

**SEMINOLE COUNTY GOVERNMENT  
LAND PLANNING AGENCY/PLANNING & ZONING COMMISSION  
AGENDA MEMORANDUM**

**SUBJECT:** Administrative Small Scale Comprehensive Plan Amendment from  
Commercial to Suburban Estates

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

**AUTHORIZED BY:** Matthew West *MW*      **CONTACT:** Cindy Matheny<sup>CM</sup>      **EXT.** 7430

<b>Agenda Date</b> <u>01/09/02</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input type="checkbox"/>	<b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>		

**MOTION/RECOMMENDATION:**

Approval of the Administrative Small Scale Comprehensive Plan Amendment from Commercial To Suburban Estates for property located at the southeast corner of SR46 and Longwood Markham Road (2.5 acres). (Seminole County)

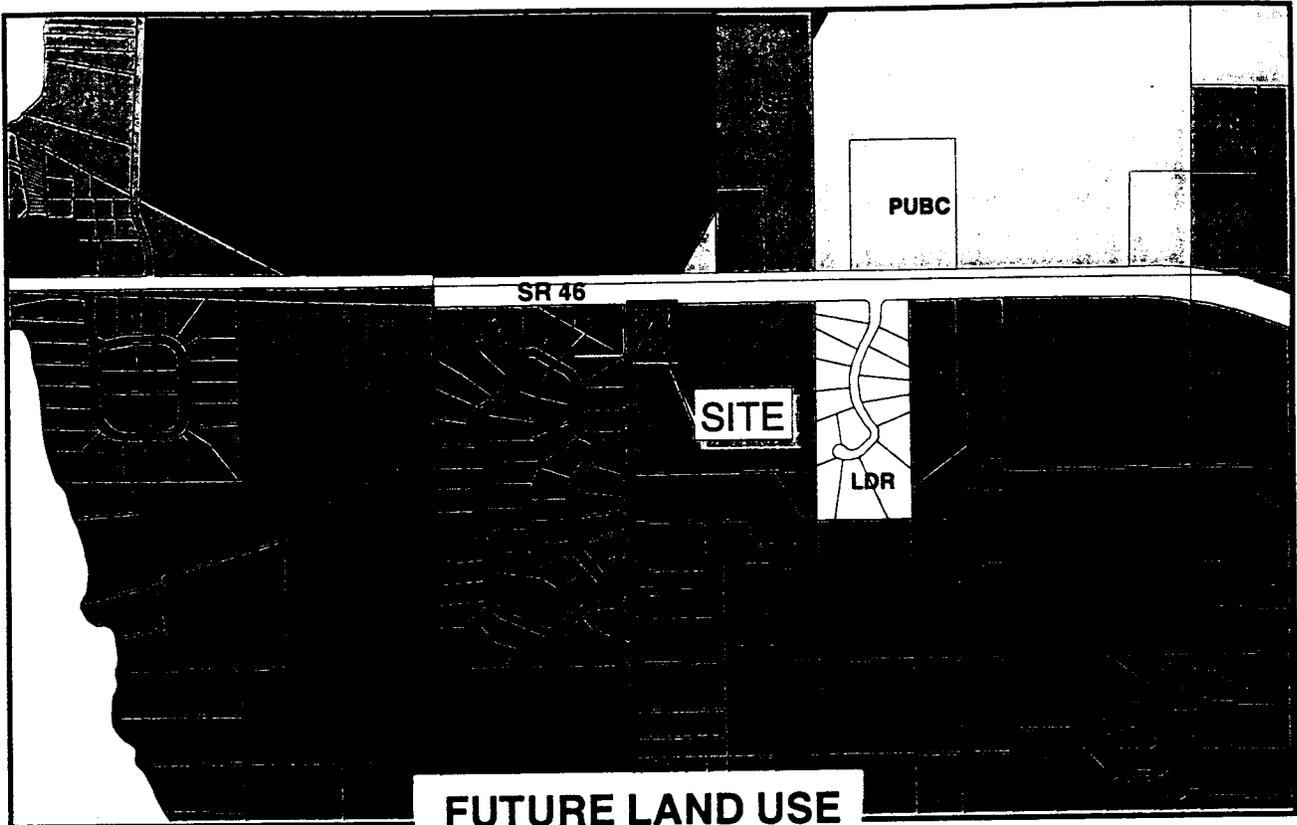
District #5 – Comm. McLain      Cindy Matheny, Senior Planner

**BACKGROUND:**

The applicant, Seminole County, requests approval of an administrative small-scale land use amendment from Commercial to Suburban Estates for this 2.5 acre parcel in order to minimize future non-residential intrusion into the Wekiva River Protection Area and to create a more compatible environment for future development trends within the Wekiva River Protection Area. The owners of the property have consented to the processing of this amendment.

Staff supports the requested land use plan amendment, as it will create a more compatible development environment within the Wekiva River Protection Area.

