Jim Fant, (Fax No.: 407.425.6841)  
Ken Wright, (Fax No.: 407.425.8316)  
Don Curotto, (Fax No.: 407.422.8262)  
Richard E. Dunn, P.E., EED

Barone River-Cin Correspondence\LTR dated EXTENSION-121902.doc

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.

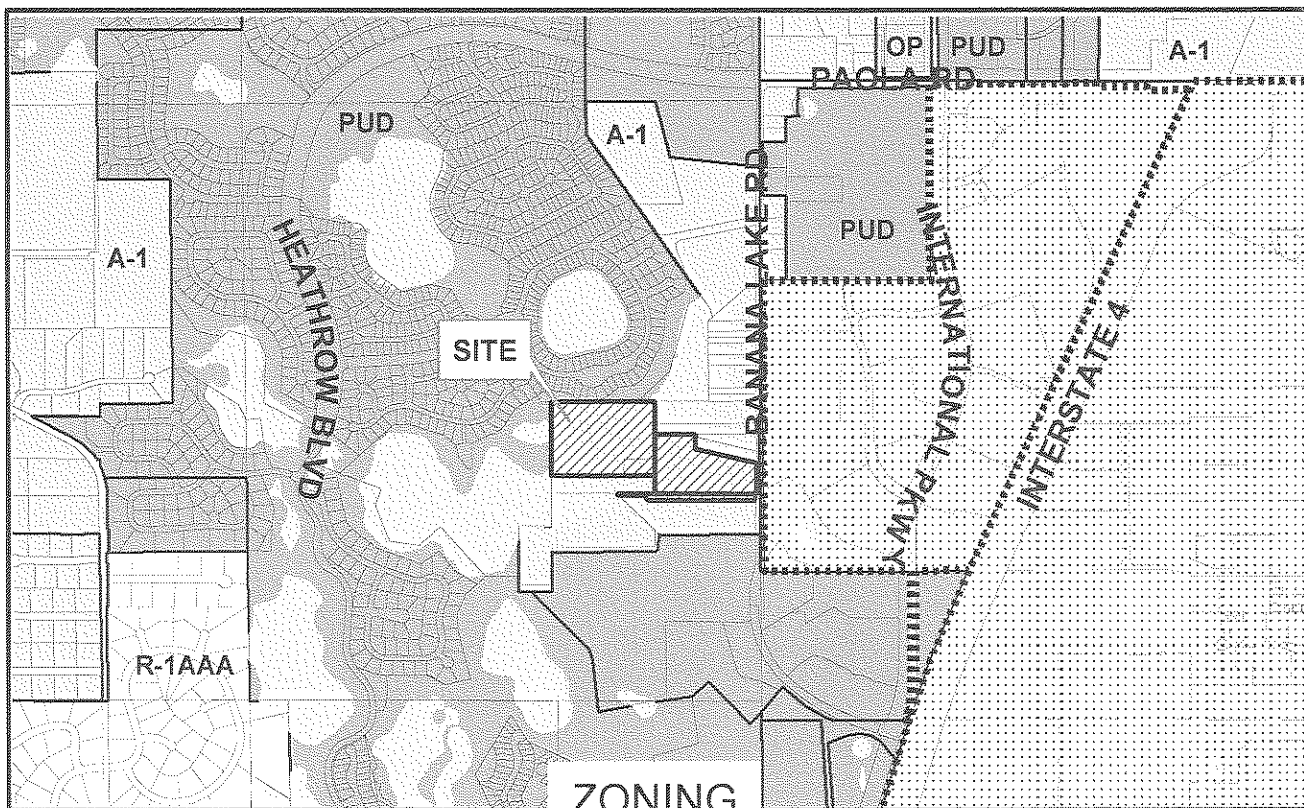


### FUTURE LAND USE



Applicant: James H. Fant  
 Physical STR: 01-20-29-300-0040, 0050, 007A & 0080-0000  
 Gross Acres: +/-25.05 BCC District: 5  
 Existing Use: Vacant  
 Special Notes: None

