

Item # C

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

**SUBJECT:** Comprehensive Plan Amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development), James H. Fant, applicant

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

**AUTHORIZED BY:** Matt West **CONTACT:** Kent A. Cichon **EXT.** 7126

**Agenda Date** 01/08/03 **Regular** ☐ **Consent** ☐ **Work Session** ☐ **Briefing** ☐  
**Public Hearing – 7:00** ☒

**MOTION/RECOMMENDATION:**

1. Recommend approval of a comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana Lake Road, approximately 3,400' south of CR 46A, James H. Fant, applicant; or
2. Recommend denial of a comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana Lake Road, approximately 3400' south of CR 46A, James H. Fant, applicant; or
3. Continue until a date certain.

District 5, Commissioner McLain

Kent A. Cichon, Financial Manager

**BACKGROUND:**

This item was continued from the March 26, 2002, Board of County Commissioners meeting at the request of the property owner's representative. The applicant requested continuance of this item until the Spring 2003 Large Scale Land Use Amendment Cycle in order to resolve a number of development issues.

The applicant is requesting to amend the future land use designation from Suburban Estates to Planned Development and to rezone 25.05 acres from A-1 (Agriculture) to PUD (Planned Unit Development), proposing 43 dwelling units at a net density of 5.7 units per acre for property located on the west side of Banana Lake Road approximately 3400' south of CR 46A.

Reviewed by:	<u>KZC</u>
Co Atty:	<u>                    </u>
DFS:	<u>                    </u>
Other:	<u>                    </u>
DCM:	<u>                    </u>
CM:	<u>                    </u>
File No.	<u>Z2001-044</u>

In 1998, to the south of the subject property, the Board of County Commissioners approved a large scale land use amendment from Suburban Estates to Planned Development, and associated rezoning from A-1 to PUD for Colonial Realty Limited Partnership. When completed, the project will consist of 252 apartment units in two-story buildings on 28.5 acres. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, the property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between Colonial Realty, Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties.

Additionally, the proposed development is located on the southernmost end of Banana Lake Road, which is a substandard right-of-way. If approved, the developer shall be required to improve the length of Banana Lake Road to County standards from County Road 46A to the development entrance.

**STAFF RECOMMENDATION:**

Planning staff has received a request from the applicant's representative requesting a continuance of this item to the February 2003, Land Planning Agency/Planning & Zoning Commission public hearing. Planning staff does not object to a continuance of this item to the February 2003, Land Planning Agency/Planning & Zoning Commission public hearing so that the applicant may demonstrate how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

If the Land Planning Agency/Planning & Zoning Commission should choose to hear this item at the January 8, 2003, public hearing, Planning staff does not recommend approval of this item since the applicant has not demonstrated how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

**PREVIOUS LPAP&Z RECOMMENDATION:**

At their February 6, 2002, public hearing, the Land Planning Agency/Planning & Zoning Commission unanimously recommended denial of the proposed large scale land use amendment from Suburban Estates to Planned Development and associated rezoning from A-1 (Agriculture) to PUD (Planned Unit Development). The proposal, at the time of denial, was a development of townhomes consisting of 82 dwelling units at a net density of approximately 9.9 units per acre. This proposal has subsequently been revised to a development of single family homes consisting of 43 dwelling units at a net density of 5.7 units per acre.

**PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION:**

At the March 26, 2002, public hearing, the BCC unanimously voted to continue the proposed land use amendment and rezoning until the Fall 2002 Large Scale Land Use Amendment Cycle.

**ENGINEERING &  
ENVIRONMENTAL  
DESIGN, INC.****Engineers, Environmental & Planning Consultants**

December 19, 2002

12-20-02 A08:29 N

Mr. Kent Cichon  
Seminole County Planning and Development Department  
1101 East First Street  
Sanford, Florida 32771-1468  
Tel No.: 407.665.7126  
Fax No.: 407.665.7956

Banana Lake Large Scale Land Use Amendment and Rezoning  
EED Job No.: 2002.033

Dear Mr. Cichon:

This letter is to request a thirty (30) day extension from the January 8, 2003 Planning & Zoning Board meeting to the February Planning & Zoning Board Meeting, for the above referenced project.

It is my understanding that Ken Wright and Don Fischer have discussed this extension and that the thirty (30) day extension can be granted and allow the project to be transmitted to Department of Community Affairs for review as part of the spring submittal. This delay will allow the time necessary to fully analyze Banana Lake Road and complete an agreement with your department concerning what improvements are required.

Your earliest review and response to this request is greatly appreciated.

Very truly yours,

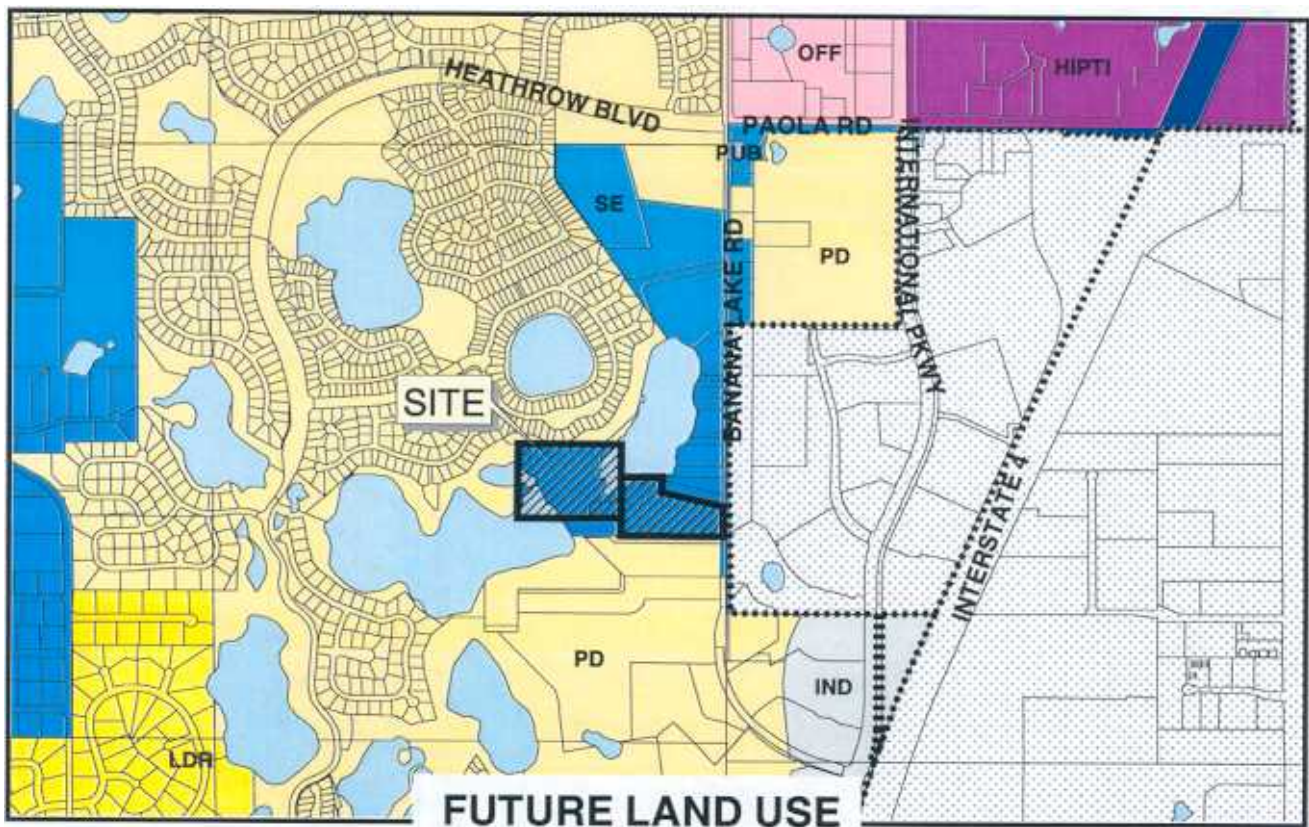
**ENGINEERING & ENVIRONMENTAL DESIGN, INC.**

