

**LOCAL PLANNING AGENCY/
PLANNING AND ZONING COMMISSION**
COUNTY SERVICES BUILDING
ROOM 1028
February 6, 2002 – 7:00 P.M.
MINUTES

Board Present:

Ben Tucker, Chairman
Tom Mahoney, Vice Chairman
Don Nicholas
Beth Hattaway
Alan Peltz

Board Absent

Dick Harris
Paul Tremel

Staff Present:

Don Fisher, Planning Director
Matt West, Planning Division
Cindy Matheny, Planning Division
Kathy Fall, Planning Division
Craig Shadrix, Planning Division
Cathleen Consoli, Planning Division
Jeffrey Hopper, Planning Division
Karen Consalo, Assistant County Attorney

I. CALL TO ORDER

Tom Mahoney, Acting Chairman, convened the meeting to order at 7:00 p.m.

II. ROLL CALL

Quorum was established.

III. ACCEPTANCE OF PROOF OF PUBLICATION

Commissioner Mahoney asked for Proof of Publication

Motion by Commissioner Peltz to accept proof of publication. Second by Commissioner Tucker.

Motion passed unanimously. (5-0)

IV. APPROVAL OF MINUTES

Commissioner Nicholas noted that his name be corrected from Nicholson to Nicholas in the December 5, 2001 minutes. Correction noted.

Motion for the approval the minutes of the January 9, 2001 meeting, as amended, by Commissioner Tucker. Second by Commissioner Peltz.

Motion passed unanimously. (5-0)

Motion for the approval of the minutes of the December 6, 2001 meeting by Commissioner Tucker. Second by Commissioner Peltz.

Motion passed unanimously. (5-0)

V. ELECTION OF OFFICERS

Nomination to elect Commissioner Harris as Chairman by Chairman Peltz.

Nomination by Commissioner Nicholas to elect Commissioner Tucker as Chairman.

Vote to elect Commissioner Tucker as Chairman passed 3-2.

Commissioner Mahoney and Commissioner Peltz voted for Chairman Harris.

Commissioner Tucker, Commissioner Nicholas and Commissioner Hattaway voted for Commissioner Tucker.

Commissioner Tucker was elected Chairman.

Commissioner Mahoney passed the gavel to the Chairman Tucker.

Nomination by Chairman Nicholas to elect Commissioner Mahoney as Vice Chairman.

Vote to elect Commissioner Mahoney as Vice Chairman passed unanimously.

VI. OLD BUSINESS

- A. GREENWAY CENTER; E.G. BANKS-CHARLES W CLAYTON JR/W MALCOLM CLAYTON; APPROXIMATELY 73 ACRES MORE OR LESS; LARGE SCALE PLAN AMENDMENT FROM MDR (MEDIUM DENSITY RESIDENTIAL) TO PD (PLANNED DEVELOPMENT); REZONE FROM A-1 (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT); NORTH OF SR 426 AND WEST OF GREENWAY (SR 417).**

Commissioner Maloy – District #1

Cindy Matheny

Mr. West said that staff has received a request from the property owners to continue this item for 30 days. They are trying to work on revising their plan and are requesting a continuance until the regularly scheduled March 6th meeting.

Motion by Commissioner Mahoney to continue this item to the next scheduled regular meeting on March 6th. Second by Commissioner Nicholas.

Motion passed unanimously. (5-0)

VII. NEW BUSINESS

A. WEKIVA GLOBAL COMPLIANCE SEMINOLE COUNTY GOVERNMENT: THE WEKIVA GLOBAL COMPLIANCE AGREEMENT AND THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN REQUIRE ADOPTION OF OUTDOOR LIGHTING STANDARDS FOR THE STATE ROAD 46 SCENIC CORRIDOR.

Countywide

Craig Shadrix

The Wekiva Global Compliance Agreement and Vision 2020, policy FLU 14.7 required the creation of a scenic corridor overlay zoning district for State Road 46, which included lighting standards. The State Road 46 Scenic Corridor Overlay Zoning District was enacted by the BCC in May of this year. Staff has prepared the outdoor lighting standards for the State Road 46 Scenic Corridor Overlay as a separate ordinance that will require outdoor lighting that minimizes light pollution in the area. The ordinance was sent out to members of environmental interest groups and the Development Advisory Board on December 22, 2001. Subsequent meetings have taken place with both groups, and staff is prepared to discuss comments by these groups with recommendations.

Staff recommends approval of the Wekiva Protection Area Environmental Design Standards with findings that the Ordinance, as proposed with staff's additional modifications, would be:

1. Consistent with the Wekiva Global Compliance Agreement; and
2. Consistent with the Future Land Use Element of the Seminole County Comprehensive Plan.

PUBLIC COMMENT

Nancy Prine

Representing the Friends of the Wekiva. She would like to go through the ordinance and make some additional comments.

Section 4, Applicability. *"This Ordinance shall apply to all new single family residential development of 3 dwelling units or more..."*

She is concerned that many single entities out there that have put up lights in the past that have tended to destroy that rural feeling of the area. We find that in many area where there is quite a lot of agricultural use. In years passed, the farm light was put out to light the farmyard and be able to protect that farm yard from wildlife. We are aware there are lights out there that are inappropriate in protecting the night sky. We are asking that in a period of time there be an allowance where those farm lights that are unshielded and provide glare in the night be changed to a light that would only light

those specific areas that are important to light and to allow the rest of the night sky to be dark.

In the same section the ordinance talks about "*development being undertaken by agencies of local, regional, State or Federal government...*" We understand why that is there but ask that some language be introduced that would request consideration by those agencies that the intent of the ordinance be followed so the integrity of the area is not compromised.

Section 8, Shielding.

There are some typographical errors in this section that have been passed along to staff. She is requesting that incandescent lights have some kind of shielding and also consideration be given to neon, argon, and krypton lighting that if it is shielded, it may be used in the landscape so that this very soft lighting can compliment but still provide light and not infringe upon the area.

Section 10.3, Prohibitions.

She asked that we have a fuller definition of off-site signs. We think that it is very important that all signage within the area being considered be turned off at a specific time and not have continuous lighting through out the night. She feels on-site signs should be covered in this paragraph also.

Section 11.1, Submission Contents.

She feels a lot of this is very good guidelines but it would be very helpful to have some definition of lighting levels as expressed in footcandles. We ask that the illustration of footcandles be a part of any submission and that there be some explanation or additional information offered as guidelines concerning wattage and height and the type of fixture.

Section 13.2, Outdoor Display Lots.

She believes that the sentence concerning "*...or building material sales centers...*" should be deleted. There are not any of those in this area.

She encouraged the Board to pass this ordinance as it is very important to ensure the rural character of this area is upheld. It will have great meaning to the residents in the area.

Bill Holmes

He feels there is a great danger of squashing property rights and other issues without property owners knowing what is being done with this type of ordinance. There is a private property rights analysis and economic impact statement that is part of this ordinance. He feels the Board should read these in great detail. The advantages of the ordinances are that it will increase the property values and increase property assessments to the County. The disadvantages are that in some cases if the ordinance is carried out to its extreme definition, it may cause economic impact to the appropriate development to any businesses and prohibit development of a property. If things like

that are going into the Code, then we need to realize there may be an economic impact as a result.