<b>Reviewed by:</b>
<b>Co Atty:</b> <u><i>KZC</i></u>
<b>DFS:</b> _____
<b>Other:</b> _____
<b>DCM:</b> _____
<b>CM:</b> _____
<b>File No.</b> <u>Z2001-055</u>

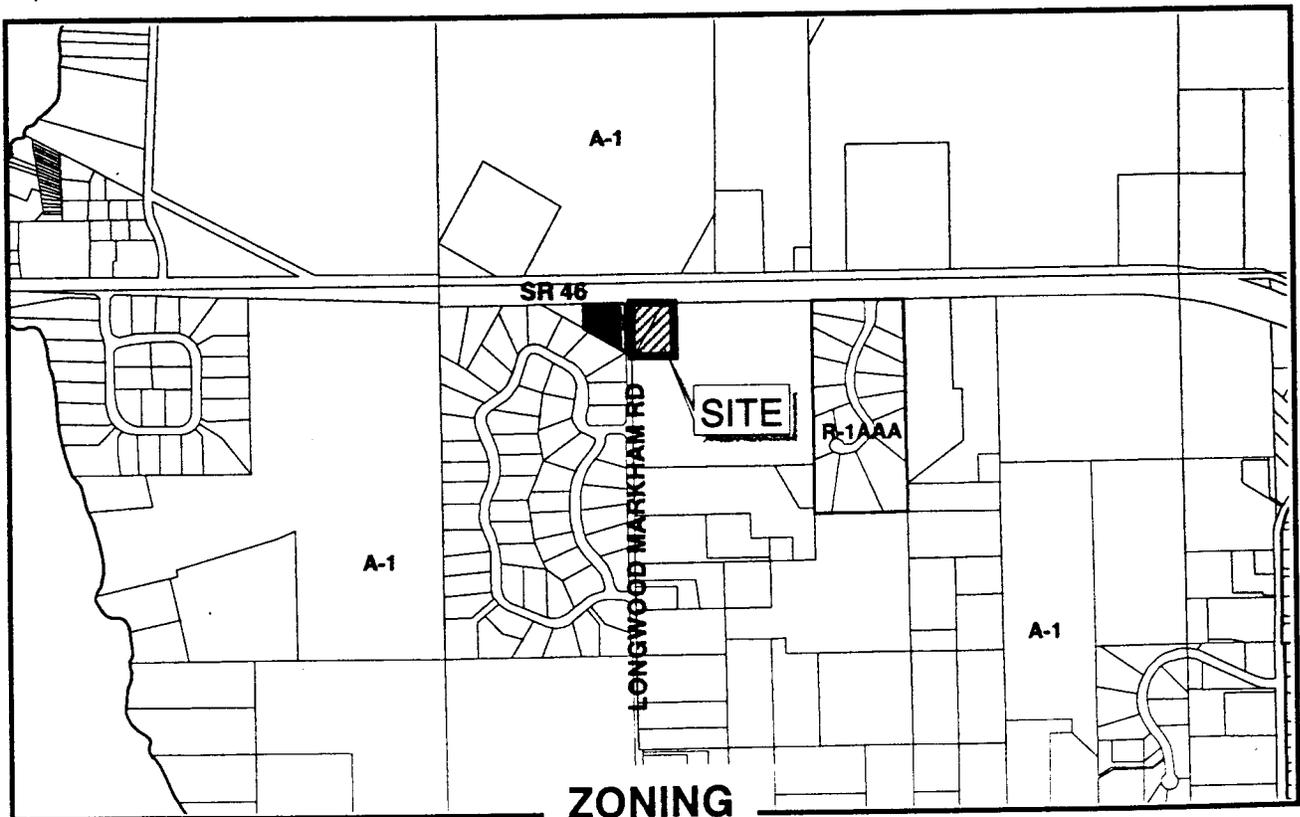


**FUTURE LAND USE**

Site    
 ..... Municipality    
  COM    
 LDR    
  PUBC    
  SE    
  REC

Applicant: Seminole County BCC  
 Physical STR: 27-19-29-300-0070 & 0110-0000  
 Gross Acres: 2.5+     BCC District: 5  
 Existing Use: Vacant  
 Special Notes: \_\_\_\_\_

	Amend/ Rezone#	From	To
FLU	01-02SS.1	COM	SE
Zoning			



**ZONING**

A-1    
  PCD    
  R-1AAA



Amendment No. 01-02ss.1  
From: COM To: SE

- Subject Property
- Parcelbase



February 1999 Color Aerials

# **EXECUTIVE SUMMARY**

<b>Commercial to Suburban Estates</b>		<b>Amendment 01-02SS.1</b>
<b>REQUEST</b>		
<b>APPLICANT</b>	Seminole County	
<b>PLAN AMENDMENT</b>	Administrative Amendment from Commercial to Suburban Estates	
<b>REZONING</b>	Not Applicable	
<b>APPROXIMATE GROSS ACRES</b>	2.5 acres	
<b>LOCATION</b>	Southeast corner of SR46 and Longwood-Markham Road	
<b>SPECIAL ISSUES</b>	<p>This Commercial land use is one half of the commercial land use located at the intersection of SR46 and Longwood Markham Road. On October 9, 2001, the Board of County Commissioners rezoned the southeast corner of the intersection to PUD for the Ryland Group (See 10/09/01 BCC Minutes, Exhibit "B") . At that time, the Board indicated that the Commercial land use should be eliminated, as it would be a benefit to the development trends of the area. In addition, the Friends of the Wekiva and the Audubon Society indicated that it would be beneficial to the environment by eliminating the Commercial land use. The owners of the property have agreed to the processing of this amendment.</p>	
<b>BOARD DISTRICT</b>	#5 – Comm. McLain	
<b>RECOMMENDATIONS AND ACTIONS</b>		

