

LOCAL PLANNING AGENCY/
PLANNING AND ZONING COMMISSION
COUNTY SERVICES BUILDING
ROOM 1028
April 3, 2002 – 7:00 P.M.
MINUTES

Board Present:

Ben Tucker, Chairman
Tom Mahoney, Vice Chairman
Dick Harris
Don Nicholas
Allan Peltz

Staff Present:

Don Fisher, Planning and Development Director
Matt West, Planning Division Manager
Colleen Rotella, Community Service Division
Cindy Matheny, Planning Division
Dick Boyer, Planning Division
Cathleen Consoli, Planning Division
Alice Gilmartin, Planning Division
Dick Thomas, Planning Division
Craig Shadrix, Community Service Division
Amanda Smith, Planning Division
Shannon Suffron, Development Review Division
Denny Gibbs, Development Review Division
Suzy Goldman, Library and Leisure Services
Joe Gasparini, Parks Division
Karen Consalo, Assistant County Attorney

I. CALL TO ORDER

Chairman Tucker convened the meeting to order at 7:00 p.m.

II. ROLL CALL

Quorum was established.

III. ACCEPTANCE OF PROOF OF PUBLICATION

Motion to accept proof of publication passed unanimously. (5-0)

IV. APPROVAL OF MINUTES

Motion to approve the minutes of the February 20, 2002, meeting passed unanimously. (5-0)

V. OLD BUSINESS

- A. VISION 2020: ADMINISTRATIVE WAIVERS TEXT AMENDMENT TO THE SEMINOLE COUNTY COMPREHENSIVE PLAN (VISION 2020) TO ADD A POLICY TO ALLOW THE PLANNING AND DEVELOPMENT DIRECTOR AUTHORITY TO APPROVE ADMINISTRATIVE WAIVERS TO LOT SIZE AND WIDTH, UNDER SPECIAL CIRCUMSTANCES, IN THE RC-1; A-1; A-3; A-5; AND A-10 ZONING DISTRICTS COUNTYWIDE*

CINDY MATHENY

On January 22, 2002, the Board of County Commissioners directed Planning Staff to move forward with a Vision 2020 text amendment enabling Planning Staff to approve limited administrative waivers to lot size and width. The proposed policy, as drafted by Staff, would permit only the Planning and Development Director to authorize such waivers, would limit the waivers to 1 acre and larger lots, and would not apply to properties within the Wekiva River Protection Area. If the Board votes to transmit the amendment to DCA as part of the Spring 2002 large-scale amendment cycle, it would return for an adoption hearing at a later date.

At that time, Staff will bring forward a proposed revision to the Land Development Code which would implement the proposed Vision 2020 policy addition. The Code revisions will specify certain criteria under which the waivers may be approved or denied. For example, approval may be granted if the owner provides documentation showing he/she unknowingly purchased non-conforming property, prior approval by the County of a lot split creating the parcel, or that the property was rendered non-conforming through dedication of right-of-way to the public. Circumstances under which a waiver request could be denied might include parcel size which is inconsistent with the general lot sizes in the neighborhood, inconsistency with the Comprehensive Plan, lack of documentation supporting the owner's claim, or knowledge by the County that the owner purposely rendered the property non-conforming.

Policy FLU 5.1 9 Administrative Approval of Waivers to Lot Size and Width

By December, 2002, the County shall adopt amendments to the Land Development Code that permit the Planning and Development Director to approve administrative waivers to lot size and width in the RC-1 , A-1 , A-3, A-5, and A-10 zoning districts. The Land Development Code amendments shall specify certain criteria by which the waivers may be approved or denied. Waivers shall not extend to more than 3% of the lot size and width required by the applicable zoning district. Administrative waivers shall not apply to properties within the Wekiva River Protection Area.

Staff recommends approval of the proposed text amendment authorizing the Planning Director to approve administrative waivers to lot size and width under certain circumstances.

Commissioner Mahoney asked staff to explain the 3% lot size and width.

Ms. Matheny said, for instance, if you needed a 1 acre lot and you had .97 acres you could apply for a waiver but at .96 you could not.

Commissioner Mahoney asked if this whole amendment was about 3% waivers?

Ms. Matheny said yes. There are a very small number of lots that would be just slightly under the zoning district size.

Motion by Commissioner Mahoney to approve. Second by Commissioner Harris.

Motion passed unanimously. (5-0)

VI. NEW BUSINESS

*A. VISION 2020: RECREATION AND OPEN SPACE ELEMENT TEXT AMENDMENT TO THE RECREATION AND OPEN SPACE ELEMENT OF VISION 2020 TO ADD A POLICY TO ALLOW USE OF PARTICULAR RECREATION LANDS FOR POSSIBLE FUTURE WATER-RELATED UTILITIES AND SERVICE.
COUNTYWIDE*

DICK BOYER

As part of the Wekiva Global Compliance Agreement (1999) and consistent with the Board's Resolution 2001-R-139, the northern one third of the County's Yankee Lake Property located in the northwest corner of the County is now in the process of being amended from its current future land use designations of Public-Quasi Public and Conservation to a designation of Recreation. On the southern 2/3 of this property, the County currently owns and operates the Northwest Regional Waste Water Treatment Facility, a water-related utility providing service to the northwest portion of the County and the I-4 commercial business corridor.

The St Johns River Water Management District (District) identified in its District Water Supply Plan 2000 report that the Central Florida region could expect to see significant demands for potable water by the year 2020 and proposed a number of alternatives to meet that water shortage including increased water rates, increased use of reuse water and additional conservation Other methods and enforcement. The District's report also noted the possible need for additional water utility infrastructure such as the construction of a surface-water treatment plant to utilize water from the St Johns River. Since that initial report, the District has re-evaluated the region's water supply and demand equation and now states

that the region's need for additional potable water supplies and the infrastructure to provide that water may occur much earlier than previously forecast.

Given that the County's Yankee Lake property is among the possible sites that have ready access to the river and sufficient land area for such a utility and given that the property currently has the proper land use designation and zoning for such a use (Public Quasi Public/A-i), the County would like to preserve its existing right of being able to construct such a water-related utility on the property in the future should the need for additional water supplies become an overriding regional issue. This proposed policy addition to the Recreation and Open Space Element of the Seminole County Comprehensive Plan, Vision 2020, is designed to preserve that right.

