ITEM #_____

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

SUBJECT: Fogarty Land Use Amendment, Small Scale Land Use Amendment from Recreation to Suburban Estates (SE) (Ronnie A. and Carmen M. Fogarty, applicants).

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

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

Agenda Date 05/05/04 **Regular** ☐ **Work Session** ☐ **Briefing** ☐
Special Hearing – 6:00 ☐ **Public Hearing – 7:00** ☒

MOTION/RECOMMENDATION:

1. Recommend APPROVAL of the request for Small Scale Land Use Amendment from Recreation to Suburban Estates (SE) on approximately 9.8 acres; located on the north side of SR 46, 0.2 mile west of Longwood-Markham Road, per staff findings (Ronnie A. and Carmen M. Fogarty, applicants); or
2. Recommend DENIAL of the request for Small Scale Land Use Amendment from Recreation to Suburban Estates (SE) on approximately 9.8 acres; located on the north side of SR 46, 0.2 mile west of Longwood-Markham Road, (Ronnie A. and Carmen M. Fogarty, applicants); or
3. CONTINUE the public hearing until a time and date certain.

(District 5 – Comm. McLain) (Jeff Hopper, Senior Planner)

BACKGROUND:

[NOTE: The applicants have brought forth this request at the suggestion of the Planning Staff. Applicable fees have been waived.]