**STAFF  
RECOMMENDATION  
January 9, 2002**

**PLAN AMENDMENT:** Recommend approval of Suburban Estates land use with findings that Suburban Estates land use, as proposed, would be:

1. Consistent with Plan policies related to the Suburban Estates land use designation; and
2. Consistent with adjacent Low Density Residential and Suburban Estates land uses within the area and
3. Consistent with the policies and guidelines within the Wekiva River Protection Area
4. An appropriate use at this location; and
5. Consistent with Plan policies identified at this time.

# STAFF ANALYSIS

## Commercial To Suburban Estates

Amendment  
01-02SS.1

1. **Property Owner(s):** Albert I. Katz and Marion B. Brechner
2. **Tax Parcel Number(s):** 00-19-29-300-0070-0000 & 27-19-29-300-0110-0000
3. **Applicant's Statement:** The area surrounding the intersection of SR46 and Longwood Markham Road is predominately Suburban Estates, Recreation and a small amount of Low Density Residential land use. The area is developing out as residential on larger lots. Commercial land use is not consistent with the current trends of development and would not be consistent with the policies and guidelines for development within the Wekiva River Protection Area.
4. **Development Trends:** Development along Longwood Markham Road and the south side of SR46 consists primarily of large lot single-family residential subdivisions and rural, one acre or larger unplatted parcels. North of SR46, the area is primarily undeveloped Suburban Estates and Recreation land use and the County owned Yankee Lake property.

## SITE DESCRIPTION

### 1. EXISTING AND PERMITTED USES:

a. The existing approved PUD zoning on the subject property will allow a minimum lot size of ½ acre, one unit per net buildable acre and 42 lots or less based on the net buildable acreage. The Final Master Plan will address all of the approval conditions such as one acre lot placement, lot width, buffers and fences to accommodate wildlife and lighting.

b. The requested Suburban Estates land use will eliminate the Commercial land use and would therefore benefit both the environment within the Wekiva River Protection Area and the trends of development in the area. This land use amendment will eliminate the possible future intrusion of commercial zoning and uses within the area.

Location	Future Land Use*	Zoning*	Existing Use
Site	Suburban Estates and Commercial	PUD	Vacant
North	Recreation, Suburban Estates, Public	A-1	Single-family & Yankee Lake Treatment Plant
South	Suburban Estates	A-1	Vacant
East	Suburban Estates	A-1	Vacant
West	Suburban Estates and Commercial	A-1 & PCD	Single-family and a Billboard within the PCD

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

## COMPREHENSIVE PLAN CONSISTENCY

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

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

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

Access to the subject property is via Longwood Markham Road, a collector road, which is currently operating at level of service (LOS) “A” with a LOS standard of “D” + 20% and is permanently constrained to 2 lanes. SR46, a primary arterial, between Lake County and Orange Boulevard is currently operating at a level of service (LOS) “A” with a LOS standard of “D” and a projected 2020 LOS of “C”.

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

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

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

The property is served by the Seminole County EMS/Fire Rescue Wayside Drive Station (Station #34). Response time to the site is less than 5 minutes, which meets the County's average response time standard of 5 minutes.

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

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

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

**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).*

None of the site is wetlands and none of the site is floodprone.

**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).*

Prior to submission of final engineering plans for development of this property, a survey of threatened, endangered and species of special concern will be required to determine the presence of any endangered or threatened wildlife.

**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, Suburban Estates land use, as proposed, would be consistent with Plan policies identified at this time and therefore is consistent with the Seminole County Comprehensive Plan.

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

1. **Recognition of the Wekiva River Protection Area:** (Policy FLU 14.1) *The Wekiva River Protection Area was established by the Florida Legislature in order to protect the natural resources and rural character of the designated Protection Area. The rural character must be maintained and the viability, conservation and preservation of natural resources should be considered for the Protection Area. The elimination of this Commercial land use would be considered a positive step toward consistency with this particular policy of the Comprehensive Land Use Plan.*
2. **Development Form of Land Area within the WRPA and Outside of the East Lake Sylvan Transitional Area:** (Policy FLU 14.3) *The final development form of the land area within the Wekiva River Protection Area in Seminole County outside of the East Lake Sylvan transitional Area is, and shall continue to be, a general pattern of one (1) dwelling unit or less per net buildable acre. Land use designations within this particular area shall not be amended, except to reassign a land use designation of Suburban Estates or Recreation (for the purpose of protecting natural resources). This amendment, eliminating the Commercial land use, would be consistent with the intent of Policy 14.3 and furthers the consistency of the rural character of the area.*
3. **Roadway Corridor Overlays for Markham Road, Longwood Markham Road and Lake Markham Road:** (Policy FLU 14.6) In accordance with the provisions of FLU Policy 14.6, the Scenic Roadway Corridor Overlay Ordinance for Markham Road, Longwood Markham Road and Lake Markham Road was adopted in June of 2001. This ordinance designated these roads as scenic roads in order to protect the existing visual features, maintain visual quality, provide a sense of place, protect the rural character of the WRPA and protect natural resources including the viability of wildlife corridors. The elimination of the Commercial land use at this location is consistent with the intent of the criteria in the Ordinance and will most certainly help to maintain the visual quality and the overall rural character of the Wekiva River Protection Area. Staff is of the opinion that the PUD, as proposed and with staff-recommended standards, would be compatible with the nearby residential areas and would not adversely affect neighborhood viability and community character.