Larry T. Ray, P.E.

Jim Fant, (Fax No.: 407.425.6841)  
Ken Wright, (Fax No.: 407.425.8316)  
Don Curotto, (Fax No.: 407.422.8262)  
Richard E. Dunn, P.E., EED

• Banana Lake Large Scale Land Use Amendment and Rezoning\LTR cichon\EXTENSION-121902.doc

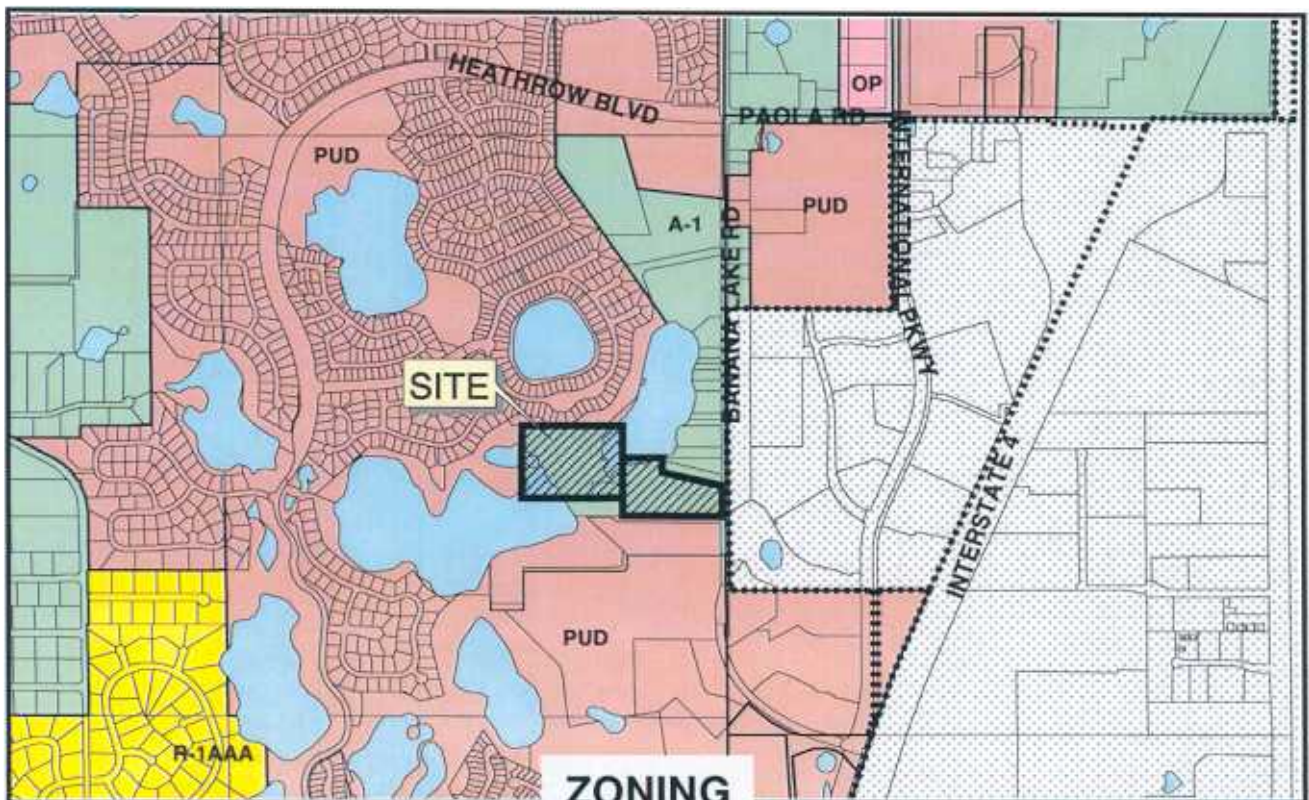




Site
  Municipality
  LDR
  PUB
  PD
  SE
  HIP
  OFF
  IND

Applicant: **James H. Fant**  
 Physical STR: **01-20-29-300-0040, 0050 & 0080-0000**  
 Gross Acres: **+/- 25.05** BCC District: **5**  
 Existing Use: **Vacant**  
 Special Notes:

	Amend/ Rezone#	From	To
FLU	02S.FLU04	SE	PD
Zoning	Z2001-044	A-1	PUD



A-1
  PUD
  R-1AAA
  OP





Amendment No. 02S.FLU04

From: SE To: PD

Rezone No. Z2001-044

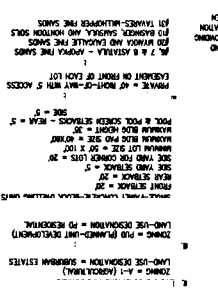
From: A-1 To: PUD

☐ Subject Property

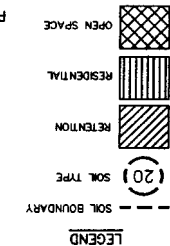
☐ Parcelbase



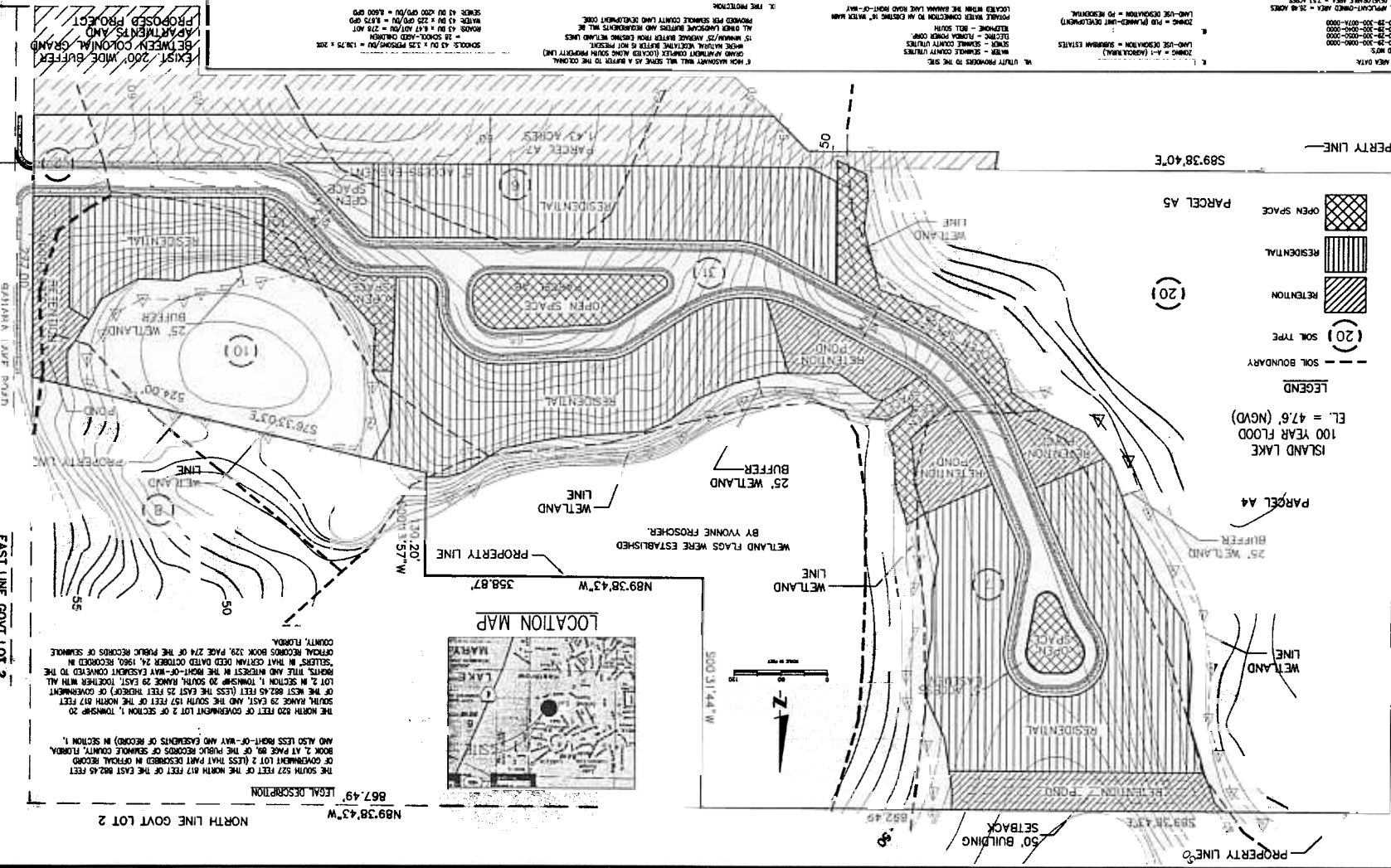
February 1999 Color Aerials

[illegible][illegible]

IF AN ASSOCIATE WANTS TO BE A PART OF THE COMPANY,  
HE MUST FIRST BE APPROVED BY THE BOARD OF DIRECTORS.  
THE BOARD OF DIRECTORS WILL CONSIDER THE ASSOCIATE'S  
RECORD, CHARACTER, AND ABILITY TO MANAGE THE COMPANY'S  
BUSINESS. THE BOARD OF DIRECTORS WILL ALSO CONSIDER  
THE ASSOCIATE'S FINANCIAL STANDING AND CREDIT  
RECORD. THE BOARD OF DIRECTORS WILL MAKE A  
RECOMMENDATION TO THE STOCKHOLDERS, WHO WILL  
VOTE ON THE ASSOCIATE'S ADMISSION TO THE COMPANY.

[illegible][illegible]

ISLAND LAKE  
100 YEAR FLOOD  
EL. = 47.6' (NGVD)

[illegible][illegible]

# **EXECUTIVE SUMMARY**

<b>Suburban Estates to Planned Development and Rezoning from A-1 (Agriculture) to PUD (Planned Unit Development)</b>		<b>Amendment 02S.FLU04 &amp; Z2001-044</b>
<b>REQUEST</b>		
<b>APPLICANT</b>	James H. Fant	
<b>PLAN AMENDMENT</b>	Suburban Estates to Planned Development	
<b>REZONING</b>	A-1 (Agriculture) to PUD (Planned Unit Development)	
<b>APPROXIMATE GROSS ACRES</b>	25.05 acres (including wetlands) 10.07 acres - developable	
<b>LOCATION</b>	West side of Banana Lake Road, approximately 3400' south of CR 46A	
<b>SPECIAL ISSUES</b>	<p>In 1998, to the south of the subject property, the Board approved a large scale land use amendment from Suburban Estates to Planned Development and associated rezoning from A-1 to PUD for Colonial Realty Limited Partnership. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between the Colonial Realty, Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties. The developers of the Colonial Grand apartments deeded a portion of the 200 foot buffer to Mr. Edwards who agreed not to seek a rezoning or land use amendment on the strip deeded to him for a period of five (5) years from the effective date of the settlement agreement.</p>	
<b>BOARD DISTRICT</b>	#5 – Commissioner McLain	

## **RECOMMENDATIONS AND ACTIONS**

### **STAFF RECOMMENDATION January 8, 2003**

**PLAN AMENDMENT:** Planning staff has received a request from the applicant's representative requesting a continuance of this item to the February 2003, Land Planning Agency/Planning & Zoning Commission public hearing. Planning staff does not object to a continuance of this item to the February 2003, LPA/P&Z public hearing so that the applicant may demonstrate how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

If the LPA/P&Z should choose to hear this item at the January 8, 2003, public hearing, Planning staff does not recommend approval of the Planned Development land use with findings that Planned Development land use, as proposed, would be:

1. Inconsistent with Plan policies related to roadway access;
2. The proposed development is located on the southernmost end of Banana Lake Road, which is a substandard right-of-way. If approved, the developer shall be required to improve the length of Banana Lake Road to County standards from County Road 46A to the development entrance.
3. The applicant has not demonstrated how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

### **STAFF RECOMMENDATION January 8, 2003**

**REZONE:** Based on the above analysis and findings, staff does not recommend approval of the proposed PUD zoning.

If the LPA/P&Z approves rezoning at the January 8, 2003, public hearing, Planning staff recommends the conditions of the attached Development Order.



## STAFF ANALYSIS

### Suburban Estates to Planned Development and Rezoning from A-1 (Agriculture) to PUD (Planned Unit Development)

Amendment  
02S.FLU04 &  
Z2001-044

1. **Property Owners:** Fred and Carmen Edwards
2. **Tax Parcel Numbers:**  
01-20-29-300-0080-0000  
01-20-29-300-0050-0000  
01-20-29-300-0040-0000
3. **Applicant's Statement:** Planned Development land use allows the County to insure that adequate buffers will occur between the site and the adjacent single family residential neighborhoods. In addition, the proposed land use will insure that wetlands will be protected from development.
4. **Development Trends:** Development along Banana Lake Road has been large lot estates with single family residences. To the south of the subject property, development will consist of 252 multi-family units in two-story buildings on 28.5 acres. There is dense single family residential development to the west of the subject property. Finally, to the east is part of the Heathrow International Business Center.

