

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Wilshire Townhomes Land Use Amendment, Request for Small Scale Land Use Amendment from Commercial to Planned Development (PD); (Thomas Daly, applicant)

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

AUTHORIZED BY: Donald Fisher **CONTACT:** Jeff Hopper EXT. 7431

Agenda Date <u>10/14/03</u>	Regular <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input checked="" type="checkbox"/>	Public Hearing – 7:00 <input type="checkbox"/>	

MOTION/RECOMMENDATION:

1. Enact an ordinance to APPROVE the requested Small Scale Land Use Amendment from Commercial to Planned Development (PD) on 6.6 acres on the south side of Wilshire Blvd., 1/4 mile west of SR 436, per the attached staff report (Thomas Daly, applicant); or
2. DENY the requested Small Scale Land Use Amendment from Commercial to Planned Development (PD) on 6.6 acres on the south side of Wilshire Blvd., 1/4 mile west of SR 436, (Thomas Daly, applicant); or
3. Continue the item to a time and date certain.

(District 4 – Comm. Henley)

(Jeff Hopper, Senior Planner)

BACKGROUND:

In May 2003 the applicant received approval of a rezone and land use amendment permitting 130 townhouse units on a 12.8 acre site south of Wilshire Boulevard and west of SR 436. An accompanying land use amendment changed a 6.6 acre portion of the site from Commercial to High Density Residential (HDR) to match the balance of the property. While the submitted PUD plan limited density in this area to 9.9 units per acre, the land use amendment was found to be invalid by the Florida Department of Community Affairs (DCA).

The state agency has ruled that any request for HDR must be handled as a large scale land use amendment since this designation technically permits densities in excess of the large-scale threshold of 10 units per acre. Rather than enter that process, the applicant has returned with a request for a

Reviewed by:	
Co Atty:	
DFS:	
OTHER:	<u>MW</u>
DCM:	
CM:	<u>SS</u>
File No.	<u>ph130pdp05</u>

small scale amendment to a PD land use designation, with a density limit directly tied to the approved PUD plan and development order. All original zoning conditions on the 12.8 acre PUD remain intact. The area of the subject property affected by this application is limited to the 6.6 acre portion now designated Commercial, and the present action is being undertaken to satisfy DCA that the project does not constitute a large scale land use amendment.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the request per the attached staff report.

PLANNING & ZONING COMMISSION RECOMMENDATION:

On October 1, 2003 the Planning & Zoning Commission voted 5-0 to recommend APPROVAL of the request.

Minutes for Item H on the Wednesday, October 1, 2003 7:00 P.M. Regular Meeting of the Seminole County Land Planning Agency / Planning and Zoning Commission.

Wilshire Townhomes; Thomas Daly/Daly Design Group, applicant; Small Scale Land Use Amendment from Commercial to Planned Development (PD) for 6.61 acres located on the south side of Wilshire Boulevard, approximately ¼ mile west of Semoran Boulevard.

(10-03SS.01)

Commissioner Henley – District 4

Jeff Hopper, Senior Planner

Mr. Hopper said that the applicant, Thomas Daly , request is a Small Scale Land Use Amendment from Commercial to a Planned Development on 6.61 acres on the south side of Wilshire Blvd. Mr. Hopper stated that this request would best be described as a house keeping item related to the Comprehensive Plan Amendment Process and does not represent a change in the Townhouse Development that was approved in May 2003. Mr. Hopper stated that the over all project site is 13 acres, half High Density Residential which does accommodate the Townhouse proposal, a 6.61 acre portion of the property was designated Commercial requiring a Land Use Amendment to permit residential use. At the time the applicant requested High Density Residential and staff felt that this qualified for a Small Scale Land Use. The State of Florida found that the HDR or High Density Residential designated as approved by Seminole County should have been treated as a Large Scale Land Use Amendment and therefore is not valid, because it did not go through that process. Mr. Hopper stated that the County response to the State is to change the previous request from High Density Residential to Planned Development with allowable Density tied to the PUD proposal of less than 10 units per acre. Structured in this way it is a Small Scale Amendment, which will not draw opposition from the state. Mr. Hopper stated that staff is going back and doing the Amendment in a different way, but the development proposal has not changed. Mr. Hopper further stated that Staff recommends approval.

Commissioner Hattaway made a motion to recommend approval of the request.

Commissioner Bates seconded the motion.

The motion passed unanimously.

