

SEMINOLE COUNTY GOVERNMENT  
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION  
AGENDA MEMORANDUM

SUBJECT: Small Scale Land Use Amendment from Low-Density Residential (LDR) to Medium Density Residential (MDR) and rezoning from A-I to PUD (Thomas Daly)

DEPARTMENT: Planning & Development DIVISION: Planning

AUTHORIZED BY: Matthew West *MW* CONTACT: Jeff Hopper EXT. 7431

Agenda Date <u>6/05/02</u>	Regular <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Special Hearing – 6:00 <input type="checkbox"/>	Public Hearing – 7:00 <input type="checkbox"/>	

MOTION/RECOMMENDATION:

- 1. Approve the request for a Small Scale Land Use Amendment from Low-Density Residential (LDR) to Medium Density Residential (MDR), and rezoning from A-I to PUD, comprising approximately 6.7 acres and located on the west side of Tuskawilla Road, ¼ mile north of Dike Road, based on findings made at the public hearing (Thomas Daly, applicant); or
- 2. Deny the request for a Small Scale Land Use Amendment from Low-Density Residential (LDR) to Medium Density Residential (MDR), and rezoning from A-I to PUD, based on findings made at the public hearing; or
- 3. Continue the public hearing until a date certain.

(District 1 – Comm. Maloy) (Jeff Hopper, Senior Planner)

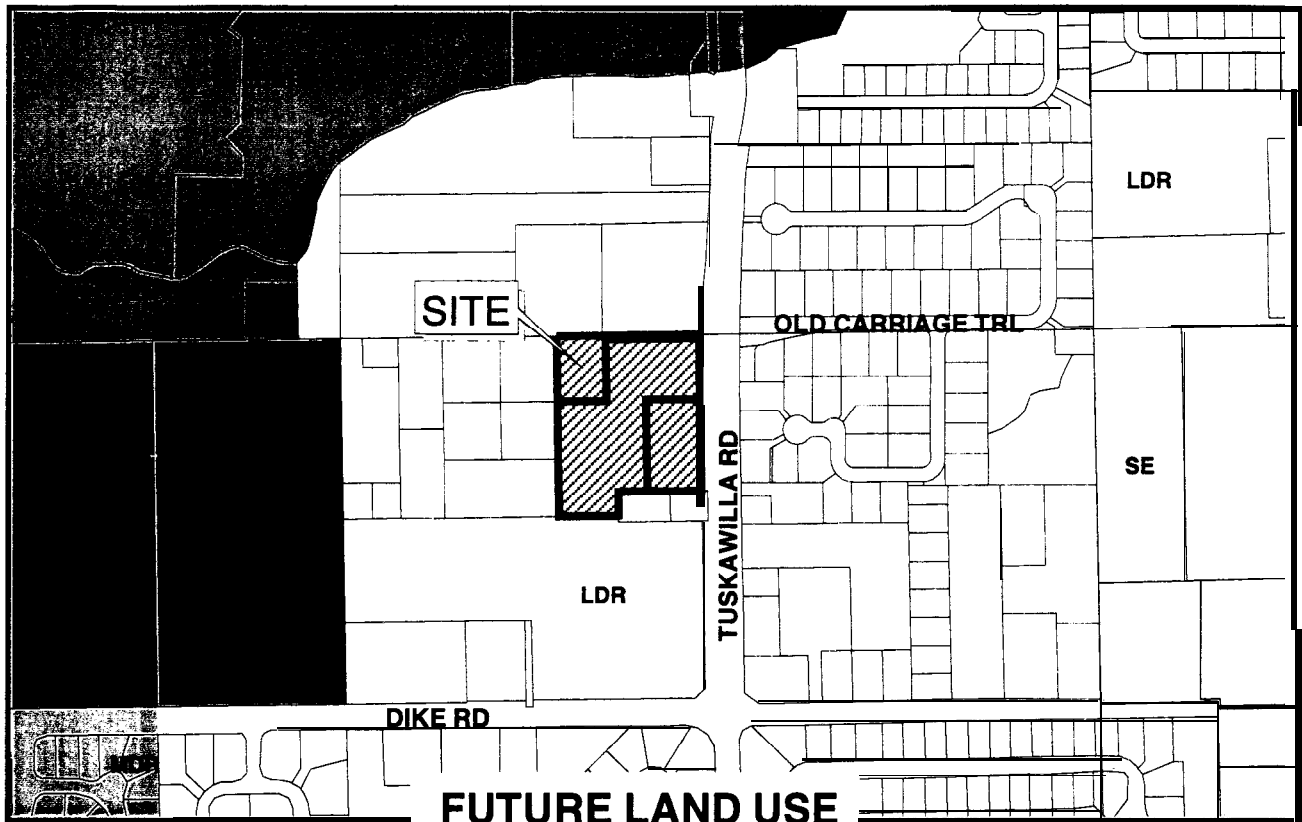
BACKGROUND:

The applicant, Thomas Daly of Daly Design Group, requests a Small Scale Land Use Amendment from Low-Density Residential (LDR) to Medium Density Residential (MDR), and rezoning from A-I to PUD, to allow 48 townhouse units at a density of 7.7 units per acre.

STAFF RECOMMENDATION:

Staff recommends denial of the request due to compatibility issues as discussed in the Staff Report.

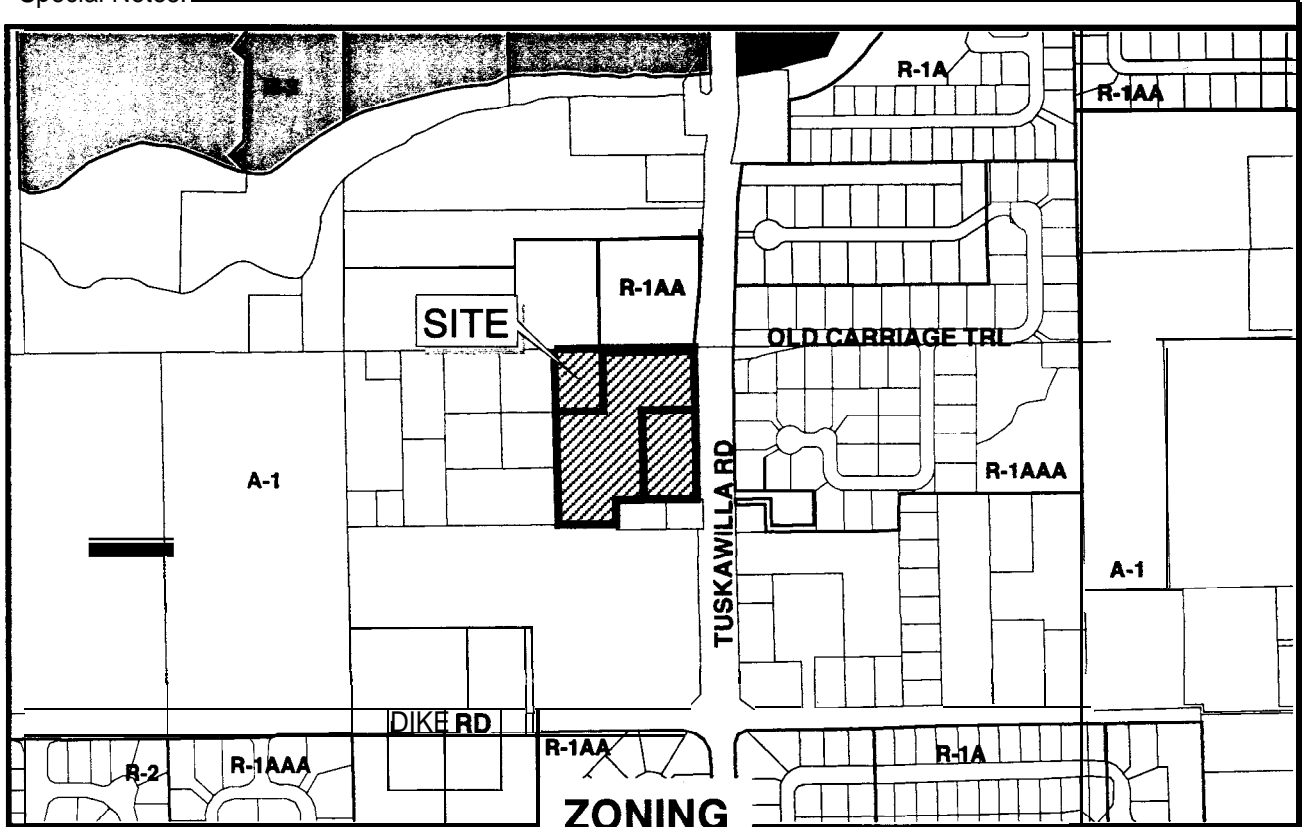
Reviewed	by:
Co Atty:	<i>KZC</i>
DFS:	
OTHER:	<i>CM</i>
DCM:	
CM:	
File No. <u>Z2002-009</u>	