## SITE DESCRIPTION

### 1. EXISTING AND PERMITTED USES:

- a. The existing Suburban Estates land use and A-1 zoning would permit development of single-family homes at a net density of no greater than one dwelling unit per net buildable acre. The A-1 zoning district also permits a variety of agricultural and non-residential uses, such as churches.
- b. The requested Planned Development land use and PUD zoning, as proposed, would permit the development of single family homes and their accessory uses at a net density of approximately 5.7 dwelling units per acre.

Location	Future Land Use*	Zoning*	Existing Use
Site	Suburban Estates	A-1	Single family residential
North	Suburban Estates	A-1	Single family residential
South	Planned Development	PUD	Multi-family residential
East	City of Lake Mary	PUD	Heathrow International Business Center (HIBC)
West	Planned Development	PUD	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 Element and all land development activities shall be consistent with the adopted Future Land Use Element (Transportation Policy 2.1).*

Access to the subject property is via Banana Lake Road, a local road. There is inadequate pavement width and right-of-way for Banana Lake. If approved, the developer shall be required to improve the length of Banana Lake Road to County standards from County Road 46A to the development entrance.

The applicant has not demonstrated how the Banana lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

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

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

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

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

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

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

A review of the availability of public facilities to serve these properties indicates that there would be adequate facilities to serve this area, and that the proposed Plan amendment would create no adverse impacts to public facilities. If approved, the developer shall improve the length of Banana Lake Road from County Road 46A to the project entrance to County standards.

In addition, the Banana Lake Road is planned for extension of reclaimed water main by the County which would be available in the future for connection to this site. The developer shall construct a reuse line to serve this development and commit to connecting to the County's system when it becomes available and pay any applicable fees.



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

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

Approximately 15 acres are considered to be either wetlands and/or flood prone. A mitigation plan approved by the County and/or State shall be required at the time of Final PUD Master Plan approval for any proposed on-site wetland impacts. An undisturbed buffer averaging 25 feet and not less than 15 feet will be required landward of the on-site wetland limits.

**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 survey of threatened, endangered and species of special concern prior to final PUD master plan approval is required.

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

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

1. **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 2: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

Transition of land use and associated compatibility issues will be addressed through the use of the Planned Development land use designation and PUD. Staff believes that the prepared PUD plan provides for creative site design and appropriate standards for buffering, setbacks, lighting and building height, and that the request meets the intent of the Planned Development definition and PUD zoning classification.

Staff's primary concern is access to the site. The sole access to the site is via Banana Lake Road, a substandard local road. The applicant has not demonstrated the ability to improve the road to County standards. 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.

Other applicable Plan policies include, but are not limited to:

Policy DES 1.9: Tree Canopy and Natural Vegetation

Policy DES 2.8: Visual Quality of Streets and Highways

Policy DES 30.3: Preserve and Protect Neighborhoods

Policy FLU 1.1: Conservation Land Use

Policy FLU 1.2: Floodplain Protections

Policy FLU 1.3: Wetlands Protection

Policy FLU 1.4: Conservation Easements

Policy FLU 2.11: Determination of Compatibility in the Planned Unit Development and Planned Commercial Development Zoning Classifications

Potable Water Policy 11.4.5: Extension of Service to New Development

Sanitary Sewer Policy 14.4.4: Extension of Service to New Development

Policy TRA 10.3: Review of Development Applications

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

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

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

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

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

## ***STAFF RECOMMENDATION***

Planning staff recommends a continuance of this item to the Seminole County Government Land Planning Agency/Planning & Zoning Commission public hearing of February 2003, so that the applicant may demonstrate how the Banana Lake Road deficiencies in road alignment, poor pavement conditions and the need to bring portions of the existing cold mix sections to County standards will be addressed.

**FILE #** Z2001-044 02s.FLU04

**DEVELOPMENT ORDER # 2-XX0000XX**

**SEMINOLE COUNTY DEVELOPMENT  
ORDER**

On June 6, 2003, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit A.

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

**FINDINGS OF FACT**

**Property Owners:** FRED C. AND CARMEN S. EDWARDS  
748 BANANA LAKE RD  
LAKE MARY, FL 32746

**Project Name:** BANANA LAKE LAND USE AMEND. LARGE / REZONE

**Requested Development Approval:** Rezoning from A-1 (Agriculture) zoning  
classification to Planned Unit Development (PUD)  
zoning classification

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: KENT CICHON  
1101 East First Street  
Sanford, Florida 32771

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

1 The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) This development is subject to the Settlement Agreement (DOAH CASE NO.: 99-0133GM) entered into by and between the State of Florida, Department of Community Affairs; Seminole County, Florida; Colonial Properties Trust, as general partner of Colonial Realty Properties Limited Partnership; and Fred Edwards, Jr.

(4) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

- a. The developer shall be required to improve the length of Banana Lake Road to County standards from County Road 46A to the development entrance.
- b. The Banana Lake Road is planned for extension of reclaimed water main by the County which would be available in the future for connection to this site. The developer shall construct a reuse line to serve this development and commit to connecting to the County's system when it becomes available and pay any applicable fees.
- c. The maximum number of dwelling units shall not exceed 43 units.
- d. The net density shall not exceed 5.7 du/ac.
- e. Require the following minimum building setbacks for each home:
  - 20' front
  - 20' rear
  - 5' side yard
  - 20' side street (corner lots)
- f. Require the following minimum setbacks for accessory structures up to and including 200 square feet:
  - 5' rear
  - 5' side yard
  - 20' side street (corner lots)
- g. Require the following minimum setbacks for accessory structures in excess 200 square feet:
  - 20' rear
  - 5' side yard
  - 20' side street (corner lots)

- h. Require all accessory structures in front yard to be beyond front building line of the dwelling unit.  
Minimum lot sizes and widths shall be 5,000 square feet, minimum 50' width at building line. Corner lots shall be 15% larger and 15% wider.
- j. Maximum building height shall be 35'.
- k. Minimum pool and pool screen setbacks shall be 5' rear and 5' side.  
5' wide sidewalks shall be constructed on both sides of all roadways constructed within this development.
- m. Open space and recreational amenities shall be determined during the review of the Final Master Plan.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void

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

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of County  
Commissioners of Seminole  
County, Florida

By: \_\_\_\_\_  
DARYL G. Mc LAIN, Chairman

**OWNER'S CONSENT AND COVENANT**

**COMES NOW**, the owner, Fred C. Edwards Jr., on behalf of himself and his heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness\_\_\_\_\_  
FRED C. EDWARDS JR\_\_\_\_\_  
Print Name\_\_\_\_\_  
Witness\_\_\_\_\_  
Print Name**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 FRED C. EDWARDS JR., and is personally known to me or who has produced \_\_\_\_\_ as identification and who acknowledged and executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this day of \_\_\_\_\_, 2003.