The second amendment to the Vision 2020 Comprehensive Plan this evening is to the Recreation and Open Space Element, proposing policy 7.8 entitled "Preservation of Future Water Supply Options".

This policy was created to preserve the County's right to be able to expand an existing water-related utility or to construct a new one, should the need arise, on public property.

This text amendment will "piggyback" with the other text amendments to the Comprehensive Plan (revision to 8 elements in Vision 2020) and at the BCC's direction be transmitted the Department of Community Affairs for review with the other Vision 2020 amendments.

Mr. Boyer handed out to each of the Board members a suggested one word revision to the agenda memo which further clarifies that this policy would only apply to public utilities.

Staff requests the Commission recommend the proposed amendment to the Board of County Commissioners for transmittal to the Florida Department of Community Affairs for review.

PUBLIC COMMENT

Keith Schue, Group Chair, Central Florida Sierra Club, submitted a letter containing alternative language for Seminole County staff's consideration. This letter was entered into record. He asked if this policy was dealing specifically with Yankee Lake.

Mr. Boyer said that when the County wrote that policy it was dealing with Yankee Lake. Currently the Yankee Lake property is entirely public, quasi-public and is for utility use. What staff has done in the process now is making the portion of that property change to a recreation land use without splitting the property. It will have dual land uses on it and the County wanted to ensure that should the need arise for additional public water supplies and facilities that what we have today would not be forfeited by this move. Staff agrees that it is a good idea to do the recreation but wanted to protect that and that's where the policy came from.

Mr. West said when staff put in the term "*previously existing water related utilities*", we felt that Yankee Lake was the only circumstance that is covered by that. Mr. Schue wants to add a little more to be more specific that this property would have had a public designation of public, semi-public at one time and now is recreation. Staff's intent by putting in the language "*previously existing water related utilities*" covers Yankee Lake and only Yankee Lake since this is the only case where we have this kind of property with a water related utility on it.

Chairman Tucker asked why this area is being used for the spray irrigation project by the City of Sanford if it is County owned land?

Mr. West said the City of Sanford owns the property.

Chairman Tucker asked why it went to the County Board of Adjustment?

Mr. West said the City owns the property but the property is still controlled by Seminole County zoning because it is not located within the City limits.

Chairman Tucker asked if this would apply to that?

Mr. West said no because it doesn't have a Recreation land use category.

Mr. Schue said his concern is not relative to Yankee Lake. His concern is that this language could be expanded to possibly be interpreted to allow for water treatment plants in other recreation lands around the County. He wanted clarification that this policy was specifically referring to Yankee Lake.

Sam Kendall, Altamonte Springs, was unaware that this policy referred to Yankee Lake until he spoke with Mr. Schue. He thought the purpose was to extend drinking water into natural lands that the County owned. He feels there is some confusion over how the policy is written.

Motion by Commissioner Harris to approve. Second by Commissioner Mahoney.

Mr. Mahoney said in the interim, before the Board of County Commissioners hears this item, he would request that staff take the time to study the words that the Sierra Club has provided. If staff can live with it after careful thought and consideration, he would not object recommending it to the Board. He is willing to approve the language as it stands now but certainly would like staff to consider what has been given by the Sierra Club and give that opinion to the Board.

Mr. West said he would.

Motion passed unanimously. (5-0)

B. WAYSIDE ESTATES PSP GTC ENGINEERING CORP/CLAUDE L. CASSAGNOL; APPROXIMATELY 5.32 ACRES MORE OR LESS; PRELIMINARY SUBDIVISION APPROVAL FOR 10 LOT, RESIDENTIAL SUBDIVISION, ZONED R-1AAA; NORTHEAST CORNER OF HENDERSON LANE AND WAYSIDE DRIVE.

COMMISSIONER McLAIN — DISTRICT #5

DENNY GIBBS

The applicant, GTC Engineering Corporation, is requesting approval of a 10 lot Preliminary Subdivision Plan for Wayside Estates subdivision. Wayside Estates is located on the Northeast corner of Wayside Drive and Henderson Lane.

The property is approximately 5.32 acres +/-1 and is zoned R-1AAA, which allows a minimum lot area of 13,500 sq. ft. The minimum lot width at the building line is 100' and the minimum house size is 1600 sq. ft. Each proposed lot has at least the required 13,500 buildable area with the average area of the lots being about 16,300 square feet. A 10' landscape buffer and a 20' retention tract is being provided along Henderson Lane. The property is on septic and water provided by Seminole County.

Staff has reviewed the application and finds that it meets all the development standards of the R-1AAA zoning district and applicable requirements of the Land Development Code. No waivers have been requested.

Staff recommends approval of the Preliminary Subdivision Plan.

Motion by Commissioner Mahoney to approve. Second by Commissioner Peltz.

Motion passed unanimously. (5-0)

*C. LAKE FOREST SECTION 17 (PSP) LAKE FOREST/GARY D. ADAMS; APPROXIMATELY 10.6 ACRES MORE OR LESS; PRELIMINARY SUBDIVISION APPROVAL FOR 30 LOTS, SINGLE FAMILY RESIDENCE, ZONED PD; 5350 SHORELINE CIRCLE.
COMMISSIONER MORRIS - DISTRICT #5*

SHANNON SUFFRON

The applicant, Orlando Lake Forest Joint Venture, is requesting approval of a 30 lot Preliminary Subdivision Plan for the Lake Forest Planned Unit Development. The property is approximately 10.59 acres and is zoned PD. The project is located on the south side of Orange Boulevard, north of SR 46 and south of Nevada Avenue. The minimum lot size is 8,775 square feet. Minimum lot width at the building line is 65'.

Water and sewer are being provided by Seminole County. The PSP meets all Land Development Code requirements and the requirements of the Lake Forest PUD.

Staff recommends approval of the PSP.

Motion by Commissioner Nicholas to approve. Second by Commissioner Mahoney.

