

Item # 54

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

Continued from 10/14/03

SUBJECT: NW 46 PCD - 1ST MAJOR AMENDMENT, Meredith Pickens, Applicant.

DEPARTMENT: Planning & Development DIVISION: Planning

AUTHORIZED BY: Donald S. Fisher CONTACT: Matthew West EXT. 7353

Agenda Date: <u>10/28/03</u>	Regular <input type="checkbox"/>	Consent <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 the ordinance to APPROVE the request for a major amendment to the PCD Master Plan and authorize the Chairman to execute the Addendum #1 to Developer's Commitment Agreement for NW 46 PCD, located east of Oregon Ave., west of I-4, 1/2 mile north of SR 46 (Meredith Pickens, applicant); or
2. DENY the request for a major amendment to the PCD Final Master Plan and Developer's Commitment Agreement for NW 46 PCD, based on findings made at the meeting; or
3. CONTINUE the item until a date certain.

(District 5 – Commissioner McLain)

Matthew West, Planning Manager

BACKGROUND:

At the request of the applicant on October 14, 2003, the Board of County Commissioners continued this item to its meeting of October 28, 2003.

The applicant, Meredith Pickens, requests approval of a major amendment to the Final PCD Master Plan and Developer's Commitment Agreement for NW 46 PCD, to allow agricultural uses such as cattle grazing in order to obtain an agricultural tax exemption for the property prior to development as a commercial site. The currently approved Final Master Plan and Developer's Commitment Agreement allows the property owner to develop approximately 503,000 square feet of commercial, office and warehouse space on 55.05 acres. The project will accommodate a wide variety of retail and professional office uses. Warehouse use will be allowed as a

Reviewed by:	<u>KCC</u>
Co Atty:	<u>KCC</u>
DFS:	_____
Other:	_____
DCM:	<u>SS</u>
CM:	<u>MS</u>
File No.	<u>ph130pdp04</u>

primary use in only 3 of the 10 proposed buildings, totaling approximately 230,000 square feet or 46 percent of total floor area. In all other buildings, storage would be limited to an auxiliary use serving permitted commercial uses. Prohibited uses include communication towers, adult entertainment and billboards. The Board approved the Preliminary PCD plan on August 14, 2001 and the original final master plan was approved by the Board on November 26, 2002.

The property was rezoned from C-2, RM-3 and A-1 to C-2 on July 9, 1987. Since that time agricultural uses have not been permitted on the subject property. It was originally associated with a Development of Regional Impact application known as Sweet Gum Lake which was never finalized.

This is a unique request because the applicant is asking to insert agricultural uses in an area which has not been zoned for such uses for over 16 years. The Land Development Code (Section 30.26(a)) allows existing agricultural uses to continue after rezoning to a non-agricultural zoning category, but in this case, the applicant is rezoning to allow an agricultural use where it was not permitted before. From a planning standpoint, the requested use is not incompatible, but it is a significant policy decision to introduce agricultural uses on land that did not permit them in the past. By approving this request, the Board may be setting a precedent which will encourage similar requests throughout the County. Also, the definition of Commercial Land Use contained in Vision 2020 (the Seminole County Comprehensive Plan) Future Land Use Element does not list agricultural uses as a permitted use or a use by special exception. Therefore by virtue of that fact, staff has interpreted the introduction of agricultural uses on property assigned a Commercial designation is not permitted.

Also, several years ago, the Board adopted an ordinance to address temporary agricultural uses in PUD. At the time, there was discussion of allowing temporary agricultural uses to be started after a rezoning action, but the Board adopted an ordinance that only permits the continuation of temporary agricultural uses that existed prior to the zoning action.

While the requested agricultural uses would not have an adverse impacts on facilities, services, or adjacent properties, staff is concerned that opportunities to save the trees on the site will be lost if it is cleared for pasture. Without having the benefit of final engineering plans for the proposed commercial development, it will be difficult to determine which trees could be saved and should be left if the agricultural uses are permitted. In the absence of final approved engineering plans for the proposed commercial project, staff will request that a minimum fifty foot natural buffer be maintained around the perimeter of the project and that no oaks or other hardwoods in excess of 18 inches in diameter be removed for any agricultural use if the Board desires to approve this application.