**4. Wekiva River Protection Area Environmental Design Standards:** (Policy FLU14.9) This policy was adopted in order to further the protection of natural resources as required by the Wekiva River Protection Act. Development design, creation of upland buffers, prohibition of the filling of wetlands and flood plain, preservation of wetlands, rare upland habitat, greenways and wildlife corridors are preserved and protected by this policy. The elimination of this Commercial land use is consistent with these preservation endeavors and would preclude future non-residential intrusion into this sensitive area.

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

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

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

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

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

**STAFF RECOMMENDATION**  
**January 9, 2002**

**PLAN AMENDMENT:** Recommend approval of Suburban Estates land use with findings that Suburban Estates land use, as proposed, would be:

1. Consistent with Plan policies related to the Suburban Estates land use designation; and
2. Consistent with adjacent Low Density Residential and Suburban Estates land uses within the area; and
3. Consistent with the policies and guidelines within the Wekiva River Protection Area
4. An appropriate use at this location; and
5. Consistent with Plan policies identified at this time.

**AN ORDINANCE FURTHER AMENDING ORDINANCE NUMBER 91-13, AS PREVIOUSLY AMENDED, KNOWN AS THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF SMALL SCALE DEVELOPMENT AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTY FROM COMMERCIAL TO SUBURBAN ESTATES; 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 January 9, 2002, 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 February 26, 2002, 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.

**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 and form and include legislative findings which are a material part of this Ordinance.

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

Section 2. 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 Amendment 01-02SS.1 amending the future land use designation assigned to the following property from Commercial to Suburban Estates and which is depicted on the Future Land Use Map and further described in Appendix "A" attached to this Ordinance:

(b) The development of the properties is further subject to the development intensities and standards permitted by the overlay Conservation land use designation, Code requirements and other applicable laws.

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.

(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 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 amendments are in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent upon this amendment may be issued or commence before this amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, the affected amendment(s) 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 Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

ENACTED this 26th day of February 26, 2002.

BOARD OF COUNTY COMMISSIONERS  
OF SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_

Daryl G. McLain, Chairman

# APPENDIX A

## 01-02SS.1 (COMMERCIAL TO SUBURBAN ESTATES)

APPENDIX "A"

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 29 EAST, SEMINOLE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 29 EAST, SEMINOLE COUNTY, FLORIDA, RUN S00°12'53"W, ALONG THE WEST LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 132.98 FEET; THENCE DEPARTING SAID WEST LINE, RUN S89°47'07"E, A DISTANCE OF 25.00 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF LONGWOOD MARKHAM ROAD, PLAT BOOK 6, PAGE 41, AND THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 46, PER STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION 77030-2505, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE RUN S89°42'03"E, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID STATE ROAD 46, A DISTANCE OF 300.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, RUN S00°12'53"W, A DISTANCE OF 375.00 FEET; THENCE N89°42'03"W, A DISTANCE OF 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF THE AFOREMENTIONED LONGWOOD MARKHAM ROAD; THENCE RUN N00°12'53"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 375.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.583 ACRES, MORE OR LESS.

