

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

SUBJECT: LARGE SCALE LAND USE AMENDMENT FROM LDR (LOW DENSITY RESIDENTIAL) AND PD (PLANNED DEVELOPMENT) TO PD (PLANNED DEVELOPMENT) AND REZONING FROM A-1 (AGRICULTURE) AND PCD (PLANNED COMMERCIAL DEVELOPMENT DISTRICT) TO PCD (PLANNED COMMERCIAL DEVELOPMENT DISTRICT) (MIKLER/RED BUG PCD, CPH ENGINEERS, INC., JAVIER E. OMANA)

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Matthew West **CONTACT:** Tony Matthews **EXT.** 7373

Agenda Date 07/09/03 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 6:00

MOTION/RECOMMENDATION:

1. RECOMMEND APPROVAL of the land use amendment from LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development), and rezoning from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District); located immediately south of the intersection of Red Bug Lake Road and Slavia Road, abutting Mikler Road on the west and approximately 0.3 mile west of the Central Florida GreeneWay.
2. RECOMMEND DENIAL of the land use amendment from LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development), and rezoning from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District); located immediately south of the intersection of Red Bug Lake Road and Slavia Road, abutting Mikler Road on the west and approximately 0.3 mile west of the Central Florida GreeneWay.
3. CONTINUE this item until a time and date certain.

(District 1 – Commissioner Maloy)

(Tony Matthews, Principal Planner)

BACKGROUND:

The applicant, CPH Engineers, Inc., Javier E. Omana, is requesting approval of a large scale land use amendment from LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development) and associated rezoning from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District).

Reviewed by:
Co Atty: _____
DFS: _____
OTHER: MM
DCM: _____
CM: _____

File No. 02F.FLU01;
Z2002-010

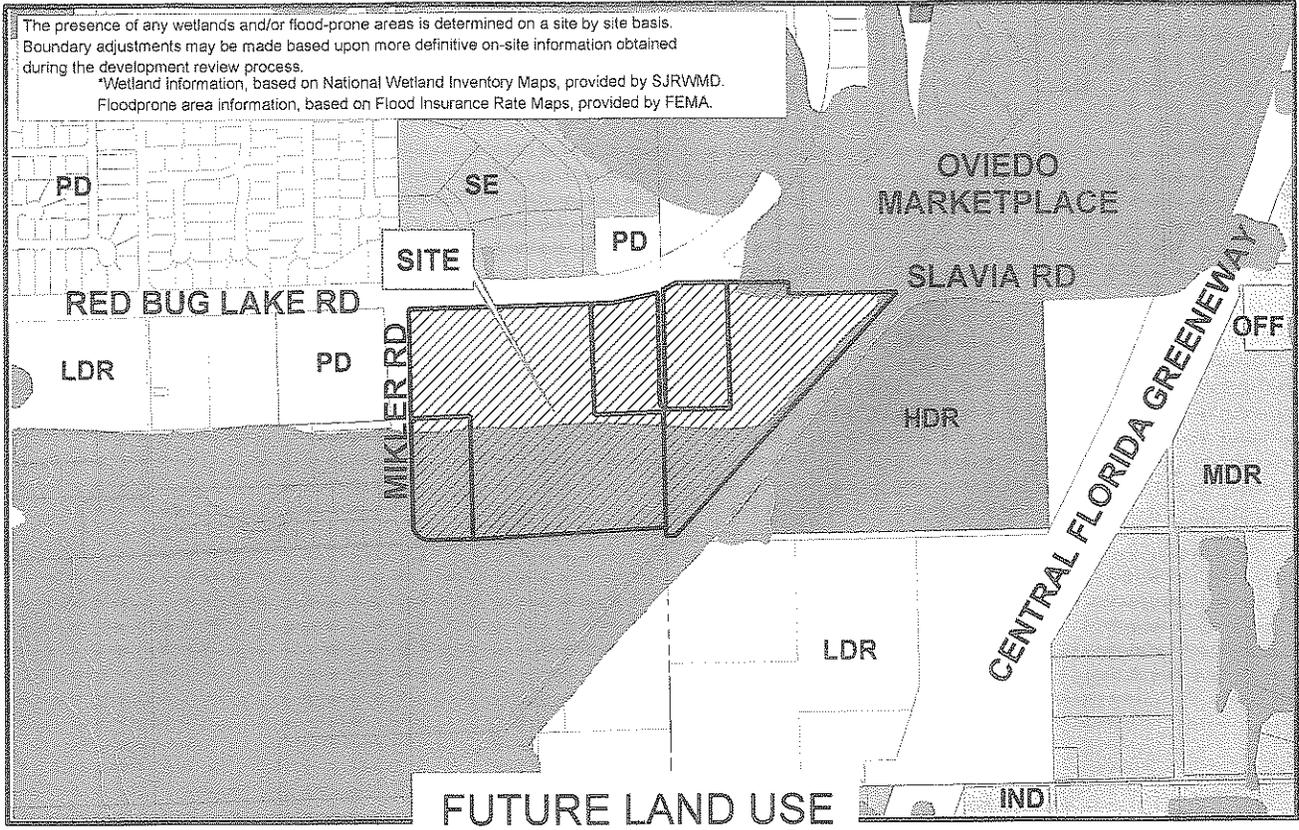
The applicant proposes to develop a 290,000 square foot retail commercial center which will include a 230,000 square foot Wal-Mart Supercenter and 60,000 square feet of additional retail commercial uses on approximately 55.3 acres. The site will incorporate four (4) commercial properties currently designated as Planned Development and zoned PCD (Planned Commercial Development District) and a 2.4 acre park (see enclosed PCD site plan revised June 20, 2003).

STAFF RECOMMENDATION:

RECOMMEND DENIAL of the proposed request for a large scale land use amendment from LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development) and associated rezoning from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District), based upon staff findings included in the attached staff report.

Note: On July 10, 2002, the Seminole County Land Planning Agency/Planning and Zoning Commission recommended denial (6 to 0) of a plan amendment to Planned Development and rezoning to PUD (Planned Unit Development) on this property (see enclosed minutes). The applicant was proposing a mix of retail commercial and multi-family residential uses. The subject request was never scheduled for presentation to the Board of County Commissioners for action.

Attachments: Executive summary, staff analysis, administrative order, applicant's response, LPA/P&Z minutes, and public comment.

