

**LOCAL PLANNING AGENCY/**  
**PLANNING AND ZONING COMMISSION**  
**COUNTY SERVICES BUILDING**  
**ROOM 1028**  
**December 5, 2001 – 7:00 P.M.**  
**MINUTES**

**Board Present:**

Dick Harris, Chairman  
Paul Tremel  
Ben Tucker  
Alan Peltz

**Board Absent**

Tom Mahoney, Vice Chairman  
Mark George  
Grey Wilson

**Staff Present:**

Don Fisher, Planning and Development Director  
Matt West, Planning Division  
Cindy Matheny, Planning Division  
Amanda Smith, Planning Division  
John Thompson, Development Review Division  
Karen Consalo, Assistant County Attorney

**I. CALL TO ORDER**

Dick Harris, Chairman, convened the meeting to order at 7:00 p.m.

**II. ROLL CALL**

Quorum was established.

**III. ACCEPTANCE OF PROOF OF PUBLICATION**

**Chairman Harris asked for Proof of Publication**

**Motion by Commissioner Tremel to accept proof of publication. Second by Commissioner Peltz.**

**Motion passed unanimously. (4-0)**

#### **IV. APPROVAL OF MINUTES**

**Motion by Commissioner Peltz to approve the minutes of the November 7, 2001, meeting. Second by Commissioner Tucker.**

**Motion passed unanimously. (4-0)**

#### **VI. NEW BUSINESS**

- A. SUMMERFIELD-PSP; RICHARD M. LABINSKY, PE./AL GHANDOUR; APPROXIMATELY 2 ACRES MORE OR LESS; PRELIMINARY SUBDIVISION APPROVAL FOR 50 LOT, SINGLE FAMILY RESIDENCE, ZONED R-1A; N OF 2ND AVE, W OF AVE H IN CHULUOTA**

**Commissioner Maloy – District #1**

**John Thomson**

The applicant is requesting approval of a Preliminary Subdivision Plan for 50 single family residential lots. This project is located at the northwest corner of Second Street and Avenue H in the Chuluota Village area.

The property is zoned R-1A, which requires a minimum lot size of 9,000 square feet and a minimum lot width of 75'. The project is located within the confines of the Urban Boundary as designated by the Comprehensive Plan. The internal roads will be privately owned and maintained and Florida Water Service will provide water and sewer service. A 5' wide landscape tract has been provided adjacent to Avenue H and Second Street. This tract will contain canopy trees and a 6' high block wall on Avenue H and a fence along Second Street. Net density for this project will be approximately 2.5 dwelling units per acre.

Staff has reviewed the application and finds that it meets the development standards of the R-1A zoning district and the applicable requirements of the Land Development Code.

Staff recommends approval of the Preliminary Subdivision Plan.

**Chairman Harris asked if there were any waivers being requested?**

Mr. Thomson said there were no waivers being requested.

**Motion by Commissioner Tucker to approve to approve the Preliminary Subdivision Plan as presented by staff. Second by Commissioner Peltz.**

**Motion passed unanimously. (4-0)**

## **V. OLD BUSINESS**

### **A. RED BUG VILLAGE; HARLING LOCKLIN & ASSOCIATES/HUGH HARLING; APPROXIMATELY 9.71 ACRES MORE OR LESS; REZONE FROM PLANNED UNIT DEVELOPMENT/ PLANNED COMMERCIAL DEVELOPMENT (PUD/PCD) TO PLANNED UNIT DEVELOPMENT/ PLANNED COMMERCIAL DEVELOPMENT (PUD/PCD) AND AMENDMENT TO THE DEVELOPER'S COMMITMENT AGREEMENT; NORTHEAST CORNER OF DODD ROAD AND RED BUG LAKE ROAD Commissioner Maloy #1 Amanda Smith**

The applicant, Hugh Harling, on behalf of Ardmore Properties, is requesting to amend the Final Master Plan and Developer's Commitment Agreement for the Red Bug Village PUD/PCD. The proposed revisions would change the use for a portion of a 9.71 acre tract on the northeast corner of Red Bug Lake Road and Dodd Road from office to commercial uses, and would provide for an additional access point from Dodd Road to this tract to allow for commercial uses within the office tract.