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

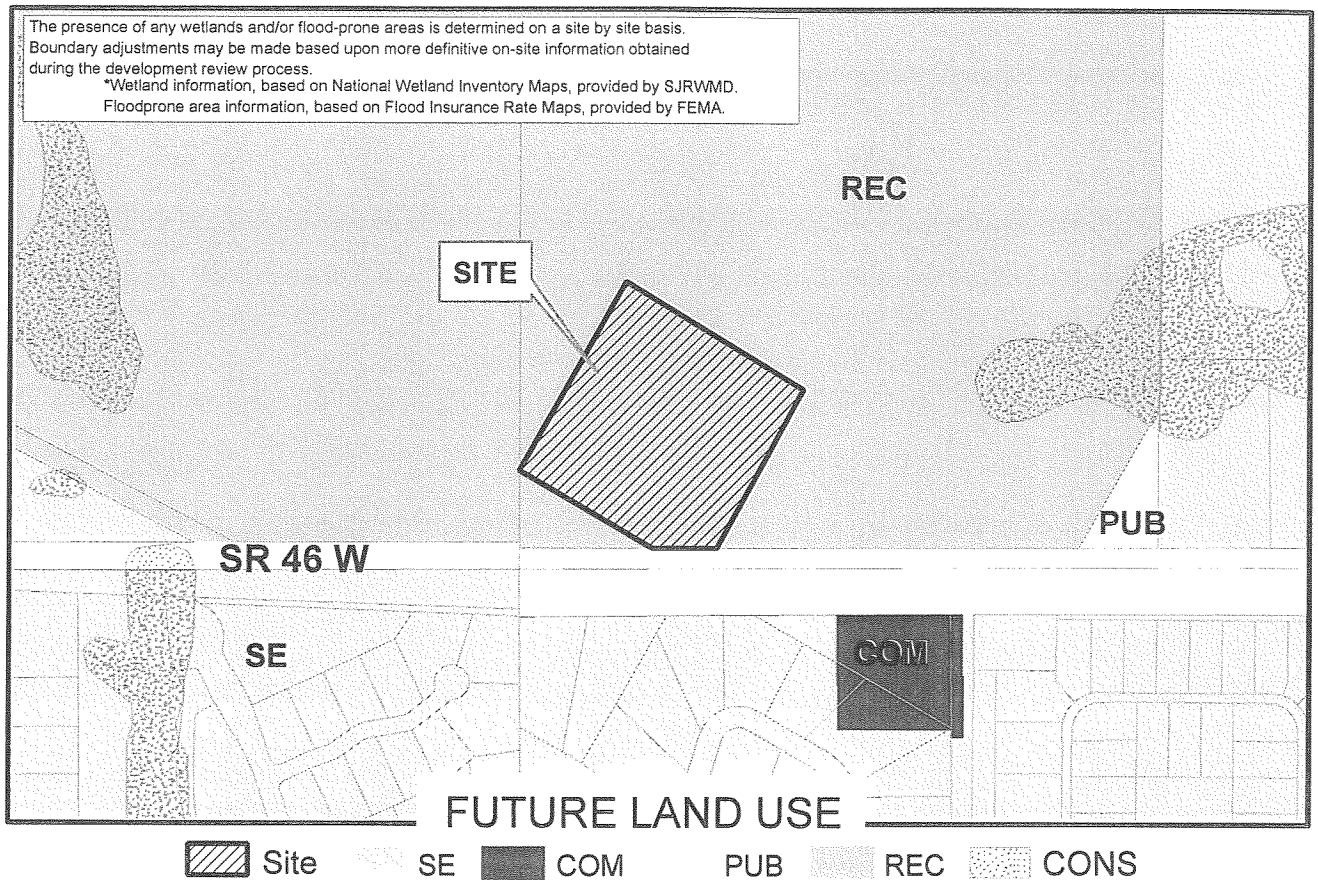
File No. Z2004-017, 05-04SS.01

The applicants request a Small Scale Land Use Amendment to change their property from a Recreation land use designation to Suburban Estates (SE) under the Vision 2020 Plan. The present designation of the Fogartys' property, which is their residence, evidently results from a mapping error in the late 1980s. Seminole County's first future land use map addressing this area established the Recreation land use designation on the Lower Wekiva State Preserve, a state-owned parcel which virtually surrounds the applicants'

property. This map mistakenly placed the same land use designation on the Fogartys' property, although Recreation is not intended to apply to privately owned residential development.

STAFF RECOMMENDATION

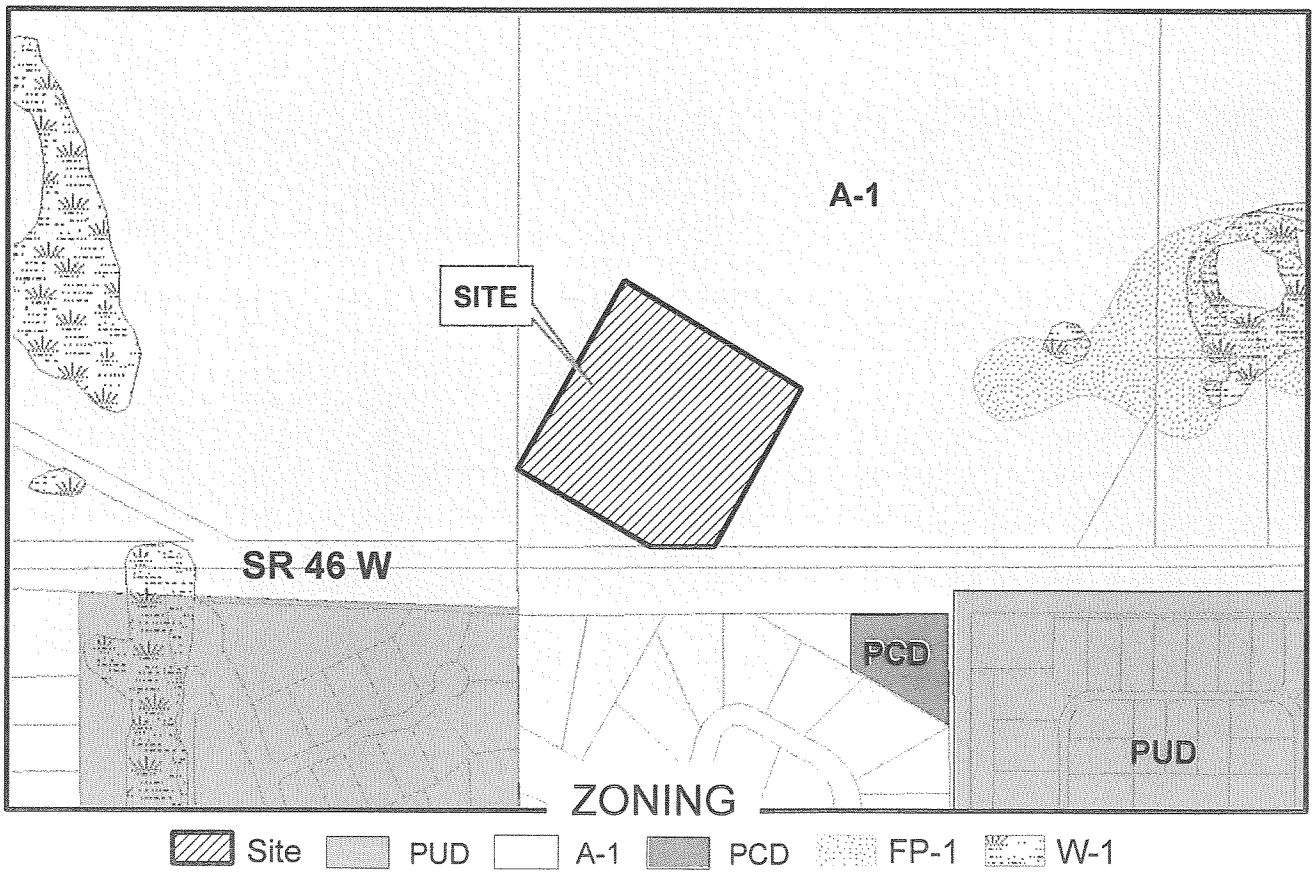
The requested amendment would result in a corrected future land use map and would authorize residential development on the site at a maximum of 1 unit per net buildable acre. This density is consistent with the Wekiva River protection standards and existing development patterns in the area. Staff recommends APPROVAL of the requested Small Scale Land Use Amendment per the attached Staff Report.