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

My Commission Expires:



**OWNER'S CONSENT AND COVENANT**

**COMES NOW**, the owner, Carmen S. Edwards, on behalf of herself and her heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness\_\_\_\_\_  
CARMEN S. EDWARDS\_\_\_\_\_  
Print Name\_\_\_\_\_  
Witness\_\_\_\_\_  
Print Name**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 CARMEN S. EDWARDS, and is personally known to me or who has produced \_\_\_\_\_ as identification and who acknowledged and executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

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

My Commission Expires:

## **EXHIBIT A**

### **LEGAL DESCRIPTION:**

THE SOUTH 527 OF THE NORTH 817 FEET OF THE EAST 882.45 FEET OF GOVERNMENT LOT 2 (LESS THAT PART DESCRIBED IN OFFICIAL RECORD BOOK 2, AT PAGE 89, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, AND ALSO LESS RIGHT-OF-WAY AND EASEMENTS OF RECORD) IN SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST.

THE NORTH 820 FEET OF GOVERNMENT LOT 2 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST, AND THE SOUTH 157 FEET OF THE NORTH 817 FEET OF THE WEST 882.45 FEET (LESS THE EAST 25 FEET THEREOF) OF GOVERNMENT LOT 2, IN SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST, TOGETHER WITH ALL RIGHTS, TITLE AND INTEREST IN THE RIGHT-OF-WAY EASEMENT CONVEYED TO THE "SELLERS" IN THAT CERTAIN DEED DATED OCTOBER 24, 1960, RECORDED IN OFFICIAL RECORDS BOOK 329, PAGE 274 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FRED C. EDWARDS, JR.,

Petitioner,

DOAH CASE NO.: 99-0133GM

VS

DEPARTMENT OF COMMUNITY  
AFFAIRS AND SEMINOLE COUNTY,

Respondents,

and

COLONIAL PROPERTIES, INC.,

Intervenor

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement is entered into by and between the State of Florida, Department of Community Affairs (hereinafter "DCA"); Seminole County, Florida (hereinafter "Seminole County"); Colonial Properties Trust, as general partner of Colonial Realty Properties Limited Partnership (hereinafter "Colonial"); and Fred C. Edwards, Jr. (hereinafter "Edwards"), the parties being all of the parties to the above-styled proceeding, as a complete and final settlement of all claims raised in the above-styled proceedings.

WHEREAS, DCA is the state land planning agency and has the authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, Seminole County on or about October 13, 1998 approved the request of Colonial to amend the Seminole County Comprehensive Plan by adopting Ordinance No. 98-46 approving Seminole County Comprehensive Plan Amendment 98S.FLU5, which re-designated the future land use of that certain property therein described from Suburban Estates to PD; and

concurrently approved the rezoning of the said property from Agriculture to PUD, allowing development of multi-family apartments in accordance with the PUD plan, subject to various conditions; and

WHEREAS, on or about December 9, 1998 DCA issued a Notice of Intent to find Seminole County Comprehensive Plan Amendment 98S.FLU5 "in compliance" with Sections 163.3177, 163.3178, 163.3180, 163.3191, 187.201, Florida Statutes, the applicable strategic regional plan and Chapter 9J-5, Florida Administrative Code; and

WHEREAS, Edwards, as an affected person pursuant to Section 163.3184, Florida Statutes, has initiated the above-styled formal administrative proceeding challenging Seminole County Comprehensive Plan Amendment 98S.FLU5; and

WHEREAS, Colonial has intervened in the above-styled proceeding; and

WHEREAS, the parties wish to avoid the expense and delay of lengthy litigation and future appellate proceedings, and to resolve this proceeding under the terms set forth herein, and it is in their respective mutual best interests to do so;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein below set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Effective Date. This Settlement Agreement shall not become effective until approved by the Board of County Commissioners of Seminole County at a duly noticed public meeting, and executed by each of the parties hereto. The effective date shall be the date of signing by the last party signing.

2. Dismissal of Administrative Proceeding. Upon this Settlement Agreement becoming effective, the parties shall file a stipulated notice of dismissal with prejudice in the

above-styled proceeding in the form attached hereto as Exhibit A, with each party to bear its own attorneys fees and costs.

3. Abatement. The parties acknowledge that they have had their respective counsel join in a Notice of Pending Settlement and Request for Stay of Proceedings, a copy of which is attached hereto as Exhibit B, in order to allow sufficient time for the preparation and implementation of this Settlement Agreement.

4. Final Order Approving Plan Amendment. Upon filing of the Stipulated Notice of Dismissal, Seminole County Comprehensive Plan Amendment 98S.FLU5 shall stand approved and DCA shall issue a final order determining it to be in compliance in accordance with Section 163.3184, Florida Statutes.

5. Enhancement of Buffer Conditions. The parties acknowledge that the PUD zoning of the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5 was approved by Seminole County with various conditions, among which were the establishment of a 200-foot wide buffer area along the northern boundary of the said property, with the said buffer to be comprised as follows:

- a. A 15-foot wide area along the northern boundary to be planted with a double row of off-set trees;
- b. A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm, to be located at least fifteen (15) feet from the northern boundary;
- c. A double row of off set trees to be planted south of the wall described in item (b);
- d. No structures or parking lots to be located in the 200-foot buffer, except the southern one hundred fifty (150) feet of the said buffer may be utilized for stormwater control and retention facilities

The parties agree that the said conditions shall be enhanced to provide for the 200-foot wide buffer to be comprised as follows:

- A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm, to be located at least sixty-one (61) feet from the northern boundary of the PUD, except the wall may be located fifteen (15) feet from the northern boundary as depicted on the sketch attached hereto as Exhibit "C"; and in the one hundred year flood plain area adjacent to Island Lake in lieu of the wall an 8-foot tall vinyl-coated chain link fence may be installed to the normal high water elevation of Island Lake;
- ii. A row of off-set trees to be planted within the area fifteen (15) feet north of the above-described wall;
- iii. A row of off-set trees to be planted south of the above-described wall;
- iv. No structures or parking lots to be located in the 200-foot buffer, except stormwater control and retention facilities may be located in that portion of the buffer area located south of the above-described wall.

Colonial, or its successor developer, shall bear the cost and perform the work appropriate to establish each element of the said buffer. Edwards shall bear the cost and perform the work of maintaining and irrigating trees planted on the Exhibit "C" Property (as hereinbelow described) upon the Exhibit "C" Property being conveyed to him. The parties acknowledge and agree that the above-stated enhancements of the buffer conditions do not affect the intent or character of the development proposed by Colonial and therefore do not constitute a major or substantial

change in the approved PUD. The enhanced conditions shall be effective upon approval of this Settlement Agreement by the Seminole County Board of County Commissioner and shall be completed as provided in the Development Order to be issued by Seminole County. The parties agree that this Settlement Agreement shall be attached to and incorporated by reference in the Development Order issued by Seminole County authorizing Colonial's proposed development, which shall include as conditions for development that Colonial, or its successor developer, comply with and perform all obligations established by this Settlement Agreement. The Development Order shall further provide that no modifications of the Development Order may alter or amend the foregoing enhanced buffer conditions without a formal major amendment to the PUD being duly processed and approved after hearing upon notice to all affected persons, including but not limited to Edwards, his heirs, successors and assigns.