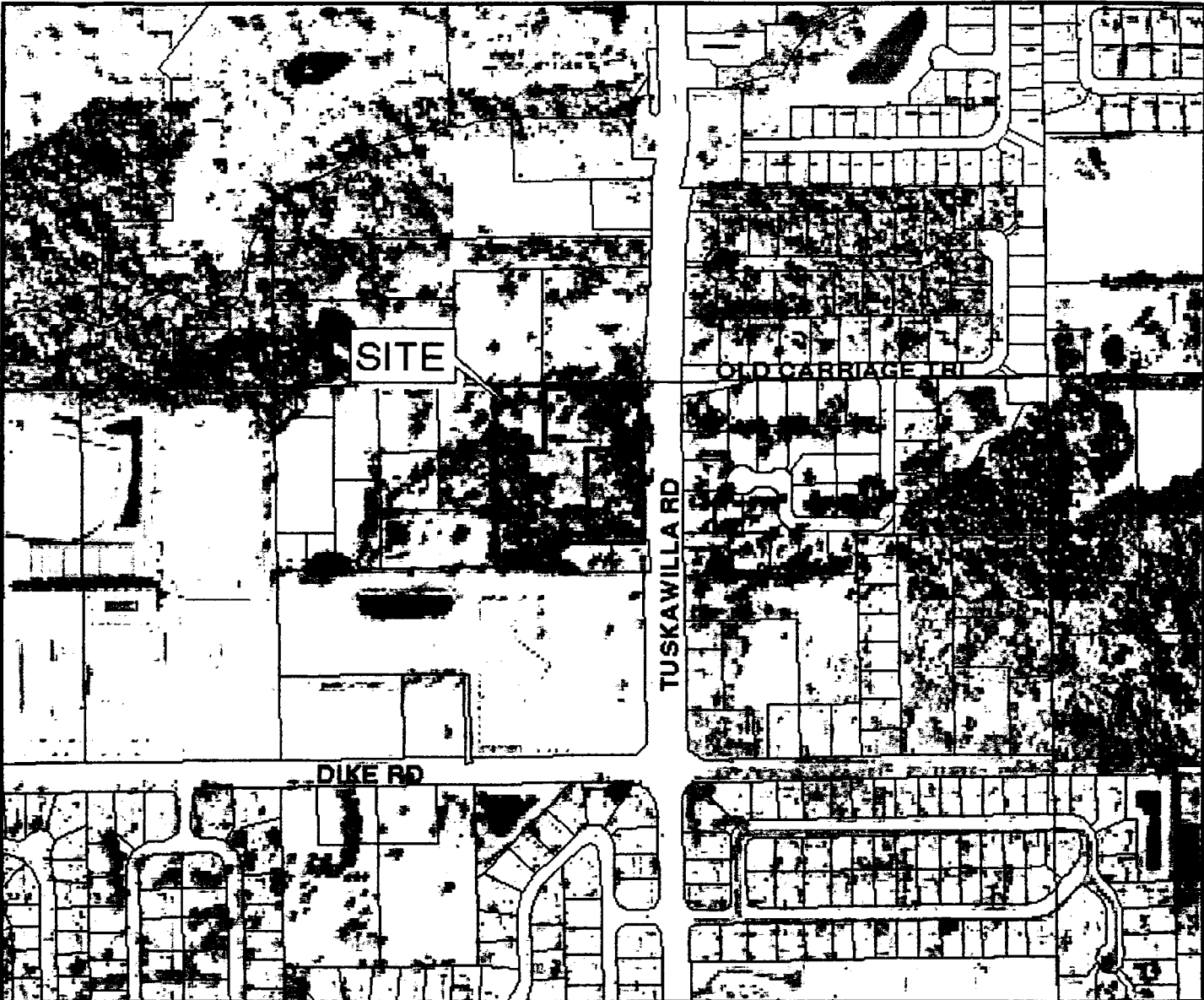
Site
  Municipality
  COM
  LDR
  HDR
  MDR
  PUBS
 SE

Applicant: Thomas Daly, Daly Design Group  
 Physical STR: 25-21-30-300044G, 044F, & 0 4 4 0 - 0 0 0 0  
 Gross Acres: 6.7 BCC District: 1  
 Existing Use: Single Family, Cell Tower, Vacant  
 Special Notes:

	Amend/ ezone#	From	To
FLU	05-02SS.1	L D R	MDR
Zoning	Z2002-009	A - i	PUD



A-1
  R-1A
  R-1AA
  R-1AAA
  R-3
  R-2
  PCD

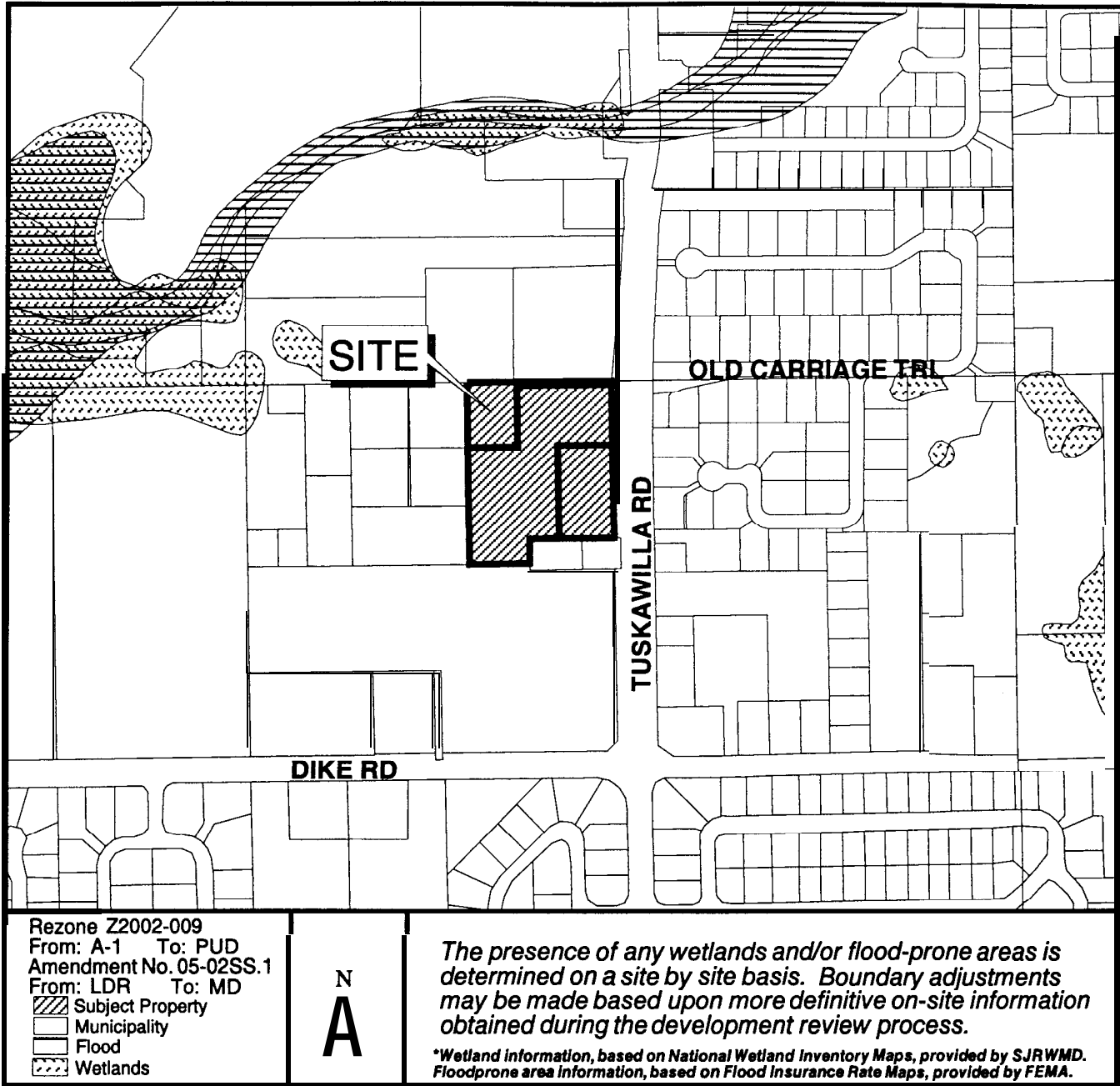


Rezone No. Z2002-009  
From: A-1 To: PUD  
Amendment No. 05-02SS.1  
From: LDR To: MD  
[Outline] Subject Property  
[Shaded] Parcelbase