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

SHEET 2 OF 2

**BOWYER SINGLETON & ASSOCIATES, INCORPORATED**

520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

SEMINOLE COUNTY FLORIDA

COMMERCIAL TRACT  
STATE ROAD 46 PROPERTY

11/19/01 PT

RGPKSLDOI  
RCPKSLPTS

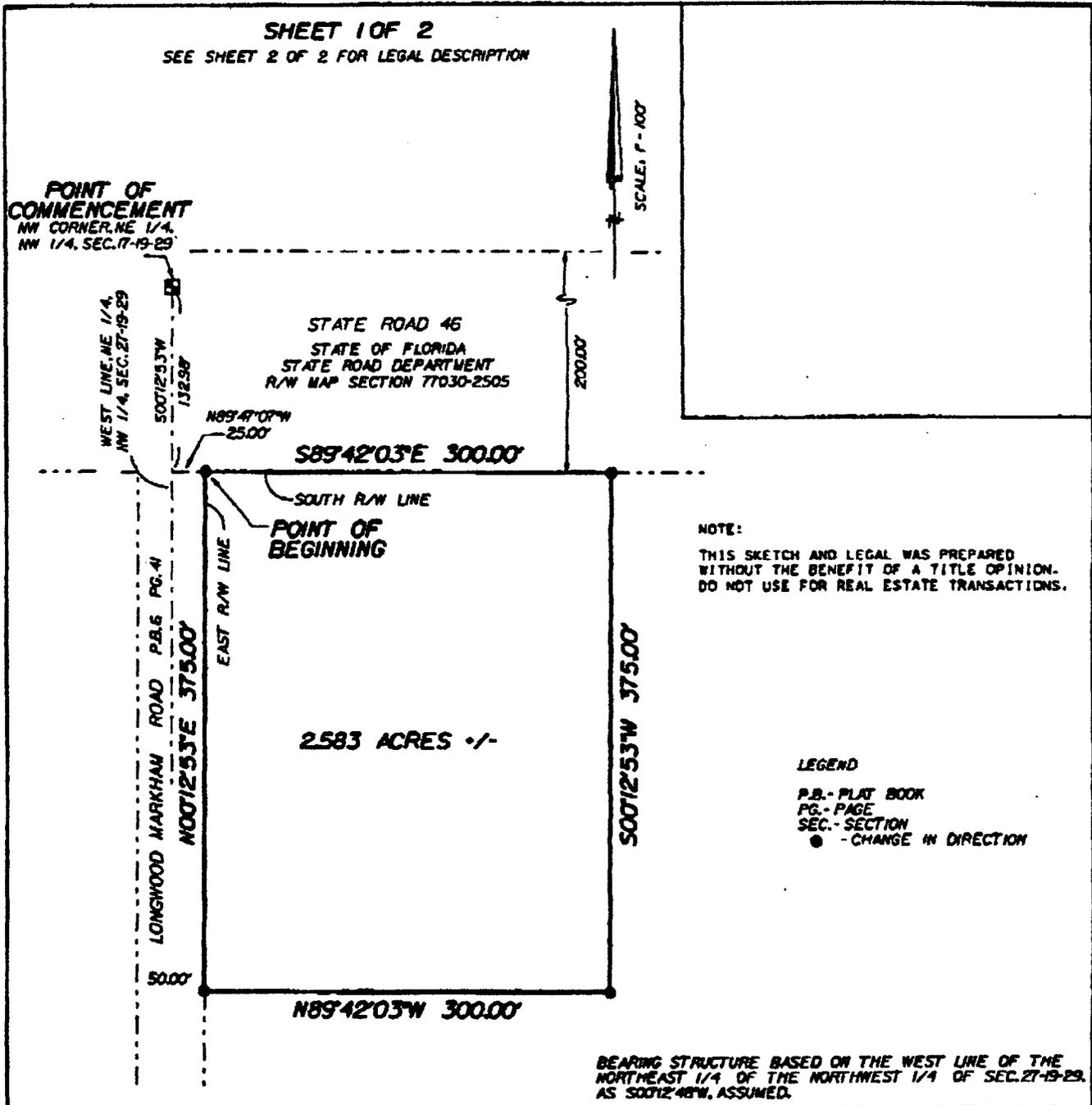
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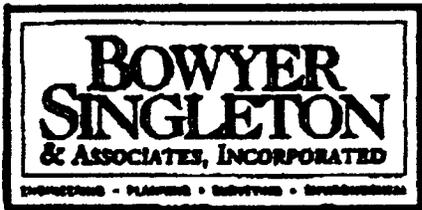
**SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.**

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS AS REQUIRED BY CHAPTER 66G1-8 F.A.C.

**SANDRA V. BAILEY P.L.S.**  
LICENSE NUMBER LS-4872

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL PAPERED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

CERTIFICATE OF AUTHORIZATION NO. LB 1221



520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

**SEMINOLE COUNTY FLORIDA**

**COMMERCIAL TRACT**

**STATE ROAD 46 PROPERTY**

11/19/01 PT

RGPTSKI.D01  
RCPTSKI.PTS

REZONE/RYLAND GROUP

Proof of publication, as shown on page 2325, calling for a public hearing to consider request to Rezone from A-1 (Agriculture) to PUD (Planned Unit Development); property described as 46.9 acres, located south of SR 46 and east of Longwood-Markham Road, Ryland Group, received and filed.

Commissioners Morris and McLain entered the meeting at this time.

Matt West, Planning Manager, addressed the Board to state the applicant has committed to 2.5 acres of commercial land use being converted to Suburban Estates to match the rest of the project. He stated the Local Planning Agency (LPA) recommended approval subject to the following: (1) The land use of the Commercially-designated parcel be change to Suburban Estates;

(2) The tier of lots adjacent to Longwood Markham Road shall be a minimum of 1 acre but would include within their land area the designated buffer tract. These lots shall also have a minimum of 120 ft.; (3) The maximum number of lots shall be 44, and one lot shall be removed from the eastern perimeter of the plan considered by the LPA; (4) The fence on the north and west sides of the site shall be porous to allow small wildlife to pass through the fence; (5) The water feature at the northwest corner of the site shall not be lighted; and (6) The plan shall include corridors for wildlife on the north, west, and east sides of the site as represented by the applicant at the LPA meeting. He submitted and reviewed a Policy Statement (received and filed) relating to Net Buildable Acreage. He stated if this project goes PUD, the developer would propose putting lots in that are smaller than an acre, but have areas devoted to open space, buffers and wildlife corridors. If they did not include the commercial, there would be about 39 to 40 lots. A lot of this is subject to further refinement at the subdivision stage. Staff does not know what the final width of the right-of-way or the size of the ponds will be. The wetland line has not been established at this point. Therefore, there are some variables that have not been worked out. If the Board decides to approve this request, staff would recommend the Board place in the development order that the property shall develop as no more than 42 dwelling units or one unit per net buildable acre.