Motion passed unanimously. (5-0)

*D. LAKE FOREST SECTION 18 GARY ADAMS / DYER, RIDDLE, MILLS & PRECOURT/ DAVE LOWE; APPROXIMATELY 9.04 ACRES MORE OR LESS; PRELIMINARY SUBDIVISION APPROVAL FOR 18 LOT, SINGLE FAMILY RESIDENCE, ZONED PLANNED DEVELOPMENT; 550 SOUTH OREGON COUR T
COMMISSIONER MCLAIN - DISTRICT #5*

SHANNON SUFFRON

The applicant, Orlando Lake Forest Joint Venture, is requesting approval of an 18 lot Preliminary Subdivision Plan for the Lake Forest Planned Unit Development. The project is located on the South side of Orange Boulevard, North of SR 46 and South of Nevada Avenue. The property is approximately 9.035 acres and is zoned PD. The minimum lot size is 8,775 square feet. Minimum lot width at the building line is 65'.

Water and sewer are being provided by Seminole County. The PSP meets all Land Development Code requirements and the requirements of the Lake Forest PUD.

Staff recommends approval of the Preliminary Subdivision Plan.

Motion by Commissioner Nicholas to approve. Second by Commissioner Peltz.

E. SPRING AVENUE - BCC PROPERTY SEMINOLE COUNTY BCC/PARKS & RECREATION / JOE GASPARINI; APPROXIMATELY 3.31 ACRES MORE OR LESS; REZONE FROM R-1 (SINGLE-FAMILY DWELLING) TO PLI (PUBLIC LANDS AND INSTITUTIONS); NORTH END OF SPRING AVENUE ON LAKE JESUP

COMMISSIONER MORRIS - DISTRICT #2

CATHLEEN CONSOLI

The applicant, Seminole County Parks and Recreation Division, is requesting a rezone of approximately 3.31 acres from R-1 (Single Family Dwelling) to PLI (Public Lands and Institutions) to facilitate the creation of a public park. The vacant property is located on the west side of Spring Avenue, approximately 0.4 mile north of SR 434, along the shore of Lake Jesup. The site was formally known as Hiley's Fish Camp.

In August of 1996, the parcel was acquired by Seminole County with funds from the Natural Lands Program, on January 9th of 2001 a conceptual site plan for a park was approved by the Board of County Commissioners, and in February of this year the parcel was renamed to Overlook Park.

The rezoning of this parcel from R-1 to PLI would result in the downgrading of in the allowable intensity of the use of the land, allow for a public park with passive recreational uses, and would support Seminole County's Vision 2020 Comprehensive plan.

Staff has no objections to the request since the future land use of the parcel permits the Public Lands and Institutions zoning district.

The requested PLI zoning is consistent with the adopted Vision 2020 Comprehensive Plan for Seminole County and supports the document in the following ways:

The introduction of the Conservation Element states that for wetlands in urban areas a plan for preserving, enhancing and incorporating these areas with

compatible land uses should be encouraged and that these uses may include parks and trails.

The goal of the Conservation Element is to preserve, properly manage and where possible enhance the quality and function of Seminole County's natural resources for existing and future generations.

Policy 7.7 of the Recreation and Open Space Element of the Comprehensive plan uses the potential for passive recreation as part of the criteria for the acquisition of land.

Finally, it is compatible with the neighboring land use designations and zoning classifications.

Staff recommends that the proposed PLI zoning is:

1. Consistent with policies of the Seminole County Vision 2020 Comprehensive Plan related to the Low Density Residential land use designation; and
2. Consistent with the standards and intent of the Public Lands and Institutions zoning classification.

Staff recommends approval of the requested PLI zoning classification.

PUBLIC COMMENT

Deborah Adams, 2033 Nancy Drive, was in opposition to the request. She said there is only one way in and one way out and doesn't feel there are not enough parking spaces. Half of the road is paved and half is not and the County doesn't maintain the first part of the road. All the run-off goes down the ditches and drains into the lake. When they paved the second half of Spring Avenue, they put a silt barrier up in the proposed parking area and never came back to clean it out.

There are also thousands of alligators in Lake Jesup and this would be dangerous to children and animals.

Commissioner Mahoney asked if the issue was that five parking spaces would not be enough to service the park or is it too many and would create more traffic on the road?

Ms. Adams said both. Number one is the traffic on the road and number two is there are not enough parking places for all of Seminole County. There is no overflow parking anywhere.

Chairman Tucker said the front section of that road from 434 to the paved portion, which is several hundred feet, is scheduled to be paved.

Mr. Gasparini said yes, there is an interlocal agreement with the City of Winter Springs going to the BCC on the 23rd of this month to address that issue and to have the first portion of that road paved since it is in the City of Winter Springs.

Mr. West said the important thing to note is design issues. We're here to discuss the appropriateness in compatibility of the zoning request with the land use and in that respect it is important to note that right now this is a non-conforming piece of property under R-1 zoning because it doesn't even meet the minimum standards of R-1 zoning. It's been purchased, it's publicly owned and PLI is the most appropriate zoning for it. How the park is designed and how it is laid out are design issues that really don't come into play at this point because what we're talking about is zoning and compatibility.

Commissioner Mahoney said it's not unlike a PUD where the site plan is what actually determines or can effect the compatibly of the park with the surrounding area.

Mr. West said there is no requirement to provide a site plan with this zoning category. When the County bought this property and hired a consultant to come up with alternative designs, staff had public meetings. Staff can hold additional public meetings to alleviate concerns to discuss the design aspects.

Commissioner Mahoney asked if the design was finalized for this park?

Mr. Gasparini said the County is pretty far along on that but it can be modified if need be. There were meetings with the citizens and there were 3 conceptual plans presented. This was the one that had the lowest impact on that area.

Chairman Tucker asked staff to read the letter from the Natural Lands Committee into the record.

PLANNING AND DEVELOPMENT DEPARTMENT

COMMUNITY RESOURCES DIVISION FLORIDA'S NATURAL CHOICE

April 3, 2002

Dear Members of the Planning and Zoning Commission:

In 1991, the voters of Seminole County approved by referendum the expenditure of twenty million dollars to purchase environmentally sensitive lands for passive, resource recreation. A committee was appointed by the Board of County Commissioners to review potential properties, rank them based on an extensive set of criteria, and make formal recommendations on purchases. Since that time, over 6,000 acres have been purchased in Seminole County and another referendum has passed in the year 2000, this time allocating twentyfour million dollars to fund greenways, trails, and natural lands acquisitions.