Keith Schue

Please accept the following recommendations and comments regarding the SR46 Scenic Corridor Lighting Ordinance:

Page 4, Section 4. Applicability

This section implies that the ordinance is applicable to residential property only, which is not the intent of the compliance agreement. The reference to double unit development is ambiguous. We recommend replacement with the following text, which is comparable to language used for the SR46 Scenic Corridor Ordinance 2001-27:

All development, excluding single family lots existing on the effective date of this ordinance and except as may be otherwise provided for in this ordinance, within the scenic corridor as defined by adopted Ordinance 2001-27, including but not limited to (to the extent permitted by law) development undertaken by agencies of local, regional, State, or Federal government, shall be carried out in accordance with each and every requirement of this Ordinance, in addition to each and every requirement of any other applicable provisions of the Seminole County Land Development Code.

Page 8, Section 10.3 Prohibitions

As written, restricted hours would apply only off-site signs. All advertising signs should have this same restriction, including on-site business uses. We recommend striking the term "off site". The following text was implemented in the SR46 Scenic Corridor Ordinance, and is applicable:

Illuminated signs shall be turned off no later than 10:00 PM, and shall remain off until 6:00AM the following morning, unless exempted from this requirement by the Planning and Development Director upon the recommendation of the Seminole County Sheriffs Office, or Public Safety Department based on a consideration of safety to citizens or property.

Emergency medical facilities shall be exempt from this requirement.

Page 1 of Page 12, Section 142 State and Federal Facilities

This section makes a blanket exception for all state and federal agencies, presumably including the Florida Department of Transportation. The Wekiva River Protection Act specifically grants local county government with the authority to create policies to ensure protection of natural resources and rural character within the Wekiva River Protection Area, therefore it is reasonable for this ordinance to apply to FDOT. Without this applicability, FDOT could conceivably construct an intensely illuminated boulevard, negatively impacting natural areas and rural character along the entire roadway, thus rendering the complete lighting ordinance meaningless.

We request that Section 142 be deleted.

Commissioner Nicholas asked if property owners were notified of this ordinance?

Mr. Shadrix said 300' notices were sent out. He said he would follow up on that and verify that occurred.

Commissioner Tucker asked if SR 46 was going to be 4-laned at some point?

Mr. Shadrix said it is a distinct possibility.

Commissioner Tucker asked that if there was a trigger at some point where staff feels the lighting or the lack thereof is causing accidents or contributing to the cause of accidents with the heavy volume of traffic?

Mr. West said if the issue is lighting the Department of Transportation's (DOT) right-of-way, in his opinion, we do not have the jurisdiction to regulate that. We can recommend and encourage them to provide lower lights but they are not governed by this ordinance.

Mr. Shadrix said it states in the ordinance that they are exempted and staff is proposing full cut-off fixtures to be the primary standard for street lighting along with some other provisions.

Commissioner Tucker asked staff if that was really not in the purview of our authority?

Mr. West said he did not believe we had the authority to regulate what goes in the DOT right-of-way.

***B. WEKIVA GLOBAL COMPLIANCE SEMINOLE COUNTY GOVERNMENT:
THE WEKIVA GLOBAL COMPLIANCE AGREEMENT AND THE FUTURE LAND
USE ELEMENT OF THE COMPREHENSIVE PLAN REQUIRE ADOPTION OF
ENVIRONMENTAL DESIGN STANDARDS FOR THE WRPA (OUTSIDE THE EAST
SYLVAN LAKE TRANSITIONAL AREA.
COUNTYWIDE***

Craig Shadrix

The Wekiva Global Compliance Agreement and Vision 2020, policy FLU 14.9, required adoption of three mandatory environmental design standards and directed the study of optional standards to be applied to development in the Wekiva Protection Area. Staff has prepared an Ordinance that includes the mandatory standards and components of the optional standards that were deemed professional feasible. These are also requirements of the adopted Comprehensive Plan policies.

PUBLIC COMMENTS

Nancy Prine

Representing Friends of the Wekiva

Section 6, Environmental Development Standards, Paragraph 2.

Where it states "...increasing the number of replacement trees based upon the size of the removed trees caliber."

She feels the wording should be changed slightly there from *increasing* to *increase* and the ratio be stated so that the petitioner can come into the County and know what to expect. It is fair to the petitioner to know where he stands when he comes in and also more expedient to the petitioner and the staff if he has a more clear cut definition of what is needed.

Section 6, Environmental Development Standards, Paragraph (b)(3).

She had some concerns that the Homeowners Association would have the prerogative to adopt covenants that might influence the use of private property. She would like that paragraph to be looked again by staff.

Section 6, Environmental Development Standards, Paragraph (c)(2).

She is uncertain as to what *clustered areas* really means within a clustered unit development.

Section 6, Environmental Development Standards, Paragraph (c)(1).

She would like to propose the language *"On property having the Suburban Estates land use designation, the use of Planned Unit Development ("PUD") zoning is the desired scenario..." should be changed to **may be** the desired scenario.*

Mr. Holmes

He had comments on the economic impact statement and the property rights analysis as it relates to this ordinance.

The development of additional regulations guidelines that provided for the protection of natural resources may result and contribute to the preservation and protection of property values for properties subject to the overlay.

He feels it may **not** effect property values that way but have a negative effect. It is a one way statement and not very subjective as far as the property rights issue.

When the ordinance talks about wildlife corridor, he would like a fuller definition of "wildlife corridor". If a wildlife corridor goes from public land to public land and there is a piece of private property in the middle, that property owner then is setting aside his property for public benefit. That needs to be considered.

On page 4 there are several definitions of greenways and wildlife corridors. The definition of a wildlife corridor there is subjective and it is difficult to determine what it really is.

On page 5, where it refers to 50% of the trees cannot be reasonably replaced, he feels there needs to be flexibility and common sense in those tree numbers. There is land out there that is clustered and has clusters of trees and if you go by the letter of the Code you may have some situations that you don't really want. He feels the tree planting ordinance needs to be reviewed and revised as far as the distance between trees to have a healthy tree situation.

In Section 6(4), 50% of the remaining native vegetation that are platted after the effective date of the ordinance, how do you determine at what timeline that 50% of the vegetation remains from?

In Section 6(4)(1)(b), where it states an upland buffer area averaging 50', this is double what is required by the St. John River Water Management District. They require a 25" upland buffer from wetlands not from a flood prone area. Flood prone areas are only a volume and it may or may not be in the wetlands. It may be totally usable land so why should you have a buffer between that. Flood planes should not be subject to the same protection for buffers that wetlands have.

In Section 6(b)(3), if you have a lot that you plot into the wetlands, you have to have a sign in your yard telling you when you stepped across the line into the wetlands which may have been determined by soils rather than plants. He felt this was a hindrance.

In Section 6(c), where it talks about the clustering, it is going to be very difficult to determine what you really have out there.

In some of these detailed items such as lighting, he feels they should not be in an ordinance form but rather a guideline form so they can be evenly changed as the trade changes without going back to an ordinance and making changes.

Keith Schue

Please accept the following recommendations and comments regarding Design Standards applicable to property within the Wekiva River Protection Area of Seminole County, outside of the East Lake Sylvan Transitional Area:

Page 6, Section 6(b)(3) Wetland and Flood Prone Areas

A homeowners association is not the proper entity to ensure environmental compliance and the protection of upland buffers. We recommend that platting of lots either not be permitted within wetlands and upland buffers, or that restricted activities be specifically articulated within the ordinance. Restrictions should include the building of structures, accessory structures, fences, the placement or storage of material, and the planting of non-native vegetation.

Page 6, Section 6(c)(1) Clustering and the Planned Unit Development

This section implies that PUD development is preferred over one-acre lots within the Suburban Estates Land Use, which is not necessarily true. We recommend the following modification:

On property having the Suburban Estate land use designation, the use of Planned Unit Development ("PUD") zoning ~~is the desired scenario~~ may only be permitted if it is verified by the Planning Manager and the Natural Resources Officer that a greater protection of wetlands, rare upland habitat, greenways, or wildlife corridors will be preserved—achieved by clustering.