Commissioner McLain stated this issue came up when he had a meeting with the homeowners and he asked staff to evaluate this so the Board would have a clear understanding of the process. He stated staff felt that one of the things the Board needs to decide is whether or not to remove the commercial site along

with other improvement that would enhance the environment of this project.

Mr. McMillan stated there has been litigation as to whether or not commercial zoning is permissible within the Wekiva River Protection Area and it is permissible as long as it meets the statutory standard of having the same or less impact on natural resources that a residential development would.

Mr. West stated relative to the issue of being in the Wekiva Protection Area, there are additional standards that aren't elsewhere in the County. He stated impacts are needed on natural resources that are equivalent or less than low density residential. There are measureable standards within the Wekiva Protection Act that tell you what to look for, but the natural resources that Act pertains to are preserving wetlands and wildlife habitat. When staff did the analysis or range of the numbers of units on this property, 37 or 38 probably could be obtained if commercial is included. He said if this commercial is litigated, it all comes down to traffic. He added he doesn't expect the commercial on this property would equal the number of trips for 5 single-family homes. They should be able to get some reasonable use of this property for commercial.

Commissioner Morris stated 50 trips per day would be 5 homes and he doesn't know too many commercial ventures that will spend the kind of money that will generate 50 trips. He stated he has concerns as to whether or not the viability is intact in the Wekiva Protection zone.

Mr. West stated there is not a lot of commercial sites in the area and staff knows that this can't come up too often. He said now that the net buildable acres are defined in writing

OCT. 9, 2001

that gives the Board the ability to settle a lot limit. Discussion ensued.

Attorney Ken Wright, Shutts & Bowen, displayed site plans (received and filed) and stated this project came through with another plan that actually showed more lots. This PUD proposes a 70 ft. vegetated buffer with existing trees and it would remain in place. An additional 50 ft. no build zone and no permanent structures can be constructed for a total of 120 ft., which runs the entire north/south perimeter of the property. He stated the developer is proposing to incorporate the property to the south as an open space/community park tract. The 120 ft. buffer to the west is a combination of a 50 ft. buffer and a 50 ft. no build setback.

Upon inquiry by Commissioner Henley, Attorney Wright advised there is .39 acres of wetlands on that site. Mr. West stated staff has not verified the wetlands line.

Attorney Wright stated as a result of meeting with staff and the commitments made by the District Commissioner, he is proposing that the lot on the east side be eliminated and those lines will be adjusted in the subsequent submittal to staff for review. The current plan shows 45 lots and by reducing that lot on the east, that would reduce the total to 44 lots.

Upon inquiry by Commissioner Henley, Attorney Wright advised the total one-acre lots would be 6 on the east and 6 on the west.

Attorney Wright stated he feels that the site is compellingly within this provision. He stated as opposed to straight A-1 zoning, the PUD would provide buffering and open space as opposed to larger lots. He said he feels the elimination of the 2.6 acres of commercial is a policy decision.

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Upon inquiry by Commissioner Henley, Attorney Wright advised a tree survey would be provided during the site plan review. He stated there is 37% of open space on this site and there will be significant number of trees left. He said he would like to know what it would take for him to get the 2.6 acres of commercial. There has been discussion with regard to 42 lots and he does not have a plan that comes up with that number of lots. He added he would like to see a number no greater than 44 lots and he doesn't believe anyone would come up with a similar and improved plan than what is being presented.

Upon inquiry by Commissioner Henley, Mr. West advised the code requires an average 50 ft. buffer and a minimum of 25 ft.

James Leavitt, 168 Steeple Chase Circle, addressed the Board to state he is the President of Longwood Markham Citizens Action Group. He stated he feels the Ryland PUD should be denied as recommended by staff. He said staff has pointed out that the subject property does not meet the criteria of PUD. He added Commissioners McLain, Morris and Maloy indicated at the 4/10 meeting that the Wekiva Park would not set a precedent for granting a PUD and the land was extremely unique and the land had many features that made it very environmentally sensitive. He displayed a copy of an article (received and filed) from the Orlando Sentinel indicating, "precedence is always an issue".