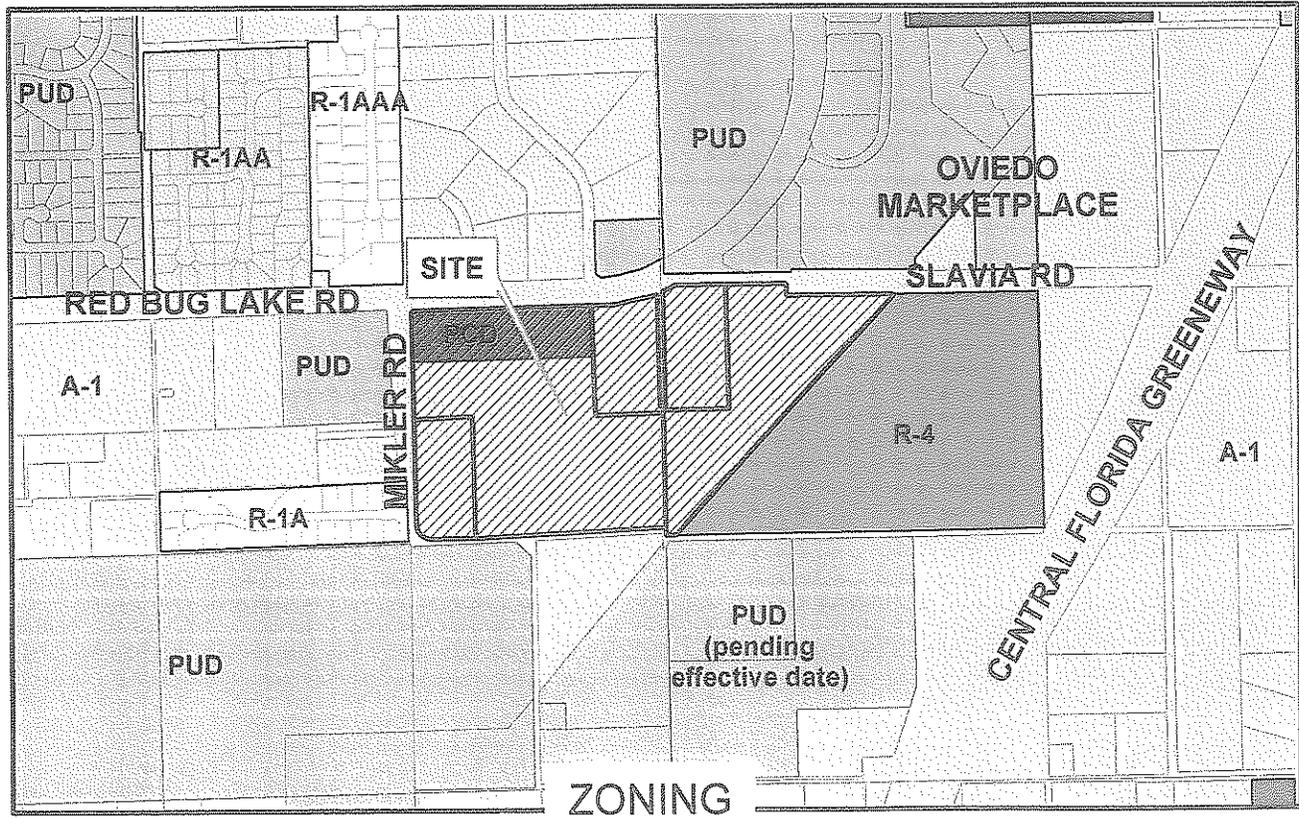


FUTURE LAND USE



Applicant: Mikler/Red Bug PCD; CPH Engineers, Inc.
 Physical STR: 16-21-31-5AC-0000-0830
 Gross Acres: 55.6 BCC District: 1
 Existing Use: Vacant, Residential and Driving Range
 Special Notes: Revised submittal from 2002.

	Amend/ Rezone#	From	To
FLU	02F.FLU01	LDR/PD	PD
Zoning	Z2002-010	A-1/PCD	PCD



ZONING





Amendment No: 02F.FLU01
From: LDR/PD To: PD
Rezone No: Z2002-010
From: A-1/PCD To: PCD

-  Parcel
-  Subject Property



NOT TO SCALE

February 1999 Color Aerials

MIKLER/RED BUG PCD EXECUTIVE SUMMARY

Low Density Residential and Planned Development to Planned Development and A-1 and PCD to PCD		Amendment 02F.FLU01; Z2002-010
REQUEST		
APPLICANT	CPH Engineers, Inc., Javier E. Omana	
LAND USE AMENDMENT	LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development)	
REZONING	A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District)	
APPROXIMATE GROSS ACRES	55.3	
LOCATION	Immediately south of the intersection of Red Bug Lake Road and Slavia Road, abutting Mikler Road on the west and approximately 0.3 mile west of the Central Florida GreeneWay.	
HISTORY/SPECIAL ISSUES	On July 10, 2002, the Seminole County Land Planning Agency/Planning and Zoning Commission recommended denial (6 to 0) of a plan amendment to Planned Development and rezoning to PUD (Planned Unit Development) on this property (see enclosed minutes). The applicant was proposing a mix of retail commercial and multi-family residential uses. The subject request was never scheduled for presentation to the Board of County Commissioners for action.	
BOARD DISTRICT	#1 – Commissioner Maloy	

RECOMMENDATIONS AND ACTIONS

**STAFF
RECOMMENDATION
July 9, 2003**

PLAN AMENDMENT: RECOMMEND DENIAL of Planned Development land use and PCD rezoning with findings that:

1. The community/regional scale of development, as proposed, would not represent an appropriate transitional use adjacent to Low Density Residential future land use;
2. The proposed use is incompatible with recent development trends toward single family residential uses south of the site;
3. Development intensity is not limited and designed to serve the needs of the immediate neighborhoods but more of a regional nature;
4. Development is not located where commercial uses are the predominant existing use along the roadway in both directions from the site and, therefore, the proposed commercial development does not represent infill development;
5. Development is located adjacent to residential areas where compatibility with the residential area cannot be maintained in order to preserve neighborhood viability and community character; and
6. The proposed use is inconsistent with Plan policies identified at this time.

MIKLER/RED BUG PCD STAFF ANALYSIS

**Low Density Residential and
Planned Development to
Planned Development and
A-1 and PCD to PCD**

**Amendment
02F.FLU01;
Z2001-010**

1. **Property Owners:** Steve and Judy S. Richart; Janet L. Stone, Trustee; Joseph L. and Sheri T. Denberg; and Robert T. and Becky A. Navidomskis.
2. **Tax Parcel Numbers:** 16-21-31-5CA-0000-0800; 0810; 0670; 0830; and 0680.
3. **Development Trends:** Development trends south of Red Bug Lake Road primarily consist of single-family and multi-family residential projects. The northwest corner of the site (i.e., C.A. Stone PCD approved in 2001) allows for office and restricted retail uses. Properties to the south of the subject site are currently undergoing review for single family residential development.
4. **Applicant's Statement:** In support of this plan amendment and rezoning, the applicant has: (a) provided an assessment and evaluation of policies taken from the Seminole County Comprehensive Plan (Vision 2020 Plan); (b) submitted elevation drawings of the proposed development; and (c) committed to incorporate into this project, the development conditions of the C.A. Stone PCD;

SITE DESCRIPTION

1. EXISTING AND PERMITTED USES: The Low Density Residential future land use designation allows for single family residential development at a maximum density of four (4) dwelling units per net buildable acre. The A-1 (Agriculture) zoning district allows for single family residential development at a maximum density of one (1) dwelling unit per net buildable acre, and a variety of agricultural and non-residential uses, such as churches and community residential homes. A golf driving range in the north portion of the site operates under a special exception in the A-1 district.

The four (4) commercial properties to be incorporated into the site (i.e., C.A. Stone PCD) are currently designated as Planned Development and zoned PCD (Planned Commercial Development District). Approved uses for these properties include office, banking and restaurant uses.

Other than the parcel used for the golf driving range, the site contains vacant properties and properties with existing single family residential development.

Surrounding uses include high density residential, convenience store, single family residential, adult living facility, church, and vacant properties within the Oviedo Marketplace Planned Unit Development proposed for future office/commercial uses.

Location	Future Land Use*	Zoning*	Existing Use
Site	Low Density Residential and Planned Development	A-1 and PCD	Golf Driving Range, vacant, single-family residential
North	Suburban Estates and Planned Development	A-1, PUD (Planned Unit Development)	Convenience store, vacant, residential, church
South	Planned Development Low Density Residential	PUD, A-1	Vacant, single family
East	High Density Residential	R-4	Apartment complex
West	Low Density Residential and Planned Development	A-1, PUD, R-1A	Vacant, adult living facility

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

The applicant is requesting approval of all permitted and conditional uses within the C-2 (Retail Commercial District) zoning classification, except drive-in theatres; open air flea markets; paint and body shops; adult entertainment establishments; hospital and nursing homes; drive through or fast food restaurants; outdoor restaurant seating; strip centers; outside amplification of sound; and billboards. Hours of operation and delivery will be 24 hours a day.

2. PROJECT DESCRIPTION AND ENHANCEMENTS: The proposed plan calls for two (2) access points onto Red Bug Lake Road; one (1) access onto Slavia Road; and one (1) access onto Mikler Road. The proposed plan also calls for a 50-foot wide landscape buffer abutting Red Bug Lake Road and Slavia Road; a 100 foot landscape buffer, with six (6) foot wall, along the east property line; a 50 foot landscape buffer, with six (6) foot wall, along the south property line; and a 25 foot landscape buffer along the west property. Please see enclosed elevation drawings depicting building design and color scheme.

Uses and square footage are shown below:

Lot	Proposed Use	Square Feet
1	Retail Commercial (Wal-Mart Supercenter)	230,000
2-5	Other Retail Commercial	60,000
6	Park	NA

The applicant is proposing to incorporate a number of the PCD zoning conditions taken from the C.A. Stone PCD (i.e., Lots 2, 3, 4, and 5). These conditions, which were provided by the applicant from the PCD, read as follows:

- A. Wet retention ponds shall be designed as amenities. They shall be aesthetically pleasing. All ponds shall be accented with natural form edges and native landscaping. Fencing will be black in color and intermingled with landscaping.
- B. Vegetation is encouraged where no natural plant communities exist. Landscaping shall rely on the use of native plant materials. Plant materials and types shall be determined at time of Final PCD Site Plan approval.
- C. Extensive monotonous sections of fences shall be avoided by having breaks, incorporating landscaping and other natural features, and shall incorporate muted or natural colors.
- D. All service areas and mechanical equipment (ground or roof), including, but not limited to, air conditioning condensers, heating units, electric meters, satellite dishes, irrigation pumps, ice machines and dispensers, outdoor vending machines, propane tanks, displays and refilling areas shall be screened so that they are not visible from any public right-of-way. The screen shall consist of a solid wall, façade, parapet or other similar screening material which is architecturally compatible and consistent with the associated building. If landscaping is utilized, then the plantings must be high enough within one year of planting to provide the required screening.
- E. Buildings over 20,000 square feet shall provide variations in the roofline and wall planes which may include architectural enhancements.
- F. Pitched roofs shall be encouraged, and no roof shall be predominantly flat (Lots 2, 3, 4, and 5 only).
- G. Awnings, if provided, shall be sensitive to the building height, size, materials and color. Awning colors should be muted or neutral.