February 1999 Color Aerials

CONSERVATION





Tuskawilla Road

# ***EXECUTIVE SUMMARY***

## ***for Beasley Property Staff Report***

Low Density Residential to Medium Density Residential		Amendment 05-02SS.01 & Z2002-009
REQUEST		
APPLICANT	Thomas Daly	
PLAN AMENDMENT	Low Density Residential to Medium Density Residential	
REZONING	A-1 to PUD	
APPROXIMATE GROSS ACRES	6.7	
LOCATION	West side of Tuskawilla Road, approximately ¼ mile north of Dike Road	
SPECIAL ISSUES	N/A	
BOARD DISTRICT	1- Comm. Maloy	
RECOMMENDATIONS AND ACTIONS		
STAFF RECOMMENDATION June 5, 2002	<p><b>PLAN AMENDMENT:</b> Recommend denial of Medium Density Residential land use with findings that Medium Density Residential land use, as proposed, would:</p> <ul style="list-style-type: none"><li>1. Be out of character with the surrounding area;</li><li>2. Set a precedent for additional requests which could significantly change the established development pattern; and</li><li>3. Contradict recent decisions by the Commission and BCC not to permit multi-family development south of Howell Creek.</li></ul> <p><b>REZONE:</b> Based on the above analysis, staff recommends:</p> <ul style="list-style-type: none"><li>1. Denial of the request; or</li><li>2. Modification of the request as necessary to achieve compatibility with surrounding land uses and the Low Density Residential land use designation.</li></ul>	

# STAFF ANALYSIS

Low Density Residential to Medium Density Residential	Amendment 05-02SS.01 & Z2002-009
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- 1. **Property Owners:** Emmette A. and Joan P. Beasley
- 2. **Tax Parcel Number:** 25-21-30-044F-0000
- 3. **Development Trends:** Development along this section of Tuskawilla Road is primarily low-density single family residential, with certain supporting nonresidential uses, such as churches and day care facilities, permitted by Special Exception. The designated future land use of all surrounding properties is LDR. Higher intensity commercial and residential uses in the vicinity of Red Bug Lake Road have been limited to areas north of Howell Creek. This policy has been upheld consistently; a multi-family proposal south of the creek was denied as recently as August 2001.

## SITE DESCRIPTION

I. **EXISTING AND PERMITTED USES:**

- a. The existing Low Density Residential land use permits single-family residential development at a maximum net density of four units per acre. The existing A-I zoning permits single-family residential and limited agricultural uses, as well as non-residential uses such as churches and day cares.
- b. The site consists of three parcels which have several existing land uses. The subject property has been used in the past as a plant nursery. Largely vacant now, the site includes the home of the property owners, fronting on Tuskawilla Road, and a residence and communications tower on parcels adjacent to Sunset Lane. The site is well-wooded.

Location	Future Land Use*	Zoning*	Existing Use
Site	Low Density Residential	A-I	Two residences; cell tower site; vacant
North	Low Density Residential	A-I and R-1AA	Church and vacant
South	Low Density Residential	A-I	Church and residences
East	Low Density Residential	R-IAAA	Single family residential
West	Low Density Residential	A-I	Single-family residential

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

## **COMPREHENSIVE PLAN CONSISTENCY**

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

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

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

Access to the subject property is via Tuskawilla Road, an Arterial road. The existing Level of Service (LOS) on this portion of Tuskawilla Rd is "B", with an adopted LOS standard of "E".

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

The subject property is within the Seminole County water and sewer service area. Water and sewer service are currently available to the site.

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

The property is served by the Seminole County EMS/Fire Rescue Red Bug Station (Station # 27). Response time to the site is less than 5 minutes, which meets the County's average response time standard of 5 minutes.

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

A. **Preliminary Development Orders: Capacity Determination:** *For preliminary development orders and for final development orders under which no development activity impacting public facilities may ensue, the capacity of Category I and Category III public*



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

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

**B. Flood Plain and Wetlands Areas - Flood Plain Protection and Wetlands Protection:**

*The County shall implement the Conservation land use designation through the regulation of development consistent with the Flood Prone (FP-1) and Wetlands (W-I) Overlay Zoning classifications. ...(Policy FLU 1.2 and 1.3).*

The site does not contain wetlands or flood prone areas.