The PUD/PCD was originally approved in 1998 with a 60,000 square foot office building on the west end of the tract, and 46,550 square feet of commercial on the remainder. The proposed revision would delete the office use, and increase the commercial uses to 70,000 square feet. There is an existing commercial tract within the PUD/PCD located on 2.2 acres at the southeast corner of Red Bug Lake Road and Dodd Road. A Walgreen's drug store was constructed on this site.

Staff has no objections to the modifications of uses from office to commercial on the tract. Staff recommends that the proposed additional access to the tract from Dodd Road not be approved. The tract has available access from major project access points immediately east of the tract and north of the tract, as well as a direct access from Red Bug Lake Road. Additionally, Development Review Staff have indicated that the proposed access does not meet the required separation of 330' from the existing entrance to the north or from the Dodd Road/Red Bug Lake Road intersection. Staff believes that the approved access points are sufficient to serve this tract.

Staff also recommends that the following modifications be made to the proposed amended Developer's Commitment Agreement. These recommendations are not reflected in the attached proposed Commitment Agreement prepared by the applicant.

1. The owner shall contract pedestrian connections from sidewalks within public rights-of-way to internal sidewalks to provide for pedestrian paths to building entrances.
2. There shall be a 10' wide foundation landscape buffer between parking lots and buildings.
3. No neon lights shall be utilized on buildings or signs.
4. The commercial tract north of Red Bug Lake Road shall provide a pedestrian connection to the existing apartment site.

5. No drive-thru businesses shall be permitted.
6. No outdoor amplifications of sound shall be permitted.
7. All sides of buildings shall have similar architectural treatment and appearance. No side shall have the appearance of a loading/service area.
8. Roofs shall be hip, gable, or gambrel roofs.
9. Mechanical units, whether ground- or roof-mounted shall be screened from view.
10. Development within Tract 2 shall comply with active/passive buffer standards where adjacent to Tract 1 (existing apartment site).

Hugh Harling, representing the applicant, said the subject site is presently owned by Florida Hospital. The 60,000 square foot office building that was originally proposed for the western end of the site was to be occupied and leased by Florida Hospital. They have, in their master planning, moved a little further east to be more centrally located and also to be spaced out appropriately with their other facilities. The need they had for 60,000 square feet originally does not exist at this point and time.

The application is to reduce the total square footage to 70,000 square feet from 106,550. There are some significant advantages to this reduction to the community area. A professional office in this location would draw peak hour traffic in the morning where a commercial operation does not have a peak a.m. traffic requirement. Because the square footage is being reduced significantly, the commercial traffic that is generated here in a p.m. configuration will also be less than what has been proposed in the past.

We have made every effort to coordinate with the property owner to the north and also met with the Red Bug Coalition twice. Every time there has been a change, the change has been submitted to them. They have indicated verbally that they will support the project.

We are in 99% agreement with staff's report. The only thing we would like to still have approved is the additional access off of Dodd Road. We feel this makes the traffic flow between the apartment complex to the north and our project work better. We are not sure it should be a right in/right out at this point but think that it may be a right in only. We are having a traffic study completed at this time and we intend to have that prior to the Board of County Commissioner hearing. We would like some flexibility on that one item as you move forward with your decision tonight.

The second item is item #5 in the Developer's Commitment Agreement – "*No drive-thru business shall be permitted*". We agree that there would not be any drive-thrus for any restaurants or anything like that but we would like to have the ability to have a drive-thru for a banking facility or a pharmacy type facility, should one of those facilities decide to locate in the project.

We have received something from the apartment representative but have not had a chance to look it over at this time. We will look it over and communicate with them prior to the BCC meeting.

**Commissioner Peltz said he lives behind the apartment complex and the exit on Dodd Road, with the existing traffic situation, really makes no sense. That intersection is already bad enough with people turning right off of Red Bud onto Dodd and people turning left from Red Bug onto Dodd.**

Mr. Harling said that the location they are looking at would be potentially a right in only that would get traffic out of the Dodd Road traffic corridor quicker. It is not being designed to allow a left turn out onto Dodd Road.

**Commissioner Peltz said there is an entrance to the apartment complex that has a cul-de-sac there for the exit and egress. That would be less of a problem.**

Mr. Harling said the only thing he is asking for is the flexibility to do a traffic study to ascertain exactly what the problems are that he is identifying and if that type of access would alleviate those rather than exacerbate them.