As chairman of the Seminole County Natural Lands Advisory Committee 2000, I would like to say on behalf of the committee that it is important that focus remain on the overall picture when considering this project. The citizens of Seminole County have voted to purchase properties like Hiley's Fish Camp with public tax dollars for public use to be placed within the public trust. Our Committee has recently recommended the purchase of the adjoining Clifton Springs property, and County Staff recently received a grant from the Florida Communities Trust towards its purchase. We strongly recommend that the Planning and Zoning Commission recognize these commitments in recommending approval of the proposed rezoning to PLI.

Sincerely,

Andrew Van Gaale, Chairman
Seminole County Natural Lands Advisory Committee

Chairman Tucker asked if there was any staff from the Natural Lands Committee to explain what other property in the area the Committee is being considered for purchase?

Ms. Colleen Rotella said it is the property across the street referred to as Clifton Springs. It is approximately 8 acres, has several high magnitude springs on it, and is considered a fairly environmentally sensitive piece of property.

Ms. Rotella was in charge of the acquisition and in that process there was considerable concern from the community. There were a number of community meetings to discuss the types of uses and the level of intensity and a lot of the issues that are being brought up as design issues. It was brought before the Board of County Commissioners in the acquisition process and has resulted in the least intensive type passive uses that are being presented as opposed to boat ramp facilities and high intense type uses similar to the fish camp that was there.

Commissioner Tucker asked if the greenhouse immediately next door was on the agenda to be purchased?

Ms. Rotella said once the major pieces are purchased, the adjacent property owners are contacted to try and square off boundaries or to deal with issues relative to properties they are immediately adjacent. She does not know today about the house because the committee is actively working on the Clifton Springs project but it is something the committee continues to look at. The Committee will continue to evaluate the area and bring their recommendations to the Board of County Commissioners.

Commissioner Mahoney asked when the property was originally purchased?

Ms. Rotella said in 1996.

Commissioner Mahoney asked what the use of the property is today?

Ms. Rotella said it is managed under the County's Parks and Recreation Department.

Commissioner Mahoney asked if the public is presently using it as a park?

Mr. Gasparini said that right now the property is being mowed and picked up as needed. There is no management plan on the property because of the anticipation of developing the property.

Commissioner Mahoney asked if there was indication that the public was using it?

Mr. Gasparini said yes. There is an old boat ramp there that is currently being used periodically.

Commissioner Mahoney asked if prior to 1996 was this a commercial operation?

Ms. Rotella said she did not know the exact timeframe but the fish camp has been out of business for quite some time. Her understanding is that it was active in the 1950s and possibly 1960s. When the County got involved in the

purchase, there was a tremendous amount of dilapidated structures left from the old fish camp that were cleaned up.

Commissioner Mahoney said that originally it was an active fish camp, it is not any longer. Presently it is a park with a boat ramp and after the rezoning is in place it will become even less of an active site. It is somewhat out of place being surrounded by homes but it is becoming more and more compatible with every step the County takes. It seems like we are headed in the right direction.

Chairman Tucker said there is a large plan that is encompassing the Trail Head coming down to this and so this is not an isolated 1 acre to be used as a park. What this Board is hearing tonight is the change in zoning not the specifics of the park. In all likelihood there will be some type of park there but that is not our decision to say the specifics of what the park will be. That is for the County Commissioner to decide. This Board will hear the zoning aspects of this and all of the concerns that are voiced tonight will be forwarded to the BCC just as they were from the Board of Adjustment.

PUBLIC COMMENT

Libby Witt, 2009 Spring Drive, is in opposition to the request. The area that is designated "park" is a small area. The road to the park is mostly dirt and will not withstand a high volume of traffic. The parking and traffic are a very big issue. It is our understanding there will be 6 parking spaces and 1 for handicap which doesn't allow much parking and no park ranger to close the park when the parking is full.

Donald Kinch, 2009 Spring Drive, spoke in opposition to the request. If this will be opened up for public use, the people living there will not be able to control the traffic coming down. He has lived there for one year and when it was open before it was filled with cars, trucks and boat trailers. People parked in the resident's yards and driveways and it was uncontrollable. Also, the County has never taken care of the park. Just recently, the County came down, mowed the grass, and trimmed the trees to show an effort. The resident's have been trying to take care of the property themselves by putting trashcans out and the County has taken the trashcans away. Now there are brand new trashcans that were brought down just today by the County.

There are over 7,000 alligators in that lake. It will be dangerous for the public and children using the park.

Mary Jane Lillard, 2024, Nancy Drive, spoke in opposition to the request. She lives on the pond adjacent to the park. She said that only the people that live around the pond area got a letter. There are not enough parking spaces for the public and the residents are concerned about the County buying more property for parking. When it was a fish camp, there were people parking all over the

resident's lawns and driveways. The County has never mowed around the pond area since they bought it. There are many alligators, which can be a danger to anyone using the park, and also she is concerned about disturbing the existing wildlife in the area. The purpose of this property was for bike trails and now there will be cars coming in. Also she is concerned because there are no bathroom facilities.

Deborah Adams, 2033 Nancy Drive, is opposed to the request. She is concerned there are not enough parking spaces being provided. She would like to see the road north of 434 paved. She is concerned about the maintenance of the property since the County has not maintained it in the past. There are an abundance of alligators in the lake, which can be a threat to children and animals. There is no launch ramp for residents in the neighborhood and she is concerned about the silt barrier left in the canal after the paving. Sand has built up because of water running north down Spring Drive to the lake.

Commissioner Harris said that historically this site has been too intensively used. It has fallen into disrepair so it is unsatisfactory as it currently stands. The County is now trying to change what is there and do a low intensity/low impact change, remove the boat ramp and just the fact that is going to be change brings out people's concerns. The complaints that we've heard are not related to it being a low intensity, 5 or 6 parking spaces, gazebo type picnic area without a boat ramp. The complaints that are being heard are related to a maintenance plan, which heretofore has not existed. The County is asking for it to be rezoned, as it properly should be, to Public Lands as opposed to Residential. They are looking at buying other land that is currently zoned Residential that is not appropriate for residential development. The fact that this will turn the entire thing into a relatively low intensity, maintained park is the important issue. The fact that this has come forward without a maintenance plan, which is in development, concerns the residents. We can look at the recent history of the County in maintaining and bringing parks up to standard. This is the direction that the County is heading with this property. The concern here is really one of how good will the maintenance plan be. Nothing that has been heard states that it is inappropriate to rezone this away from Residential to Public Land.

Motion by Commissioner Harris to approve the rezoning from R-1 to PLI. Second by Commissioner Peltz.

