ITEM #_____

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

SUBJECT: US Hwy 17/92/SR 419 Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial); and Rezone from A-1 (Agriculture District) to C-2 (Retail Commercial District)

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

AUTHORIZED BY: Matthew West **CONTACT:** Tina Deater **EXT** 7440

Agenda Date 4/07/04 **Regular** ☐ **Work Session** ☐ **Briefing** ☐
Special Hearing – 6:00 ☐ **Public Hearing – 7:00** ☒

MOTION/RECOMMENDATION:

1. Recommend APPROVAL of the request for a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial), and a Rezone from A-1 (Agriculture District) to C-2 (Retail Commercial District) on approximately 4.8 acres, located between CR 427 (Ronald Reagan Blvd.), SR 419, and US 17/92 (Allison E. Turnbull and Aaron J. Gorovitz, applicants); or
2. Recommend DENIAL of the request for a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial), and a Rezone from A-1 (Agriculture District) to C-2 (Retail Commercial District) on approximately 4.8 acres, located between CR 427 (Ronald Reagan Blvd.), SR 419, and US 17/92 (Allison E. Turnbull and Aaron J. Gorovitz, applicants); or
3. CONTINUE the public hearing until a time and date certain.

District 5 – Commissioner McLain Tina Deater, Senior Planner

BACKGROUND:

The applicants propose a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a rezone from A-1 (Agriculture District) to C-2 (Retail Commercial District), on approximately 4.8 acres for a commercial development. The subject parcels have split zoning of C-2 and A-1 and split Future Land Use designations of LDR and COM. This request will make the zoning and land use consistent across the entire 4.8 acres.

Reviewed by:
Co Atty: KZC
DFS:
OTHER:
DCM:
CM:

File No. Z2004-004
01.04SS.01

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the requested Small Scale Land Use Amendment and rezone.

INSERT:

COLOR MAPS
AERIAL MAP

SR 17/92/419 SSLUA & Rezone

LDR (Low Density Residential) to COM (Commercial) and A-1 (Agricultural District) to C-2 (Retail Commercial District)	Amendment (01.04SS.01& Z2004-004)
REQUEST	
APPLICANTS	Allison E. Turnbull and Aaron J. Gorovitz/Lowndes, Drosdick, Doster, Kantor &Reed, P.A.
PLAN AMENDMENT	LDR (Low Density Residential) to COM (Commercial)
REZONING	A-1 (Agricultural District) to C-2 (Retail Commercial District)
APPROXIMATE GROSS ACRES	4.8 Acres
LOCATION	At the intersection of US Highway 17/92 and SR 419
BCC DISTRICT	2 – Commissioner Morris
RECOMMENDATIONS AND ACTIONS	
STAFF RECOMMENDATION	Staff recommends APPROVAL of the requested Small Scale Land Use Amendment and rezone.

STAFF ANALYSIS & FINDINGS

1. **Property Owners:** Power Sports Group, LLC

2. **Tax Parcel Numbers:** 22-20-30-300-017B-0000
   22-20-30-300-0220-0000

3. **Development Trends**: The subject parcels are bordered by Ronald Reagan Boulevard to the north, SR 419 to the south and Highway 17/92 to the east. Development in this area is characterized by commercial zoning and uses to the north and south along Highway 17/92. There is a gas station and an auto service center immediately to the south of the subject property. Immediately north of the subject property are vacant parcels zoned for commercial use. There is a single-family development to the northwest, which is separated from the subject property by CR 427 (Ronald Reagan Boulevard), a four-lane, divided road. Besides being separated by a major roadway, the houses within the single-family development are heavily buffered by a masonry wall and extensive landscaping.