Page 6, Section 6(c)(2)

Text should be modified for clarity:

PUD’s approved within the Wekiva River Protection Area shall be required to permanently ~~protect clustered areas and open space~~ natural resources that are preserved due to clustering by dedicating such areas as conservation easements...

Page 7, Section 6(d)(1)

In order to ensure that species present on-site are adequately considered before the granting of a land use or zoning change, we recommend the following modification:

As a condition for development approval, or as a condition of any application that may require a land use or zoning change applicants shall be required to complete a survey of plants and wildlife...

Page 8, Section 6(d)(3)

Text should be modified for clarity:

If a listed species is determined to exist on a site, the following shall apply in order of priority...

Additional text proposed:

Section 6(e) Wildlife Movement

Solid walls or fences shall be discouraged in order to provide for wildlife movement, unless it is determined by the Florida Fish and Wildlife Conservation Commission and Seminole County Natural Resources Officer that such barriers are necessary for the protection of wildlife. The use of water features that may become a hazard for wildlife in the vicinity of major roads shall be discouraged.

Section 6(f) Protection of Water Resources

The development of impervious surfaces shall be discouraged, including but not limited to lined ponds created as water features that must be periodically refilled from the aquifer or other artificial source.

General Comment:

Staff analysis suggests that Seminole County’s Natural Resources Officer where identified should be replaced with the Development Review Manager. We respectfully maintain that the professional opinion and authority of the county Natural Resources Officer should be upheld on environmental issues affecting compliance with this ordinance, and therefore request that this change not be made.

Commissioner Hattaway asked if the protection of water resources that was stated in his comments (Section 6(f), Protection of Water Resources) was specifically aimed at features like swimming pools?

Mr. Schue said that a swimming pool that was part of someone’s house could probably not be prevented from being built.

Commissioner Hattaway said that if you took this wording quite literally it could include swimming pools.

Mr. Schue said he is referring to a lagoon-like system that may be in or around a project. Mr. Schue said the wording could be refined so the meaning is made clearer.

Chairman Tucker said the map shows there are several lots that are developed residential lots up to the 3rd depth of the lots off the road. He is concerned that the residents in those homes may not be able to light their property in a secure manner. How does staff address that?

Mr. Sadrix said that currently the existing single family residences are exempted from the ordinance and that is taken care of as is.

Commissioner Hattaway asked if staff had a definition for "animal corridor"?

Mr. Shadrix said that in the scientific literature of published journals the definition is argued about. That is a tough one to deal with and there is not a great definition out there in the scientific journals. The one staff put in the ordinance is on page 4, "*Wildlife corridors*" – *refers to greenways that are known passages of travel for wildlife.* It is ambiguous but it's that way for a reason. Wildlife corridor for ants could be several inches wide verses for a black bear could be considerably larger. We certainly aren't going to try to make the distinction as to which animals are to be saved. This is something that is negotiated through the application process using site data and the required site review by an environmental consultant working for the applicant. Staff would be happy to take direction from the Board at this point.

Commissioner Hattaway asked if it involved going out to see a trail or did it involve studies of animal behavior?

Mr. Shadrix said he would use a more scientific approach. If it was proven and there was data available showing that animals were frequenting a certain passageway on a regular basis, staff would be more inclined to say that was a corridor, whereas heresay is heresay. Collected data is what we would base our decision on.

Commissioner Tucker asked if staff was comfortable with that definition.

Mr. Shadrix said he was comfortable with it until he could find a expert definition that is widely accepted that would encompass the intent of the Wekiva Protection Act.

Motion by Commissioner Nicholas for approval of both items A & B as recommended by staff. Second by Commissioner Peltz.

Commissioner Mahoney said he was in favor of the ordinance on lighting standards, however, the design standards still has problems and he cannot support that part of the ordinance.

As far as tree replacement, if you live in a rural area there are a lot of standards telling you to clear trees away from the house so it doesn't burn down and now we are creating standards that could force someone to plant them closer to their house and in a greater frequency than is really safe.

The 50' buffer around wetlands is a step up from our standard and the Wekiva Area is getting extra protection, but there is absolutely no reason to buffer wet floodplains. They are simply not environmentally precious unlike wetlands which are. He is not aware of any standard or any research by anybody that says a floodplain is environmentally sensitive and deserves to be protected. What that does is create an additional burden to development which will further and unnecessary restrict it.

He is also concerned about walls and fences. People put up walls and fences for security and privacy. Through the Wekiva Forest up through Apopka and SR 46 from Lake County into Seminole and there are miles of fences along that road that prohibit the animals from crossing but a private homeowner is going to have, if this ordinance is enacted, their ability the preserve and protect their environment threatened. That is the final reason he feels the design standards ordinance is not a good one and should not be adopted.

Chairman Tucker said he agreed. On page 5, Section 6(b)(1) it states flood prone areas as described by FEMA. He is not sure what that means. He is familiar with a floodplain area but not a flood prone area.

Mr. Shadrix said staff recommended adding the phrase "or best available data". Since FEMA was listed in the original Settlement Agreement between the BCC and Department of Community Affairs we could not delete it but we could enhance it by adding "the opportunity to use better data".

Chairman Tucker asked if FEMA uses flood prone or floodplain?

Mr. West said most of the language in this section of the ordinance is taken directly from our Comprehensive Plan which adopted these as policy saying that by December 31, 2000, we will enact land development regulations. The last sentence of that policy that is in our Comprehensive Plan says development activity including the placing and depositing of fill within wetlands and the 100 year floodplain as adopted by FEMA shall be prohibited.

Chairman Tucker said he is unfamiliar with the term flood prone area and he's not sure what it is referring to.

Commissioner Mahoney said he doesn't think the term flood prone area and the protection of those areas is inappropriate.

Motion was split so the lighting standards and design standards ordinance could be voted on separately.

Vote for lighting standards passed unanimously. (5-0)

Vote for design standards failed unanimously. (5-0)

C. REFLECTIONS – SR 46 RON QUIGLEY, QUIGLEY AND COMPANY;
APPROXIMATELY 70 ACRES MORE OR LESS; REZONE FROM (RC-1)
COUNTRY HOMES DISTRICT AND (A-1) AGRICULTURE TO (PUD) PLANNED
UNIT DEVELOPMENT; SOUTH OF SR 46 ACROSS FROM YANKEE LAKE.

Commissioner McLain – District #5

Amanda Smith

Motion by Commissioner Mahoney to continue this item to the March 6th LPA meeting. Second by Don Nicholas.

Motion passed unanimously. (5-0)

**F. SPACEPORT USA; SPACEPORT USA/ANDRE HICKMAN, PRES. / SID
VIHLEN, PROJ MGR;** APPROXIMATELY 64.02 ACRES MORE OR LESS;
REZONE FROM M-1A (VERY LIGHT INDUSTRIAL) TO PUD (PLANNED UNIT
DEVELOPMENT); NORTH AND WEST SIDE OF HICKMAN DR EAST OF I-4.

Commissioner McLain – District #5

Jeffrey Hopper

Sid Vihlen is asking for a continuance to further discuss retention issues with the Department of Transportation(DOT).

Motion by Commission Mahoney to continue this item to the March 6th meeting. Second by Commissioner Hattaway.

Motion passed unanimously. (5-0)

**D. LAKE MONROE COMMERCE CENTER (FRED'S TIRE SERVICE); RAND
YARD RAILWAY DEVELOPMENT/SID VIHLEN;** APPROXIMATELY 4.26
ACRES MORE OR LESS; REZONE FROM (C-1) COMMERCIAL AND (A-1)
AGRICULTURE TO (PCD) PLANNED COMMERCIAL DISTRICT; EAST SIDE OF
C-15, SOUTH, EAST OF ORANGE BOULEVARD.