-- 6. Conveyance of Property to Edwards. Colonial represents to Edwards that it owns the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5, except for that certain property owned by Duke University (hereinafter referred to as "the Duke Property"). The legal description of the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5 is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South ½ of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said Section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45 ° along the Northeasterly line of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

and

Lot 8, ISLAND LAKE PARK, according to the Plat thereof as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida.

and

Lots 1 through 7, ISLAND LAKE PARK, according to the plat thereof as recorded in Plat Book 8, Page 89 of the Public Records of Seminole County, Florida.

(hereinafter referred to as "the Development Property"). Colonial further represents to Edwards that it has entered into a contract to purchase the Duke Property and that the said contract obligates Colonial to purchase the Duke Property subject to various conditions, among which is the condition that Colonial obtain development approvals and permits authorizing Colonial's proposed development. The legal description of the Duke Property is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South ½ of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said Section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45°E. along the Northeasterly line of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

Colonial, on behalf of itself, its affiliated companies, successors and assigns, hereby agrees to sell to Edwards, and Edwards hereby agrees to buy that certain portion of the Development Property, described as follows:

A PARCEL OF LAND LOCATED IN THE NORTH ½ OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST, SEMINOLE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTH EAST CORNER OF LOT 8, ISLAND LAKE PARK, AS SHOWN IN PLAT BOOK 9, PAGE 89, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA. THENCE RUN S89°52'48"E, A DISTANCE OF 1239.44 FEET TO THE CENTER LINE OF THE EXISTING 50 FOOT WIDE BANANA LAKE ROAD RIGHT-OF-WAY (TO BE VACATED); THENCE S00°21'30"E, ALONG THE CENTERLINE OF SAID BANANA LAKE ROAD RIGHT-OF-WAY 60.00 FEET; THENCE DEPARTING SAID CENTERLINE, RUN N89°52'48"W, A DISTANCE OF 955.00 FEET; THENCE N44°52'48"W, A DISTANCE OF 63.64 FEET; THENCE N89°52'48"W, A DISTANCE OF 244.35 FEET TO THE EASTERLY LINE OF THE AFOREMENTIONED LOT 8 OF ISLAND LAKE PARK; THENCE N44°34'00"W, ALONG



SAID EASTERLY LOT LINE, A DISTANCE OF 21.10 FEET,  
TO THE POINT OF BEGINNING.

CONTAINING 1.434 ACRES MORE OR LESS

(referenced to herein as "the Exhibit "C" Property") or such portion of the Exhibit "C" Property as to which Colonial, its affiliated companies, successors and assigns, possess title currently or at any time in the future, including all of Colonial's rights, title, after acquired title, and interest in, on, and to all improvements, fixtures, easements, rights-of-way, licenses, privileges, tenements, reversions and appurtenances belonging or appertaining to the 60-foot Property, on the terms and conditions set forth below. In the event Colonial, its successors, assigns or an affiliated company, does not purchase the Duke Property, whether pursuant to the existing contract or an amended, modified, extended or substituted contract, Colonial's obligation under this Paragraph (6) shall be limited to selling to Edwards that portion of the Exhibit "C" Property which Colonial does own or hereafter acquires, with the obligation to convey to Edwards any remaining portion of the Exhibit "C" Property remaining a development condition under the Development Order to be entered by Seminole County. In the event Colonial's contract to acquire the Duke Property is terminated, and in the future Colonial, or an affiliated company or a person in privity with Colonial, nonetheless acquires the Duke Property, or any portions thereof, by a different contract or by other means, the obligations of this Settlement Agreement shall continue in effect and any portion of the Exhibit "C" Property not previously conveyed to Edwards shall be promptly conveyed by Colonial, its successors, assigns, or affiliates, to Edwards on the terms hereinbelow set forth. The terms and conditions for the sale and purchase of the Exhibit "C" Property, or any portion thereof in the event the ownership is of less than all of the Exhibit "C" Property, shall be as follows:

- a. The purchase price shall be \$1 .00, payable at Closing.

b. Within thirty (30) days of Colonial acquiring the Duke Property, or any portion thereof, Colonial, and such other owners of any portion of the Exhibit "C" Property as may then be, shall convey to Edwards fee simple title to the Exhibit "C" Property, or such portion thereof as is owned by Colonial, or such other owners as may then be, by general warranty deed(s) subject only to: (A) real estate taxes and special assessments for the year of Closing, (B) the PUD conditions applicable to the Exhibit "C" Property as set forth above in this Settlement Agreement, and (C) the easement for ingress and egress to the Edwards' home located at 748 Banana Lake Road, Lake Mary, Florida. No representation or title warranties are made or will be made with respect to the beds or bottoms of lakes, rivers or other bodies of water located on, contiguous to or within the Exhibit "C" Property. The date for delivery of said general warranty deed to Edwards shall be the Closing Date.

c. There shall be no mechanics' liens, construction liens, claims of lien or other claims against the property conveyed except governmental assessments, and all bills for all work done or materials supplied to the property conveyed will have been paid as of delivery of the general warranty deed(s) to Edwards. This representation will be true at Closing and shall survive Closing. Colonial agrees to indemnify and hold Edwards harmless from any unrecorded liens, claims of lien or other claims against the Exhibit "C" Property occurring or arising for work or services performed prior to the Closing Date. At closing there shall be delivered to Edwards, and/or a Title Company issuing a Commitment, an affidavit in form sufficient to allow a Title Company to insure the gap at the time of Closing. In addition, the grantor(s) of the deed(s) shall cause to be eliminated from the title insurance policy the printed exceptions for unrecorded mechanics' liens, parties in possession, unrecorded easements, and survey exceptions (if a survey is obtained by Edwards), and taxes or special assessments not shown as existing liens by the public records, other than those for the year of Closing which are not yet due and payable.

d. From and after the effective date of this Settlement Agreement, Colonial shall not, without obtaining Edwards' prior written consent in each instance, create, incur, consent to or permit to exist, any easement, restriction, right-of-way, reservation, mortgage, lien, pledge, encumbrance, lease, license, occupancy agreement or other legal or equitable interest, which encumbers the Exhibit "C" Property or any portion thereof, other than the PUD conditions applicable to the Exhibit "C" property as set forth above in this Settlement Agreement.

e. In the event Edwards obtains an owner's marketable title insurance policy or obtains a survey of the Exhibit "C" Property, same shall be at his own expense.

f. Edwards shall pay for documentary stamps on the warranty deed and Colonial shall pay for recording curative instruments. Edwards shall bear the costs of title searches and updates, and the Title Policy if one is obtained. Edwards shall pay for the survey, if one is obtained, the cost of recording the warranty deed, and for any title endorsements required by Edwards. Edwards

shall pay the cost of preparing closing documents and any closing fees in connection therewith. Each party shall pay its own respective attorneys fees.