**WILSHIRE TOWNHOMES
LAND USE AMENDMENT
STAFF REPORT**

Commercial to Planned Development		Amendment (Z2003-038, 10-03SS.01)
REQUEST		
APPLICANT	Thomas Daly	
PLAN AMENDMENT	Commercial (COM) to Planned Development (PD)	
REZONING	NA	
APPROXIMATE GROSS ACRES	6.61	
LOCATION	South side of Wilshire Blvd., ¼ mile west of SR 436	
BCC DISTRICT	District 4 – Henley	
RECOMMENDATIONS AND ACTIONS		
STAFF RECOMMENDATION	Recommend APPROVAL of the PD future land use designation in conjunction with the approved PUD zoning limiting subject property to a maximum density of 9.9 units per acre.	
P & Z RECOMMENDATION October 1, 2003	Findings of the Planning & Zoning Commission will be presented at the time of the hearing.	

STAFF ANALYSIS

Commercial to Planned Development	Amendment (Z2003-038, 10-03SS.01)
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1. **Property Owners:** Larry Jackman
2. **Tax Parcel Numbers:** 20-21-30-300-001F-0000
20-21-30-300-001E-0000
20-21-30-300-001H-0000
3. **Development Trends:** Development in this area is characterized by commercial and other higher intensity uses to the north and east. Adjacent to the site on the north are an office complex in the City of Casselberry, and condominium and single family developments on the north side of Wilshire Blvd. Neighboring uses to the east and south are largely single family residential in nature.

SITE DESCRIPTION

1. **EXISTING AND PERMITTED USES:** The future land use designation of Commercial, currently assigned to the subject property, permits retail commercial uses. Existing C-2 zoning implements the permitted uses allowed under the Vision 2020 Plan. The subject property is vacant.

Location	Future Land Use*	Zoning*	Existing Use
Site	Commercial	C-2	vacant
North	MDR/HDR	R-1AA, R-3A, City of Casselberry	single family residential, multi-family residential, office
South	HDR	PUD	vacant
East	City of Casselberry	City of Casselberry	single family residential
West	HDR	PUD	vacant

- 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 effect 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 Wilshire Boulevard, a local road. The nearest arterial is SR 436. The existing Level of Service (LOS) on this portion of SR 436 is "F", with an adopted LOS standard of "D". Other than I-4, this section of 436 has the highest volume of traffic of any roadway in Seminole County. Even though the traffic count is significantly over capacity based on daily counts, the travel time and delay study for 2003 shows a LOS of C based on travel speed for this section of SR 436.

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 property is within the Seminole County water and sewer service area. Water and sewer service are currently available to the site

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 Station #27. 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 2020 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 this property 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.

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).*

The site contains less than 5% wetlands or flood prone areas, and can be developed within requirements of the Vision 2020 Plan and Land Development Code.

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 threatened and endangered species report shall be required prior to final engineering approval for any proposed development on the subject property.

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, the proposed PD land use would be compatible with adjacent office development and MDR land use to the north. Also, with appropriate design features, it is potentially compatible with LDR to the north and south and similar land uses in the City of Casselberry.

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

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: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

"Exhibit FLU: Appropriate Transitional Land Uses" indicates that MDR is an appropriate transitional use adjacent to Low Density Residential (LDR). Through the approved PUD zoning and development order, the proposed PD land use would be equivalent to MDR.

Other applicable plan policies include:

*FLU 2.1 Subdivision Standards.
FLU 2.2: Regulation of Active Uses.
FLU 5.5: Water and Sewer Service Expansion
PD Future Land Use Definition*

B. Concurrency Review - Application to New Development: *For purposes of approving new development subsequent to adoption of this Comprehensive Plan, all adopted public facilities 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.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the requested PD land use designation subject to adherence to all development standards included in the PUD approval of May 2003 for the subject property.

As established in the executed Development Order, those conditions are as follows:

1. All townhouse units will be located on individual platted lots.
2. The development will not be designed or marketed as student housing.
3. Balconies shall be prohibited within the development.
4. Permitted uses on residential lots shall be townhouse units, single family homes, home occupations and home offices.
5. Use of common areas shall be limited to open space, recreational amenities, and utility facilities serving all residents of the development.
6. Density within the portion of the site described in Exhibit B shall be limited to 9.9 units per net buildable acre.
7. Required setbacks and buffers along the south and east property lines shall be as follows:
 - a. 50 feet from the front or rear wall of any unit.
 - b. 40 feet from the side wall of any unit.
 - c. 15-foot landscape buffer with 4 canopy and 5 understory trees per 100'.
8. A 6-foot PVC fence shall be constructed and maintained along the south and east property lines.
9. Landscape buffers a minimum of 15 feet in width shall be provided along Wilshire Boulevard. A minimum of 4 canopy trees per 100 feet shall be planted in said buffers.
10. Front walls of townhouse units shall be staggered.
11. Mechanical units shall be located and/or screened so as not to be visible from Wilshire Boulevard or adjoining single family development.
12. A minimum of twenty-five (25) percent of the project area must be designated as open space per the requirements of the Land Development Code. Wet retention areas to be counted as open space shall be amenitized in accordance with the design criteria of Section 30.1344 of the Land Development Code. The applicant shall demonstrate on the Final PUD Master Plan that the open space requirements have been met.
13. All landscape buffers and common areas shall be maintained by a homeowners association.
14. No accessory buildings shall be allowed on individual townhouse lots.
15. The developer shall provide a pedestrian circulation system giving access to all portions of the development as well as connecting to existing sidewalks outside the development.
16. Outdoor lighting shall be cutoff/shoebox style fixtures a maximum of 16 feet in height.
17. The project street lighting adjacent to the south and east property boundaries will be limited to decorative lighting affixed to the fronts of the units. Security lighting with motion sensors shall be permitted on any side of the buildings.
18. Building height shall be limited to 35 feet. Height shall be measured from the mean elevation between roof ridge and eaves, as specified in the Land Development Code.
19. The principal access road shall be aligned with Coachlight Drive. Additional vehicular accesses shall be permitted on Wilshire Boulevard and Kewannee Trail, limited to emergency use only and stabilized per requirements of the Land Development Code.
20. Existing trees that are preserved during construction may satisfy the landscaping requirements of this development order or the code.

AN ORDINANCE AMENDING THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF A SMALL SCALE DEVELOPMENT AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTIES FROM COMMERCIAL TO PLANNED DEVELOPMENT; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM THE SEMINOLE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County enacted Ordinance Number 2001-21 which adopted the Vision 2020 Seminole County Comprehensive Plan (“the Plan”); and

WHEREAS, the Board of County Commissioners 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 a Small Scale Development Amendment; and

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

WHEREAS, the Seminole County Land Planning Agency held a Public Hearing, with all required public notice, on October 1, 2003, for the purpose of providing recommendations to the Board of County Commissioners with regard to the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners held a Public Hearing on October 14, 2003, with all required public notice for the purpose of hearing and considering the recommendations and comments of the general public, the Land Planning Agency, other public agencies, and other jurisdictions prior to final action on the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners hereby finds that the Plan, as amended by this Ordinance, is internally consistent, is consistent and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, the State Comprehensive Plan, and the Strategic Regional Policy Plan of the East Central Florida Regional Planning Council, based upon the "Wilshire Townhomes Land Use Amendment Staff Report".

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

Section 1. RECITALS/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 of County Commissioners 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. AMENDMENT TO COUNTY COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:

(a) The Future Land Use Element’s Future Land Use Map as set forth in Ordinance Number 2001-21, as previously amended, is hereby further amended by amending the future land use designation assigned to the property which is depicted on the Future Land Use Map and further described below:

LEGAL DESCRIPTION ATTACHED AS EXHIBIT “A”

<p><u>Amendment Number</u> 10-03SS.01</p>	<p><u>Amendment</u> Amendment from Commercial to Planned Development</p>
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(b) The associated rezoning request was completed by means of Ordinance Number 2003-____.

Section 3. SEVERABILITY:

If any provision of this Ordinance or the application 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 4. EXCLUSION FROM COUNTY CODE/CODIFICATION:

(a) It is the intent of the Board of County Commissioners 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 the Land Development Code of Seminole County in accordance with prior directions given to 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 5. 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 Section 125.66 and 163.3187, Florida Statutes.

(b) This Ordinance shall take effect upon:

- (1) Filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however, that the effective date of the Plan amendment set forth herein shall be thirty-one (31) days after the date of enactment by the Board of County Commissioners or, if challenged within thirty (30) days of enactment, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendment is in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent on 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, the affected amendment may nevertheless be made effective by the Board of County Commissioners adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of

ORDINANCE 2003-

SEMINOLE COUNTY, FLORIDA

Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners; and,

- (2) The recording date of Development Order #3-11000002 in the Official Land Records of Seminole County.

ENACTED this 14th day of October, 2003.