In addition, the applicant is also proposing to voluntarily donate the proposed 2.4 acre park depicted on the PCD Site Plan to Seminole County, and to donate funds for the design and construction of park infrastructure. The applicant has stated that the park may be suitable for a paw park for dogs; children's playground; and or green/open space areas (see enclosed comments from CPH Engineers, Inc.).

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 Seminole County Comprehensive Plan (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, Design Element and the Transportation Element and all land development activities shall be consistent with the adopted Future Land Use Element and adopted Design Element (Policy TRA 2.1). The County shall continue to establish and enforce policies, standards and regulations for the management of access points and connections to the County Road System...(Policy TRA 3.8).*

Access to the subject property is via Red Bug Lake Road, an urban arterial and major collector roadway operating at level of service (LOS) "A" with an adopted LOS of "E"; Slavia Road*, a collector roadway, operating at LOS "A"; and Mikler Road, a local roadway. The average daily trips (ADT) from this development are estimated to be 25,000 ADT. Mikler Road shall be widened and paved to meet County Standards. Intersection improvements at Mikler and Red Bug Lake Road will be required to include pro rata share payment for signalization. Possible intersection improvements at Slavia and Red Bug Lake Road may be needed.

Based on daily traffic projections for 2020, there appears to be enough daily capacity available for this development. During the site plan review process, the proposed development will have to submit a traffic study for concurrency review.

*The Land Development Code of Seminole County does not classify Slavia Road as a collector roadway. However, according to the County Engineer, Slavia Road substantially meets the criteria of the County's Impact Fee Program to classify Slavia Road as a collector roadway.

B. **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service Area Maps:** *POT Exhibit-1 and SAN Exhibit-1 are the water and sewer service area maps for Seminole County. Policy POT 1.7 and Policy SAN 1.3 require connection to potable water and sanitary sewer services.*

The subject properties are within the Seminole County Utilities water and sewer service area. There is a 16 inch water main and eight (8) inch sewer main on Slavia Road.

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 (Policy PUB 2.1).*

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 2020 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 (Policy IMP 2.4).*

A preliminary 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 and services.

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 10% of the site is wetlands and approximately 20% is floodprone. Development of the site must be consistent with Vision 2020 Plan policies and Land Development Code standards related to wetlands and floodprone areas. Wetland buffers averaging 25 feet, but not less than 15 feet in width, will be required for post development wetlands. The preliminary plan appears to indicate there no wetlands will be preserved. Appropriate mitigation would be required at final engineering review.

C. **Protection of Endangered and Threatened Wildlife:** *The County shall continue to require, as part of the Development Review Process...proposed development to coordinate 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 (Policy CON 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; and (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 and PCD zoning, as proposed, would be inconsistent with Plan policies identified at this time and therefore inconsistent with the Vision 2020 Plan.

1. Neighborhood Commercial Uses: The County may allow commercial Plan amendments in areas designated for residential uses only under the following conditions (Policy FLU 2.4):
 - a. Uses do not encourage urban sprawl;
 - b. Uses are located at the intersection of a collector or arterial roadways and will not set a precedent for further strip commercialization;
 - c. Development intensity is limited and designed to serve the needs of the immediate neighborhoods;
 - d. Development occurs as a planned development (including master/site plan) to provide the following:
 1. Ample public review prior to development approval;
 2. Intensity limitations based on traffic impact studies;
 3. On-site and necessary off-site sidewalks for convenient and safe pedestrian access
 4. Building size and location to maximize visual compatibility;
 5. Sufficient setbacks, landscaping and buffers to maximize visual compatibility; and
 6. Appropriate hours of operation to minimize noise and lighting impacts.

The Vision 2020 Plan defines: (a) a Neighborhood Commercial Center with retail space not exceeding 75,000 square feet; (b) a Community Commercial Center as ranging from 75,000 square feet to 400,000 square feet; and (c) a Regional Commercial Center ranging from 400,000 square feet to 1,000,000 square feet or larger.

2. Transitional Land Uses: The County shall evaluate plan amendments to ensure that transitional land uses are provided as a buffer between residential and nonresidential 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).
3. Determination of Compatibility in the Planned Unit Development and Planned Commercial Development Zoning Classifications: The County shall consider uses or structures proposed within the Planned Unit Development (PUD) and Planned

Commercial Development (PCD) zoning classifications on a case by case basis evaluating the compatibility of the proposed use or structure with surrounding neighborhoods and uses. Compatibility may be achieved by application of development standards such as, but not limited to, lot size, setbacks, buffering, landscaping, hours of operation, lighting, and building heights. The Board of County Commissioners shall have discretion as to the uses and structures approved with a PUD or PCD zoning classification (Policy FLU 2.11).

The intent of the Planned Development land use and PCD zoning is to provide for a variety of uses and intensities within a development site and encourage flexible and creative site design, and to integrate infrastructure to reduce costs, reduce the provision of excess facilities, and ensure compatibility with adjacent uses.

At time of preliminary or final PCD Site Plan, architectural details may be considered by the Board of County Commissioners when determining if a planned development is compatible with the character of the area. Such standards shall include, but not be limited to, building style, design and scale; exterior building materials; roof design and construction; building size and placement; site furnishings; fences and entrance features; and the size and location of service areas. If the proposed plan does not or cannot achieve the desired level of compatibility, as determined by the Board, the Board may deny the rezoning request.

The applicant has proposed a number of development conditions to address compatibility, such as building orientation, buffering, setbacks, architectural design, increased sizing of retention pond, and additional retention along Red Bug Lake Road. The applicant has stated that the proposed Wal-Mart building incorporates architectural elements that enhance visual interest such as varying building height, ornamental details, arches, cornice treatments, offsets and variation of building materials and colors. By utilizing these elements, the building shape and appearance have been articulated in such a manner that mass and scale are greatly reduced. The monolithic appearance of proto-typical Wal-Mart building has been eliminated (see Project Description and Enhancements above and elevation drawings). Although the elevations proposed are superior to a standard Wal-Mart design, staff believes that more can be done to improve the appearance and reduce monolithic appearance of the building.

The applicant has provided an evaluation of Policies 2.4, 2.5 and 5.3 (see enclosed).

Other applicable plan policies include:

- Conservation Easements (Policy FLU 1.4)
- Conservation Land use (CON Policy 3.1)
- Require Multi-Modal Facilities in Site Planning and Design (Policy TRA 5.8)
- Landscaping County Roads (Policy TRA 6.9)
- On-Site Traffic Flow (Policy TRA 6.14)
- Access Management (Policy TRA 6.15)
- Interconnecting System of Internal Streets (Policy TRA 10.1)

- Review of Development Applications (Policy TRA 10.3)
- Dedication of Rights-of-Way (Policy TRA 11.2)
- Prohibit Use of Roadway Improvements as Sole Justification for Land Use Amendments (Policy TRA 12.2)
- Planned Development Future Land Use Designation

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...(Policy CIE 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.

STAFF RECOMMENDATION (7/9/03)

Plan Amendment and Rezoning: RECOMMEND DENIAL of the proposed request for a large scale land use amendment from LDR (Low Density Residential) and PD (Planned Development) to PD (Planned Development) and associated rezoning from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District), based on the following findings:

- A. The community/regional scale of development, as proposed, would not represent an appropriate transitional use adjacent to Low Density Residential future land use;
- B. The proposed use is incompatible with recent development trends toward single family residential uses south of the site;
- C. Development intensity is not limited and designed to serve the needs of the immediate neighborhoods but more of a regional nature;
- D. Development is not located where commercial uses are the predominant existing use along the roadway in both directions from the site and, therefore, the proposed commercial development does not represent infill development;
- E. Development is located adjacent to residential areas where compatibility with the residential area cannot be maintained in order to preserve neighborhood viability and community character; and
- F. The proposed use is inconsistent with Plan policies identified at this time.