Motion passed unanimously. (5-0)

F. MYSTIC COVE FOX CHASE PARTNERS INC/STEVE JOOS; SMALL SCALE LAND USE AMENDMENT FROM OFFICE TO HIP ADDING 5 ACRES TO AN APPROVED PUD; REZONE FROM A-i (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT) FINAL PUD MASTER PLAN APPROVAL

AND DEVELOPER'S COMMITMENT AGREEMENT; APPROXIMATELY 16 ACRES MORE OR LESS; EAST SIDE OF SR 417 AND NORTH OF SR 426.

COMMISSIONER MALOY - DISTRICT #1

*AMANDA SMITH
& CINDY MATHENY*

The applicant, Fox Chase Partners, Ltd, is requesting a small scale land use amendment from Office to HIP (Higher Intensity Planned Development), and rezoning from A-I (Agriculture) to PUD (Planned Unit Development), in order to add a 3.8-acre parcel to the Mystic Cove PUD (formally known as the O. G. Commercial PUD) for the development of an affordable housing apartment complex. The Board of County Commissioners in December 2000 approved the preliminary PUD on 12.57 acres for multi-family and commercial uses. The proposed change does not add more multi-family units above the 199 previously approved. The net density on the 3.8 acre parcel will be approximately 4.2 units per acre. The density within the approved portion of the PUD is 15.6 dwelling units per acre. The remaining tract B will not be developed at this time and staff would like to caution the applicant that when that site does develop, the Final Master Plan for that site will have to be approved by the BCC.

The applicant also requests approval of the Final PUD Master Site Plan and Developer's Commitment Agreement for the entire 16 acres.

Planning Staff recommends approval of the proposed land use amendment from Office to Higher Intensity Planned Development (HIP) land use with findings that HIP land use, as proposed, would be:

1. Consistent with Plan policies related to HIP land use designation; and
2. Consistent with adjacent HIP and Office land uses; and
3. An appropriate transitional use at this location; and
4. Consistent with Plan policies related to mixed-use development; and
5. Consistent with Plan policies identified at this time.

Based on the above analysis, staff recommends that the subject request, as proposed, would be:

1. In compliance with the applicable provisions of the Vision 2020 Plan and the Seminole County Land Development Code related to PUD zoning; and
2. Compatible with surrounding development and surrounding Future Land Use designations of Higher Intensity Planned Development and Office.

Staff recommends approval of the rezoning from A-I (Agriculture) to PUD (Planned Unit Development), subject to the attached development order and Developer's Commitment Agreement. In addition, staff recommends approval of the Final PUD Master Site Plan.

Staff and the applicants have been working on providing additional conditions with the Developer's Commitment Agreement such as signage and cross access easement issues. Staff hopes to have them all ironed out before this item is heard by the BCC later this month.

Motion by Commissioner Mahoney to approve staff recommendation. Second by Commissioner Nicholas.

Commissioner Harris said when we look at parcels like this we have to be aware of the fact that we need to put high intensity uses near roadways that are capable of handling the traffic. We do need apartments here in this County. There is an insufficient amount of land and if we don't build apartments and don't consider apartment buildings next to an expressway adjacent to a major artery the logic would tell us that there is no place to put apartments. This is a good use, in a good location for the density for they are asking. He will be supporting the motion.

Motion passed unanimously. (5-0)

G. DEEP LAKE PUD HARVEY SLAYTON AND SUSAN S IRELAN; REZONE FROM A-1 (AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT) FOR THE DEVELOPMENT OF MIXED RESIDENTIAL AND COMMERCIAL USES; APPROXIMATELY 18.66 ACRES MORE OR LESS LOCATED SOUTHSIDE OF SR 426 (ALOMA AVE), EAST OF THE TUSKAWILLA ROAD EXTENSION AND ON WEST SIDE OF DEEP LAKE ROAD.

COMMISSIONER MALOY-DISTRICT #1

CINDY MATHENY

The applicants are requesting a rezoning from A-I (Agriculture) to PUD (Planned Unit Development) in order to develop a mixed-use PUD on 18.66 acres designated as Higher Intensity Planned Development (HIP) land use. Development would consist of three commercial and office parcels and 65 townhomes.

As reflected in the staff report that was sent to the Commission, staff was recommending denial of the request as the applicants have not provided adequate access to the site, open space and active/passive buffer requirements are not met, and adequate information for staff review of the application has not been submitted. Since the report was sent to the Commission, staff has been working with the applicant and feel that we have solved most of the design issues with the exception of open space on the individual office/commercial parcels. The applicant is requesting up to 85% impervious area, staff feel that they should maintain at least 25% open space on those parcels. Also, the applicant is proposing to realign Deep Lake Road, which currently is a 14' private road, half on their property and half on the property to the east. This application would like to realign it on their property to come out onto 426. There is an issue with the property owners to the east who plan at some point to get access at a

median cut for their property on the east as well as the former Greenway Center property located on the north side of Aloma Avenue.

Based in the resolution of most of the issues, staff would like to recommend approval of the rezoning with a couple of conditions.

1. The applicant maintains 25% open space on the individual tracts.
2. Access issues be resolved prior to approval of the PUD for the property.

That would involve some negotiations with the property owners to the east and with staff to try and work out access. The property owners to the east feel that the road should be aligned on their property and may come down to being a civil issue.

Commissioner Peltz asked if there was a traffic light already approved for that location to cut across and if it was just a matter of when it is going to be installed?

Ms. Matheny said the property owners to the east were told at the time that the State acquired some property for the Greenway, that if they installed a road there, they could get a traffic light at that intersection.

Commissioner Peltz asked why we would not use that as the main entrance/exit?

Ms. Matheny said that property is not ready to be developed at this time and one solution would be that if the two property owners could agree for the current applicant to build the road across the property to the east so it comes out in that alignment where there will eventually be a traffic light. Another less desirable solution would be for the current applicants to build the road and at a later date realign it to the property to the east.

Chairman Tucker asked if it was the same property owner?

Ms. Matheny said no.

Commissioner Peltz said that he had heard the property owner would agree to that or is that not true?

Ms. Matheny said they will be here tonight to address it and give their opinion. At his late date, it is hard to negotiate a solution. That is why staff would recommend that it be delayed until it goes through the final PUD process.

Chairman Tucker asked if it was typical for staff to make a recommendation without the access being determined?