STAFF RECOMMENDATION:

Staff recommends denial of the attached ordinance and Addendum #1 to the Developer's Commitment Agreement for NW 46 PCD based on its inconsistency with Vision 2020's definition of Commercial.

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE PCD (PLANNED COMMERCIAL DEVELOPMENT DISTRICT) ZONING CLASSIFICATION THE PCD (PLANNED COMMERCIAL DEVELOPMENT DISTRICT) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. LEGISLATIVE FINDINGS.

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled "Addendum #1 to the NW 46 PCD Developer's Commitment Agreement," "Development Order #1-20000021," and "NW 46 PCD Developer's Commitment Agreement."

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

Section 2. REZONINGS. The zoning classification assigned to the following described property is changed from PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District):

LEGAL DESCRIPTION ATTACHED EXHIBIT A

Section 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

Section 4. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. EFFECTIVE DATE. A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon filing with the Department of State and the recording of the Addendum #1 to the NW 46 PCD Developer's Commitment Agreement in the Official Land Records of Seminole County.

ENACTED this 14th day of October, 2003.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

**Addendum #1
To The NW 46PCD
Developer's Commitment Agreement**

On October 14, 2003, the Board of County Commissioners of Seminole County issued this Amendment to the "NW 46 PCD Final Master Plan Developer's Commitment Agreement" (the "PCD"):

I. Additional Commitments/Restrictions

Agricultural uses shall be permitted subject to the following conditions:

- 1) Agricultural uses are limited to the pasturing/grazing of horses or bovine.
- 2) A minimum fifty foot natural buffer must be maintained around the perimeter of the property.
- 3) No oaks or other hardwoods in excess of 18 inches in diameter may be removed from the site.

Done and Ordered this 14th day of October, 2003.

By: _____
Daryl G. McLain
Chairman
Seminole County Board of County Commissioners

Attest:

Maryanne Morse
Clerk to the Board of County Commissioners

FILE # Z2001-026

DEVELOPMENT ORDER # 1-20000021

SEMINOLE COUNTY DEVELOPMENT ORDER

On August 14, 2001, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit "A" (the "Property")

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

FINDINGS OF FACT

Property Owner: NW 46, LTD ("Owner")

Project Name: NW 46 REZONING and Preliminary PCD Master Plan

Requested Development Approval: Rezoning from C-2 zoning classification to PCD zoning classification and approval of Preliminary PCD Master Plan as shown on attached Exhibit "B".

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 Property.

Prepared by: CINDY MATHENY, SENIOR PLANNER 1101 East First Street Sanford, Florida 32771

MARYANNE MORSE, CLERK OF CIRCUIT COURT CLERK OF SEMINOLE COUNTY BK 04183 PG 1381 FILE NUM 2001756484 RECORDED 10/02/2001 10:29:42 AM RECORDING FEES 42.00 RECORDED BY M Nolden

RETURN TO SANDY ANN

BK 274 Pg 1111. 1

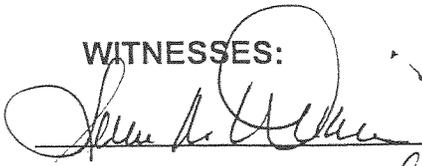
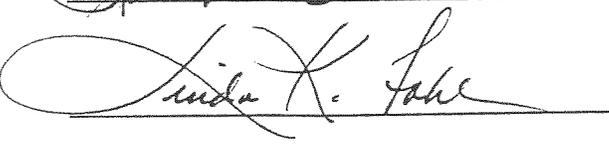
6. The Owner shall construct sidewalks within the project to facilitate pedestrian movements. Location of sidewalks shall be finalized at time of Final PCD Master Plan approval.
7. The internal sidewalk system shall be connected to the sidewalks along Oregon Avenue.
8. No searchlights may be utilized.
9. In the event the actual mix of land uses and project square footage constructed on the property exceeds the applicable DRI thresholds for multi-use developments, as set forth in F.S. 380.0651, as amended, the Applicant shall, prior to exceeding such threshold, either;(i) obtain a binding letter from the Florida Department of Community Affairs determining that the project is not required to undergo DRI review; or (ii) comply with the DRI permitting requirements of F.S. 380.06. Furthermore, material changes in the projected land use mix may require reconsideration of concurrency vesting.
10. The project may utilize 5:1 site slopes provided the design is found acceptable by Development Review staff at time of Final PCD Master Plan review.