Staff Comment: Comprehensive Policy FLU 2.4 above, provides that commercial uses shall be located at the intersection of arterial and collector roadway intersections and not set a precedent for further strip development. Although this site is located at an arterial (Red Bug Lake Road) and collector (Slavia Road) intersection, staff believes that due to the intensity and magnitude of the proposed Wal-Mart development, this use would be better suited at the intersection of arterial roadways where commercial and retail uses are the dominant use in both directions along roadways.

Regarding strip commercial development, the Seminole County Comprehensive Plan (Vision 2020 Plan) characterizes strip commercial as relatively small and narrow parcels; frequent curb cuts and lack of coordinated access; and lack of coordinated parking between commercial uses. Based on this definition, the applicant's request, as proposed, would not represent strip commercial development.

Previous Board decisions have allowed for limited retail commercial development (i.e., the C.A. Stone PCD) along Red Bug Lake Road, west of the Oviedo Marketplace PUD. The applicant's request, as proposed, would provide for unlimited large scale development at this location. Staff believes that commercial development at this scale would eliminate future requests for smaller, strip commercial development.

In addition, staff also believes that the proposed use could be a compatible transitional use with adjacent development, with the application of more stringent development conditions that address landscaping, buffers, setbacks, building design, furnishings, amenities, etc., superior to those currently proposed by the applicant.

SEMINOLE COUNTY ADMINISTRATIVE ORDER

On August 12, 2003, Seminole County issued this Administrative Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit "A"

FINDINGS OF FACT

Property Owner(s): Steve and Judy S. Richart, 1701 Mikler Road, Oviedo, Florida 32765; Janet L. Stone, Trustee, 3320 North Westmoreland Drive, Orlando, Florida 32804; Joseph L. and Sheri T. Denberg, 231 West Trotters Drive, Maitland, Florida 32751; and Robert T. and Becky A. Navidomskis, 1999 Slavia Road, Oviedo, Florida 32765.

Project Name: Mikler/Red Bug PCD.

Requested Development Approval: Rezoning from the A-1 (Agriculture) zoning classification and the PCD (Planned Commercial Development District) zoning classification to the PCD (Planned Commercial Development District) zoning classification and approval of the associated PCD preliminary site plan attached as Exhibit "B".

After fully considering staff analysis and all evidence submitted at the public hearing on August 12, 2003, to this matter, the Board of County Commissioners (the "Board") has found, determined and concluded that the request for a change in zoning classification, as proposed, would be incompatible with existing uses, development trends and Comprehensive Plan Policies contained in the Mikler/Red Bug PCD Staff Analysis as follows: the community/regional scale of development would not represent an appropriate transitional use adjacent to Low Density Residential future land use; the proposed use is incompatible with recent development trends toward single family residential uses south of the site; development intensity is not limited and designed to

Prepared by: Tony Matthews
1101 East First Street
Sanford, Florida 32771

serve the needs of the immediate neighborhoods but more of a regional nature; development is not located where commercial uses are the predominant existing use along the roadway in both directions from the site and, therefore, the proposed commercial development does not represent infill development; development is located adjacent to residential areas where compatibility with the residential area cannot be maintained in order to preserve neighborhood viability and community character; and the proposed use is inconsistent with Plan policies.

The Board also finds that the owners will retain beneficial use of the property without the requested change in zoning classification from A-1 (Agriculture) and PCD (Planned Commercial Development District) to PCD (Planned Commercial Development District).

Order

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

The aforementioned application for development approval is **DENIED**.

Done and Ordered on the date first written above.

By: _____
Daryl G. McLain, Chairman
Board of County Commissioners

EXHIBIT "A"

Rezoning from A-1 and PCD to PCD (Z2002-010)

Legal Description

Parcel A

The West one-half (1/2) of Lot 81, Slavia Colony Co.'s Subdivision, in Section 19 and 20, Township 21 South, Range 31 East, according to the plat thereof as recorded in Plat Book 2, page 71, Public Records of Seminole County, Florida.

LESS

That portion of the West half of Lot 81, Slavia Colony Company's Subdivision, lying in Section 19, Township 21 South, Range 31 East, and recorded in Plat Book 2, page 71, of the Public Records of Seminole County, Florida; being more particularly described as follows:

Commence at the Southwest corner of the NE ¼ of the SE ¼ of said Section 19; thence run along the South line of the NE ¼ of the SE ¼ North 89 degrees 25' 49" East 105.03 feet; thence leaving said South line run North 00 degrees 34' 11" West 25.00 feet to a point on the South line of said Lot 81, said point also lying on the right-of-way line of Mikler Road (50' right-of-way), and said point also being the Point of Beginning; thence run along said right-of-way line South 89 degrees 25' 49" West 80.00 feet to the Southwest corner of said Lot 81; thence continue along said right-of-way line North 00 degrees 30' 35" West 80.00 feet to a point on a curve concave Southwesterly; thence leaving said right-of-way line and over and across said Lot 81, run Southeasterly 125.62 feet along arc of said curve, having a radius of 79.92 feet, central angle of 90 degrees 03' 36" and a chord bearing of South 45 degrees 32' 33" East to the Point of Beginning.

Parcel B

Lots 47, 48, 67, 69, 70 and the East ½ of Lot 68 of Slavia Colony Co.'s Subdivision in Section 20, Township 21 South, Range 31 East, according to the Plat thereof as recorded in Plat Book 2, Page 71, of the Public Records of Seminole County, Florida

LESS THE FOLLOWING DESCRIBED PARCEL: begin at the Southeast corner of said Lot 48 run North 01 degrees 00' 31" West along the East line of said Lots 48 and 47 for a distance of 1251.76 feet to the South right-of-way line of Slavia Road (formerly Red Bug Lake Road); thence run South 89 degrees 46' 33" West along said right-of-way line for a distance of 234.55 feet; thence run South 00 degrees 41' 27" East along said right-of-way line for a distance of 5.66 feet; thence run South 89 degrees 18' 33" West along said right-of-way line for a distance of 553.47 feet; thence run South 42 degrees 15' 04" West for a distance of 1697.94 feet to the South line of said Lot 69; thence run North 89 degrees 27' 24" East along the South line of said Lots 69, 70 and 48 for a distance of 1951.72 feet to the Point of Beginning.

LESS A PORTION OF LOT 68, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: Commence at the Northwest corner of said Southwest Quarter, for a point of reference; thence run South 00 degrees 56'47" East along the West line of said Southwest Quarter, 25.00 feet; thence North 89 degrees 46'33" East, a distance of 15.00 feet to the intersection of the Southerly right-of-way line of Old Red Bug Lake Road, with the Westerly line of aforesaid Lot 68, thence continue North 89 degrees 46'33" East, along said Southerly right-of-way line, 329.59 feet to a point lying on the West line of the East half of said Lot 68, said point being the Point of Beginning; thence continue North 89 degrees 46'33" East along the Southerly right-of-way line 127.62 feet; thence run South 83 degrees 17'04" West 85.42 feet; thence run North 81 degrees 47'28" West, 43.17 feet to the aforesaid West lot line; thence run North 00 degrees 56'07" West, along said West line, 3.33 feet to the Point of Beginning.

FURTHER LESS:

That portion of Lot 47 lying within 50 feet of the East-West Quarter Section line of Section 20, Township 21 South, Range 31 East, according to the Plat of Slavia Colony Company's Subdivision, recorded in Plat Book 2, Page 71, Public Records of Seminole County, Florida.

FURTHER LESS: The North 10 feet of Lots 47, 67 and 68.

AND LESS: that part of Lots 47 and 67 of SLAVIA COLONY COMPANY'S SUBDIVISION in Section 20, Township 21 South, Range 31 East, according to the Plat recorded in Plat Book 2, Page 71, Public Records of Seminole County, (except the North 10 feet of said Lots 47 and 67 previously conveyed to Seminole County by deed recorded in Deed Book 198, page 293, Seminole County Records Lying within 70 feet of the survey line of State Road S-426-A, Section 77501, East of Station 14+00 and West of Station 25+00 of said survey line; said survey line and said Stations being described as follows: Begin at the Southwest corner of the NW ¼ of Section 20, Township 21 South, Range 31 East, and run North 88 degrees 02'50" East 660.45 feet to Station 14+00; Thence continue North 88 degrees 02'50" East 1100 feet to Station 25+00 and the end of this survey line description.