**C. Protection of Endangered and Threatened Wildlife:** *The County shall continue to require, as part of the Development Review Process, proposed development to coordinate those processes with all appropriate agencies and comply with the US Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission Rules as well as other applicable Federal and State Laws regarding protection of endangered and threatened wildlife prior to development approval (Conservation Policy 3.13).*

A threatened and endangered species report shall be required prior to final engineering approval for the subject property.

**4. DEVELOPMENT POLICIES** - Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the use, intensity, location, and timing of the proposed amendment.

**A. Compatibility:** When the County's Future Land Use Map (FLUM) was developed in 1987, land use compatibility issues were evaluated and ultimately defined through a community meeting/hearing process that involved substantial public comment and input. When amendments are proposed to the FLUM, however, staff makes an initial evaluation of compatibility, prior to public input and comment, based upon a set of professional standards that include, but are not limited to criteria such as: (a) long standing community development patterns; (b) previous policy direction from the Board of County Commissioners; (c) other planning principles articulated in the Vision 2020 Plan (e.g., appropriate transitioning of land uses, protection of neighborhoods, protection of the environment, protection of private property rights, no creation of new strip commercial developments through plan amendments, etc.).

Based upon an initial evaluation of compatibility, Medium Density Residential land use, as proposed, would not be consistent with Plan policies identified at this time and therefore is not consistent with the Vision 2020 Plan.

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

1. **Transitional Land Uses:** *The County shall evaluate plan amendments to insure that transitional land uses are provided as a buffer between residential and non-residential uses, between varying intensities of residential uses, and in managing the redevelopment of areas no longer appropriate as viable residential areas. "Exhibit FLU: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

The applicant proposes to develop a PUD which would consist of townhouse units at approximately 7.7 units per acre. Approvals of higher densities might set a precedent for other applications for higher-intensity development, resulting in a significant change in the area.

Other applicable plan policies include:

*FLU 2.11: Determination of Compatibility in the PUD Zoning Classifications.* Under this policy, the County shall evaluate the compatibility of proposed uses or structures with surrounding neighborhoods and uses. While mitigating features such as landscaping, buffering and setbacks may be considered, the concept of this request is inconsistent with the established development pattern in the area. This low-intensity environment is characterized by single family and very limited nonresidential uses such as child care facilities and churches. Approval of this request could invite further applications that could, over time, change this character.

*FLU 2.2: Regulation of Active Uses.*

*FLU 5.5: Water and Sewer Service Expansion*

*Medium Density Residential Definition*

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

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

**SEMINOLE COUNTY  
ADMINISTRATIVE ORDER**

On \_\_\_\_\_, 2002, Seminole County (the "County") issued this Administrative Order relating to and touching and concerning the following described property:

See attached Exhibit "A"

(The aforescribed legal description has been provided to the County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

**Property Owners:** Emmette A. and Joan P. Beasley  
1500 Tuskawilla Road  
Oviedo, Florida 32765

**Project Name:** Beasley Property

**Requested Development Approval:** Comprehensive Plan Amendment from Low Density Residential to Medium Density Residential and rezoning from A-I (Agriculture) to PUD (Planned Unit Development)

After fully considering staff analysis and all evidence submitted at the public hearing on \_\_\_\_\_, 2002, to this matter, the Board of County Commissioners (the "Board") has found, determined and concluded that the rezoning and land use amendment request, as proposed, would not be compatible with the adjacent neighborhoods and Future Land Use designation of Low Density Residential.

The Board further finds that the development approval sought is inconsistent with the County's Comprehensive Plan, the County's land development regulations and all other applicable law.

Prepared by: JEFF HOPPER  
1101 East First Street  
Sanford, Florida 32771

Lastly, the Board finds that the owner will retain beneficial use of his property without the requested rezoning and Comprehensive Plan Amendment.

**Order**

**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

(1) The aforementioned application for development approval is **DENIED**.

**Done and Ordered on the date first above.**

By: \_\_\_\_\_  
Donald S. Fisher  
Planning and Development Director

STATE OF FLORIDA     )  
                                      )  
COUNTY OF SEMINOLE )

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Begin 777.5 North of the Southeast corner of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of section 25, Township 21 South, range 30 East, Seminole County, Florida; thence run West 360 feet, thence South 86.5 feet, thence West 619.5 feet, thence North 639 feet to the North line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ , thence East to the Northeast corner of said NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  and South to point of beginning.

(Less the West 400 feet thereof.)

Subject to a right-of-way for over and across the North 15 thereof for ingress & egress.