Commissioner McLain – District #5

Kathy Fall

The applicant, Sid Vihlen, is requesting a rezone of 4.26 acres from A-1 and C-1 to PCD.

The site is located on the east side of CR 15 at the intersection of Orange Boulevard and is also known as the location of Fred's Tire Service.

The applicant is proposing warehouses, commercial and offices which are allowed in the C4, C-2 and M-1A zoning districts. The square footage of all the buildings is 39,938 feet.

This site is located in Seminole County's HIP-TI (High Intensity Planned District Target Area). The adjacent properties are Agriculture and Commercial zonings.

The requested zoning and uses proposed is consistent with Seminole County's Vision 2020 Plan, compliant the Land Development Code and consistent with the trends of the area.

Therefore staff recommends approval of the requested PCD zoning classification with the following conditions:

1. Uses allowed will be mixture of warehouse, office and commercial uses that are allowed under the C-i, C and M4A zoning districts with no more than 10% of the total square footage to be retail.
2. Building height will not exceed thirty-five feet.
3. Parking spaces, setbacks, and all landscaping shall comply with the off-street parking and landscaping section of the Land Development Code in effect at the time of site plan approval.
4. Outdoor advertising signage (billboards) is prohibited.
5. Dedication of right of way starting at 15 feet in width on the south end of the property that will increase to 40 feet on the north end for the future widening of CR 15 prior to site plan approval. Understanding that the owner will give the right-of-way amount established by rational nexus for the widening CR-15.
6. Lighting shall consist of cut-off/shoe box style fixtures with a maximum height of 20', including fixtures.
7. Any traffic signal modifications required as a result of this development shall be paid by the developer.
8. 5' sidewalk along property frontage of C-15.
9. Access may be limited after C-15 widening.

Commissioner Mahoney said #9 would read better as "*Access to C-15 may be limited after widening after said road*".

Mr. West agreed.

Commissioner Mahoney asked staff to explain the requirement for the dedicated right-of-way (#5).

Ms. Fall said it was something the applicant worked out with our project manager, our Engineering department and Boyer Singleton, which are the consultants for the widening. They are the one who specified the amount that was needed for the widening of C-15.

Commissioner Mahoney asked when C-15 was going to be widened?

Ms. Fall said they are going into the engineering phase right now.

Commissioner Mahoney asked if there was property across or down the street that the County was going to have buy right-of-way from?

Ms. Fall said up and down C-15 there has been development that has come in that the County has used rational nexus on it so we are going to have to acquire right-of-way.

Commissioner Mahoney said if this applicant kept the property as Fred's Tire Store, he wouldn't have donated his right-of-way, would he? In fact, he'd be compensated for it.

Ms. Fall said he would be compensated when it comes to anything that is above the 15' that goes to the 40', if that is above what the rational nexus is.

Commissioner Mahoney asked staff to explain the 15' and the 40'.

Ms. Fall said the way the road is being engineered, from the south side of the property only 15' is needed. When the road goes north, where the railroad tracks are, they are going to need 40'.

Commissioner Mahoney asked how wide is the existing right-of-way was?

Ms. Fall said she could not give the details of the right-of-way that is needed.

Commissioner Mahoney said if this site stayed in its present condition as Fred's Tire Store, we would have to buy his real estate from him to develop the road. It's not as a result of his application that the right-of-way is needed. This right-of-way is needed whether this site is developed or not therefore it's the opposite of a rational nexus. We're just taking his land.

Mr. West said the term rational nexus comes from court rulings where the impact of development on the infrastructure of the being improved has to have a rational nexus. The determination that they are going place an additional 30,000 square feet will be a traffic impact from that on the adjacent roadway. Our Public Works department has a formula that they use.

Commissioner Mahoney asked that formula be made available to the Board in future packages.

Mr. West said what this language is saying is that we're not down to a final alignment yet and we will not take more than rational nexus as a result of the impact on the adjacent roadway.

Mr. Vihlen said the project, as designed, meets the Comprehensive Plan requirements, a all development requirements, all the of the related zoning requirements without requesting any variances. He said that both Boyer Singleton and Seminole County have made concessions in the design and have changed the angle of the curve and because of that he has agreed to set the buildings back, the 15' to 40' right-of-way, and that final design will include that right-of-way. The applicant will donate the right-of-way using the technical formula of rational nexus. He agrees with staff's report and with the associated Development Order and asked for Board approval.

Motion by Commissioner Peltz for approval. Second by Commissioner Mahoney to include the rewriting of item #9, as stated.

Vote passed unanimously. (5-0)

E. SMT - SANFORD LLC; JOHN GUY; APPROXIMATELY 6.51 ACRES MORE OR LESS; REZONE FROM M-1A (VERY LIGHT INDUSTRIAL) TO C-3 (GENERAL COMMERCIAL & WHOLESALE); LOCATED WITHIN THE I-4 INDUSTRIAL PARK ON THE EAST SIDE OF HICKMAN DRIVE, NORTH OF SR 46.

Commissioner McLain – District #5

Cathleen Consoli

The applicant, Mr. John Guy is requesting to rezone approximately 6.51 acres of property located in the 1-4 Industrial park, east of Hickman Drive and north of State Road 46 from M-1A (Very Light Industrial) to C-3 (General Commercial and Wholesale).

Mr. Guy wishes to rezone the property to meet setback requirements for the existing buildings to facilitate the sale of the remaining portion of the property at a future date. The applicant is currently manufacturing metal cabinets on the site and proposes no change in use. There are no flood prone or wetland areas located on the site. The future land use for the property is Industrial allowing for the requested C-3 zoning classification.

Direction	Existing zoning	Future land use
North	M-1A	Industrial
South	PUD Seminole Crossings, C-2	HIP-TI, Commercial
East	C-3	Industrial
West	M-1A	Industrial

Staff has no objections to the request for the requested C-3 zoning is consistent with the adopted Vision 2020 Comprehensive Plan for Seminole County and it is compatible with the neighboring land use designation and zoning classification.

Mr. John Guy, the applicant is present.

Motion by Commissioner Mahoney to approve the rezoning from M-1A to C-3. Second by Commissioner Nicholas.

Motion passed unanimously. (5-0)

G. TRINITY RETAIL CENTER; DALY DESIGN GROUP INC./THOMAS DALY; APPROXIMATELY 18.57 ACRES MORE OR LESS; REZONE FROM (PUD) PLANNED UNIT DEVELOPMENT TO (PUD) PLANNED UNIT DEVELOPMENT; INTERSECTION OF TUSKAWILLA ROAD AND SR 426.

Commissioner Maloy – DISTRICT #1

Jeff Hopper

The applicant is requesting a rezoning from PUD (Planned Unit Development) to PUD (Planned Unit Development) for this 18-acre parcel in order to develop a mixed residential and retail development consisting of 168 townhouse units and 2 commercial parcels. The subject property is currently vacant and has a High Intensity Planned Development (HIP) future land use designation. The property is located on the south side of SR 426 at the south end of Tuskawilla Road.

The applicant proposes to develop approximately 1.5 acres in residential use as townhouses, with an additional 3 acres designated for commercial use. The townhouse portion of the development would consist of 168 units at a density of 10.5 units per acre. Buildings would be 2 stories in height and all units would be situated on individual platted lots. The commercial portion of the development would consist of 2 parcels, both fronting on SR 426, of approximately 1 and 1 ¼ acres. Permitted uses would be the c-i retail commercial uses. Additional uses would include car washes, gas pumps, and drive-through restaurants.