	Amend/Rezone#	From	To
FLU	02S.FLU04	SE	PD
Zoning	Z2001-044	A-1	PUD



### ZONING







Amendment No. 02S.FLU04

From: SE To: PD

Rezone No. Z2001-044

From: A-1 To: PUD

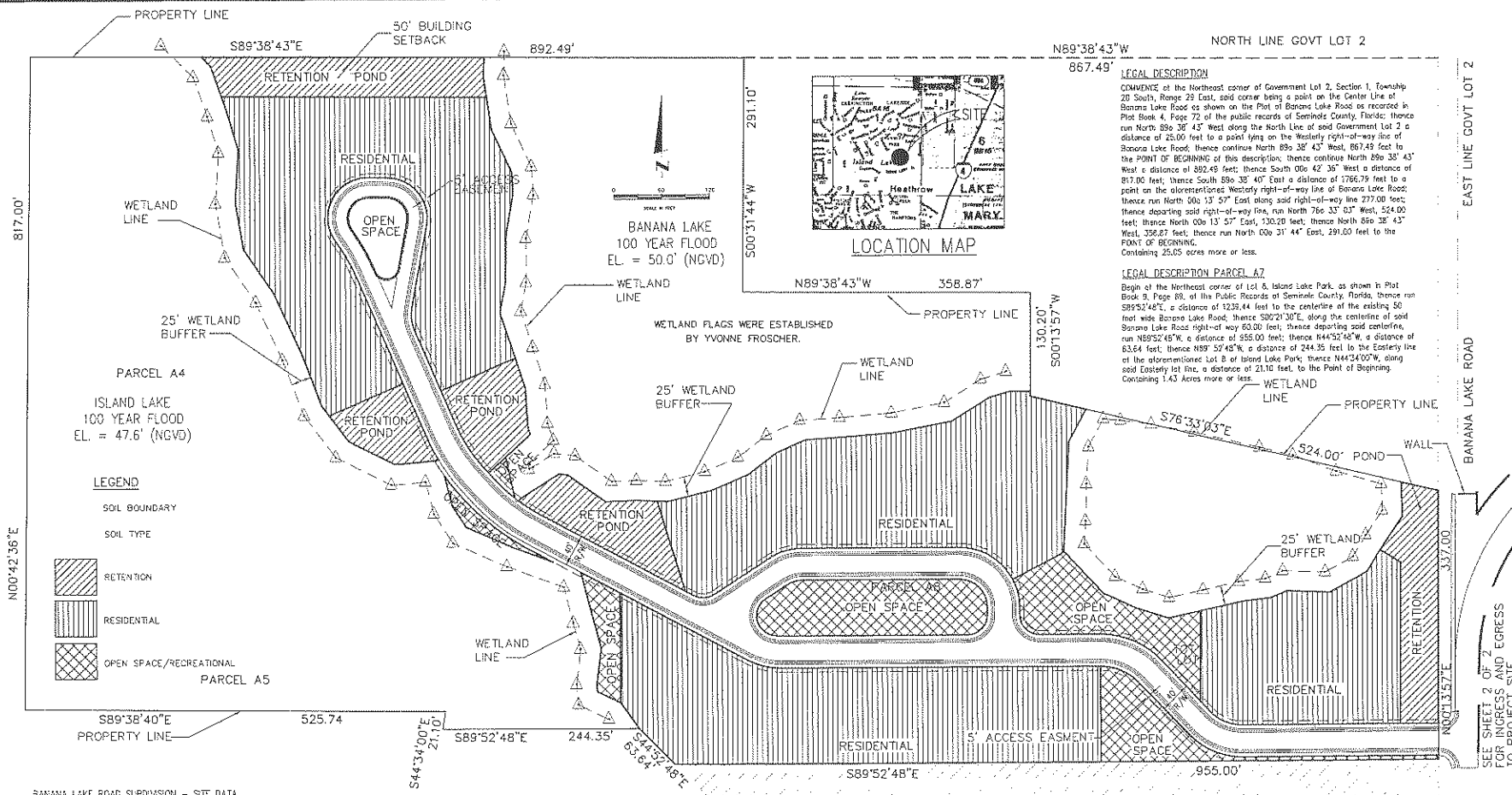
 Subject Property

 Parcelbase



February 1999 Color Aerials

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**CONCEPTUAL PLAN**  
**BANANA LAKE VILLAS**  
 SEE SHEET 2 OF 2 FOR INGRESS AND EGRESS TO PROJECT SITE  
 SHEET 1 OF 2