PARCEL TWO

Lot 80 (Less the North 30 feet of the East ½ of Lot 80), the East ½ of Lot 81, the West ½ of Lot 83 and Lot 82 of Slavia Colony Co.'s Subdivision in Section 20, Township 21 South, Range 31 East, according to the plat thereof as recorded in Plat Book 2, Page 71, of the Public Records of Seminole County, Florida.

AND LESS A PORTION OF LOTS 82 AND 83, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: Commence at the intersection of the Easterly right-of-way line of Mikler Road, according to the plat thereof, as recorded in Plat Book 6, page 14, of the Public record of Seminole County, Florida, with the Southerly Right-of-Way line of Red Bug Lake Road, for a Point of Beginning; thence run North 88 degrees 28'11" East along said Southerly right-of-way line, 987.25 feet to the East line of the West one-half aforesaid Lot 83; thence run South 01 degrees 02'35" East, along said East line, 96.50 feet to a point lying a non-tangent

curve concave Northerly; thence run Westerly, along the arc of said right-of-way curve, having a radius length of 1377.26 feet, a central angle of 07 degrees 33'28", an arc length of 181.67 feet, a chord length of 181.54 feet, and a chord bearing of South 87 degrees 05'31" West to the point of tangency thereof; thence run North 89 degrees 07'45" West, 805.88 feet to the aforesaid Easterly right-of-way line of Mikler Road; thence run North 01 degrees 30'03" West, along the said Easterly right-of-way line, 66.53 feet to the Point of Beginning.

AND

The 30 foot unnamed right-of-way lying West of and adjacent to Lot 69 and East of and adjacent to Lot 80, Slavia Colony Co.'s Subdivision according to Plat Book 2, Page 71, of the Public Records of Seminole County, Florida, LESS AND EXCEPT that portion lying with 25 feet of the South lot lines of aforesaid lot 69 and 80.

AND FURTHER LESS: The North 10 feet of Lots 82 and 83.

PARCEL C

The East ½ of lot 83 and the North 30 feet of the East ½ of Lot 80, Slavia Colony Company's Subdivision, according to the plat thereof as recorded in Plat Book 2, page 71, of the Public Records of Seminole County, Florida.

LESS A PORTION OF LOT 83, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: Commence at the Northeast corner of said Southeast Quarter, for a point of reference; thence run South 00 degrees 56'47" East, along the East line of said Southeast Quarter, 32.00 feet; thence run South 88 degrees 26'11" West, a distance of 15.00 feet to a point lying on the Southerly right-of-way line of Red Bug Lake Road and a Point of Beginning; thence run South 00 degrees 56'47" East, along the East line said Lot 83, a distance of 36.19 feet; thence run South 78 degrees 43'52" West, 231.95 feet to a point of curvature of a curve concave Northerly; thence run Westerly, along the arc of said curve, having a radius length of 1377.26 feet, a central angle of 04 degrees 34'56", an arc length of 110.14 feet, a chord length of 110.11 feet, and a chord bearing of South 81 degrees 01'20" West to the Westerly line of the East One-Half of the aforesaid Lot 83; thence run North 01 degrees 02'35" West, along the Westerly lot line 89.50 feet to the aforesaid Southerly right-of-way line of Red Bug Lake Road; thence North 88 degrees 26'11" East, along said Southerly right-of-way line 337.41 feet to the Point of Beginning.

AND FURTHER LESS: The North 10 feet of Lot 83.

AND LESS A PORTION OF LOTS 82 AND 83, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: Commence at the intersection of the Easterly right-of-way line of Mikler Road, according to the plat thereof, as recorded in Plat Book 6, page 14, of the Public Records of Seminole County, Florida, with the Southerly Right-of-Way line of Red Bug Lake Road, for a Point of Beginning; thence run North 88 degrees 28'11" East along said Southerly right-of-way line, 987.25 feet to the East line of the West one-half aforesaid Lot 83; thence run South 01 degrees 02'35" East, along said East line, 96.50 feet to a point lying a non-tangent

curve, concave Northerly; thence run Westerly, along the arc of said right-of-way curve, having a radius length of 1377.26 feet, a central angle of 07 degrees 33'28", an arc length of 181.67 feet, a chord length of 181.54 feet, and a chord bearing of South 87 degrees 05'31" West to the point of tangency thereof, thence run North 89 degrees 07'45" West, 805.88 feet to the aforesaid Easterly right-of-way line of Mikler Road; thence run North 01 degrees 30'03" West, along the said Easterly right-of-way line, 66.53 feet to the Point of Beginning.

PARCEL D

The West ½ of Lot 68, Slavia Colony Company's Subdivision, according to Plat Book 2, page 71, of the Public Records of Seminole County, Florida, LESS the North 10 feet thereof, FURTHER LESS the following described property:

A PARCEL OF LAND LYING IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE WEST HALF OF LOT 68, " THE SLAVIA COLONY COMPANY'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 71 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE SAID SOUTHWEST QUARTER, FOR A POINT OF REFERENCE: THENCE RUN SOUTH 00 DEGREES 56'47" EAST, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 25.00 FEET; THENCE NORTH 89 DEGREES 46'33" EAST, A DISTANCE OF 15.00 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF RED BUG LAKE ROAD, WITH THE WESTERLY LINE OF AFORESAID LOT 68, FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 46'33" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 60.00 FEET; THENCE RUN SOUTH 63 DEGREES 49'30" WEST TO THE AFORESAID WESTERLY LINE OF LOT 68, A DISTANCE OF 66.32 FEET; THENCE RUN NORTH 00 DEGREES 56'47" WEST, ALONG SAID WEST LINE, 29.02 FEET, TO THE POINT OF BEGINNING.

(The aforesaid legal description has been provided to Seminole County by the applicant of the subject rezoning.

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APPLICANT'S RESPONSE TO POLICIES 2.4, 2.5 AND 5.3

At time of site plan, architectural details may be considered by the Board of County Commissioners when determining if a planned development is compatible with the character of the area. Such standards shall include, but not be limited to, building style, design and scale; exterior building materials; roof design and construction; building size and placement; site furnishings; fences and entrance features; and the size and location of service areas. If the proposed plan does not or cannot achieve the desired level of compatibility, as determined by the Board, the Board may deny the rezone request.

In an effort to demonstrate Wal-Mart's desire to create a quality development, conceptual building elevations are included with this submittal. The proposed building architecture incorporates Mediterranean influences and an earth-tone color palette in lieu of the traditional Wal-Mart blue, gray and red. Building materials include predominantly split face concrete block and exterior insulated foam system (EIFS). Architectural accents, pilasters and cornice elements are positioned to create human scale, accentuate points of interest and provide vertical as well as horizontal features. Additionally, the outdoor garden center will be upgraded to replace the traditional chain link fence with structural columns and decorative metal fencing. Building and foundation landscaping will be increased to complement building elevations and to 'soften' the building's exterior. Truck wells and compactors will be screened with walls that match the building exterior for further screening and buffering of these areas.

The applicant has not demonstrated how the proposed development furthers the goals, objectives and policies relating to appropriateness of use and compatibility, of the Seminole County Comprehensive Plan (Vision 2020 Plan) including, but not limited to:

1. Policy FLU 2.4 (Neighborhood Commercial Uses) which provides for commercial plan amendments in areas designated for residential uses with conditions such as: (1) limiting and designing development to meet the needs of the immediate area; (2) uses are located at the intersection of collector and arterial roadways and will not set a precedent for future commercialization; (3) building size and location to maximize compatibility; and (4) appropriate hours of operation.

Policy FLU 2.4 (Neighborhood Commercial Uses) states that the County may allow commercial Plan amendments in areas designated for residential uses, subject to certain conditions. The subject application addresses the conditions noted above, as follows:

- (1) limiting and designing development to meet the needs of the immediate area;

The rural character of the immediate area is rapidly changing. Evidence of this change includes the existing Tremont adult living complex located west of the site along Mikler Road; the 18 unit Engle Home residential development currently being constructed west of the site along Mikler Road; the 174 unit Kenmure Planned Unit Development currently completing final construction permit review located southwest of the subject property; and the possible addition of the Mikler/Chapman Road PUD located south of the subject property, which if approved, could add approximately 82 units along Mikler Road. This rapid residential growth in the unincorporated areas surrounding the site is representative of the growth being realized by the surrounding communities of Oviedo and Winter Springs.