Ms. Matheny said they can get access. They can build Deep Lake Road out to 426. Staff does not feel this is a desirable solution. At some point if they wanted to realign it to come out at the traffic light and if the property owner to the east wants to build this road, the current applicant may feel they have rights because their road is already there.

Staff would like to move past that with this project and get it resolved. Ms. Matheny said it was not unusual to have a condition like this on a preliminary PUD.

Chairman Tucker asked if staff felt this was a civil issue?

Ms. Matheny said staff would like the two property owners to get together and come to a resolution. Staff cannot really dictate because it involves another property owner.

Ron Henson, Design Service Group, represented the applicant. He said he could comply with the open space request. His thought was having a tract that served several lots and keeping the retention in one particular place would be the best use. We can turn that into an easement so that all lots can comply with the open space requirement.

What is shown on the plan is an access that we can control. It is within the limits of our property up to SR 426. Currently there are two encumbrances that straddle the property. One is a 14' ingress/egress easement and the other is a 16' right-of-way. The best thing for all parties is to coordinate there. DOT has made a commitment to install a light and what we would like to do is work with them to make that happen, particularly in the front. We agree with staff that this be resolved prior to the final PUD. Seminole County has a strong history of encouraging joint access and limiting the number of points and we want to work towards that.

Chris Saliga, 3055 Tuskawilla Road South, submitted a letter in the record stating his concerns. He is not opposed to the project in concept since staff has worked to resolve most of the issues. He would like to see the units turned so the side of the townhouses face our house for minimum impact. He suggested the landscaping, lighting and noise issues along with the hours of use on the pool and tennis courts be addressed. He asked if wetland maintenance would be required maintenance. He wanted to know where his garbage pick up will be. He wanted to know if the townhouses will contribute to the maintenance of the proposed cold pave easement of Tuskawilia Road. Also, there will be no access to Tuskawilla Road and he wanted to express how much he wants to keep it that way. He would like to see a wall that went along the southern line of the project that would serve to handle all the needs of security, containment, and compatibility. He said the developer is recommending a 25' set back with a 10' buffer. These buildings will be 2-story. They will be next to his home, and comes up to his pool and playground area. He recognizes the restraints and asks for a compromise of 50' set back and a 25' buffer.

Ira Jarvis, 4925 Echo Court, lives to the south of the project. He said most of his concerns have been covered by other people but he wanted to make sure that whatever the alignment of Deep Lake Road would be, it would be a County maintained roadway and we would have access to it as a public right-of-way.

James Robinson, 4911 Echo Court, lives on lot #21. His main concerns have also been mentioned by other but he desires that Deep Lake Road be widened to 50' and be a County maintained road where we could access to it and to the front of their properties. He feels the right-of-way should be widened and County owned.

J. Christy Wilson, an attorney, spoke in opposition to the project regarding the access aspect. He is representing Charles Clayton, Malcolm Clayton and E. G. Banks who are the owners of the property to the east approximately 23.6 acres located immediately adjacent to interchange at 426 and the Greenway. In 1991 the Department of Transportation (DOT) was engaged in acquisitions for the purpose of taking the ramps and other rights-of-way in conjunction with the expressway and improvements to 426. In the course of that acquisition, his clients and the DOT agreed on a specific location for an intersection on Aloma to serve their property, which at the time and still are on the north side of the interchange. That is not just an agreement, it is part of a final judgement, which binds the DOT. The application before you now and the one coming up will have a huge amount of traffic being put through this road. His clients are not opposed to negotiating a joint use access road. The problem to that no one has come to speak to them about it. There have been no discussions between the applicant and his clients about where or how this access road is to be built. This action tonight is putting the cart before the horse and he would like to ask that this project be tabled this evening to allow time to negotiate an access drive that everyone can live with. He feels it would be a serious error to pass this on the BCC for preliminary or any other kind of approval with this access which flies in the face of what is ordered by the court. He is unaware of any public right-of-way through this property. It is his understanding that there is a 14' access easement, not a public road.

Commissioner Harris asked how he would see that access easement that exists there. It is not just the current property owner that has access because all the properties to the south have access. This is a situation where everyone who is involve in that access would have to be a party to changing that 14' of access that now hits Aloma.

Mr. Wilson said that with respect to those property owners that have a legal interest through this access easement, that is correct. They would all have to agree.

Commissioner Harris said all the property owners to the south would have to be involved in the process. As he looks at the size of the road and the spacing of the light, it would appear that the option to take Deep Lake Road and curve it over into the access that is mandated by the court for the signal, is not a very difficult thing.

Mr. Wilson said that before the dirt road is closed and the owners are denied access to it, there would have to be some agreement on their part for some

alternative access. Does that give these owners the right, in the course of developing their property, to take a 14' easement and demand a 50' or 60' wide right-of-way so that their properties can develop to a greater intensity? They only have the right to the access that they have. We have an agreement with DOT and before we close or alter that agreement we would have to reach agreement with every owner that has the benefit of that easement. His client is willing to negotiate a deal for regional access that benefits everybody. We just want to be consulted and so far we haven't been.

Commissioner Harris said if the plan that is there is acceptable except for the access to Aloma, then sending it forward subject to working it out and negotiating the access to a final design with all of the property owners is something that could be done. That puts a condition on it that before it goes for final approval we are recommending that detail be worked out. It does move the process forward as opposed to putting the landowner whose property is ready to develop in a situation where development could be held up. There is a way to move forward without tabling it and at the same time give the recommendation that the access be negotiated to its final form according to the State mandated light before it goes to BCC for final approval.

Mr. Wilson said there is a development in the preliminary stages on the north side that is currently being proposed. This isn't a situation where we don't intend to anything in the near future nor are we adverse to sitting down with the applicant and talking about access. The problem is that the applicant has not come to us. Suddenly we see a plan that they have submitted that they want preliminary approval on tonight. We see an access that is diametrically opposed to the access that we have as a matter of a court order.

Ms. Matheny said that our County Attorney that deals with planning and zoning issues has a different interpretation of the court order. She feels that what it actually says is that if the Claytons build the road there, they are entitled to the traffic light. It doesn't state that the road has to be built in that location.

Mr. Hanson said that his property does not extend to the west enough to the extension at Tuskawilla so the cold paving of the road, the trash pick up points and those things are outside the limits of his property.