Land uses surrounding the site are: Commercial uses to the north; Agricultural and large-lot single family residential to the south; Mini-warehouse to the east; and Single family residential to the west.

Primary access into the development would be from the main entrance at the south end of Tuskawilla Rd. However, a limited access point to the commercial lots would also be provided on SR 426.

In an issue related to access, a 16-foot easement passes through the site from north to south, providing an entrance into several large lots on the south side of the property. This proposed development would not eliminate or reduce the capacity of the easement. Property owners using the easement would be allowed free access through the gated entrance to the Trinity site.

The subject property was approved in 1990 for development as a completely commercial PUD, with 131,800 square feet of retail floor area. A major issue at that time was adequate buffering between the Trinity site and Trinity Bay Subdivision to the west.

Although the land use now being proposed is somewhat less intense than the approved commercial use, substantial buffering is still appropriate because of a significant difference in density between Trinity Bay and the townhouse development. For that reason, staff is recommending a 75-foot building setback and 50-foot buffer along the west property line.

Staff recommends approval of the request, subject to all conditions listed in the Staff Report, including the following:

1. There shall be a 75-foot building setback and a 50-foot buffer along the west property line. The buffer shall include the existing row of pine trees and an additional row of 4" caliper oak trees on 30-foot centers.
2. Balconies shall be prohibited on units closest to the west property line.
3. A 6' brick or masonry wall shall be maintained along the west property line. The existing block wall shall be extended to the south property line.
4. Front walls of the townhouse units shall be staggered.
5. The 16' easement providing access to properties to the south shall be maintained at no less than its current capacity. Property owners using the easement shall be granted use of the gated entrance through the residential portion of the Trinity site.

6. The developer shall provide an additional east-west cross street to facilitate traffic circulation.
7. The wet retention area shall be arranged as an amenity and used as Open Space.
8. Dumpsters and mechanical units shall be located or screened so as not to be visible from SR 426 or Trinity Bay Subdivision.
9. The development will not be designed or marketed as student housing.

Mr. Daly, representing the applicant, said his proposal is to downzone the property from a full commercial PUD to a mixed use commercial PUD. We are proposing to maintain the two current commercial out-parcels with the previously approved uses. The remainder of the site we are proposing to downzone into a town home development. There are 168 attached single family units that would be for sale. These would be platted with a front yard and rear yard. It will be gated at the front end along SR 426 with card access. We had a traffic report done and it's down to about 2,500 trips a day, about a 70% reduction in the traffic generated onto Tuskawilla and Aloma.

All the landscaping will be maintained by a common association. All the building will be common owner maintained under the master association. The retention pond will be a joint use retention pond with the commercial parcel so there won't be two ponds.

We initially contacted the residents back in November and met with the president and some of the members and explained our proposal of the project. We came back for another meeting and met with the full Board and explained that we were downzoning the property and gave them all the information we felt they needed to become comfortable with the project and also to voice their comments and concerns. Following that meeting, we sent letters to all the residents along the common property boundary explaining the project. We have gone the extra mile and listen to their concerns and addressed a number of the Board's concerns and made efforts to work with the homeowners along Trinity.

The County's staff report has two items that we do not agree with. The first item is the 75' building setback requirement. The 75' building setback was imposed upon a commercial development versus a single family development. We believe that maintaining that 75' building setback doesn't acknowledge the downzoning. What we have proposed is to have a 40' buffer and a setback along the majority of the property. Down near the south end of the retention pond area we are requesting that it drop down to 25' but again recognizing that the rear setbacks on Trinity Bay are 25'.

The second item is that staff is requesting that we have two access points. We don't understand why since this is a private development and there are no public dedicated streets. Our intent was to leave the existing dirt road intact and to have as little impact as possible on the residents that live south of this project, as opposed to paving all the way down their street. We don't think that is something that we'd like to see and don't think that more pavement is necessarily a good thing.

Mr. Daly asked for the Board approval on this project and would appreciate the review these two items.

Wendy Seliga, 355 Tuskawilla Road, is opposed to the rezoning but knows she is in an area that is going to get developed eventually. She is not opposed to developing the area but would like to see things stay intact as much as possible. One of the problems she has is the gate at the front of the road. She is located down towards the end and will be at the mercy of that.

This project could potentially bring 500 new residents along with 100-200 new children. We have a huge concern as to where those children are going to go. There are no local parks or recreation nearby. She is also concerned about the security issues that will bring.

This project is being developed at 10½ units per acre and she would like to see a development with less density.

Chris Seliga, 355 Tuskawilla Road, said that he and his wife were not notified. He is concerned about the location of the gate also. He is concerned that the retention pond that is going in the back is going to be part of the 25% recreation and is only 20' from his property.

Ivan Lawyer, 420 Tuskawilla Road, South, is opposed to the density and feels it will decrease the value of his property. He is concerned about the ingress and egress, the density and the number of people going in and out of that road. There are accidents there all the time and this is just going to increase that problem. He is also opposed to the gate location.

Todd Husty, 5690 S. Lake Burkett Lane, is concerned about where the children are going to play. There will be very dense housing without concern as to what is going to happen to those families. Mr. Daly suggested fencing it in but he doesn't feel that is right.

Carolyn Cook, 5430 N. Lake Burkett Lane, has a couple of issues. She doesn't agree with the 25% green space provided in retention/detention areas. She supports staff's recommendations for the building setbacks along the boundary. She would like to see additional landscaping and understory for noise abatement. She is very concerned about concurrency involving recreation areas. There are not adequate recreation areas for 600 residents and 200 children. Red Bug Lake Park is all the way at the end of Tuskawilla Road and Red Bug and is not within walking or biking distance.

Annette Russell, 5220 N. Lake Burkett Lane, sent a letter to staff stating her concerns.

1. Privacy and security are most important. Though the County requires the existing wall to extend down to my property line, I am uncomfortable with the extremely close proximity of such a wall to our home. It would be my suggestions that a very dense and layered landscaping be planted with a wrought iron or aluminum open feel for our residents. Also a land mound along the border. A minimum height of 1½' tall was guaranteed.

2. The remaining units around the retention pond would be in the same way heavily landscaped and fenced to deter people from entering onto the bordering properties.
3. She requested that the natural existing buffer of mature oaks be spared when tying into Trinity Bay subdivision's utilities.
4. The leg of the retention pond be flipped so more of the pond would be adjacent to Trinity Bay.
5. She suggested a fountain be put in place in the pond to reduce stagnant water and reduce adding mosquito infestation.
6. Should approval to Trinity Bay's drainage pond be granted, it would be necessary that by doing so no new threat of flooding exists.

She is not opposed to this project as long as the concerns and issues are ironed out.

Craig Bailey, 5310 N. Lake Burkett Lane, he is concerned about the 40' buffer and building setbacks. He is also feels the additional children will pose security and safety issues.

John Oakes is the president of the Trinity Bay HOA. Mr. Daly did contact the association in November and we did have an initial meeting with the Board members. At that time it was decided all the people who would be directly affected would be sent notification. He is in favor of the rezoning because it is the least intense use that has been shown to the residents so far. One of favorable things about Mr. Daly's design is that he turned the building so that the end of the building backs up to the Trinity Bay development. Since it will be single family housing, there won't be commercial type lighting in the parking lots and dumpsters being dumped at 4 a.m.

Wanda Bratt, 5210 N. Lake Burkett Lane, lives adjacent to the pond. She doesn't know if she's for it or against it but she is concerned about the issues that have been raised regarding security. She is also concerned about flooding from the pond since her property is so close to it.