**Commissioner Tucker asked if the traffic study would also address a proposed traffic light coming out of the apartments?**

Mr. Harling said there is a traffic light at the present time on Red Bug. The immediate southeast corner of the entire parcel is a fire station that was donated to County by Florida Hospital.

**Commissioner Tucker asked if the study would include the possibility of a signal at Dodd Road if you only have the one exit onto Dodd Road utilizing the cul-de-sac and going into the exit that is existing at the apartments?**

Mr. Harling said that both of those driveways on Dodd Road are too close to the signal at Dodd and Red Bug to function appropriately.

**Chairman Harris asked what the entrance and egress changes were from what had originally been planned with 60,000 square feet of office?**

Mr. Harling pointed out the differences on the map provided to the Board in their package.

**Chairman Harris asked if the applicant was donating the land to be used solely for the use of right turn into the commercial property?**

Mr. Harling said yes.

**Commissioner Peltz asked if the high tension power lines along the edge of the property would be moved in order to put the right turn lane in?**

Mr. Harling said the adjustments would be in the study that will make the ability to have an 11' right turn lane coming into the property. There will probably have to be one power line pole relocated in that distance and if that's what it takes to make this work, then that is what the applicant would do. The only bad thing about putting another lane is that it creates a wider weave for the people coming from the left to get into the right lane for a right turn.

**Commissioner Peltz said that is the problem now, so if you put a right turn lane in it will back up traffic even more.**

Mr. Harling said the traffic study will determine if the net effect will be a positive effect or not.

**Chairman Harris asked if they would abide by whatever the traffic study determined?**

Mr. Harling said that was correct.

**Commissioner Peltz if the proposed entrance is used, where would the exit be?**

Mr. Harling said when they leave the complex, it would depend on the direction they want to travel. If they want to go north, they would go out the apartment complex and travel north on Dodd Road. To go east, it would be best to go to the traffic light to get out. Going west, it would be faster to go to the traffic light exit and go to the light at Red Bug and Dodd. To go south on Dodd, you would save time to go to the traffic light, come to the signal at Red Bug and Dodd and turn left during peak hours. During non-peak hours, it would be faster to go the apartment complex and turn to the south and go south on Dodd.

**Commissioner Tremel asked if Florida Hospital still owned the tracts on the south side of Red Bug Road?**

Mr. Harling said they own the tracts except for the Walgreens, which was sold.

**Commissioner Tremel said he hoped that this request for a change of zoning was not a precursor to what is on the south side because that abuts residential property. One of the reasons that it was approved as office in the first place was to make sure that property had protection.**

Mr. Harling said the real estate agent for Florida Hospital has requested a proposal for an office complex design similar to Bay Tree on Lake Mary Boulevard.

**Commissioner Peltz asked why the office complex couldn't be on the north side?**

Mr. Harling said he is providing the services that the market place wants at this intersection at this location and by doing that you will reduce the number of trips out of the area. This will serve the local community. This particular location is an ideal location for a commercial utilization.

#### PUBLIC COMMENT

David Dull, 3831 Aldergate Place, is opposed to the request. He is concerned about the access onto Dodd Road. He feels people will come out of the complex and whip around and cut back onto Dodd to get back onto Red Bug. He feels this project will raise a lot of noise and lights into the apartment complex. Also, Dodd Road is going to be widened and more people will be traveling into that intersection so the traffic study needs to look at the future of Dodd Road and not how it exists now.

He is concerned how the south side will be developed and hopes there will be a barrier of some type between the Forest Creek Subdivision and whatever is built on that property. He hopes there will be no relaxation of codes on that piece of property when it is developed. He would like South Florida Hospital to donate some sort of health focused exercise park there on that south property.

Neil Frazee, 214 E. Lucern Circle, spoke in opposition to the request. He represents Shadow Creek Apartments to the north. He doesn't feel there is a need for the additional access driveway on Dodd because it creates problems from a stacking standpoint. The distance from the intersection up to where the current driveway is that serves the multi-family provides for additional and greater stacking points. He is opposed to that additional point of ingress/egress whether it is a simple right in or a right in/right out. Overall his client is opposed to this request because of the lack of specificity associated with this development. The packaged submitted only shows three boxes. He showed some photographs of some of his concerns relating to front and rear design, lighting, signage and landscaping. Staff has tried to establish some additional standards and modifications to the original Developer's Commitment Agreement that his firm helped prepare for this project. He entered a list of expanded provisions into the record.