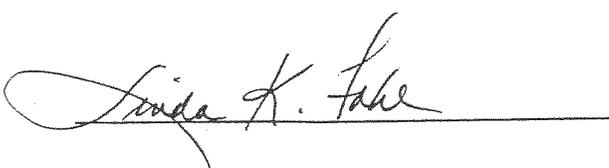
(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon the Property unless released in whole or part by 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.

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, NW 46, Ltd., a Florida limited partnership, on behalf of itself and its 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.

WITNESSES:

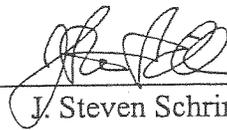







NW 46, LTD., a Florida limited partnership

By: SCHRIMSHER INVESTMENTS CORPORATION, a Florida corporation, a general partner

By: 
J. Steven Schrimsher, President

By: 
J. Steven Schrimsher, as Attorney-In-Fact for Jerome L. Youderian and Lona S. Youderian, his wife, pursuant to the Power of Attorney recorded December 30, 1996 in Official Records Book 3178, Page 200 of the Public Records of Seminole County, Florida.

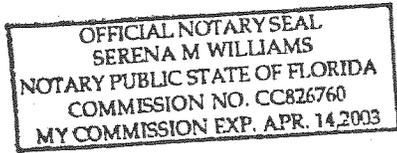
By: 
J. Steven Schrimsher, as Attorney-In-Fact for JLY Group Limited, a Florida limited partnership, pursuant to the Power of Attorney recorded December 30, 1996 in Official Records Book 3178, Page 204 of the Public Records of Seminole County, Florida.

STATE OF FLORIDA)

COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 29th day of August, 2001 by J. Steven Schrimsher, as Attorney-In-Fact for JLY Group Limited, a Florida limited partnership, pursuant to the Power of Attorney recorded December 30, 1996 in Official Records Book 3178, Page 204 of the Public Records of Seminole County, Florida. who is personally known to me ~~or who has produced~~ _____ as identification and who (did/did not) take an oath.

Serena M. Williams
NOTARY PUBLIC



Serena M. Williams
Typed or Printed Name of Notary
My commission expires:
Serial No., if any?:

NW 46 PCD
DEVELOPER'S COMMITMENT AGREEMENT

On November 26, 2002, the Board of County Commissioners of Seminole County, Florida issued this Developer's Commitment Agreement relating to and touching and concerning the following described property:

I. LEGAL DESCRIPTION

See attached Exhibit "A" (the "Property").

(The aforementioned legal description has been provided to Seminole County by the Owner of the Property.)

II. PROPERTY OWNER

The current property owner is NW 46, Ltd., a Florida limited partnership ("Owner").

III. STATEMENT OF BASIC FACTS

- A. Total Acreage: 55.050 acres
- B. Zoning: Planned Commercial Development
- C. Total Floor Area: 503,050 square feet
- D. The Final PCD Master Plan, a reduced copy of which is attached hereto as Exhibit "B" has been approved by the Board of County Commissioners of Seminole County concurrently with the approval of this Developer's Commitment Agreement and is incorporated herein.