David Moon, Solin Associates, addressed the Board to state he concurs with staff's recommendation to deny this application. He stated he concurs with staff that this application is not consistent with the Seminole County Comprehensive Plan. He said the purpose of this meeting is to interpret the policy and the Comp Plan regulations to determine whether this PUD warrants rezoning. The Comp Plan amendment, as recognized by staff, is

necessary to accommodate a land use change from commercial to residential. He stated he has not seen a situation where a contract is established at a zoning stage to amend the land use. Another issue he has concerns with is clustering and the application of a Planned Unit Development. He displayed and reviewed Policy 2.14.8.b.(4) (received and filed) relating to protecting natural resources. He also displayed and reviewed the following: Policy 2-14.9(d)(2); Policy CON 3.8 PUD/Cluster Developments; Policy 14.1.1 River Protection Areas and Policy FLU 1.7 Wekiva River Protection. He also displayed Requested Conditions of Approval (received and filed) and he reviewed the following: (1) Creation of additional open space shall be obtained by establishing no structure zones consistent with what the applicant has proposed; (2) To meet the intent of Policy 2.8 PUD/Cluster Developments, the developer shall reduce land use intensity within the Wekiva River Protection Area by waiving commercial development rights to the parcel at the project's northwest corner and limiting use of said parcel to single family residential on one acre lots, recreation, open space, and/or stormwater retention/detention facilities; and (3) To meet the intent of clustering policies, the project should acquire 5 to 10 acres within the Protection Area and dedicate land to Seminole County or SJRWMD as a conservation or recreation area.

Jim Lee, President of Friends of the Wekiva River Inc., addressed the Board to state he concurs with staff recommendations that include those specified changes but he would like to see the 42 lots, and he does not want the commercial included.

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Frank Shelton, 14 Stone Gate North, addressed the Board to state he is the President of the Markham Woods Association and he was involved in the creation of the 1987 Comp Plan. He said it irritates him that there is commercial in those areas. It is a disaster when you put PUD zoning in a Suburban Estates zoning. He stated 42 lots is a significant increase and wetlands are not saved because the lots have to be built on dry land.

Keith Schue, representing the Central Florida Sierra Club, addressed the Board to state he believes the Board has an adequate reason to deny this project. He stated when the Sierra Club looks at a proposed development, they must consider not just what the impacts to that site are but what the County action would do overall and what the ramifications would be in the Wekiva Protection Area. He submitted and reviewed a calculation (received and filed) of the estimated net buildable acreage. He also submitted a code interpretation policy (received and filed) signed by the Planning Director.

Upon inquiry by Commissioner Maloy, Mr. Schue advised he feels that getting rid of commercial is a positive thing. He stated he doesn't see that as a reason to reward the developer with extra amount of units.

Mr. Schue pointed out that the site plan submitted indicates a water amenity on the corner of Markham Road and SR 46 and there is a possibility that wildlife can be attracted to that. Letters from the Sierra Club and the Audubon Society commenting on the Ryland Group PUD were received and filed.

Keith Cleborne, 184 Steeple Chase Circle, indicated on his Speaker Request Form that he does not wish to speak at this time but would duplicate what Mr. Schue has said.

Fred Harden, 174 Wekiva Park Drive, addressed the Board to state he concurs with 42 units if commercial is eliminated. He stated the dilemma is one-unit lots by themselves don't necessarily protect the environment. If a PUD is done right, it can be a benefit.

Lanny Greene, 145 Longwood Markham Road, addressed the Board to state he and his wife own the property on the south side of this development. He stated they thought it would be prudent to retain counsel and check the ownership on this. He said it is their property and it doesn't belong to the people who intend to use it.

Chairman Van Der Weide called Jennifer McMurtray but was not in attendance at this time.

Jay Kruger, 116 Steeplechase Circle, addressed the Board to state when the Board approved development of homes on less than one acre near the Wekiva River, she felt, at that time, that the Board opened a Pandora's box. She stated at that time, the Board assured everyone that was a special case and it would not be repeated. The developer is planning to build 44 homes on 46.9 acres and they are choosing to disregard regulations that are in place to protect the citizens. She stated Seminole County was renamed "Florida's Natural Choice" but it will become Seminole County "The Developer's Choice".

Leonard Tylenda, 8211 Via Bella, addressed the Board to read the first paragraph of Seminole County Comp Plan Objective 14, Preservation of the Rural Character and Natural Resources of the Wekiva River Protection Area. He stated the idea is to protect the environmental resources for the greater good of the county. He said he doesn't see any major changes or improvements in the major objectives of the Comp Plan. He

stated he opposes the request and agrees with staff recommendations.

Polly Miller, representing League of Women Voters, addressed the Board to speak with regard to the Comprehensive Plan, the Wekiva River Protection Act, ecological impact and potable water.

Lillian Raud, 120 Steeple Chase Circle, addressed the Board to state the Board should not try to bargain with this commercial property. She reviewed the reasons why it should not be done.

Kim Bradley, 8430 Murray Ct., addressed the Board to state the Comp Plan and Land Development Code does not say that anyone giving up commercial would get two or more houses. If the Board changes this zoning, they need to be very cautious in how they do it.

Teresa Kumm, 101 Ross Lake Lane, addressed the Board to speak with regard to one-acre lots. She stated the residents of Ross Lake would like one-acre lots adjacent to them because there is no road abutting them.