Lonnie Bishop, 4948 Lake Sharp Drive, lives to the south of the project. He feels the impact from the traffic coming down the private dirt road is going to be increased tremendously. He is also concerned about security. There needs to be some fencing so people can't get around the gate.

Doug Boteek, 5230 N. Burkett Lane, said he is in agreement with staff's building setback of 75'. The landscape buffer needs to be more dense than what was recommended. He is concerned about the maintenance of the retention area at the south end and the lack of play area for children.

Mr. Daly said he appreciates the security concerns the residents have and will do what he can to address these concerns.

Commissioner Mahoney asked how long is the unpaved easement on the plan?

Mr. Daly said about 350'.

Commissioner Mahoney said if it would be about \$30,000 to pave, would he have any objection to them paving it?

Mr. Daly said no as long as it stayed within the 16' easement that is there.

Commissioner Mahoney asked if they could pave it and put a gate up?

Mr. Daly said yes and there is nothing in the easement document that says they can't improve it.

Mr. Daly addressed the security issue. He said this project is town homes which is a starter home market and so this is not designed or anticipated to be loaded with children. He doesn't think walling in the subdivision is necessarily the best approach.

Commissioner Mahoney asked if each unit will have a garage?

Mr. Daly said yes, a one car garage.

Commissioner Mahoney asked how wide each lot will be?

Mr. Daly said the lots will be 20' wide by 80' deep.

Commissioner Mahoney asked what is the projected unit size, air conditioned space?

Mr. Daly said the interior units start at 1300 square feet. The ones on the end are 1800 square feet, heated and cooled.

Commissioner Nicholas asked if the design is based on the setback he is proposing or the 75' setback the County wants.

Mr. Daly said the 40' setback he is proposing.

Commissioner Peltz asked if the project is going to be fenced as designed?

Mr. Daly said there is an existing concrete block wall that separates 90% between Trinity Bay and this subdivision. There is a fence on the opposite side of the property.

Commissioner Peltz asked about fencing around the retention pond?

Mr. Daly said there is no fencing proposed around the retention pond. It will be landscaped as an amenity.

Commissioner Mahoney said he feels the applicant has done a good job making this presentation and putting forth this plan and is in agreement with the applicant regarding the setbacks.

Motion by Commissioner Mahoney to approve this PUD in place of the old PUD along with staff recommendation except delete condition #7 and modify condition #3 and state that the building setback and buffer should both be 40' in width. Second by Commissioner Nicholas.

Commissioner Peltz said he felt it was extremely important to have that buffer and would not vote for the amendment. He feels more shrubbery

should be added between the wall and the apartments. He agrees condition #7 be deleted but add some more specific shrubbery.

Commissioner Mahoney said he did see Commissioner Peltz's point. He said along with the 40' buffer, a row of pine trees, a row of oak trees and the inclusion of understory trees and bushes as stated should be added for visual and sound buffering.

Commissioner Mahoney asked staff if there was any guidance in the Code as to standards.

Mr. West said there are standards in the Code for understory trees although they are not applied on a typical active/passive buffer.

Commissioner Mahoney amended his motion to include additional landscaping materials of understory trees as provided in the Code every 10' along with a consistent 40' buffer. Second by Commissioner Nicholas.

Commissioner Hattaway asked if this particular design layout would work with a 40' building setback?

Mr. Daly said he would have to adjust the buildings down at the south end, but yes, it will.

Commissioner Tucker said he didn't feel there was sufficient recreation for what will be needed but that this was a better alternative than other commercial projects that have been proposed.

Motion amended that when this project comes back to the Board of County Commissioners for review some additional accommodation be made for recreation on the site that is not presently there. Second by Commissioner Nicholas.

Motion passed unanimously, as amended. (5-0)

H. BANANA LAKE PD; FRED AND CARMEN EDWARDS; APPROXIMATELY 24.8 ACRES MORE OR LESS; LARGE SCALE COMPREHENSIVE PLAN AMENDMENT FROM (SE) SUBURBAN ESTATES TO (PD) PLANNED DEVELOPMENT; REZONE FROM (A-1) AGRICULTURE TO (PUD) PLANNED UNIT DEVELOPMENT; W OF BANANA LAKE ROAD, APPROXIMATELY 3400' SOUTH OF CR 46A.

Commissioner McLain – District #5

Amanda Smith

The applicant for the Banana Lake is requesting a Large Scale Land Use Amendment and rezoning. This item is part of the Seminole County Large Scale Land Use Amendment Spring Cycle. The applicant is requesting to amend the future land use designation of Suburban Estates to Planned Development and to rezone 24.8 acres from A-1 (Agriculture) to PUD (Planned Unit Development), proposing 82 dwelling units at a density of 9.9 units per acre for property located on the west side of Banana Lake Road approximately 3400' south of CR 46A.

The proposed plan would place medium-density residential densities adjacent to established Suburban Estates uses. FLU Exhibit 2 indicates that medium density residential is not an appropriate transitional use adjacent to Suburban Estates. Transition and associated compatibility issues may be addressed through the use of the Planned Development land use designation and PUD zoning. To ensure compatibility, the applicant must demonstrate that his plan provides for creative site design and appropriate standards for buffering, setbacks, lighting and building height, and limiting adjacent uses to passive, unobtrusive uses. At this time, Staff believes that the request does not meet the intent of the Planned Development definition and PUD zoning classification.

Staff's primary concern is the impact of traffic to the site. The sole access to the site is via Banana Lake Road, a substandard local road. The applicant has not demonstrated that he is able to improve the road to County standards. Additionally, staff would not support provision of access through the Suburban Estates land use to a multi-family development. The 1998 approval of multi-family to the south was based in part on the applicant's ability to access the site through the existing apartments within the Heathrow International Business Center to the south. Staff indicated at that time that the orientation of the project towards a developed, higher-intensity PUD was a mitigating factor in the placement of high-density uses at that location. That project will consist of 252 units on 28.5 acres, with a net density of 12 dwelling units per acre and a limit of two stories.

It is staff's opinion that the applicant has not demonstrated that the project is designed for maximum compatibility with adjacent uses to the west, which consist of single-family homes within the Heathrow PUD. The proposed plan indicates a generic building design with no buffering indicated, other than existing vegetation directly north of the site.

The proposed PUD plan also shows infrastructure for the project located within the 200' foot wide buffer which was negotiated between the applicant, the Department of Community Affairs, and the County as part of a compliance agreement. Under the agreement, the developers of the Colonial Grand apartments deeded a portion of the 200' buffer to Mr. Edwards, who agreed not to seek a rezoning or land use amendment on the strip deeded to him. The placement of a dumpster facility and the project entrance road within the deeded strip is inappropriate and approval of the uses as shown would, in effect, offer the applicant the same benefits as if he had rezoned the property.

Therefore, at this time, staff is recommending denial of proposed land use amendment and rezoning. Ted Buckley, the property owner's representative is here to address the amendment and associated rezoning.

Mr. Buckley said this is a difficult infill project as in the previous project. At this level, it is hard to come in with a full blown design that essentially shows you precisely what unit type will go in this property. We are at a preliminary approval stage. The owners want to see if this is possible before they spend \$100,000 on consultant's fees to get to that stage. We feel that the issues can be addressed at this level so that we can go

forward to the next step where it is logical that we come back before we spend that amount of money to show you these things.

