

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

Continued from 10/28/03

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>11/18/03</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, applicant requested this item be continued to November 18, 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>KTC</u> Co Atty: _____ DFS: _____ Other: _____ DCM: <u>ES</u> CM: <u>TK</u> File No. <u>ph130pdp02</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.

If the Board approves the request, staff recommends that any approval be subject to 1) agricultural uses being limited to the pasturing/grazing of horses or bovine 2) a minimum fifty foot natural buffer being maintained around the perimeter of the project and 3) that no oaks or other hardwoods in excess of 18 inches in diameter be removed on the site for said pasturing.

District 5

Attachments: Ordinance

Addendum to DCA

Exhibit A: Sketch of description

Exhibit B: Location map

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 18th day of November, 2003.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

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.

**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:

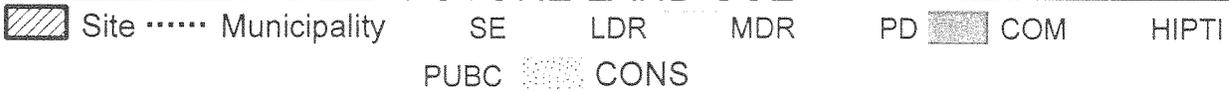
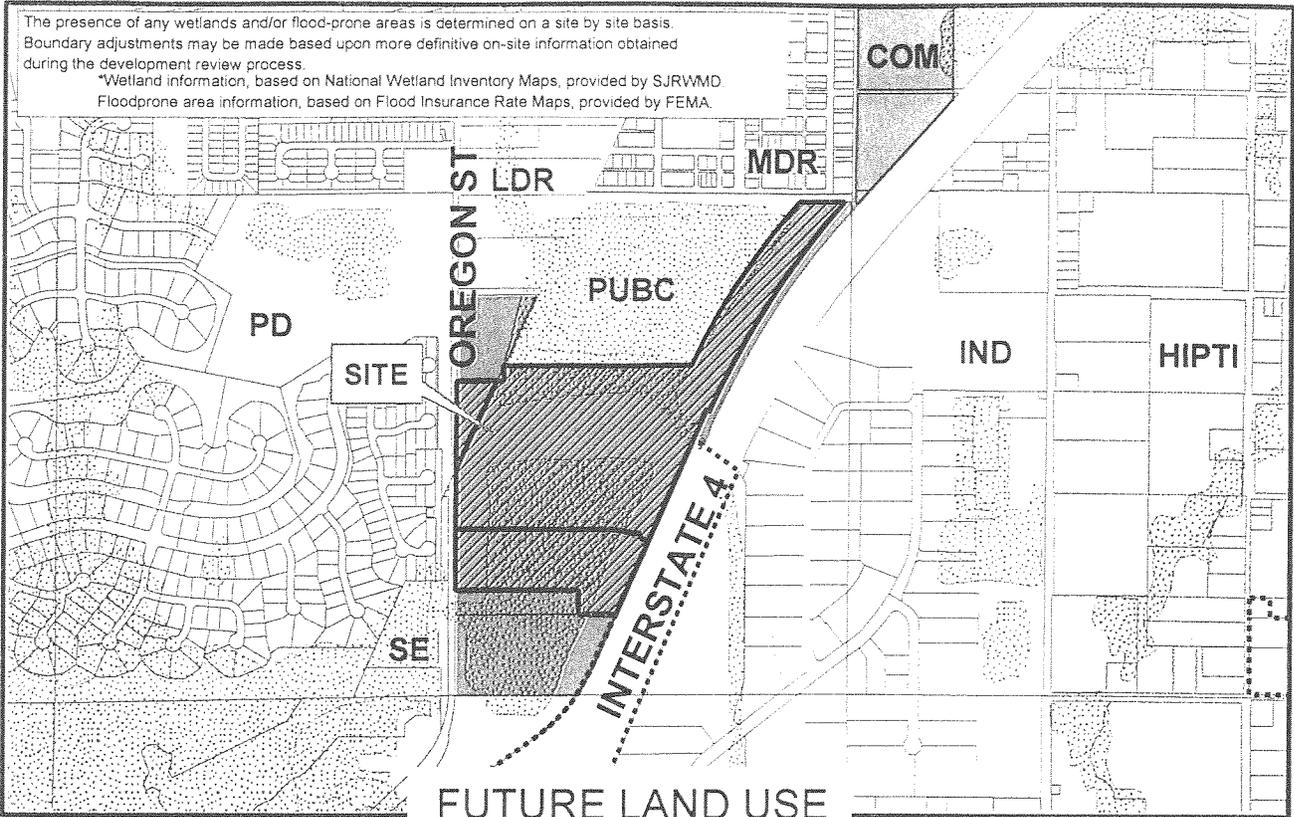
- 1) Agricultural uses are limited to the pasturing/grazing of horses or bovine.
- 2) A minimum fifty foot natural buffer must be maintained around the perimeter of the property.
- 3) No oaks or other hardwoods in excess of 18 inches in diameter may be removed from the site.