Tom Cavanaugh, owner of the Shadow Creek Apartments, is opposed to this request. This will be nothing more than a glorified strip shopping center and we don't need any more strip shopping centers in Seminole County. At the rezoning in 1998, this was proposed as 5 acres of office complex that was going to be maintained and owned by Florida Hospital and 5 acres of some sort of retail center that was going to be primarily made up of several free standing restaurants, such as a Pebbles. That is what the community approved and that is what the community wanted. He feels the traffic study should be completed before a decision is made. This request has been submitted with too much flexibility and needs to be more specific about what is going in there. He wants to see more landscaping and open space instead of so many parking spaces.

Mr. Harling said this is the six rendition of a site plan in an effort to meet Mr. Cavanaugh's requirements. At the back of the center, we have provided parking and the ability to walk through and in addition all of the dumpsters and delivery systems are being screened and will not be seen from the rear of the project. It is not our intent to devalue the adjacent property but to cooperate and bring forward a project that we can all be proud of. We are willing to commit to a wall that will match the existing design of the Shadow Creek Apartments and the landscaping will totally screen the parking lot from the existing apartment complex. The number of parking spaces that are required under this site plan are 316 and we have provided 411. That is a number that is realistic with market conditions. He requested approval of his request.

**Commissioner Tremel asked the width of the landscape buffer between this project and the project to the north?**

Mr. Harling said it is approximately 25'.

**Commissioner Tremel asked if the original plan that was adopted calls for the commercial area that was designated as commercial to be free standing buildings or if they had the flexibility of being connected?**

Mr. Harling said the original had 3 free standing buildings that were shown as part of the site plan and it had one free standing building that was shown as a large office building.

**Commissioner Tremel said we've taken 3 free standing buildings and changed that to what?**

Mr. Harling said they have been changed to building pods that will have multiple uses in 2 of them.

**Commissioner Tremel asked staff what the original plan permitted?**

Ms. Matheny said the original PUD had a small square footage of commercial and it did show 3 free standing buildings and the commercial portion would have been required to comply with the active/passive buffer standards but the office was not required to at that time.

**Commissioner Tremel asked if each of those stand alone commercials would have had to meet those standards separately?**

Ms. Matheny said the overall developer who built the infrastructure for that tract would have been required to meet the buffer requirements along the north perimeter but the buildings would have been constructed independently of each other.

**Commissioner Tremel said the concept was that the square footage that was originally approved in commercial was going to be smaller individual commercial.**

Ms. Matheny said that was correct. At that time there was a total of 46,550 square feet of commercial and it was shown as 3 buildings on the final master plan.

Mr. Harling said there is no where in central Florida where you have 46,000 square feet of commercial and only 3 users unless you are in a big box configuration.

**Commissioner Tremel said the concept for the commercial was not to include things like Goodyear Tire and those type of uses so he feels there is reason to request that there be some greater degree of specificity in terms of what types of uses will be going into this.**

Mr. Harling said they had originally looked at a Goodyear Tire store and agreed that was an inappropriate use and removed that from one of the uses. We are not looking at any C-2 uses or automotive uses. We are looking at restaurant uses of high-end quality and things of that use and are willing to specify those.

**Commissioner Tucker asked if those buildings were specifically indicated to be single use commercial?**

Ms. Matheny said, as she recalls, the one that was distinctly specified was the building that was on the pond, which was demonstrated as a restaurant with possibly some outdoor seating. She does not believe there was any restriction to actual single use buildings but it did specify 3 smaller buildings. What is in the commitment agreement would permit them to have more than one user per building.

**Commissioner Tucker asked when you look at the traffic impact of 60,000 square feet out and the additional 24,000 square feet of commercial in, what is the net effect of traffic, greater or less?**

Ms. Matheny said she could not answer that not knowing what the usage is. Generally it is not an issue at this level until the applicant applies for concurrency.