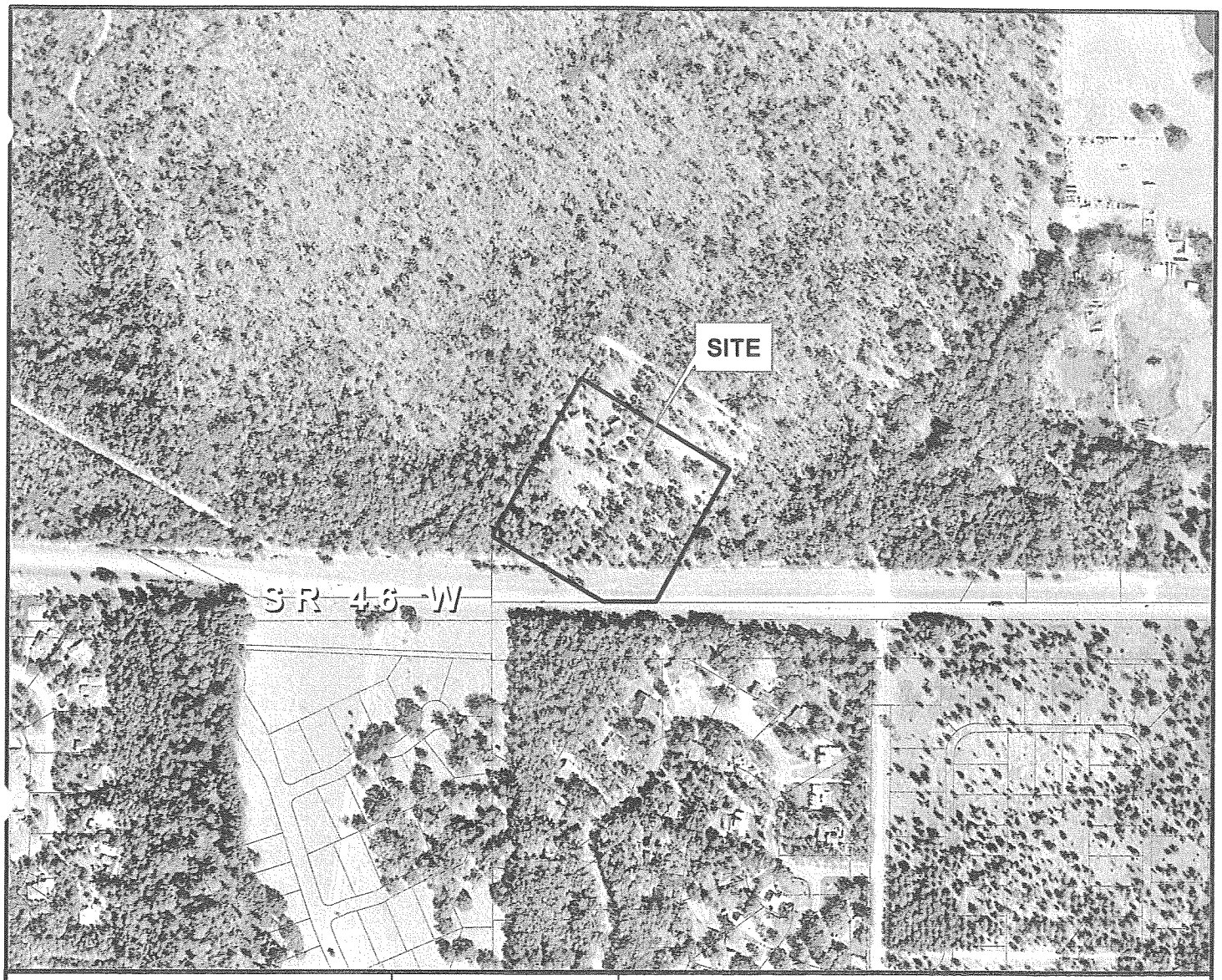
Applicant: Ronnie A & Carmen Fogarty
Physical STR: 22-19-29-300-0060-0000
Gross Acres: 9.8 BCC District: 5
Existing Use: Single Family Residential
Special Notes: None