The existing Planned Commercial Development (northwest corner of subject site) is approved for office, bank, restaurant and other commercial uses. The proposed Wal-Mart Supercenter, in addition to the currently approved commercial uses, will serve the daily needs of the rapidly growing area by providing a full service grocery and general merchandise/retail store. Such uses are in demand on a more frequent basis than the specialty needs provided by commercial/retail uses typically found in a regional mall.

- (2) uses are located at the intersection of a collector or arterial roadways and will not set a precedent for future strip commercialization;

The Seminole County Traffic Engineering Department classifies Red Bug Lake Road as an 'Urban Arterial' from State Road 436 to Tuskawilla Road and a 'Major Collector' from Tuskawilla Road to State Road 426. Slavia Road is classified as a 'Major Collector'. The subject site is located at the intersection of two major collectors and therefore meets the criteria noted above.

Given the existing and proposed surrounding uses adjacent to the site, and the limitations presented by them, future commercialization and/or strip commercialization not already planned in this area is not probable.

- (3) building size and location to maximize compatibility; and

As noted previously, the revised Preliminary PCD Master Plan reflects a reorientation of the Wal-Mart building. By shifting and angling the building as proposed, the visual impact along Red Bug Lake and Slavia Roads is greatly diminished with respect to the original submittal. Due

to the superelevation of Red Bug Lake Road in the vicinity of the Slavia Road intersection, it is anticipated that the finished floor elevation of the proposed Supercenter will be set below the southern right-of-way of Red Bug Lake Road in this area. The change in elevation and proposed 50-foot buffer along Red Bug and Slavia Roads for Lot 1, further 'softens' its visual impact. Determination of the finished floor elevation and its relationship to Red Bug Lake Road will be made at final site plan after final engineering.

The landscape buffer along the east project boundary has been increased significantly, from 25 feet to 100 feet wide. The landscape buffer along the south (Lot 1) boundary has also been increased significantly, from 25 feet to 50 feet wide. Both of these buffers are described in detail under the response to Policy FLU 2.5, below. The landscape buffer adjacent to Red Bug Lake Road, Slavia Road and Mikler Road will be designed in accordance with the Lake Mary Boulevard Gateway Corridor Overlay Standards. Although the overlay standards require a 15 foot wide minimum buffer, the subject Preliminary PCD Master Plan proposes that these buffers be increased considerably to 50 feet wide within Lot 1 (along Red Bug Lake and Slavia Roads) and 25 feet wide within Lots 1 (along Mikler Road, adjacent to the stormwater pond), 2, 3, 4 and 5 (along Red Bug Lake and Mikler Roads). Refer to Preliminary PCD Master Plan for exact buffer locations/widths. These Lake Mary Boulevard Gateway Corridor Overlay buffers will include live oak trees (4 inch dbh) planted 40 foot on center, 4 sub-canopy trees per 100 feet of road frontage, and a continuous shrub hedge planted to insure a height of 3 feet within one year of planting. The plant material will be placed upon an undulating 3-foot high berm. In addition, the proposed stormwater management pond and park site provides an extensive buffer from the Wal-Mart site to the properties to the west.

Parking areas will be designed in accordance with Seminole County code. Landscape islands will be provided intermittently to break up long expanses of parking spaces. Stormwater ponds will be aesthetically pleasing with natural form edges and native landscaping.

The proposed Wal-Mart building incorporates architectural elements that enhance visual interest such as varying building height, ornamental details, arches, cornice treatments, offsets and variation of building materials and colors. By utilizing these elements, the building shape and appearance have been articulated in such a manner that mass and scale are greatly reduced. The monolithic appearance of proto-typical Wal-Mart building has been eliminated.

- (4) appropriate hours of operation

The hours of operation (7 a.m. to 11 p.m.) established for the existing PCD zoning shall be adhered to for the proposed outparcels (Lots 2,3,4 and 5) located at the northwest corner of the site. However, the applicant requests that the hours for sit down restaurants be extended from 7 a.m. to 1 a.m. on Fridays and Saturdays.

Hours of operation for the dedicated park area of Lot 6 are anticipated to be from dawn to dusk.

No restriction to the hours of operation for the Wal-Mart Supercenter (Lot 1) is proposed. Due to the reorientation of the building, incorporation of enlarged and enhanced buffers, and truck well/compactor screening, it is our opinion that unrestricted hours of operation will not negatively impact surrounding residents.

2. Policy FLU 2.5 (Transitional Land Uses) and FLU Exhibit – 2 which require evaluation of plan amendments to ensure transitional uses are provided as a buffer between residential and nonresidential uses.

Policy FLU 2.5 (Transitional Land Uses) states that FLU Exhibit –2 is to be used in determining appropriate transitional uses when evaluating Plan amendments. FLU Exhibit – 2 indicates that low density residential land uses can be a compatible transitional use with neighborhood and community/regional commercial land uses with sensitive site design such as:

- Transitioning lot sizes

Not applicable

- Sufficient buffers

The Preliminary PCD Master Plan provides more than sufficient buffers to the low-density residential land uses located adjacent to the site:

South- the Wal-Mart building is located over 200 feet from the south property line. Included within this area of the Wal-Mart site, Lot 1, as proposed;

- *a 50 ft. wide landscape buffer adjacent to the property line to include a berm ranging from 3 to 5 feet high and a 6 foot high concrete decorative screening wall with canopy trees planted 25 feet on center.*
- *a stormwater pond, and;*

- *a 10 foot wide landscaped area planted with canopy trees 50 foot on center adjacent to the proposed Wal-Mart pavement improvements.*

West- the Wal-Mart building is located over 700 feet from the west property line after considering dedication of 50 feet of right-of-way to Mikler Road. Included within this area as proposed;

- *a park area which is intended to be dedicated to Seminole County with the County's approval;*
- *a 15 foot wide landscape buffer with a 6 foot high concrete decorative screening wall and canopy trees planted 40 foot on center;*
- *a stormwater pond, and;*
- *a 10 foot wide landscaped area planted with canopy trees 50 foot on center adjacent to the proposed Wal-Mart pavement improvements.*
- *Out parcels located at the northwest corner of the site and a portion of the stormwater pond located adjacent to Mikler Road on Lot 1 are buffered by a 25 ft. wide landscape buffer to be designed in accordance with Lake Mary Boulevard Gateway Corridor Overlay Standards.*

- **Limited building heights**

The Preliminary PCD Master Plan proposes a maximum building height of 40 feet for Lot 1 and 35 feet for Lots 2, 3, 4 and 5.

- **Architectural controls**

Proposed architecture of the Wal-Mart building previously addressed. Wal-Mart's architect stands ready to respond to any architectural related comments/input.

- **Limited hours of operation**

Hours of operation previously addressed.

- **Limiting adjacent uses to passive, unobtrusive uses**

Proposed park is a passive, unobtrusive use.

- **May require MRO, MROC, MROCI, TI, PUD or PCD zoning to address these issues.**

The subject application requests PCD zoning. The Preliminary PCD Master Plan appropriately addresses all development criteria.

FLU Exhibit – 2 indicates that a high density residential land use is a compatible transitional use with neighborhood and community/regional commercial land uses. Although this exhibit deems the adjacent high density residential land use (Summer Club Apartment Complex) as compatible transitional uses, the revised Preliminary PCD Master Plan further ensures the Wal-Mart's spatial and locational compatibility by providing a substantial landscape buffer between the uses. The revised Master Plan also relocated the automobile fueling station interior to the site, further ensuring their compatibility.

3. Policy FLU 5.3 (Strip Commercial Development) which states that commercial development shall be located; (1) where commercial uses are the predominant existing use along the roadway in both directions from the site; or (2) within a mixed use planned development to provide convenient retail services for residents and reduce residential traffic on area roadways; or (3) adjacent to residential areas only where compatibility with the residential area can be maintained in order to preserve neighborhood viability and community character.

Policy FLU 5.3 (Strip Commercial Development) gives four alternatives for the location of commercial and retail uses, only three were listed in the DRC comments. The use of "or" between the alternatives suggests that only one of these criteria must be achieved. In fact, the proposed development achieves two of these criteria.

- A. Located adjacent to collector and arterial roadway intersections to maintain road capacity and not set a precedent for further strip development; or

As noted previously, the subject site is located at the intersection of two major collectors and therefore meets the criteria. Also, given the existing and proposed surrounding uses adjacent to the site, and the limitations presented by them, future commercialization and/or strip commercialization not already planned in this area is not probable.

- D. Located adjacent to residential areas only where compatibility with the residential area can be maintained in order to preserve neighborhood viability and community character.