IV. LAND USE BREAKDOWN

<u>Use</u>	<u>Approximate Square Footage of Building Area</u>	<u>Gross Area of Space</u>	<u>% of Site</u>
Stormwater Management Area (SMA-1)	N/A	12.16 acres	22.09%
Common Areas (Circulation, Road, Canal)	N/A	5.14 acres	9.34%
Building A	81,600 square feet	6.94 acres	12.61%

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY Cayla Cole
DEPUTY CLERK

RETURN TO SANDY MCCANN

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY, CFN 2002993831 BK 04633 PG 1630 RECD 12/16/2002 02:42:25 PM RECD BY J ESKENRATH

An additional 10% increase in height may be approved by the Planning Manager upon the Owner's submission of acceptable architectural renderings to the County of each building with a proposed additional height.

VII. PERMITTED AND PROHIBITED USES

A. Permitted Uses

Permitted uses shall include those land uses permitted in all commercial zoning classifications, and all commercial uses and commercial services allowed in the commercial land use designation as set forth in the Plan. The uses within the PCD shall focus on the following uses:

- office, business and professional uses
- business office
- retail sales occurring at commercial establishments, commercial centers and shopping centers
- clinics
- drug and sundry stores
- florist and gift shops
- interior decorating and draperies
- retail paint and wallpaper stores
- retail sporting stores
- banks
- furniture stores
- hardware stores
- pet stores
- radio and television sales and service
- veterinary clinics
- furniture warehouse with retail sales
- warehouses (as primary use in buildings A, F & G only and ancillary use elsewhere)
- office showroom
- customary accessory buildings and uses

B. Prohibited Uses

The following uses shall be prohibited: off-site signs (billboards) other than as existing; communication towers; adult entertainment establishments; outdoor storage of parts and supplies; contractor storage yards; alcoholic beverage sales; drive-in restaurants; flea markets; mechanical garages; paint and body shops; service stations; lumberyards; public utilities; hospitals; and nursing homes.

- H. In the event the actual mix of land uses and project square footage constructed on the Property exceeds the applicable DRI thresholds for multi-use developments, as set forth in F.S. 380.0651, as amended, the Applicant shall, prior to exceeding such threshold, either (i) obtain a binding letter from the Florida Department of Community Affairs determining that the project is not required to undergo DRI review; or (ii) comply with the DRI permitting requirements of F.S. 380.06. Furthermore, material changes in the projected land use mix may require reconsideration of concurrency vesting.

X. **PUBLIC FACILITIES**

The Owner has received its Notice of Concurrency Review Test Results, Application Number 21-0122-010-0000, dated October 17, 2001, evidencing that all Concurrency Review Requirements as provided by Chapter 10, Seminole County Land Development Code, have been satisfied. Among the conditions relating to concurrency public facilities are the following:

WATER:

Water service shall be provided by Seminole County. Design of lines and fire hydrants shall conform to all Seminole County and Florida Department of Environmental Protection Standards. Upon receiving notice by the County of reuse water being available for irrigation, the Owner shall connect to such service, along with paying any applicable connection fees.

SANITARY SEWER:

Central sanitary sewer shall be provided by Seminole County. Design of lines and pump stations shall conform to all Seminole County and Department of Environmental Protection Standards.

STORM DRAINAGE:

Storm water drainage treatment and storage for pre-post conditions are to be provided on-site according to Seminole County and the St. Johns River Water Management District's ERP regulations.

FIRE PROTECTION:

Fire protection shall be provided by Seminole County. Fire hydrant shall be located according to Seminole County regulations.

XI. **STANDARD COMMITMENTS**

- A. Unless specifically addressed otherwise herein, all development shall fully comply with all of the codes and ordinances, including the impact fee ordinance, in effect in Seminole County at the time of permit issuance.

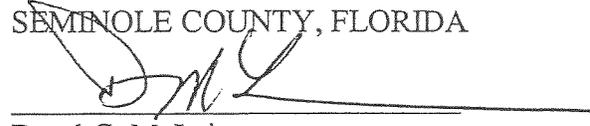
DONE AND ORDERED ON THE DATE FIRST WRITTEN ABOVE.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA



Mary Anne Morse
Clerk to the Board of County
Commissioners, Seminole
County, Florida



Daryl G. McLain
Chairman

NW 46 P.D.
Development Committee
agent

As authorized for execution by the
Board of County Commissioners at their
November 26, 2002, regular meeting.