Nancy Prine, 655 Terrace Blvd., addressed the Board to state she would like to echo Jim Lee and Fred Harden's comments. She stated the Audubon Society agrees with the stance that it is very important that commercial should be eliminated because it does not belong there. She pointed out that this property would be difficult to develop within the Wekiva River Protection Act and the requirements for clearance of access on the roadways. She also pointed out at the P&Z meeting there was discussion that Wekiva Park is going to have central water and sewer and it will be going past this site. It would be an excellent opportunity for this property to join in and have central water

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and sewer. If the development is approved, she would recommend that a mechanism be in place so that the buffers can be protected as well as the trees.

Faith Jones, 763 Mallard Dr., addressed the Board to state she is glad that staff clarified how net buildable density is calculated. Mr. West explained for Ms. Jones what a no buildable area is and how it will be enforced.

Chairman Van Der Weide read Written Comment Form from Todd Baum.

No one else spoke in support or in opposition.

Speaker Request and Written Comment Forms were received and filed.

The following were received and filed: Copy of a map; A copy of the Fall 1999 Proposed Text Amendments defining Net Buildable Area; Map showing the 100 year flood plane; Condition #2 acceptable by Astor Farms PUD; The difference between net density calculation and net density definition; An e-mail from Frances Chandler relating to Net Density Definitions; and A Fax from Professional Engineering Consultants submitting project data.

Upon inquiry by Commissioner Henley, Attorney Wright advised he is proposing a 2000 ft. minimum home on this site. He reviewed the lot count calculation, the right-of-way calculation, and why an applicant would want to give up commercial.

Attorney Wright commented for Commissioner Maloy on the water (fountain) feature and its effect on wildlife. He displayed photographs (received and filed) of a subdivision with a retaining wall and he discussed the possibility of blocking the wildlife out of the area. He stated he has no problem

removing the lighting but there is enough area aouth on SR 46 to attract wildlife.

Attorney Wright explained for Commissioner Maloy how the buffer will be protected, the no buildable area, and preserving the trees as well.

District Commissioner McLain stated he informed the applicant that he had grave concerns relative to this project. The key is when the Friends of the Wekiva and the Audubon Society indicate that they feel this is beneficial to the environment by getting rid of the commercial. He stated if the Board does not believe that getting rid of commercial is a benefit to the Wekiva Protection zone, then the Board should turn this down. But if the Board believes that it is beneficial, then staff would agree that the PUD is appropriate and conditions would be placed on it.

Chairman Van Der Weide stated he feels commercial should be eliminated, as he doesn't feel that commercial will sit there forever. The more the land in that area is developed, the more demand will be placed on additional commercial.

Commissioner Morris stated he also feels that commercial should be eliminated. There is no doubt that region is being built out rather quickly and that land will become more attractive for that particular use.

Commissioner Maloy stated the way he sees it is which one of these two plans minimizes the impacts the most. He stated he feels that if the commercial is taken out it will do just that.

Commissioner Henley stated he sees the value of getting rid of the commercial. He stated relative to the Astor Farms issue, staff was told to submit a plan that would be acceptable to the environmental community and to the DCA to see if they would sign

off on it. The DCA accepted that plan and as a result of that, even though Astor Farms was permitted far beyond the number of units they actually built, they agreed to go with one house per net buildable acre. The one thing that bothers him with this request is seeing  $\frac{1}{2}$  acre lots there because he feels the intent was one house per net buildable acre. He stated he has concerns that the Board will be continuing to be faced with these types of requests. He said he has difficulty wanting to trade that commercial for four additional units and he is concerned about preserving the trees. He added he is inclined to support staff's recommendation to deny and have the developer to come up with a better plan.

Commissioner McLain stated he was prepared to deny this development, but getting rid of commercial does meet the test. He stated he would like to make sure there are one-acre lots on the west side, there will be water and sewer and the buffer would be enhanced with additional trees. He said he would also recommend including the three staff recommendations outlined in the agenda memorandum.

Upon inquiry by Commissioner McLain, Mr. West advised the issue of the water feature (fountain) and lighting could be dealt with at the final master plan. That would give the County's Natural Resources Officer an opportunity to review it further.

Commissioner McLain stated the actual site of the pond and size will be dealt with during the final master plan. He stated the minimum lot size would be  $\frac{1}{2}$  acre, one unit per net buildable acre and 42 lots or less based on the net buildable acreage.

**Motion** by Commissioner McLain, seconded by Commissioner Morris to adopt Ordinance #2001-43, as shown on page 2329,

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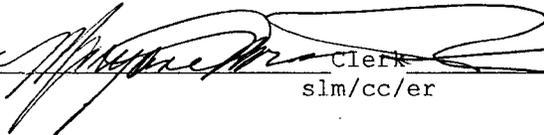
rezoning to PUD; property described as 46.9 acres, located south of SR 46 and east of Longwood-Markham Road, as described in the proof of publication, Ryland Group.

Districts 1, 2, 3, and 5 voted AYE.

Commissioner Henley voted NAY.

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There being no further business to come before the Board, the Chairman declared the meeting adjourned at 12:25 a.m., October 10, 2001.

ATTEST:  Clerk  
slm/cc/er Chairman