**ENGINEERING & DESIGN, INC.**  
 10000 W. UNIVERSITY BLVD., SUITE 100  
 DUBLIN, FLORIDA 32008  
 PHONE: 407-278-8888  
 FAX: 407-278-8889  
 WWW: WWW.EDINC.COM

BANANA LAKE ROAD SUBDIVISION - SITE DATA

- I. PROJECT AREA DATA:
  - PARCEL ID NOS.
  - 01-29-29-300-0000-0000
  - 01-29-29-300-0000-0000
  - 01-29-29-300-0000-0000
  - TOTAL APPLICANT-OWNED AREA = 36.48 ACRES
  - NET AVAILABLE AREA = 3.12 ACRES
- II. EXISTING CONDITIONS INFORMATION:
  - ZONING = A-1 (APPROXIMATE)
  - LAND-USE DESCRIPTION = SUBDIVISION ESTATES
  - UTILITIES = SEWAGE COUNTY UTILITIES
  - UTILITIES = FLORIDA POWER CORP.
  - UTILITIES = BELL SOUTH
  - UTILITIES = SOIL SOUTH
  - POSSIBLE WATER CONNECTION TO AN EXISTING 10" WATER MAIN LOCATED WITHIN THE BANANA LAKE ROAD FRONT-OF-COURT
  - SANITARY SEWER CONNECTION VIA LIFT STATION AND FORCE MAIN TO AN EXISTING 10" SANITARY SEWER TRENCH LOCATED WITHIN THE BANANA LAKE ROAD FRONT-OF-COURT
  - FIRE PROTECTION IS TO BE PROVIDED BY SEVILLA COUNTY. ALL UTILITY REGULATIONS PERTAINING TO THE REQUIRED FUEL FLOWS OF FIRE HYDRANTS WILL BE MET.
  - REPLACED WATER USE LINES WILL BE CONSTRUCTED WITHIN THIS SUBDIVISION AS PART OF THE INFRASTRUCTURE. UPON COMPLETION/INSTALLATION OF THE REPLACED WATER MAIN ALONG BANANA LAKE ROAD THE LINES INSTALLED WITHIN THIS SUBDIVISION WILL BE CONNECTED TO THE MAIN IN BANANA LAKE ROAD.
- III. PROPOSED PROJECT AND LOT INFORMATION:
  - SINGLE-FAMILY CONCEPT-BLIND CHILING UNITS
  - FRONT SETBACK = 20'
  - REAR SETBACK = 20'
  - SIDE YARD SETBACK = 5'
  - SIDE YARD FOR CORNER LOTS = 20'
  - MINIMUM LOT SIZE = 247' x 100'
  - MINIMUM BUILDING SIZE = 40'x60'
  - MINIMUM BUILDING HEIGHT = 25'
  - POOL, A POOL, SCREEN SETBACKS = 50'x5'
  - SCREEN SETBACKS = 50'x5'
- IV. INTERNAL ROADWAY INFORMATION:
  - SPACING = 40' SIDE-OF-ROAD WITH 5' ACCESS EASEMENT ON FRONT OF EACH LOT
- V. PROPOSED SOLE CONDITIONS:
  - LOT 7 & 8 ARE TO BE A 100'x100' PINE SANDS
  - LOT 9 BANANA AND LAKEVILLE PINE SANDS
  - LOT 10 BANANA, JUNGLE, AND MONTANA SOLE
  - LOT 11 BANANA, JUNGLE, AND MONTANA SOLE
- VI. UTILITY PROVIDERS TO THE SITE:
  - WATER - SEVILLA COUNTY UTILITIES
  - SEWER - SEVILLA COUNTY UTILITIES
  - ELECTRIC - FLORIDA POWER CORP.
  - TELEPHONE - BELL SOUTH
  - SOIL SOUTH
- VII. FIRE PROTECTION:
  - PROVIDED BY SEVILLA COUNTY. FIRE HYDRANTS WILL BE PLACED ACCORDING TO SEVILLA COUNTY FIRE SAFETY REQUIREMENTS.
- VIII. STORMWATER MANAGEMENT:
  - SEVILLA COUNTY