OWNER'S CONSENT AND COVENANT

COMES NOW, the Owners, Jerome L. and Lona S. Youderian, on behalf of themselves and their heirs, successors, assigns and transferees of any nature whatsoever and consent to, agree with and covenant to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Developer's Commitment Agreement.

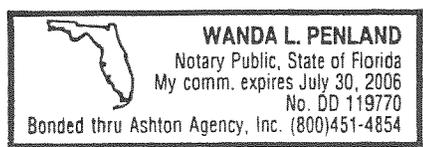
By: [Signature]
J. Steven Schrimsher, as Attorney-In-Fact for Jerome L. Youderian and Lona S. Youderian, his wife, pursuant to the Power of Attorney recorded December 30, 1996 in Official Records Book 3178, Page 200 of the Public Records of Seminole County, Florida

STATE OF FLORIDA)
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 25th day of November, 2002 by J. Steven Schrimsher, as Attorney-In-Fact for Jerome L. Youderian and Lona S. Youderian,, and who is personally known to me or who has produced _____ as identification and who (did/did not) take an oath.

[Signature]
NOTARY PUBLIC

Wanda L. Penland
Typed or Printed Name of Notary
My commission expires:
Serial No.:



FILE NUM 2002992831
OR BOOK 04633 PAGE 1638

EXHIBIT "A"
Legal Description of Property

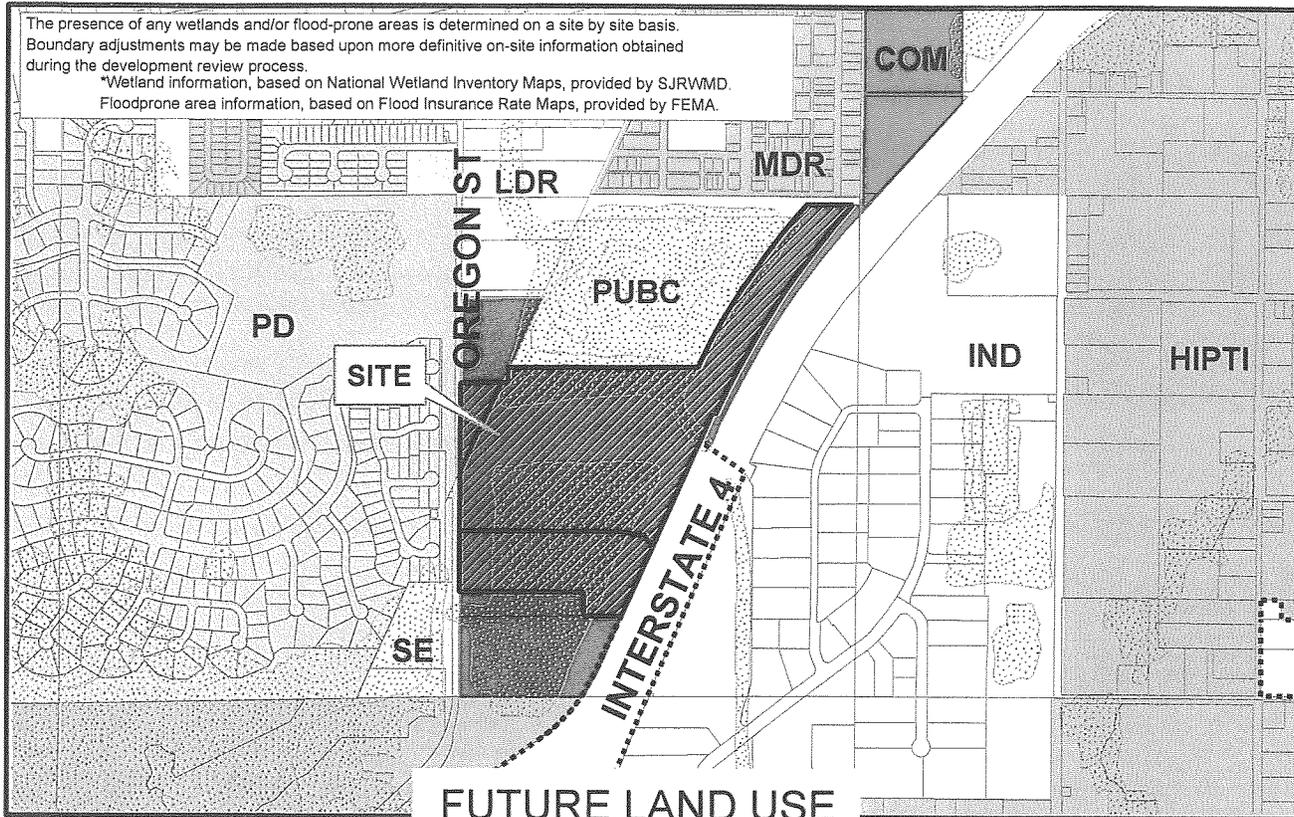
DESCRIPTION:

That part of Section 20, Township 19 South, Range 30 East, Seminole County, Florida, described as follows:

Commence at the Southwest corner of the East 1/2 of said Section 20; thence run N 89°38'35" E along the South line of said East 1/2 for a distance of 25.00 feet to the East Right-of-Way line of Oregon Avenue; thence run N 00°12'27" W along said East Right-of-Way line for a distance of 690.63 feet to the POINT OF BEGINNING; thence continue N 00°12'27" W along said East Right-of-Way line for a distance of 1308.78 feet to the South line of a Florida Department of Transportation Pond, as recorded in Official Records Book 3520 , Page 535, of the Public Records of Seminole County, Florida; thence run N 89°20'41" E along said South line for a distance of 259.29 feet to the Easterly line of said Pond; thence run N 00°39'19" W along said Easterly line for a distance of 100.00 feet to the South line of Borrow Pit No. 2 (retention pond); thence run N 89°20'41" E along said South line for a distance of 1278.52 feet to a point on a non-tangent curve concave Southeasterly and the Easterly line of said Borrow Pit No. 2 having a radius of 6179.65 feet and a chord bearing of N 32°35'43" E; thence run Northeasterly along the arc of said curve through a central angle of 12°06'57" for a distance of 1306.77 feet to a point on a line lying 50.00 feet South of and parallel with the North line of the South 5/8 of the East 1/2 of said Section 20; thence run N 89°16'23" E along said Parallel line for a distance of 315.14 feet to a point on the Westerly Right-of-way line of Interstate 4 (State Road 400), as recorded in Official Records Book 3520, Page 535, of said Public Records, being a point on a non-tangent curve concave Southeasterly having a radius of 5939.65 feet and a chord bearing of S 32°47'00" W; thence run Southwesterly along said Westerly Right-of Way line and the arc of said curve through a central angle of 15°36'44" for a distance of 1618.47 feet to the Northeasterly line of the 90' wide County M. M. Smith Canal Easement as recorded in Official Records Book 3513, Page 1546, of said Public Records; thence run N 37°21'01" W along said Northeasterly line and said Westerly Right-of-Way line for a distance of 22.57 feet to a point on a non-tangent curve concave Southeasterly having a radius of 5959.65 feet and a chord bearing of S 24°30'21" W; thence run Southwesterly along said Westerly Right-of-Way line and along the arc of said curve through a central angle of 01°08'41" for a distance of 119.07 feet; thence run S 24°00'12" W along said Westerly Right-of-Way line for a distance of 1355.40 feet; thence run S 89°38'22" W for a distance of 243.58 feet; thence run N 00°21'38" W for a distance of 157.35 feet; thence run N 90°00'00" W for a distance of 816.93 feet to the POINT OF BEGINNING.

Containing 55.050 acres more or less and being subject to any rights-of-way, restrictions and easements of record.