g. Real and personal property taxes for the year of Closing, installments on public improvement liens, special assessments, municipal services taxing unit charges, rents, and insurance premiums, if any, and other proratable items pertaining to the Exhibit "C" Property shall be prorated as of the Closing Date. Colonial's prorata share of such taxes, assessments and MSTU charges as determined by the Seminole County Property Appraiser, the Seminole County Tax Collector and/or other applicable governmental authority shall be paid at Closing to the Seminole County Tax Collector's office. Delivery of such tax payment to the Seminole County Tax Collector's office shall be the responsibility of Edwards and shall occur immediately after Closing. Edwards shall incur the proratable expenses for the Closing Date. All real estate special assessments, personal property taxes and ad valorem taxes for prior years shall be paid by Colonial. For proration purposes, it will be assumed real estate and personal property taxes are paid upon the tax due date. If the real property ad valorem taxes, personal property taxes, general assessments and MSTU charges applicable to the Exhibit "C" Property are not available at Closing, then they shall be estimated upon the most recent information available. If the foregoing are estimated, Colonial agrees to pay any unpaid amounts once the bill for same is received. Colonial shall receive any refund that may be due from Seminole County for overpayment. Edwards shall have no obligations for any assessments relative to infrastructure improvements benefiting the PUD, either before or after Closing.

h. No default in regard to the purchase and sale of the Exhibit "C" Property shall be claimed or charged by Edwards or Colonial against the other until notice of thereof has been given to the defaulting party in writing, and such default remains uncured for a period of ten (10) days after the defaulting's party's receipt of such notice. Notwithstanding the foregoing, the Closing Date shall not be changed, delayed, postponed or extended by any requirement for notice of default, if such default consists of failure to appear at Closing. In the event Edwards defaults on his obligation to purchase the Exhibit "C" Property and the conditions precedent to Edwards' obligation to purchase same have been fulfilled in the time(s) required herein, and provided Colonial is not in default, then Colonial's sole remedies shall be, upon giving written notice to Edwards, as hereinabove provided, to (1) cover damages, specific performance or obtain injunctive relief, but Colonial may not rescind or terminate this Settlement Agreement unless Colonial affirmatively acts to bring about the repeal or cancellation of Seminole County Comprehensive Plan Amendment 98S.FLU5, so as to re-establish the Suburban Estates land use designation for the Development Property. In the event Colonial refuses or is unable to comply with and perform in accordance with the provisions of this Settlement Agreement for the purchase and sale of the Exhibit "C" Property, and provided Edwards is not in default, Edwards may elect to seek enforcement of the development conditions in the Development Order, seek specific performance, obtain injunctive relief or recover damages, but may not rescind or terminate this Settlement Agreement.

i. Colonial hereby represents and warrants to Edwards that it has full power, right, and authority, and is duly authorized to enter into this Settlement Agreement, and perform each and all of the matters and acts herein provided in connection therewith, and to execute and deliver all documents provided hereunder in connection with such sale and purchase; and that the purchase and sale of the Exhibit "C" Property in accordance with the terms and obligations hereof, does not contravene any provisions of law, trust, indenture, or agreement binding upon Colonial, and that when executed, the instruments required hereunder shall constitute valid and binding obligations of Colonial in accordance with their terms. Colonial agrees to provide Edwards with copies of all environmental inspection reports currently in its possession, custody or control relating to the Exhibit "C" Property, or which came into its possession, custody or control prior to the conveyance of title to Edwards.

j. The provisions of all subsections of this Paragraph 6 of this Settlement Agreement concerning purchase and sale of the Exhibit "C" Property, including the representations and warranties set forth therein, are intended to survive the Closing, shall so survive, and shall not be merged into the warranty deed.

k. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to be duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., facsimile transmission) or within three (3) days after depositing with United States postal service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service, from which a receipt may be obtained, and addressed as follows:

To Colonial: Colonial Properties Trust  
c/o Charles A. McGehee  
Executive Vice President  
Suite 750  
2101 6th Avenue, North  
Birmingham, Alabama 35202

With copy to: Kenneth W. Wright, Esquire  
Shutts & Bowen, LLP  
20 North Orange Avenue  
Suite 1000  
Orlando, Florida 32801-4626  
Telephone: (407) 423-3200  
Facsimile: (407) 425-8316

To Edwards: Fred C. Edwards, Jr.  
748 Banana Lake Road  
Lake Mary, Florida 32746

With copy to: Michael P. McMahon, Esquire  
Akerman, Senterfitt & Eidson, P.A.  
Post Office Box 231  
Orlando, Florida 32802-0231  
Telephone: (407) 843-7860  
Facsimile: (407) 843-6610

Edwards and Colonial may from time to time notify the other of changes with respect to where and to whom notices should be sent.

Future Plan Amendment/Rezoning. Colonial agrees with Edwards that if in the future Edwards desires to have the Exhibit "C" Property rezoned and/or have the Seminole County Comprehensive Plan land use designation of the Exhibit "C" Property amended to authorize a residential zoning or land use, that Colonial, its successors and assigns, will consent thereto and shall not object thereto. The parties acknowledge and stipulate that neither Seminole County nor DCA make any agreement or commitment in regard to any possible future re-designation of authorized land use of the Exhibit "C" Property under the Seminole County Comprehensive Plan, nor in regard to any possible future rezoning of the Exhibit "C" Property.

8. DCA/Seminole County Not Parties to Purchase/Sale. It is acknowledged and agreed that neither Seminole County nor DCA are obligated by the purchase and sale provisions of Paragraph 6 of this Settlement Agreement; and that, while each has knowledge of the transaction contemplated by Paragraph (6) and does not object thereto, neither Seminole County nor DCA shall have any liability for performance or non-performance of any of the purchase and sale provisions of Paragraph (6) by either Colonial or Edwards, their successor developers or assigns.

9. Rezoning: Freeze. Edwards, on behalf of himself, his successors and assigns, hereby agrees, and commits to Seminole County that upon-conveyance of the Exhibit "C" Property, or any portion thereof, to Edwards, his successors or assigns, he shall not seek an amendment to the Seminole County Comprehensive Plan proposing a re-designation; or the

with the said of the said 'C' party of the said 'C' party for the period of five (5) years from the effective date of this Settlement Agreement. In the event the said 'C' Property is sold or conveyed to Edwards or his successors or assigns, the said 'C' Property shall be deemed to be sold or conveyed to the said 'C' Property.

Exclusion From DRI The parties acknowledge that the said 'C' Property is subject to a proposed development of a multi-family apartment project on the Heath Business Center DRI ("HIBC") which has been agreed to by the said 'C' Property. The said 'C' Property has been a part of the HIBC and any other Department of Public Works, without the express written consent of the said 'C' Property, shall not be allowed to exercise his absolute discretion to acknowledge that Edwards intends to refuse to sell the said 'C' Property being owned by any DRI. The parties acknowledge that the said 'C' Property may include the Exhibited 'C' Property located for density requirements for purposes of the PUD. The HIBC DRI approval of the extension does not constitute an access and assigns from the public street to the Exhibited 'C' Property the future.