He agrees to increase the buffering between the units and the property to 25' as requested by staff and he has no objection to placing the wall in addition to the 25' in that area.

Ms. Matheny said the active/passive buffering requirements would also add a double row of trees in addition to the buffer in that small area that is west of the wetland area.

With respect to the property owner to the south of our project, what we are proposing would be a public street, maintained by the County.

We would be happy to work with the Claytons and their representatives because it is obviously the thing to do. What we've shown here tonight is very much in their favor because we're proposing to build the whole street on our own property. They would have access and road frontage on their whole property and not have to pay for that street. We agree to work out the details of how that connection will be made to 426 between now and final PUD approval.

Chairman Tucker asked if he had worked out the details with the other property owners that have deeded access?

Mr. Hanson said to the south, there would be a public right-of-way opened to their use.

Chairman Tucker said it is his understanding that there are property owners to the south of this project that have easement rights over your property. Is that correct?

Mr. Hanson said that was correct.

Chairman Tucker asked if he negotiated specifically with each of them to eliminate their easement rights?

Ms. Matheny said that issue will be discussed on the next item.

Chairman Tucker said he knows that but it is pertinent to this item also.

Commissioner Mahoney said this applicant, like any other applicant, cannot be forced to negotiate with an adjacent property owner in order for this Board to approve the development of their property. What we can do is approve the plan as submitted. If this applicant builds this plan, including the full median cut and traffic light, and the adjacent property owner comes along later wishing to exercise their rights to use the access and full median, would this applicant then be required to close the median and revert to a right in/right out only?

Ms. Matheny said if they wanted to utilize the traffic light, they would have to use the Clayton's access onto 426. She didn't think this one could be permitted for a traffic light with the existing agreement for the property to the east. They would be too close together.

Commissioner Mahoney said this property owner is here now, meeting all of our requirements so they should be permitted. What happens if at some point in the future the adjacent property owner wishes to exercise their rights under their recorded agreement.? What happens to any access granted to this applicant?

Mr. West said that only DOT could answer that question because it is their road. When the Claytons come in and apply for their permit and when this applicant comes in for their permit, DOT is going to be sorting that out. The County does not have any authority over that.

Motion by Commissioner Mahoney to approve the rezoning from A-1 to PUD for this 18.66 acre parcel with staff recommendations. Second by Commissioner Harris.

Commissioner Nicholas asked if the property across the street is being developed at the current time?

Ms. Matheny said no. The property that the Claytons currently own north of 426 was withdrawn and had been continued to this current cycle. The applicants withdrew that and we have not had a resubmittal.

Chairman Tucker said he could not vote for the motion without the access issue with the property owners to the south being worked out.

Commissioner Harris said the applicant has already stated that they intend to widen that road, bring it to County standards and donate it to the County. This guarantees that not only that the current access rights to the property owners to the south remain, they are improved.

Commissioner Nicholas said he has a problem with saying that this is DOT's problem. The zoning is acceptable but access is an issue. He has concerns with that.

Motion passed 3-2. Chairman Tucker and Commissioner Peltz voted against the motion.

*H. SOUTH TUSKAWILLA ROAD PROPERTY L.L.C./M.E. MCGUIRE;
APPROXIMATELY 41.55 ACRES MORE OR LESS; REZONE FROM A-1
(AGRICULTURE) TO PUD (PLANNED UNIT DEVELOPMENT); LOCATED
ON THE SOUTH SIDE ON THE EAST SIDE OF ALOMA (SR 426) AND
ON THE EAST SIDE OF TUSKAWILLA ROAD: 3075 TUSKAWILLA ROAD.
COMMISSIONER MALOY - DISTRICT #1 CINDY MATHENY*

The applicant is requesting a rezoning from A-I (Agricultural) to PUD (Planned Unit Development) in order to construct a 144 lot single-family subdivision on a 41.55-acre site. The site is designated as Low Density Residential (LDR) land use and abuts Higher-Intensity Planned Development land use to the north, and LDR to the south and west. Staff has concerns regarding legal and adequate access to the site, access to adjacent properties, and site design.

STAFF RECOMMENDATION

The report that was sent out recommended denial based on a number of design and access issues. Since that time, staff has been working with the developer and the adjacent property owners trying to resolve the issues. Staff feels the design issues have been resolved within the subdivision. The applicant has

agreed to provide a 50' public right-of-way through their property to provide access to the four owners to the south and east of their site. Staff submitted letters into the record from three property owners stating that they support the applicant under certain conditions, which would be the provision of a 50' public right-of-way through the property. There is an issue that the property owners are requesting which would be the provision of an additional 10' at the applicant's property. Staff does not feel the applicant wants to dedicate that 10' and does not feel that would be necessary if the 50' is provided.

Staff is now recommending that the application be approved with the conditions that they provide the 50' public right-of-way through the property to access the four properties to the south and that the project have a maximum density of 4/du per net buildable acre.

Chad Moorehead, Madden Development, represented the applicant. He agrees with staff recommendations and conditions and asks for Board approval.

Commissioner Nicholas asked what is the proposed density per acre of the project?

Mr. Moorehead said on the plan it is 4.22 but the applicant is willing to go with staff's recommendation of 4/du per acre.

PUBLIC COMMENT

Jim Stelling, 216 Summerwood, Maitland, is one of the applicants. He wanted to clear up the point to the Clayton's attorney stating that they had no contact from applicants at all and no attempt to try and work out the access issue. We did have a meeting with the Claytons about 6 weeks ago. There was another meeting about 3 weeks ago and 5 or 6 days ago I called Mr. Clayton and asked him if we could have a meeting to try and work out some kind of arrangement with his traffic light agreement and Deep Lake Road. Mr. Clayton said that the only way he would be interested in having that meeting is if we would sell them the Sandefur property. That would cut the heart right out our development. They want to develop it for commercial purposes and we want to develop it for residential and we weren't willing to do that so that shut that avenue to us. We just want you to know that we did attempt to work with the Claytons to reach some kind of an agreement and they did not seem willing so we worked with the County and DOT on our own road plan and think we have DOT agreement.

Chairman Tucker wanted to know if he spoke with the Claytons regarding both applications?

Mr. Stelling said he is involved with both applications.