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.

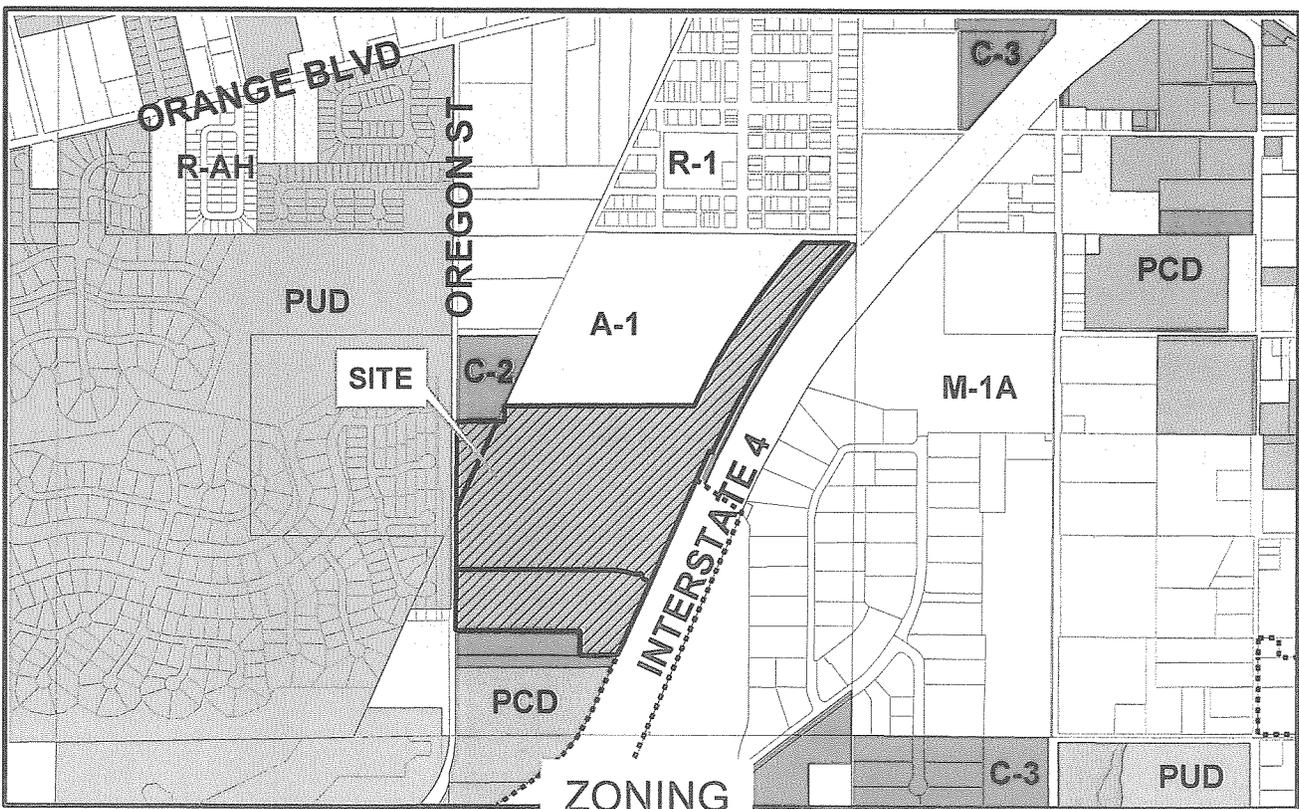


FUTURE LAND USE



Applicant: Meredith Harper-Pickens
 Physical STR: 20-19-30-300-0040-0000
 Gross Acres: +/- 55.05 BCC District: 5
 Existing Use: Single Family Residential
 Special Notes: None

	Amend/ Rezoned#	From	To
FLU	--	--	--
Zoning	Z2003-039	PCD	PCD



ZONING





Rezone No: Z2003-039
From: PCD To: PCD

-  Parcel
-  Subject Property



February 1999 Color Aerials