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain,
Chairman

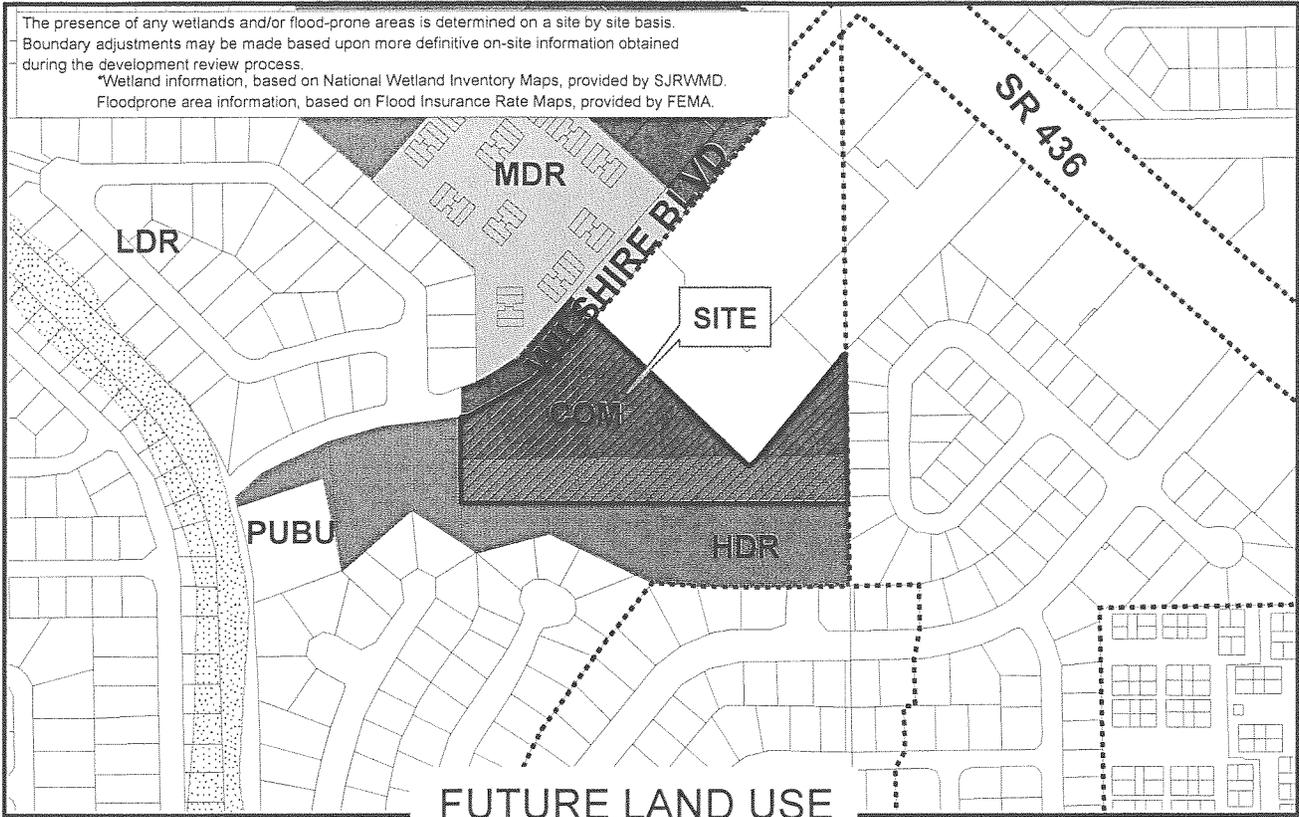
EXHIBIT A

A tract of land being a portion of Section 20, Township 21 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 19, Block "B" Coach Light Estates Section III according to the plat thereof as recorded in Plat Book 25, Page 86 Public Records of Seminole County, Florida; thence run North 00° 07' 06" East along the west line of Coach Light Estates Section III for 200.00 feet to the **POINT OF BEGINNING**; thence run North 90° 00' 00" West for 1000.00 feet; thence North 00° 03' 51" East, 230.92 feet to a point being on the South Right-of-Way of Wilshire Boulevard according to the plat of Coach Light Estates as recorded in Plat Book 21, Page 30-31, Public Records of Seminole County, Florida; said point being on a curve concave Northwesterly and having a radius of 411.28 feet; thence from a tangent bearing of North 76° 59' 58" East run Northeasterly along the arc of a curve and said Right-of-Way through a central angle of 34° 12' 40" for 245.57 feet to the point of tangency; thence continue North 42° 47' 18" East along said Right-of-Way for a distance of 190.61 feet to a point on the west line of Wilshire Plaza according to the plat thereof as recorded in Plat Book 32, Page 80 Public Records of Seminole County, Florida; thence South 47° 12' 42" East along said Boundary for a distance of 590.00 feet; thence North 42° 47' 18" East for a distance of 334.58 feet to a point on the west line of Coach Light Estates Section III according to the plat thereof as recorded in Plat Book 25, Page 86 Public Records of Seminole County, Florida; thence South 00° 07' 06" East along said Boundary also being the east line of Section 20, Township 21 South, Range 30 East per said plat for a distance 336.92 feet to the **POINT OF BEGINNING**.