**Commissioner Tucker asked if a 60,000 square foot office building was put in verses the net difference for a commercial building of 24,450 square feet, which is going to have the greater impact on traffic?**

Ms. Smith said the traffic patterns are going to differ. Retail commercial is going to have a different type of traffic flow and spread out over 7 days a week. Depending on the office type uses, those can be worse and the peak hours are generally the same time as rush hour traffic. If you're looking to spread out the problem, commercial retail might be more of a solution sometimes.

**Commissioner Tucker asked if you were looking at concurrency for a free standing 26,000 square foot commercial building versus a 60,000 square foot office, would the office traffic impact generally be less?**

Ms. Smith said it could be less.

**Commissioner Tucker asked if this is generally a lesser impact use than was what approved?**

Mr. West said at this stage, staff did not do any transportation analysis. We don't have a traffic study and we are at a level where we don't know specifically what types of uses going to go into those buildings. Without a traffic study, staff does not feel comfortable saying one or the other is going to have more or less traffic impact.

**Commissioner Tucker agreed but said that is what staff is asking the Board to decide. He asked what staff based their recommendation on?**

Mr. West said it was based on compatibility, certain design standards to make it more compatible but not the actual issue of whether this is going to generate more traffic. We don't have that information at this point.

**Commissioner Tucker said he is trying to get a handle on the concept between the plan that is being proposed versus the plan that has been approved. It appears that this plan creates less of an impact.**

**Chairman Harris said the Board could put some specific things in just as staff added 10 conditions that would contain more specificity.**

**Commissioner Tremel said if we compare the proposal tonight for the changes in the PUD with the original PUD, the degree of specificity doesn't seem any less in this than the original.**

**Chairman Harris said as he looks at the list of 10 items that staff has added and the things that seem to be most important to the owner of the apartments is the concept of a uniform design rather than just a strip shopping center.**

**Chairman Harris asked Mr. Harling if that was part of his plan?**

Mr. Harling said the Oakmont Center would be the model since that's the one that the apartment owner seemed to like. We feel that our plan even enhances on that. We are willing to commit to that level of development on this project.

**Chairman Harris asked if theme design, which extends around the building and screening of dumpsters at the building line could be added to the list of 10 items that staff required?**

Mr. Harling said he would commit to that.

**Chairman Harris said there is no specificity as to how dense the screening would be on the north side of the property. Chairman Harris asked if there was a statement that could be put in the agreement that would make that a bit above ordinary landscaping in addition to whatever wall that will be put in?**

Mr. Harling said he would be willing to commit to that there will be something to screen 6' high and it probably will be a combination of landscaping and berm and it would be at 80% opacity when it is installed.

**Chairman Harris asked if the center lighting used would be the standard down lighting?**

Mr. Harling said he would agree to that.

**Chairman Harris asked that the following conditions be added to the list of conditions:**

**#11. Theme architecture surrounding the building.**

**#12. Screening of the dumpsters at the building line.**

**#13. Landscaping buffer of 6' in height with 80% opacity at installation.**

**#14. Down lighting of shoe box fixture or a higher quality not to exceed a maximum height of 15'-16', including fixtures. No flood lights on the buildings.**

**#15. Gated access for pedestrians.**

**#16. Delivery and trash pick-up shall be no earlier than 6:00 am.**

**#17. No C-2 or automotive uses.**

**Commissioner Peltz requested to add no additional access from Dodd Road.**

**Chairman Harris felt that should come out of the traffic study. If the professional engineers do that study, that may or may not be something that is realistic. He said that a right in/right out at that location was not an unreasonable request.**

**Commissioner Peltz said that a traffic study may say that is okay, but it is his experience from living there, he would request not having that second entrance.**

**Commissioner Tremel said staff is not recommending approval of that entrance. If the applicant can get staff to change their mind later, we should not tie their hands.**

**Commissioner Peltz asked the applicant to agree to that condition.**

**Mr. Harling said that was one condition he could not agree to. He would like the opportunity to complete the traffic study and to show that it will improve the traffic at that intersection.**

**Motion by Commissioner Tucker to approve subject to the 17 items previously listed. Second by Commissioner Tremel.**

**Motion passed 3-1. Commissioner Peltz voted against the motion.**

## **VI. NEW BUSINESS**

**B. LAKE MONROE COMMERCE CENTER (FRED'S TIRE SERVICE); RAND YARD RAILWAY DEVELOPMENT/SID VIHLEN; APPROXIMATELY 3.9 ACRES MORE OR LESS; REZONE FROM COMMERCIAL (C-1) AND AGRICULTURE (A-1) TO PLANNED COMMERCIAL DISTRICT (PCD); EAST SIDE OF C-15, SOUTH, EAST OF ORANGE BLVD.**