SITE DESCRIPTION

1. **EXISTING AND PERMITTED USES:** The subject parcels currently have split future land use designations of Commercial and Low Density Residential and split zoning designations of A-1 and C-2, as shown on the attached map. The Future Land Use and zoning of surrounding properties are as follows:

Location	Future Land Use*	Zoning*	USES
Subject Property	Low Density Residential and Commercial	A-1, C-2	Vacant
North	Low Density Residential and Commercial	A-1, C-2	Vacant
South	Commercial, Industrial	C-2, M-1	Gas Station, Auto Service Center
East	Commercial, Industrial	C-2, M-1	Automobile Dealership
West	Low Density Residential	A-1, City of Lake Mary	Single-family

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

COMPREHENSIVE PLAN CONSISTENCYAND ZONING ANALYSIS

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 effect on the timing/financing of these programs) that will be affected by the amendment if approved.

Summary of Program Impacts: The proposed future land use and zoning amendments would 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 Transportation 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).

The subject parcels will access US 17/92 and CR 427. CR 427 was recently widened to 4 lanes. During construction, traffic counts were not taken, so there is not a 2003 level of service determination available; however, there is ample capacity on the roadway, due to the addition of two new lanes.

US 17/92 has an adopted level of service of "D". CR 427 and SR 419 are currently operating at an unacceptable level of service, however, it should be noted that adjacent segments are operating at an acceptable level of service for peak hour trips. Congestion is occurring in this section and it is further aggravated by the short distance of traffic signal spacing between SR 419 and CR 427. During the site plan process, there will be a detailed concurrency analysis completed, where Seminole County staff will analyze the traffic at a more specific level with the use of FDOT level of service software to determine the impact of the proposed use.

At this time, all traffic concurrency requirements must be met in order for the development to proceed. US 17/92 from Shepard Road to Lake Mary Boulevard is planned to be six-laned in the future. This is an improvement that will receive funds from the 2nd generation one-cent sales tax and is a cooperative improvement to be done by Seminole County and the FDOT.

B. **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service Area Maps:**

The subject property is located within the Seminole County water and sewer service areas. Both water and sewer services are available to the site.

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

The property is served by Seminole County EMS/Fire Station #35. Response time 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 (Implementation Policy 1.2.3).

A review of the availability of public facilities to serve this property indicates that adequate public facilities either exist or could be made available. The segment of 17/92 abutting the site is currently operating at an unacceptable level of service. During the site plan process, there will be a detailed concurrency analysis completed, where Seminole County staff will analyze the traffic at a more specific level with the use of FDOT level of service software to determine the impact of the proposed use.

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).

The property contains less than two percent wetlands or flood prone areas and could be developed within the requirements of the Vision 2020 Plan and Land Development Code.

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

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

4. DEVELOPMENT POLICIES – The comprehensive plan contains additional criteria and standards that describe when, where and how development should 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, the proposed Commercial land use and C-2 zoning would be compatible with surrounding land uses along the US 17/92 corridor. The requested Commercial land use is consistent with Plan policies identified in the Vision 2020 Plan.

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

The subject parcels are located along a traditional commercial corridor where adjacent uses to the north and south are commercial in nature. The parcels are separated from the residential uses to the northwest by a masonry wall, landscape buffers, and Ronald Reagan Boulevard, which is described as a four-lane divided road.

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

This policy provides for the adoption of level of service (LOS) standards for public facilities and requires that final development orders be issued only if public facilities meeting the adopted LOS are available or will be available concurrent with the impacts of 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:

Based on the stated findings, staff recommends APPROVAL of the requested Small Scale Land Use Amendment and rezone.

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT A); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 ZONING CLASSIFICATION THE C-2 ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. LEGISLATIVE FINDINGS.

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled, "SR 17-92/419 SSLUA & Rezone."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

Section 2. REZONINGS. The zoning classification assigned to the following described property is changed from A-1 to C-2:

SEE ATTACHED EXHIBIT A

Section 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

Section 4. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. EFFECTIVE DATE. A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon filing by the Department.