	Amend/ Rezone#	From	To
FLU	ENTER NO.	REC	SE
Zoning	Z2004-017	--	--

N



filename: L:/pl/projects/p&z/2004/staff_report_pkgs/amendments/z2004-017.mxd 04/05/04



Amendment No: 05-04SS.01
From: REC To: SE

Parcel
Subject Property

N

February 1999 Color Aerials

filename: L:/pl/projects/p&z/2004/staff_report_pkgs/site_aerials/z2004-017adaer 04/05/04

Fogarty Small Scale Land Use Amendment Staff Report

Recreation to Suburban Estates	Amendment (Z2004-017, 05.04SS.01)
REQUEST	
APPLICANTS	Ronnie A. and Carmen M. Fogarty
PLAN AMENDMENT	Recreation to Suburban Estates (SE)
REZONING	NA
APPROXIMATE GROSS ACRES	9.8
LOCATION	Located on the north side of SR 46, 0.2 mile west of Longwood-Markham Road
BCC DISTRICT	5, McLain
RECOMMENDATIONS AND ACTIONS	
STAFF RECOMMENDATION May 5, 2004	Staff recommends APPROVAL of the requested Small Scale Land Use Amendment.

STAFF ANALYSIS

Recreation to Suburban Estates (SE)	Amendment (Z2004-017, 05.04SS.01)

1. **Property Owners:** Ronnie A. and Carmen M. Fogarty

2. **Tax Parcel Number:** 30-19-30-300-0410-0000

3. **Development Trends**: The subject property is located on the southern edge of the Lower Wekiva State Preserve, a 1,900-acre parcel of state-owned land associated with the protection of the Wekiva River as a natural resource. Private development in the vicinity is constrained by the standards of the Wekiva River Protection Area (WRPA), which generally limits density to a maximum of 1 unit per acre. The proposed SE designation on the subject property is consistent with that standard.

SITE DESCRIPTION

1. **EXISTING AND PERMITTED USES:** The future land use designation of Recreation, currently assigned to the subject property, permits public or private recreation facilities, park lands and open space preservation areas. Single family residential development is not a permitted use.

Location	Future Land Use*	Zoning*	Existing Use
North	Recreation	A-1	State-owned recreational lands
South	SE	A-1	SR 46 / Single family
East	Recreation	A-1	State-owned recreational lands
West	Recreation	A-1	State-owned recreational lands

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

COMPREHENSIVE PLAN CONSISTENCY

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

Summary of Program Impacts: The proposed amendment does not alter the options or long-range strategies for facility improvements or capacity additions included in the Support

Documentation to the Vision 2020 Plan. The amendment request would not be in conflict with the Metroplan Orlando Plan or the Florida Department of Transportation's 5-Year Plan (Transportation Policy 14.1).