Chris Saliga, 3055 Tuskawilla Road, is concerned with the development going on around him and making sure that he keeps some quiet enjoyment. He said that after speaking with Dr. Storm Richards, he is convinced that his plan for onsite mitigation is a good one. He requested that his plan be put into use with his involvement. He supported the Planning committee in being more aggressive on

how the calculation of the wetland. He was concerned about recreation especially in section 20 of the map.

He said he hoped that the County recognizes the impact of these developments to our current quiet enjoyment. Addressing and handling these issues will go a long way towards maintaining security and creating compatibility between the projects and his home.

Ira Jarvis, 4925 Echo Court, spoke in favor of the development with the provisions as stated in his letter submitted into record.

James Robinson, 4911 Echo Court, spoke in favor of the development with the provisions as stated in his letter submitted into record.

Peter Acks, 5780 Deep Lake Road, supports the development with some concerns. He would like to have the 50' right-of-way coming down to his property line along with utilities that go with it since it would be logical to put them in before it is paved. Along the southern boundary of the development, he would like to have some sort of fencing or a wall along that property, preferably a concrete block wall. We would also like to save as many of the mature trees as possible for the esthetics and beauty of the area. His house is in the lowest area in the area with a 60' elevation. Everything around it is higher. The retention area that they are planning looks very large. His concern is whether it is large enough to hold all that because if it doesn't the run-off is going to dump onto his property. The County engineer said it should but he would like to have it on record that he is very concerned about that situation.

The project is being fast tracked and he would request that it be slowed down so some of these issues can be addressed and other legal and environmental issues that may arise. He would like to have some assurances that this development will not effect his property in a negative way.

Also, he would like to keep the name Deep Lake Road and not be changed to Deep Lake Court.

Mr. Wilson said he is concerned about who the real person is that will be developing the property. First it was Centex Homes and now some others. He is concerned about the access issue and doesn't feel it should be put off to be dealt with later. He said Mr. Stelling told him that he had met with his clients but he doesn't know of any specific proposals that have been made to his clients. His clients have advised him that there have been no discussions as to what exactly the applicants are proposing. He would like the applicant to state with specificity exactly who it was at DOT that they spoke to that advised them that DOT was going to permit the access they are seeking.

Mr. Moorehead said they plan on putting a trail around the pond as well as a gazebo in that area. That pond is that large because it does have to hold the 100 year storm.

He doesn't understand why the 10' easement that is requested by Mr. Jarvis is such an issue all of a sudden. They have had a 15' easement there for years. Why would a 25' easement be needed now?

He agreed with the 50' easement being stubbed all the way to Mr. Acks property, as requested. He will also do whatever he can to save all the trees.

He would be willing to put a fence up but not necessarily a concrete wall because of the expense. He would agree to a board on board privacy fence.

The pond being a 100 year pond will not have a discharge. The only kind of discharge that it might have is that there might be an interconnection with the wetland to keep hydrated. No water will be going onto Mr. Acks property.

He agreed to keep the name as Deep Lake Road.

Mr. Moorehead said he spoke with Stan Mann at DOT regarding the access connection. He is aware of the agreement and the red light there. He said we could do that connection and if and when that development comes in there is a possibility the connection would be altered to line up at the red light.

Chairman Tucker asked staff about the fast track procedure.

Ms. Matheny said this application was originally scheduled to come forward last month but because of the issues that were being worked out, the engineer on the project agreed to continue it for one month. The applicant did not agree with that and asked staff if they could schedule it for the Board immediately after the Planning and Zoning Commissioner. It would have been the original Board date if it had come before the Board a month ago.

Mr. West said he would not term this a fast track. The project was intended to be scheduled for the March meeting. The engineer of record had a miscommunication with the property owner that he was representing and told staff that it could be continued to April. When staff found out the error, it was too late to advertise it for the March meeting and we did not want to penalize the property owner. We were well aware of the issues, most of them had been discussed. This is not the only project that this has happened to. The SMT rezoning and Hickman Industrial Park ran into the same thing. When staff can be accommodating, we will be.

Chairman Tucker stated that one of the County Commissioners is an owner of this project. Did that have anything to do with your decision?

Mr. West said no. He always dealt with Mr. Stelling and was not aware personally that a Commissioner was involved.

Commissioner Nicholas asked staff if it was typical to get a staff's report with their recommendations on Thursday and by the following Wednesday the recommendations be different?

Mr. West said yes, especially when you are dealing with PUDs and PCDs when there is a lot of negotiations involved. The applicant controls when they want to go before a Board. A lot of times staff will tell them that if they go before the Board, staff will recommend denial. In the interim after it's been advertised, if the applicant comes in with additional information or addresses some of staff's concerns, the recommendation can change. The staff's policy is, if you want to go to a particular Board meeting and we haven't resolved all the issues, we'll move forward with a recommendation of denial and that doesn't stop the applicant in the interim time from addressing those issues.

Chairman Harris said that any implication of this being fast tracked no matter what the implication, is wrong. Matt, his staff, Don Fisher and the County Manager are all independent enough that they do the process the way it should be done. When an item is going to be heard by the BCC is not the concern of this Commission, it is a concern for them. Our job is to deal with what comes before us, act on it and send our recommendation along.

Chairman Tucker said he felt it was necessary to clear the air for the public.

Motion by Commissioner Harris for approval. Second by Commissioner Mahoney.

Commissioner Mahoney said he would like to send the message to the Board of County Commissioners that when this comes before them in its preliminary and ultimately its final form, the recreation issue is something that requires some extra attention.

Commissioner Nichols concurred with Commissioner Mahoney. Recreation was addressed in the previous project but not this one. The other concern he has is the impact on schools. When you bring in 140 homes, you probably bring in 140 children. He would strongly suggest the County Commission take a look at that also.

Chairman Tucker took the same position on this application as the last one. There are some unresolved issues and he is not comfortable with voting for it.

Motion passed 4-1. Chairman Tucker voted against the motion.

VII. PLANNING MANAGER'S REPORT

The Fall cycle deadline for large scale amendments passed. We received one application and we have one continued from the Spring cycle so there won't be a need for a second meeting.

VIII. OTHER BUSINESS

There was no Other Business to discuss.

IX. ADJOURNMENT

Meeting adjourned at 10:05 p.m.

Respectfully Submitted,

Fran Newborg, Recording Secretary

The public hearing minutes of the Seminole County Local Planning Agency/Planning and Zoning Commission is 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.