**Commissioner McClain – District #5**

**Kathy Fall**

**Motion by Commissioner Temel to continue this item to the next schedule meeting on January 9<sup>th</sup>, 2002. Second by Commissioner Tucker.**

**Motion passed unanimously. (4-0)**

**C. KINGSTON GROUP; Mark Crone, on behalf of Arthur E. Grindle, Jr. and Janice K. Grindle; APPROXIMATELY 23 ACRES MORE OR LESS; REZONE FROM AGRICULTURE (A-1) TO SINGLE FAMILY DWELLING DISTRICT (R-1AAAA) AND COUNTRY HOMES DISTRICT (RC-1); LOCATED ON THE WEST SIDE OF LITTLE LAKE HOWELL AT THE INTERSECTION OF LAKE DRIVE AND BIRD ROAD.**

The applicant is requesting that 9.855 acres of property be rezoned from A-1 (Agriculture) to R-1AAAA (Single Family Dwelling) and RC-1 (Country Homes District). The area to be rezoned is part of a parent tract that contains a total of 23 acres. The remaining portion of the parent tract, comprising of 13.145 acres, is designated as wetlands.

The applicant's original request was to rezone the 9.855 acres from A-1 to R-1AAAA to develop a 13 lot single family subdivision, with a maximum of 5 lots having frontage on Little Lake Howell. At their regularly scheduled meeting on August 2, 2000, the Land Planning Agency/Planning and Zoning Commission unanimously voted to recommend denial to the Board of County Commissioners. The Commission recommended that if the subject property is rezoned, the zoning should be changed to PUD (Planned Unit Development) with waterfront lots having a minimum size of 1 acre and all other lots having a minimum area of 13,500 square feet. The applicant requested that the item not go forward to the BCC at that time so that he could address community and staff's concerns.

Staff has subsequently met with the applicant to discuss options that could be considered for the project. Staff felt that in lieu of submitting a PUD, Mr. Crone could address the LPA's concerns by rezoning the property to R-1AAAA along Bird Road and to RC-1 along the lakefront, with the remainder of the property to be designated as wetlands. The minimum lot size for the R-1AAAA zoning district is 21,780 square feet, with the RC-1 zoning district having a minimum of 1 net acre (43,560 square feet) in area. The revised request would permit 4 lots along the road within the R-1AAAA zoning classification and 3 lots along the lakefront within the RC-1 zoning district, resulting in less lots than the original request for a 13 lot subdivision and likely less than could be achieved within a PUD. The R-1AAAA zoned lots will not have any access to Little Lake Howell.

Staff's opinion is that the proposed request is:

1. In compliance with the applicable provisions of the Seminole County Comprehensive Plan and the Seminole County Land Development Code related to the RC-1 and R-1AAAA zoning classifications; and
2. As proposed, the request would be compatible with surrounding development.

Therefore, staff recommends approval of the rezoning from A-1 to R-1AAAA and RC-1 zoning classifications per the conditions listed in the Development Order:

- a. There shall be no public boat launching facility to Little Lake Howell for the lots that do not front on Little Lake Howell.
- b. The property's main access to the property shall be from Bird Road.

**Commissioner Tucker said that had there been a quorum he would not participate in this. He does not have a personal conflict on the zoning issue. A company that he represents on different issues that are unrelated to this one is doing business with Mr. Brindle and he has met with Mr. Crone concerning Florida Power Corporation's issue. He wanted to disclose that for the public.**

**Chairman Harris said the proposal that came before the Board previously from the Kingston Group was a very high quality proposal. The Board voted against it because it did not maintain a long-standing trend and agreement with the existing development around the lake.**

Mr. Crone said he has worked with homeowners and the Lake Tuskawilla Homeowner's Association and feels that he has come up with a plan that is much more compatible and appreciated the points they made.