  - SITE IS CONSIDERED LAKEWOOD. STORMWATER POND WILL BE DESIGNED TO HOLD THE 100 YEAR STEADY STATE.
  - ST. JOHN'S POND WATER MANAGEMENT DISTRICT
  - SITE IS LOCATED WITHIN THE MEDIA MOST SENSITIVE BEVERAGE AREA (MBSA) OF THE MEDIA BASIN. ADDITIONAL TREATMENT REQUIREMENTS APPLY.
  - FLOOD COMPOSITION WILL BE PROVIDED ON THE FINAL ENGINEERING PLAN FOR ALL DEVELOPMENT THAT PROPOSES TO FILL THE 100 YEAR FLOOD POND AREA.
- IX. BANANA LAKE ROAD IMPROVEMENTS:
  - APPLICANT IS AWARE THAT BANANA LAKE ROAD WILL NEED TO BE UPGRADED TO CONFORM TO SEVILLA COUNTY STANDARDS FOR ROADS.
- X. IMPACT ANALYSIS IS PROJECTED AS FOLLOWS:
  - SCHOOL: 43.00 x 1.25 PERSONS/AC = 139.25 x 205
  - ROADS: 43.00 x 1.25 PERSONS/AC = 139.25 x 205
  - WATER: 43.00 x 2.25 PERSONS/AC = 139.25 x 205
  - POWER: 43.00 x 1.00 PERSONS/AC = 139.25 x 205
- XI. TREE PRESERVATION/REMOVAL/REPLACEMENT:
  - TREES WILL BE PLANTED ALONG ROADSIDE FRONT-OF-COURT YARD LINES IN CONFORMANCE WITH SEVILLA COUNTY STANDARDS. SHRUBS WILL BE PLANTED IN PARSIS AND MISCELLANEOUS OPEN AREAS. HANDICAPPED WILL APPLY FOR INDIVIDUAL LOTS PERMITTED AS EACH LOT IS DEVELOPED.
- XII. TRANSPORTATION MANAGEMENT:
  - STREETS INTERNAL TO THE SUBDIVISION WILL BE OWNED AND MAINTAINED BY HOMEOWNERS ASSOCIATION. A FIVE-FOOT WIDE SIDEWALK WILL BE PROVIDED ACROSS THE PROPERTY FRONTAGE TO BANANA LAKE ROAD AND ALONG BOTH SIDES OF THE INTERNAL STREETS OF THE SUBDIVISION.
- XIII. PEDESTRIAN/BICYCLE IMPROVEMENT PLAN:
  - FIVE FOOT WIDE SIDEWALKS WILL BE CONSTRUCTED ON BOTH SIDES OF ALL ROADWAYS CONSTRUCTED WITHIN THIS SUBDIVISION. ADDITIONAL PEDESTRIAN TRAILS AND/OR BICYCLE PATHS WILL BE ADDRESSED ON FINAL ENGINEERING PLAN.
- XIV. COMMUNITY ACCESS TO BOTH BANANA AND FLAND LAKES WILL BE MAINTAINED AREAS TO BE DETERMINED ON FINAL ENGINEERING PLANS.
- XV. TOPOGRAPHY TAKEN FROM AERIAL PHOTO.
- XVI. OWNER/APPLICANT INFORMATION:
  - OWNER - MR. FRED B. CUMBERBURN
  - 748 BANANA LAKE ROAD
  - LAKE MARY, FLORIDA 32749
  - PHONE: 407-233-1231
  - FAX: 407-233-1031
- XVII. APPLICANT - MS. JAMES H. FINN
  - 401 W. OCEAN DRIVE, SUITE 7
  - OLANDO, FLORIDA 32804
  - PHONE: 407-425-2878
  - FAX: 407-425-0941

EXIST. 200' WIDE BUFFER BETWEEN COLONIAL GRAND APARTMENTS AND PROPOSED PROJECT



NO.	DATE	BY	DESCRIPTION
1	05/27/08	...	...
2	...	...	...

**CONCEPTUAL PLAN  
BANANA LAKE VILLAS**

**ENGINEERING & ENVIRONMENTAL DESIGN, INC.**  
 200 S. ...  
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