ENACTED this 27th day of April, 2004.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

EXHIBIT A
LEGAL DESCRIPTION

SEC 22 TWP 20S RGE 30E THAT PT OF W 1/2 OF NE 1/4 OF SW 1/4 NWLY OF HWY 17-92 & S OF CR 427 & VACD ST

AND

SEC 22 TWP 20S RGE 30E FROM SE COR LOT 4 LAKE MARY WOODS PH 3 & NLY LI CR R/W 427 RUN NELY ALONG NLY R/W 125.94 FT TO POB RUN NELY ALONG CURVE 492.89 FT TO E LI OF SW 1/4 S TO NLY R/W WLY ALONG R/W TO BEG

AN ORDINANCE AMENDING THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF A SMALL SCALE DEVELOPMENT AMENDMENT; CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTIES FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM THE SEMINOLE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County enacted Ordinance Number 2001-21 which adopted the Vision 2020 Seminole County Comprehensive Plan ("the Plan"); and

WHEREAS, the Board of County Commissioners has followed the procedures set forth in Sections 163.3184 and 163.3187, Florida Statutes, in order to further amend certain provisions of the Plan as set forth herein relating to a Small Scale Development Amendment; and

WHEREAS, the Board of County Commissioners has substantially complied with the procedures set forth in the Implementation Element of the Plan regarding public participation; and

WHEREAS, the Seminole County Land Planning Agency held a Public Hearing, with all required public notice, on April 7, 2004, for the purpose of providing recommendations to the Board of County Commissioners with regard to the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners held a Public Hearing on May 11, 2004, with all required public notice for the purpose of hearing and considering the recommendations and comments of the general public, the Land Planning Agency, other public agencies, and other jurisdictions prior to final action on the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners hereby finds that the Plan, as amended by this Ordinance, is internally consistent, is consistent and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, the State Comprehensive Plan, and the Strategic Regional Policy Plan of the East Central Florida Regional Planning Council, based upon the "SR 17-92/419 SSLUA & Rezone."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. RECITALS/LEGISLATIVE FINDINGS:

(a) The above recitals are true and correct in form and include legislative findings which are a material part of this Ordinance.

(b) The Board of County Commissioners hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

Section 2. AMENDMENT TO COUNTY COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:

(a) The Future Land Use Element's Future Land Use Map as set forth in Ordinance Number 2001-21, as previously amended, is hereby further amended by

amending the future land use designation assigned to the property which is depicted on the Future Land Use Map and further described below:

LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A"

Amendment Number	**Amendment**
01.04SS.01	Amendment from Low Density Residential to Commercial

(b) The associated rezoning request was completed by means of Ordinance Number 2004-___.

Section 3. SEVERABILITY:

If any provision of this Ordinance or the application to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are declared severable.

Section 4. EXCLUSION FROM COUNTY CODE/CODIFICATION:

(a) It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall not be codified into the Seminole County Code, but that the Code Codifier shall have liberal authority to codify this Ordinance as a separate document or as part of the Land Development Code of Seminole County in accordance with prior directions given to said Code Codifier.

(b) The Code Codifier is hereby granted broad and liberal authority to codify and edit the provisions of the Seminole County Comprehensive Plan, as amended.

Section 5. EFFECTIVE DATE:

(a) A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66 and 163.3187, Florida Statutes.

(b) This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however, that the effective date of the Plan amendment set forth herein shall be thirty-one (31) days after the date of enactment by the Board of County Commissioners or, if challenged within thirty (30) days of enactment, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendment is in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent on an amendment may be issued or commence before an amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, the affected amendment may nevertheless be made effective by the Board of County Commissioners adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

ENACTED this 27th day of April, 2004.

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

By:_____
Daryl G. McLain,
Chairman

EXHIBIT A
LEGAL DESCRIPTION

SEC 22 TWP 20S RGE 30E THAT PT OF W 1/2 OF NE 1/4 OF SW 1/4 NWLY OF HWY 17-92 & S OF CR 427 & VACD ST

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