This is a piece of property presently being used as several single family homes. The Edward's live on the northwesterly tract presently. They have an access road that comes in from Banana Lake Road. The larger piece to the east was formally owned by the Fredericks and that single family home still presently exists. Within the confines of these homestead areas, we have a ridge of property that separates two lakes and there is quite a bit of floodplain and wetlands that are present on this property. We have looked at conditions associated with this plan that are really intended to protect these neighbors that live on Banana Lake Road. Colonial Grant to the south has severed any connection to this road so the only users of Banana Lake Road will be the users of this particular property and the present owners who happen to live on it. At some point in the future, the larger tracts up at the north will ultimately be developed in some way but at the moment they are presently A-1 and Suburban Estates. While this presently may be a substandard County road at this point, it will have to be developed to handle the traffic representing approximately 550 trips per day. If you include the total impact of both the residents and the this project, you still are very much within a normal residential subdivision street in terms of traffic impact. There is no other access to Banana Lake Road and Banana Lake Road, when it's completed, will serve only for the residents who happen that happen to live on Banana Lake Road down to this piece of property.

We've explored the possibility of obtaining access from other sources. That may be a possibility in the future. At this point it doesn't seem to be realistic due to the fact that there is a present DRI on the HIBC which complicates matters if were to include traffic within those other areas. However, one of staff's comments was that the developer would be required to bring Banana Lake Road up to County standards for the full length to the intersection. We are not opposed to that idea. We believe that the development of this property will require that. We do take exception to the comment as to whether it can be brought up to County standards at this point. We've looked at the available right-of-way. There is approximately 66' of right-of-way here. There are some engineering issues associated with straightening out the road. There is a sinkhole that is presently in the way but we have not problem with this being attached as a contingency of approval at this preliminary level. The understanding here is that at this preliminary level, we shouldn't have to bring you highway plans for the development of this road but merely to establish the design criteria that we agree with the necessity for the improvement of the road. The improvement of this road will improve conditions for the neighbors that utilize it and minimize the impact that they presently have on this road such as stormwater runoff. These are issues that should really be dealt with at preliminary subdivision stage which is the next stage following approval of the PUD.

We are proposing blocks of lots that would be 80' deep with a minimum of 22' wide. On that basis, the developable acreage here, which is approximately 10 acres out of the 25, would generate the density that was discussed of 9.9 units. This 9.9 units is not applied to 25.3 acres but merely applied to the developable land here which would give

a maximum possible density of 82 units. From a marketing standpoint, we feel that while 82 units is the maximum possible what will very likely occur here is that larger units will end up being developed. It is the intent of the developer to utilize the upscale nature of the surrounding areas and the demand for a fee simple attached product that would be sell starting at \$250,000 and go as high as \$400,000. What could finally end up occurring on this piece of property could range from 40 units that have 30' widths all the way up to the 82 units that have a 22' width. At this point, all we're doing is establishing the maximum parameters that are possible on this piece of property.

As far as the remaining 15 acres that occur here, these make wonderful buffers. These are heavily wooded, dense, have lots of understory and in essence when we set aside 50' of buffer we are setting aside 50' of heavily wooded lands that do provide a very good buffer both from lighting, noise and visibility.

As a condition of approval, we don't have a problem with submitting a landscape plan and negotiating improvement to these buffers which can include fence and/or wall in some locations. The only place that is not separated by large areas of wetlands would be the small area of land in the corner that is adjacent to the Springfield residence and the buffer along the Heathrow subdivision.

We recognize that the Springfields' residence could have a visibility issue with our project. This is really the only house surrounding the project that has that problem from a buffering standpoint. We are willing to work with the Springfields to ensure they are happy with it. The 2 story units will have a maximum height in the 20' range.

The 60' on the south that was deeded to Mr. Edward by Colonial Properties, as a condition of approval, we have no problem with modifying the site plan keep the use of this 60' property with the provisions of the Settlement Agreement. This property is not calculated into the density so it does not increase the zoning on this property. We can modify the site plan to remove the compactor location before final approval to DCA.

The requirement that the 15 acres be placed in conservation easements is pretty common. We are happy to do that as a condition of approval at the time of final plat.

We have no problem with agreeing to providing a management plan for these wetlands and floodplain areas as well as a gopher tortoise management plan and/or permit in the normal course of development which would occur at the time of final plat.

We would agree to a provision that at final plat we demonstrate site plan adjustments that take into account specific tree locations and tree preservation on the site and tree preservation for the purpose of strategic buffering.

The applicant has requested a recommendation of approval based upon the following conditions:

- 1) Applicant or successor agrees to improve Banana Lake Road to County standards, or provide alternate access.
- 2). Applicant or successor agrees provide a conservation easement over all wetlands and required wetland buffers restricting use to maintenance and preservation at the time of final plat approval.
- 3). Applicant or successor agrees to deed restricted development to prohibit access to Banana Lake Road by motorized craft at the time of final plat approval.
- 4). Applicant or successor agrees to provide a conservation area management and preservation plan, and a gopher tortoise management plan/permit at time of final plat submittal.
- 5). Applicant or successor agrees to submit a negotiated plan for undeveloped, 50 ft. wide, landscaped buffers meeting, at least, Land Development Code buffer requirements, where abutting lower intensity development at the time of preliminary plat submittal.
- 6). Applicant or successor agrees to modify its proposed development plan to eliminate any use of the 60 ft. southerly strip, except as permitted by the settlement agreement between Fred C. Edwards, Jr., and Colonial Properties recorded August 20, 1999 in the official records of Seminole County.
- 7). Applicant or successor agrees to provide a revised site plan illustrating optimum tree preservation and mitigation on site at the time of preliminary plat submittal.

Based on the above proposed conditions, and staff's analysis, the proposed request would be compatible with the County's comprehensive plan policies.

Paul Walther, 1246 Dunhaven Court, serves as chair of the Governmental Affairs Committee for the Heathrow Town Advisory Council. He supports staff's recommendation for denial as submitted. He is concerned with the traffic patterns on Banana Lake Road which would abut and intersect with CR 46A and Heathrow Boulevard. The project is similar to Colonial Grand therefore we do not need any more units.

John Simes, 642 Lakeworth Circle, is Chairman of the Lakeside HOA. He believes there is a heavy onus on the applicant to satisfy certain conditions when a major amendment to the Comprehensive Plan is being made. He doesn't feel those conditions have been satisfied in this case. This will be a densely populated subdivision in the middle of a very difficult area to access. He feels the proper term for this is urban sprawl. He doesn't feel there are enough recreational facilities available to these residents. He has security and environmental concerns. We have a heavily forested isthmus between two environmentally sensitive lakes and wetlands. It is the home of sandhill cranes, bald eagles and short tail hawks. He feels that the development of this area will have a very

detrimental impact on the environment around Heathrow. He supports the Board recommendation for denial.

Janice Springfield, 770 Banana Lake Road, is most impacted by the request. She said the Edwards are very good neighbors and fought against the Colonial Grand development. She built her house out there in 1971. When HIBC was built a nice brick wall was built but it didn't keep out the road noise from I-4. All the homes out on Banana Lake Road are single family homes and Heathrow does have a 200' buffer between the fence the buildings. Building "C" is only 75' from her door. She has talked with the Edwards about it and they have promised a wall between the property but she would like to request a 200' buffer.

She would like the 100' buffer to stay on the lake as it is now in Heathrow where it comes around and the trees stay there.

She is concerned about the density on the property since it is not compatible with what is already out there.

Colonial Grand promised the residents a brick wall on the second phase to cut them off from Banana Lake Road and the Edwards property. We are asking that the wall go up first before development.

She is concerned about the water since they are all on well and septic.

She has been here since the early 1900 and wants to maintain the quality of life out there. She agrees with staff's recommendation of denial.