Compatibility with adjacent residential areas is clearly achieved through the use of creative site and architectural design, extensive landscape buffering and considerable building setbacks, as demonstrated on the

Preliminary PCD Master Plan. Furthermore, more specific development criteria will be appropriately addressed as part of the conventional Seminole County approval process.

The proposed development would fall between the Vision 2020 Plan definition of community and regional development which would not be appropriate adjacent Low Density Residential.

The Vision 2020 Plan clearly provides criteria for placement of commercial uses adjacent to residential uses. FLU Exhibit – 2 states that a low density residential land uses can be a compatible transitional use with neighborhood and community/regional commercial land uses by providing sensitive site design such as sufficient buffers, limited building heights, architectural controls and proper zoning. The Preliminary PCD Master Plan appropriately addresses these criteria.

Zoning Issues

PCD zoning, as proposed would not be compatible with adjacent residential development and inconsistent with Vision 2020 Plan policies listed above.

Our discussion of the Vision 2020 Plan policies above demonstrates how the requested Planned Commercial Development (PCD) zoning is indeed compatible with adjacent residential development. By following the PCD approval standards created by Seminole County, staff has been given the opportunity to provide valuable input on the subject site design. Staff will continue to have the ability to mold the site during subsequent approval processes. Extensive measures have been taken to create a site design that is compatible with surrounding residential development.

**LOCAL PLANNING AGENCY/
PLANNING AND ZONING COMMISSION**
COUNTY SERVICES BUILDING
ROOM 1028
July 10, 2002 - 7:00 P.M
MINUTES

Board Present:

Ben Tucker, Chairman
Tom Mahoney, Vice Chairman
Allan Peltz
Dick Harris
Paul Tremel
Beth Hattaway

Board Absent

Don Nicholas

Staff Present:

Matt West, Planning Division Manager
Pam Hastings, Public Works Department
Jerry McCollum, Public Works, Engineering Division
Kent Cichon, Planning Division
Cindy Matheny, Planning Division
Kathy Fall, Planning Division
Shannon Suffron, Development Review Division
Stephen Lee, Deputy County Attorney
Karen Consalo, Assistant County Attorney

- F. MIKLER/RED BUG PUD CPH ENGINEERS, INC/JAVIER E OMANA; APPROXIMATELY 53.8 ACRES MORE OR LESS; LARGE SCALE LAND USE AMENDMENT FROM LOW DENSITY RESIDENTIAL TO PLANNED DEVELOPMENT AND REZONE FROM A-1 (AGRICULTURE) AND PCD (PLANNED COMMERCIAL DEVELOPMENT) TO PUD (PLANNED UNIT DEVELOPMENT); SOUTHEAST CORNER OF MIKLER ROAD AND RED BUG LAKE ROAD.
COMMISSIONER MALOY-DISTRICT 1 CINDY MATHENY, SR PLANNER***

The applicant, CPH Engineers, Inc., is requesting approval of a large-scale land use amendment from Low Density Residential (LDR) and Planned Development (PD) to Planned Development (PD) and associated rezoning from A-1 (Agriculture) and PCD (Planned Commercial District) to PUD (Planned Unit Development) for this 55.6-acre parcel of land. The applicant proposes to develop a mixture of retail commercial and multi-family residential on the site.

Staff had a number of concerns that are detailed in the staff report primarily related to the intensity of uses requested by the applicant, compatibility with surrounding uses and the appropriateness of the project as a transitional use at this location

Staff recommends denial of Planned Development land use on the findings that Planned Development land use as proposed would be:

1. ***inconsistent with Plan policies related to the Plan Development land use designation;***
2. inconsistent with adjacent low density residential land use;
3. inconsistent with Plan policies related to mixed use development;
4. inconsistent with the development in the immediate area; and
5. inconsistent with Plan policies identified at this time.

Staff also recommends denial of the rezone with findings that this request, as proposed, would be:

1. incompatible with surrounding development; and
2. inconsistent with the Seminole County Land Development Code regarding PUD zoning.

Javiar Omana, CPH Engineering, disagreed with staff's recommendation. He gave a brief history of this request. The 4 property owners, who own 4 parcels in the subject amendment area, asked his firm to do a feasibility study on the potential growth opportunities for their properties at this location. His firm has been retained by the 4 separate property owners and have come in under one application to represent them under one unified land use change. The properties are uniquely located within the Red Bug Corridor district. This is a district that has undergone tremendous change within the last 10-15 years. There has been a lot of growth pressures, the roadway has changed in character drastically in past 25 years and along with that, the overall aspects of growth within that area have changed. We have the Oviedo Crossings, the construction of 417, and adjoining commercial uses that are attached to the Oviedo Crossing project.

This particular property is facing a tremendous amount of development pressure because of its unique location and that is why we believe that these properties are ideally suited for a transitional use and therefore considered a great infill property within the Corridor itself.

We originally came in and requested a change from a low density residential and PCD to mixed use designation. Upon review of our submittal, staff requested that we amend our submittal to change the mixed use designation to planned development with a corresponding PD zoning. The reason for that is the County has yet to adopt specific design criteria for a mixed use development.

Based on that, we've prepared a bubble master plan of how we envision this particular property developing as a PD. On the western side of the property, there is a residential component. Most of the eastern side of the property, we envision mostly commercial development.

We respectfully disagree with staff's assessment and recommendation for denial because we believe that the Vision 2020 policies for economic development and land use appropriateness is met. This particular property is uniquely placed because of its infill nature. Recommendation for approval of this application does not promote infill development and is ideally suited for a transitional use. Public facilities and infrastructure are readily available for this property and the character of the surrounding neighborhoods and area has changed drastically in the last 10-15 years.

We believe that rezoning tied to PD is the best way to place a check on how this property is going to be developed. While we disagree with staff's recommendation for denial, we do agree with staff that the PD vehicle is the best way to address how this property is going to be developed. Subsequent to this meeting, the property owners have instructed him to meet with the Red Bug Coalition and staff to discuss how to best address the PD concerns on this property.

Joe Roviario, transportation planner for Luke Transportation, was retained to do the transportation analysis for the Comprehensive Plan analysis. As you look at what the existing zoning is under the maximum density and the future proposed land use change under maximum density, under both of those scenarios the projected traffic analysis does not show that either land use scenario would cause an adverse or significant effect on any of the state roadways in the impact area. We basically looked at 10 roadways within the analysis area and none of them were significantly impacted under the maximum density that would be allowed under the proposed land use. Even under the comments from the County, they do not site transportation as an issue of concern on the Comprehensive Plan change.

Commissioner Tremel asked what the projections were for the property if it remained as is?

Mr. Omana said that under the Comprehensive Plan analysis, you have to look at it as single family. Under the future existing land use maximum density given what is in the Land Development Code, you could put in 215 single family developments there. The future land use given, with a mixed use scenario, you could assume that 30.1 acres would be of a commercial or retail nature which

has a maximum density FAR and would allow 458,905 square feet and the residential portion of the mixed use would be considered multi-family and that allowed a maximum density of 474.

Commissioner Temel asked at what density when you say multi-family?

Mr. Omana said for the commercial we were looking at a .35 and for the residential we were using 20 units per acre. We took the allowable densities right out of the Land Development Code.

Commissioner Tremel said that 20 acres per unit is at the high end of the allowable density for multi-family.

Commissioner Tremel asked what is the current density on the property to the west?

Mr. Omana said to the west there is a land use designation of low density residential, however, right at the corner the County has approved two senior housing building complexes of 3 to 4 stories. That is not within the land use designation to be considered low density residential but it has been approved and they are under construction.

Ms. Matheny said actually that land use was changed to Planned Development when the project was approved.

Mr. Omana said the property to the east has a land use designation of high density residential, R-4 zoning with 3-story apartment units. To the south there is low density residential, to the southwest there is a planned unit development, single family residential with approximately 172 single family residences that is undergoing PD approval. The balance of the property to the south is low density residential.

In our analysis, we utilized the Vision 2020 appropriateness land use matrix for compatibility. The bubble diagram, on the eastern most side of the property, we have the commercial component and on the western side we have the residential component. By using that particular chart, we scored all check marks which means compatible transitional use and a circle which means it can be considered a compatible transitional use providing certain sensitive design issues are addressed such as height, buffers, setbacks, architectural controls, pedestrian amenities and things of that nature. Based on this particular chart, we believe that our submittal application does comply with the Vision 2020 policies and guidelines for transitional uses and mixed use projects. He believes that with the detail of how this is developed, there can be some compromise with staff as to exactly this can be developed. The land use itself is an appropriate use as far transitional uses.