Done and Ordered this 18th day of November, 2003.

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

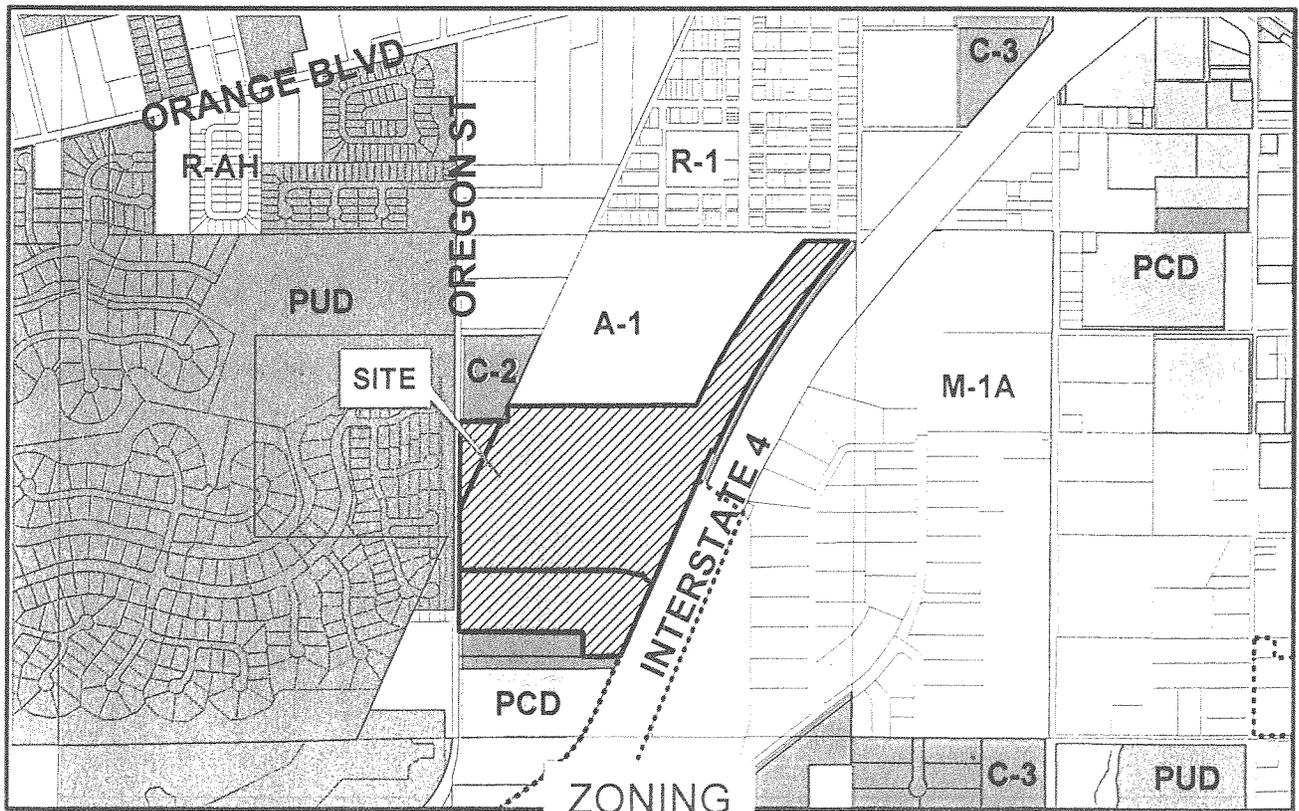
Attest:

Maryanne Morse
Clerk to the Board of County Commissioners



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/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2003-039	PCD	PCD





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

-  Parcel
-  Subject Property



February 1999 Color Aerials