Carol Henshaw, 660 Lakeworth Circle, has the same concerns as Mrs. Springfield. Even though the Edwards have expressed their love for trees, she has seen the trees bulldozed away. She also has environmental concerns and agrees with the 200' both on the Heathrow side and the Banana Lake side.

Janice Ferral, 874 Banana Lake Road, lives by the sinkhole. She is very concerned about the water situation. She is concerned about where the real centerline is for Banana Lake Road. She is only 20' from the sinkhole and she to back out of her driveway. If you add 500 more trips a day to Banana Lake Road, how is she going to get out? She feels like she is being squeezed out and her property will be worth nothing. She feels the land is unstable and has been told by an engineer that the area is severely sinkhole prone. She is concerned that the homes out there will be damaged once construction is started. She would also like to see another access rather than Banana Lake.

Mr. and Mrs. Lighton were opposed to the request but did not speak.

Mr. Buckley said everything he has heard is valid and he anticipated these things in advance and are proposing to address them in the conditions that are listed except for one thing. Mrs. Springfield mentioned that she would like to see a 200' buffer and a 100' buffer on the lake. He has no problem with the 100' buffer on the lake. The 200' buffer on the HIBC side essentially was intended to buffer a non-residential project from a residential area. It also occurs in an area where there is not much vegetation. For

that reason, there is still an equivalency here that still can be negotiated and falling in line with condition #5 on the list. He will take another look at the setback from Mrs. Springfield's house and see if that distance can be increased. Any type of buffer that goes there will negate any type of impact she could have.

Mr. Walther made a comment regarding the 46A intersection. There is a stop light there presently and it will end up becoming a signalized intersection at some point. Staff placed the requirement on the development the project would pay a pro-rated share of that light. He has no problem with that. Security will be more expensive than what is across the way and the residents will be from the same economic level of existence. Regarding the environmental issues, we have prepared a list of species survey which was submitted to staff. It did not occur in the staff report because there are no issues here with regard to listed species except for a couple of gopher tortoises and we have agreed to address that issue in one of our conditions. The biggest issue is what is going to happen with Banana Lake Road. As a condition of the development, we are proposing that if we can't find an alternative access, that we will improve Banana Lake Road to County subdivision standards. County standards requires that sidewalks be put in. There are no sidewalks now. We will revise the site plan to save trees and whatever is approved in terms of that site plan in tree preservation in the final PUD will be locked in.

Fred Edwards, 748 Banana Lake Road, shares a lot of the concerns of his neighbors. He has been there since 1983 and did not buy the property to develop, however the lifestyle has drastically changed. This is a very rapidly developing area and he will try his best to address the concerns of his neighbors. There is water and sewer available in that area now even though most of the residents are not hooked up to it.

Commissioner Mahoney said he is opposed to the application. This is not a rezoning question, this is a land use amendment and because it is a land use amendment we look at different things. This property has a land use designation of Suburban Estates and the big questions is should the land use be changed from Suburban Estates to PD, the equivalent to a medium density residential. To the south of this property sits the Colonial Apartments and this Board was opposed to that rezoning when it came through. He feels the Suburban Estates land use designation is the controlling factor, and in this case, the appropriate land use designation. When the HIBC development went in, a 200' setback was put in to try to preserve the residential character of the area. The land use designation in this case needs to stay the same and if the land use designation stays the same there is no rezoning to talk about.

Motion by Commissioner Mahoney to deny the comprehensive plan amendment from Suburban Estates to Planned Development. Second by Commissioner Nicholas.

Motion passed unanimously. (5-0)

***I. FOREST LAKE II GLATTING JACKSON/JOHN H. PERCY;
APPROXIMATELY 133.6 ACRES MORE OR LESS; LARGE SCALE
COMPREHENSIVE PLAN AMENDMENT FROM PUBLIC/QUASI-PUBLIC TO (PD)
PLANNED DEVELOPMENT; REZONE FROM (A-1) AGRICULTURAL AND (R-1A,
R-1AA) SINGLE-FAMILY DWELLING TO (PUD) PLANNED UNIT
DEVELOPMENT; SOUTHWEST SEMINOLE COUNTY, NORTH OF SR 436 AND
WEST OF WEST LAKE BRANTLEY ROAD.
Commissioner Van Der Weide – DISTRICT #3 Jeff Hopper***

The applicant is proposing a major new mixed-use development in the vicinity of the existing Forest Lake Academy, to include retail uses and an assisted living facility in addition to an expanded school and church.

Described as a campus-like setting with the school and church as focal points, the development will include:

- an academy facility serving 750+ students;
- a church of 1000-1200 seats;
- 189,000 square feet of retail floor area; and
- a 120-bed assisted living facility.

Land uses on surrounding properties are: undeveloped land to the north; a golf driving range and vacant land to the west; SR 436 to the south; and Single Family development to the east.

Primary entrances to the site would be through 2 access points from SR 436, although an access to West Lake Brantley Drive would be provided for use by the Academy only. Uses within the PUD would be interconnected with internal streets and a pedestrian walkway system. The school would be substantially rebuilt, while the church would be greatly expanded from 50,000 to 90,000 square feet. The Assisted Living Facility would include apartment units and a nursing home.

Commercial uses would be small-scale in nature, geared toward serving the development itself and surrounding neighborhoods. Allowable commercial uses would be those permitted in the C-1 district, with additional uses being a car wash and a hotel. The auto repair activities now conducted at the Academy would continue as a part of the school's educational program. Building heights would not exceed 35', with the exception of an 80' tower on the church building.

The PUD plan sets aside approximately 47 acres as open space, conservation and stormwater management. This includes existing wetlands on the site. Proposed landscape areas include a 20' wide buffer along SR 436 in the commercial parcel; and a 25-foot buffer between the Academy and existing residential areas.

Staff recommends approval of the request, subject to all conditions listed in the staff report, including the following:

1. Consistent architectural design throughout the development.
2. Maximum building height of 35' as measured per the Land Development Code, except a maximum of 80 feet for a church steeple.
3. Automobile repairs shall only be conducted in connection with educational programs.
4. Stormwater management areas shall be arranged as amenities and used as Open Space.
5. The development shall be limited to 2 entrances on SR 436.
6. Landscaped areas shall include a 20' buffer for commercial development fronting SR 436; and a 25' buffer between the Academy and adjacent residential development.

Mr. Percy, representing the applicant, agrees with the 11 conditions of approval in staff's report and requests Board approval.

Jerry Claus, 521-531 W. Lake Brantley Road, owns the property directly across from the development on the east side. He is in favor of the project but has some concerns that need to be addressed and he has already talked to the developer about it.

1. Improvement of W. Lake Brantley Road from the revised entrance;
2. Improvement of the intersection of SR 436; and
3. Sidewalks. Five homes have been developed on W. Lake Brantley Road with no sidewalks within the past 3 or 4 years.

Commissioner Hattaway said there was a word added when he read the conditions of the staff report.

Mr. Hopper said the actual conditions word for word are in the staff report and he only highlighted them in his presentation.

Commissioner Mahoney asked Mr. Percy about his conversation with Mr. Claus about the sidewalks.

Mr. Percy said that he knows that there will have to be sidewalks run along W. Lake Brantley Road.

Motion by Commissioner Mahoney to approve the large scale land use amendment from PUD to PD and approve the rezoning from A-1, R-1 and R-1AA to PUD subject to the 11 conditions as proposed by staff. Second by Commissioner Hattaway.

VIII. PLANNING MANAGER'S REPORT

There was no Planning Manager's Report at this time.

IX. OTHER BUSINESS

There was no other business.

X. ADJOURNMENT

Meeting adjourned at 11:30 p.m.

Respectfully Submitted,

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.