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

> Access to the subject property is via SR 46, a 2-lane highway having a Level of Service (LOS) Standard of "D". The 2003 average daily trip (ADT) count was 17,348, which is near the threshold between an operating level of service "D" and "E," or 17,325 ADT for a 2-lane state arterial road. The 4-laning of SR 46 is a planned improvement in the 2020 Long Range Transportation Plan of Metroplan Orlando, the regional Metropolitan Planning Organization (MPO). The first phase of the project, the Planning, Development and Environmental (PD & E) phase, is in the Florida Department of Transportation work program for 2005/06.

B. **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service Area Maps:** *Exhibits POT-1 and SAN-1 are the water and sewer service area maps for Seminole County*

> The subject property is within the Seminole County water and sewer service areas.

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 Station #34. 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 review of the availability of public facilities to serve this property indicates that there would be adequate facilities to serve this area, or that such facilities could be made available, and that the proposed Plan amendment would create no adverse impacts to public facilities.

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

The site contains less than 5% wetlands or flood prone areas, and can be developed within 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 - Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the use, intensity, location, and timing of the proposed amendment.

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

Based upon an initial evaluation, the proposed SE land use is compatible with the Recreation land use designation on adjoining properties to the north, east and west, as well as existing SE properties to the south of SR 46. Proposed development is single family residential at a maximum density of 1 unit per net buildable acre. This is consistent with existing patterns of residential development in the area.

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

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

The referenced FLU exhibit does not directly address the issue of compatibility between Suburban Estates and the Recreation land use designation to the east, west and north of the subject property. However, the Transitional Use table does indicate that Public land use is potentially compatible with SE assuming appropriate design standards such as transitioning lot sizes, buffers, etc. The adjoining Wekiva River State Preserve is publicly owned and can be viewed in the context of Vision 2020 as a public land use. This property is part of the Wekiva River Protection Area and will remain in a relatively undeveloped condition due to environmental protection standards being implemented by the State and County. The low-intensity type of development allowed in Suburban Estates is not likely to interfere with recreational uses in the Preserve, nor will it be adversely affected by those uses. Compatibility issues raised by specific development proposals on the subject property can be addressed in future through the PUD zoning classification, the special exception process, the SR 46 Overlay, and/or other development criteria established in the Land Development Code.

Other applicable plan policies include:

FLU 2.1 Subdivision Standards.
FLU 2.11 Determination of Compatibility in the PUD Zoning Classification
FLU 5.5: Water and Sewer Service Expansion
SE Future Land Use Definition

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

This policy provides for the adoption of level of service (LOS) standards for public facilities and requires that final development orders be issued only if public facilities meeting the adopted LOS are available or will be available concurrent with the development. Additionally, preliminary development orders shall only be issued with the condition that no rights to obtain final development orders or development permits, nor any other rights to develop the subject property are granted or implied by the County's approval of the preliminary development order. As no new development is being proposed at this time, the applicant has elected to defer concurrency review and the site will have to demonstrate concurrency compliance at the time of final engineering.

STAFF RECOMMENDATION

The requested amendment would result in a corrected future land use map and would authorize residential development on the site at a maximum of 1 unit per net buildable acre. This density is consistent with the Wekiva River protection standards and existing development patterns in the area. Staff recommends APPROVAL of the requested Small Scale Land Use Amendment per the attached Staff Report.

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 RECREATION TO SUBURBAN ESTATES; 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 May 5, 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 "Fogarty Small Scale Land Use Amendment Staff Report".

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:

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**
05-04SS.01	Amendment from Recreation to Suburban Estates

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 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. 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 11th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

By:_____
Daryl G. McLain,
Chairman

EXHIBIT A

SEC 22 TWP 19S RGE 29E BEG 10 CH N 29 1/2 DEG E OF A PT 15 CH N 60 1/2 DEG W OF SE COR OF PETER MIRANDA GT RUN N 29 1/2 DEG E 10 CH N 60 1/2 DEG W 10 CH S 29 1/2 DEG W 10 CH SE TO BEG (LESS ST RD 46 R/W)