Waiver of Future Opposition Edwards, on behalf of himself, his assigns, agrees that upon the effective date of this Settlement Agreement until this Settlement Agreement terminates and the terms hereof he shall take any action in opposition to the proposed project of the said 'C' Property. The same remains with the PUD conditions approved by the County prior hereto and enhanced by the provisions of this Settlement Agreement, shall oppose the inclusion of the said 'C' Property into the HIBC DRI exception as to the Exhibited 'C' Property. Edwards agrees with the County of the said 'C' Property.

ons to governmental agencies reviewing permitting any aspect of Colonial proposed development, and personally appearing at public hearings conducted in Seminole County, Florida, at a date and at a time which Edwards is in Seminole County and not previously engaged, subject to there being no modification of the proposed development consistent with the HUD conditions approved by Seminole County on or about October 1998 enhanced by the provisions of this Settlement Agreement.

No Establishment of Precedent. The parties enter into this Settlement Agreement in a spirit of cooperation for the purposes of resolving disputes which have arisen between them. The acceptance of proposals for purposes of this Settlement Agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for the merits of these proposals in any other circumstances or by any other governmental body.

Multiple Originals/Facsimiles/Counterparts. This Settlement Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose. This Settlement Agreement may be executed by facsimile transmission and counterparts all of which taken together shall constitute a single complete agreement.

14. Captions. The captions inserted in this Settlement Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this Settlement Agreement.

15. Successors and Assigns. The rights and obligations established by this Settlement Agreement shall be binding upon and shall accrue to the benefit of the successors, assigns and heirs of the parties hereto. It is agreed that Edwards may assign his right to receive the



conveyance of title to the Exhibit "C" Property to Fred C. Edwards, Jr., as Trustee of the Fred C. Edwards, Jr. Living Trust.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be signed as of the dates indicated hereinbelow.

Barbara R. Mascia  
Witness (Signature)

BARBARA R. MASCIA  
Witness (Print Name)

[Signature]  
Witness (Signature)

Michael P. McMatton  
Witness (Print Name)

Fred C. Edwards, Jr.  
FRED C. EDWARDS, JR.

Date: July 29, 1999

DEPARTMENT OF COMMUNITY  
AFFAIRS

By: J Thomas Beck  
J Thomas Beck, Director  
Division of Community Planning

Date: August 16, 1999

SEMINOLE COUNTY, FLORIDA

By: Carlton Henley  
Chairman  
Board of County Commissioners

Approved by the Seminole County Board of  
County Commissioners on the 13 day of  
July, 1999.

Attest: [Signature]  
Clerk of the Board of County  
Commissioners

COLONIAL REALTY PROPERTIES  
LIMITED PARTNERSHIP

By: Colonial Properties Trust, its general  
partner

By: Wally A. McPhee

Title: Executive Vice-P

Aimee' B. Richard  
-Witness (Signature)

Aimee' B. Richard  
Witness (Print Name)

Melanie Mann  
Witness (Signature)

Melanie Mann  
Witness (Print Name)

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged and subscribed before me by FRED C. EDWARDS, JR. on this 29<sup>th</sup> day of July, 1999, and who is personally known to me as identification.

[Signature]  
Notary Public, State of Florida

(Print, Type or Stamp Commissioned Name of Notary Public)



Michael P. McMahon

My Commission CC736745

Expires June 5, 2002

STATE OF Alabama

COUNTY OF Jefferson

The foregoing instrument was acknowledged and subscribed before me by Charles A. McGehee, as Executive V.P., of Colonial Properties Trust, General Partner of COLONIAL REALTY LIMITED PARTNERSHIP, on this 2<sup>nd</sup> day of Aug., 1999, and who is personally known to me ~~or who has produced~~ as identification.

Patricia C. Bradford  
Notary Public, State of Alabama  
Patricia C. Bradford

(Print, Type or Stamp Commissioned Name of Notary Public)

# EXHIBIT B

Shutts & Bowen/Colonial Grand Suburban Estates to Planned Development	
RECOMMENDATIONS	
BOARD OF COUNTY COMMISSIONERS  SEPTEMBER 22, 1998	The Board of County Commissioners voted to continue the plan amendment and rezoning to their October 13, 1998, meeting.
BOARD OF COUNTY COMMISSIONERS  OCTOBER 13, 1998	<p>Plan Amendment:: The Board of County Commissioners voted 4-1 to adopt Planned Development land use with staff findings.</p> <p><u>Rezone:</u> In a related action, the Board of County Commissioners voted to adopt PUD (Planned Unit Development) zoning on the site, subject to:</p> <ol style="list-style-type: none"> <li>1. First tier of buildings along the lakefront and along the north buffer to be a maximum of two (2) stories. Buildings on the remainder of the site may be three (3) stories, with a maximum height of 35'.</li> <li>2. No parking areas to be located adjacent to the lake.</li> <li>3. Apartment buildings to be similar in scale and architecture as the existing buildings in Phase I.</li> <li>4. The applicant to maintain a 200' buffer along the north property line. There shall be no buildings or other structures, parking, or roadways within the buffer; however, stormwater retention ponds may be located within the south 150' of the buffer. Within the north 50' of the buffer, the applicant shall provide a 50-foot wide strip of vegetative plantings. The applicant shall construct a 5-foot high brick wall on a 2' high berm (or a 5-foot brick wall on a 3' high berm), to be located 15' from the north property line. Design of the brick wall shall be consistent with the design of the existing HIBC wall to the east, and the required wall shall connect to the existing HIBC wall. Plantings within the 50' strip south of the wall to be a minimum of two staggered rows of canopy trees at 25' intervals, with at least two tree species utilized. Plantings north of the wall to consist of two staggered rows of trees. Applicant to provide additional tree plantings throughout the buffer, with the exception of stormwater pond sites. Applicant to be responsible for maintenance of the wall and plantings.</li> </ol>

Shutts & Bowen/Colonial Grand Suburban Estates to Planned Development	
RECOMMENDATIONS	
BOARD OF COUNTY COMMISSIONERS  OCTOBER 13, 1998	<p>5. There shall be no access to the First tier of buildings along the lakefront and along the north buffer to be a north via Banana Lake Road.</p> <p>6. Applicant to retain existing pine trees on the "peninsula" area to the greatest extent practical. Where necessary, supplemental plantings of canopy and understory trees will be required to "break up" the view of the complex from neighboring properties. Supplemental plantings to be determined during site plan review.</p> <p>7. Applicant to preserve existing specimen trees to the greatest extent practical. Where necessary, replacement tree plantings in accordance with County arbor regulations will be required. Replacement tree requirements to be determined during site plan review.</p> <p>8. Site lighting to be cut-off/shoebox type, with a maximum height of 20', including fixtures. Lighting to be located no closer than 50' to the north property line or lakefront, and footcandles at the north and west property lines may not exceed 0.5.</p> <p>9. Applicant may provide boardwalks and other passive amenities along the lakefront. However, no personal watercraft or boats to be permitted.</p> <p>10. Minimum buffer along the lake to be 50' in width, with an additional 20' building setback. Only minor recreational uses (boardwalks, picnic tables, and similar uses) are permitted within the buffer.</p>