Contains: 6.61 Acres, more or less.

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

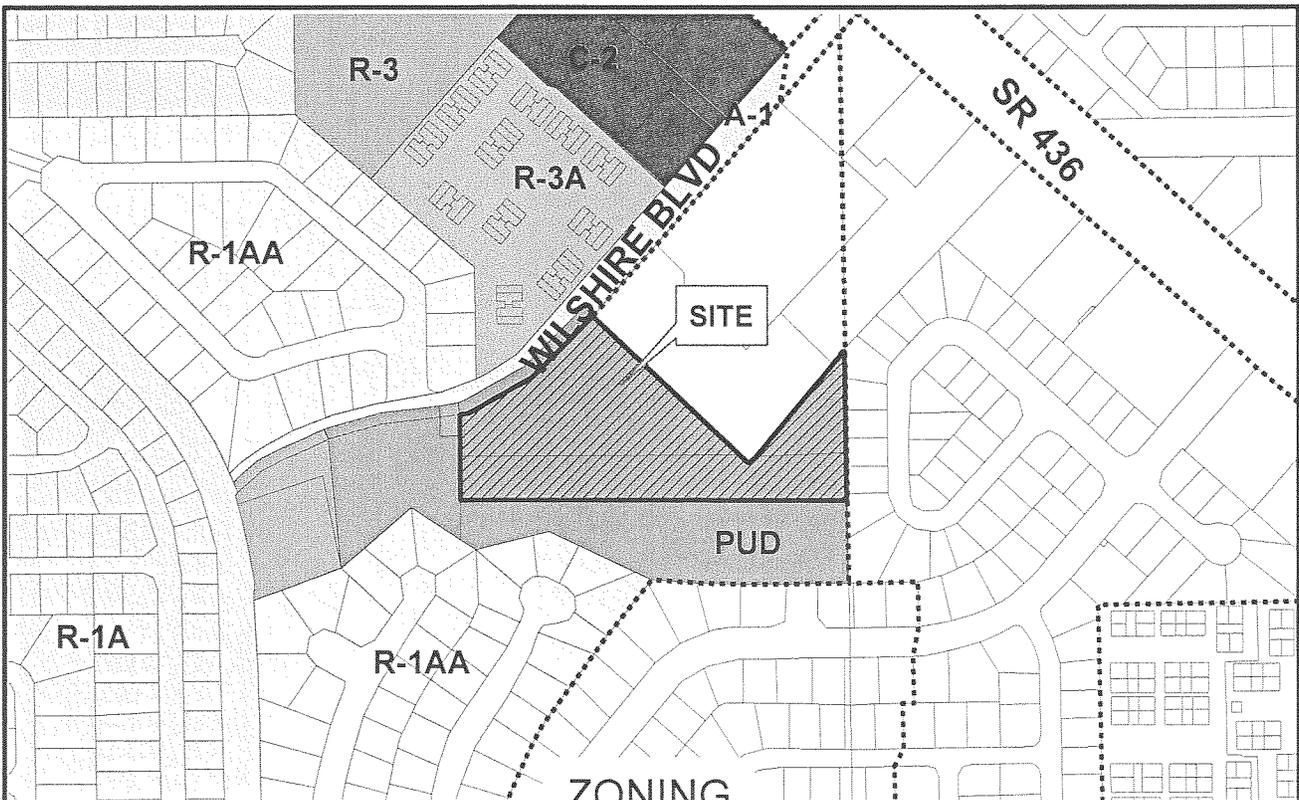


FUTURE LAND USE

Site
 Municipality
 LDR
 MDR
 HDR
 COM
 PUBU
 CONS

Applicant: Thomas Daly - Daly Design Group
 Physical STR: 20-21-30-300-001H & part of 001F, 001E-0000
 Gross Acres: +/- 6.6 BCC District: 4
 Existing Use: Vacant
 Special Notes: None

	Amend/ Rezone#	From	To
FLU	10-03SS.01	COM/HDR	PD
Zoning	--	--	--



ZONING

Site
 Municipality
 A-1
 R-1AA
 R-1A
 R-3A
 R-3
 C-2
 PUD



Amendment No: 10-03SS.01
From: COM/HDR To: PD

-  Parcel
-  Subject Property



February 1999 Color Aerials