The previous application called for 5 lake front lots and there was a request to reduce it to 4 and the current project has 3. There are now three 1/acre lake front lots, 150' lake frontage on each of the lots as a minimum and no access for any lots other than the lake front lots. In addition to that, an amendment to the homeowner covenants and restrictions, which addresses transference of responsibility for maintenance of Tuska Trail which is to the north of the property and certain fencing along that trail. It also addresses things such as recording of the conservation easement on the jurisdictional lands to the south of the property, landscape buffers to the north of lot 4, limits to the lake access, mandatory homeowner membership, maintenance of Tuska Trail, the minimum house sizes, vehicle ingress/egress locations and several other things. This design has also been, on a preliminary basis, reviewed by staff with respect to issues such as a meeting code for ingress/egress and minimum lot widths on the legal rights-of-way. While there hasn't been a formal determination, he believes this design meets the Seminole County codes in that regard.

#### PUBLIC COMMENT

Carole Barice, 28 W. Central Boulevard, is with the legal firm of Fowler, Barice, Finney and O'Quinn and represents the Lake Tuskawilla Homeowner's Association. The homeowners are very pleased with quality of the work that has been produced by the Kingston Group and are in favor of the request.

She requested that the Development Order include the terms and conditions that have been agreed upon by the homeowners and Mr. Crone. However, if that cannot be done, she would request to add a request to add a "c" to the Development Order that the development will be consistent with "Exhibit B" because that sets forth the lot layout as well as the conservation easement.

**Chairman Harris asked how the current Florida Power easement interacts with or causes a problem in creating the conservation easement?**

Ms. Barasie said she did not know how it would interact with the conservation easement. It probably won't be a problem. The concept of the conservation easement is that there would be no development of the property. If there is an existing power line there, that's not inconsistent with the conservation easement. What would be inconsistent with conservation easement would be some sort of active development of the property or active recreational facilities or something like that. In drafting the conservation easement, that will be excepted out because it will be recognized as an existing use. We don't foresee that as being an issue or a problem.

**Chairman Harris asked if there was a way to make sure that what the Board was recommending is something that can be carried through? We could say that the area that is proposed as conservation easement would be permanently barred from any development not currently existing.**

Ms. Barice said the concept of the conservation easement would do that. You could acknowledge it is currently existing and would not be in violation of any terms of the conservation easement.

**Chairman Harris asked if it could be worded, "the development consistent with Exhibit B subject to the existing Florida Power easement"?**

Ms. Consalo said that staff has not had the opportunity to review the Florida Power easement. That easement could involve the ability to build roads and buildings or as little as clearing shrubs. In any case, that easement could have an effect on the conservation easement. It does indicate that the entire parcel would not be subject to a pure conservation easement.

**Chairman Harris asked if the terminology could be if "c" was added, "development consistent with Exhibit B subject to the existing Power Florida easement"?**

Ms. Consalo said yes, that would work.

Nancy Russel, 4936 Tuskabay Court and Cindy Susi, 4928 Tuskabay Court, did not speak.

Mr. Crone wanted it to be clear that there would be no boat launching except for those properties that front on the lake.

**Motion by Commissioner Tremel to approve the request subject to the three conditions stated in the Development Order. Second by Commissioner Peltz.**

Ms. Smith clarified the three conditions:

- a. There shall be no boat launching facilities to Little Lake Howell for the lots that do not front on Little Lake Howell.
- b. The property's main access shall be from Bird Road.

c. Development consistent with Exhibit B as subject to the existing Florida Power easement.

**Chairman Harris confirmed that these were the three conditions.**

Ms. Matheny said this item was advertised for the December 11, 2001, Board of County Commissioners meeting but due to a staff error in posting the placards on the property, it will be continued to the January 8<sup>th</sup> meeting and be fully re-advertised.

**Motion passed unanimously. (4-0)**

## **VII. PLANNING MANAGER'S REPORT**

No report was given.

## **VIII. OTHER BUSINESS**

There was no other business.

## **IX. ADJOURNMENT**

Meeting adjourned at 9:17 p.m.  
Respectfully Submitted,

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Fran Newborg, Recording Secretary

*The public hearing minutes of the Seminole County Local Planning Agency/Planning and Zoning Commission are not a verbatim transcription. Recorded tapes of the public hearing can be made available, upon request, by contacting the Seminole County Planning Division Office, 1101 E. First Street, Sanford, Florida, 32771, (407) 665-7371.*