Commissioner Tremel is still unclear on what it the property is transitioning from.

Mr. Omana said there is an established low density residential to the west. The change in land uses have begun to occur already. Immediately to the west of the property, there are two 3-4 story buildings and that is an increase of intensity in land use. Immediately to the east of the property, there is high density residential and to the south there is predominately low residential. We are envisioning that on the west we start with the mid to high density residential development, apartment units. We are going from a land use that is low to 3-4 story units, senior housing, to high density residential, up to 20 units per acre. From then we are transitioning on to a commercial development which is in line with what has happened in that particular corridor relative to the Oviedo Crossings PD. There is a 7-11 at the corner and opposite there is high density residential to the east.

Commissioner Tremel asked what is the density of the senior complex?

Ms. Matheny said it's about 7-8 per acre. They actually have more apartment units per acre but the impacts based on the types of unit was assessed by the County at 7-8 units per acre.

Commissioner Tremel said we are going from 7 to 8 to 20 units per acre as a transitional use.

Mr. Omana said the 20 units per acre that he is using is something that is allowable under the particular land use designation. We use that as a maximum in our analysis to ascertain what roadway impacts would be occurring on site and also how the infrastructure system would be impacted. That doesn't necessarily mean it would be developed at 20 units to the acre.

Commissioner Tremel said that it is uncommon for applicants to ask for approval and commit to work with staff and the Red Bug Coalition to make adjustments. Normally we hear the adjustments as part of the approval process. A PUD for this area makes perfect sense. A PUD with 20 units to the acre and the amount of commercial space that is being thrown around doesn't necessarily make perfect sense.

Mr. Omana said this is why we have come to sort of an impasse. Our original submittal was for mixed use land use designation. Staff was hesitant for us to continue with that request because the County did not have the design criteria in place to control the intensities and densities on site. Staff recommended that we proceed with an amended application and go with a planned development procedure. The problem with a PD is that it is a two component process. Not only are we dealing with the land use but we're also dealing with a rezoning of the property. At this point and time our property owners do not know exactly what is going to go on the site plan. While they would welcome the PD land use designation on the property, they have no information to provide a specific site plan that would address the issues of setbacks, buffers, types of uses, parking ratios and things of that nature. We are looking to staff for some direction. We are willing to meet with staff and the Red Bug Coalition to further develop a site

plan that would be amenable and keeping more with the transitional use and the other sensitive issues.

Commissioner Tremel said he recalls when the senior project was approved. The Red Bug Coalition was very active in providing input into that. They did not have serious reservations with that because although it was an increase in density, it was a rather passive increase in density but they certainly were taking a very strong stand that they did not want to see the approval of that as a justification for a dramatic increase in uses to the east of that. It was very clearly understood by this Board at that time that the approval of that project because of the unique nature of it wasn't going to be used for a justification to really jump things up on the property to the east. This request that you are making with the type of densities that you are talking about, is doing just that.

Mr. Omana said he is not relying on that particular approval. That is history and he had nothing to do with that approval but that is changing the character of the corridor. The densities are being maxed out to ascertain impacts to the roadway system and the public and county facilities. That doesn't mean that the developer is going to be putting 525 apartments units and close to a half million square feet of retail in the space.

Commissioner Tremel asked how do we come to what the number is going to be once the zoning is approved?

Mr. Omana said if staff and this Board and the Board of County Commissioners sees fit to recommend approval solely of the land use change to either mixed use or planned development, that in of itself does not grant the owners of these properties any entitlements. We creating a land use designation to the property, however, a specific site performance can only be approved by means of the PD site plan approval process. At that point and time we are open to scrutiny by the public, by staff, by this Board and the Board of County Commissioners. At that time you can set limitations as to what types of uses are included in the PD, height restrictions, buffers requirements and things of that nature.

Commissioner Hattaway asked what is the age group that you are hoping to attract to the multi-family?

Mr. Omana said he didn't know because specific market studies have not been performed.

Commissioner Hattaway asked if the capacity had been checked at the surrounding schools?

Mr. Omana said no but that is a major issue they are aware of.

PUBLIC COMMENT

Greg Prior, 1478 Thornhill Circle, Oviedo, is chairman of the Red Bug Coalition. He said the Coalition has worked with developers to make sure the transition is good. He understands the value of the property and the changing nature and none of that has been done on this project. He supports staff's recommendation for denial until the applicant can come back with something more definite.

Mr. Omana said it is the applicant's intent to meet with the concerned citizens of the neighborhood, the Red Bug Coalition and staff to make a full disclosure as to how this is going to be developed.

Commissioner Harris said the troubling part of this is that it is really very nebulous. The applicant is right, planned development is the correct category but planned development is not the same as identifying the intensity. Commissioner Harris doesn't have a good feeling as to whether or not the intensity is appropriate because there is no real specificity to this. Over time we get in trouble when we take concepts as opposed to specificity. He recommended that the applicant withdraw his application and go back to the Red Bug Coalition and work out the specificity and put some limits on it so we have at least a conceptual site plan with some solid planning elements to determine what is appropriate. Planned Development is the right concept but the concept and the intensity of that concept are two different issues, one of which is totally missing here.

Chairman Tucker said he agreed and his vote would be to vote it down.

Commissioner Mahoney said that 20 units to the acre is the most intense apartment in Seminole County. Just to the east of this site there an apartment community which is probably somewhere around 15 and they are talking about transitioning from that into a rather large highly developed commercial district and then from that moving westward to the 20 unit per acre apartments. Apartments are an okay use for this but 20 units per acre is too much and 4-stories require elevators. Three story apartments probably maxed out at 15 units per acre, some neighborhood commercial right around the front and a third use could be some attached single family homes called townhomes. In my view, these are the kinds of things that could be approved on a PUD but the one that we have is not enough to vote yes on.

Commissioner Tremel said one of the issues the Board constantly deals with is trying to find places for single family development and we end up being asked to do it in areas where it is more rural in character and the people don't want it. Here we're looking at a site that this is certainly not the highest use of the property but there is room for considerable amount of room for some residential use far less than 15 units to the acre. He doesn't feel we should lose this valuable piece of

potentially residential property in an area where people want to build residential homes.

Chairman Tucker asked the applicant if he would like to withdraw his application without prejudice?

The applicant said no.

Motion by Commissioner Mahoney to recommend denial of the large scale land use amendment from Low Density Residential and Planned Development to Planned Development and denial of the rezoning from A-1, Agriculture and PCD to PUD. Second by Commissioner Peltz.

Commisioner Mahoney said this is a good site for a PUD. This site warrants uses something other than single family lots. This site warrants something more intense than a subdivision of traditional homes but the one that we've been given is far more intense than the particular area warrants. This Board could look more favorably upon another plan that had greater detail and less intense uses.

Commissioner Harris agreed with Commissioner Mahoney. Single family on this particular site could be done under a PUD, could do townhomes, could do some other things that really makes sense.

Motion to deny passed unanimously. (6-0)

Mr. Robert Olliff

2005 Mikler Rd

Oviedo FL 32765

4-3-03

Dear Mr. Matthews,

This letter is in regard to the possibility of a super Wal Mart being built on Red Key & Mikler Rd. While the stones run ~~to~~ the property now it originally belonged to my grandfather Joseph Mikler and his sons, one of which was my father. I remember growing up, how low the one piece of that property is and how at times it couldn't even be farmed because

Mr. Robert Olliff

2005 Mikler Rd

Oviedo FL 32765

it was so wet. I can't
imagine how that
part of the property
could ever be
considered for any kind
of development. In the
works right now down
our little road we have
a 19 unit housing
development. Right next
to it a 200 unit
housing development
is coming and another
property owned by
another member of
the Stone family is
planning on turning
his 40 plus acres into

-2-

a housing area. We are so overwhelmed and we certainly don't need the congestion of a super Wal Mart at the end of our street. I know we aren't alone in opposing this. We also know that Wal Mart is really upset with Oviedo since they rejected them from building in the city limits. We just hope that business grants don't always get what they want and that county officials will listen to the people and evaluate the landscape and not turn every piece of property into concrete. We will have a Wal Mart neighborhood market less than 3 miles down the road from us so why do we need a super Wal Mart at the end of our road.

Thank you for taking the time to read our letters.

Sincerely,

Robert & Pat Ollif
2005 Muller Rd.
-3- Oviedo, Fla. 32765