MINUTES FOR THE SEMINOLE COUNTY
LAND PLANNING AGENCY/PLANNING & ZONING COMMISSION
JANUARY 11, 2006

Members present: Rob Wolf, Beth Hattaway, Matt Brown, Ben Tucker, Dudley Bates, Walt Eismann, and Jason Brodeur.

Also present: Dan Matthys, Director of Planning & Development; Tony Walter, Planning Manager; Tom Radzai, Senior Engineer; Tyrone K. Smith, Senior Planner; Chris Schmidt, Senior Planner; Kim Laucella, Assistant County Attorney, and Candace Lindlaw-Hudson, Senior Staff Assistant.

The Chairman called the meeting to order and reviewed the rules for voting and the method used in conducting the meeting.

Commissioner Eismann made a motion to accept the proof of publication.

Commissioner Bates seconded the motion.

The motion passed unanimously (7 – 0).

Commissioner Bates made a motion to accept the minutes as submitted.

Commissioner Hattaway seconded the motion.

The motion passed unanimously (7 - 0).

At this time Commissioner Hattaway declared a conflict of interest on the upcoming item and left the meeting room.

A. <u>Lake Harney Road Rezone</u>; Jim Hattaway and Mike Hattaway, applicants; approximately 46.25 acres; Large Scale Land Use Amendment from Rural-5 to Rural-3 and Rezone from A-5 (Rural District) to A-3 (Rural District); located on the north side of Lake Harney Road, approximately 800 feet west of Harney Heights Road. (Z2005-058).

Commissioner Carey - District 5
Tyrone Smith, Senior Planner

Tyrone Smith introduced the application and stated that the staff's recommendation is for denial.

There were no questions of the staff.

Jim Hattaway, representing the property owner, stated that the request is for what many neighbors already have. The request is for a change from Rural Use

to Rural Use. The parcel is over 46 acres, currently a commercial nursery. The owner has had the property for over 30 years. Currently the property has a consumptive water use permit for 30.55 million gallons per year.

Using maps of the area, Mr. Hattaway demonstrated many homestead lots being used as residences near the site. He stated that many of the surrounding lots within ¼ mile are less than 5 acres. Of the 114 parcels in the area, 56 percent are less than 3 acres. 72 % are less than 5 acres now.

Mr. Hattaway stated that this request brings this land into conformity with surroundings. This is high, dry land, good for residential use. Precedent is already set; he is following established patterns of development.

Mr. Hattaway also stated that the project will eliminate the water use of 30.55 million gallons annually. There will be 12 dwelling units, using an estimated 1.5 million gallons of water annually. This will be a potential reduction of 95% consumption of water.

Mr. Hattaway said that staff comments do not say there is a threat of urbanization. Staff mentioned "grandfathered properties." When looking at older lots, age doesn't matter; use matters. Around the site is rural home use. This is an infill project. This is what 72% of the neighbors have.

There were no questions from the commissioners at this time.

Bill Holmes of 210 E. Highway 46, Geneva, said that he is a retired engineer and agricultural operator. The stated that changes to the County Comprehensive Plan in the past to the A-1, A-3, and A-10 areas did not compensate large land owners. Property rights were taken away in 1991 when the changes were instituted. He would rather have more agricultural use; we are creating fire dangers with large lot subdivisions. We need to reconsider clustering lot sizes within a subdivision, with 75% open space. Use smaller lots and keep more open space. The water supply issue is not a problem here.

Richard Creedon, President of the Geneva Citizens Association, said that this request will negate 15 years of trying to preserve the rural area. Allow 3 acres now and there will soon be requests for one acre parcels and possibly greater density. Concerning the Geneva Lens, the increased density may tip the balance of the aquifer recharge/ water supply use to the negative with increased run-off. This could cause the County to have to spend tens of millions of dollars to install potable water pipes to all of Geneva, many of whose residents live in remote, isolated locations. It is true that there might be a saving in water usage on this site of Mr. Ciener gives up his current nursery pumping permit, but the big problem is that this property does not exist in a vacuum. If increased density becomes prevalent, any savings would be dwarfed by the increased area wide consumption. The St Johns River Water Management District (SJRWMD) has

admitted in its last in-depth study that it does not know the tipping point. Should we not err on the side of caution?

Concerning property rights, Mr. Creedon said that in 1991 the DCA requested a change to our Comprehensive Plan because of continued urban sprawl in our county. At that time all property owners were notified by letter, newspaper announcements and meeting notices that the future land use would be changing from one acre zoning to 5 and 10 acre zoning. The County was so inundated with grandfathering requests that they had to temporarily shut down the Planning and Zoning office until they could process the applications on hand. The subsequently reopened and processed every application that was received. Mr. Ciener acquired this property in 1977, and the fact is that he did not avail himself of the grandfathering opportunity. This is not the fault of the County or the residents of Geneva.

Mr. Creedon stated that County staff is recommending denial because the request is incompatible with the Comprehensive Plan. Among other reasons, staff comments that the subject site is in a vital recharge area for the Geneva Lens where additional density should not be allowed. It also says that 3 acre zoning would be appropriate only as a possible transitional zoning in areas that directly abut the urban areas of the neighboring cities of Oviedo and Sanford. This site is not even remotely adjacent to either of the cities and sits directly in the heart of the designated rural area.

Concerning the trend of development in Geneva, Mr. Creedon said that the trend is to build on larger lots, not smaller parcels. The adjacent 40 acres Burkett property on Teal Road was recently subdivided into two 10 acre and three 6.6 acre parcels. The new owners of the 350 acre Cammack Dairy property on Jungle Road and SR 46 are now planning to develop 5+ acre parcels. Since 1991, the County has not changed the zoning on any larger parcels to allow more than one house per 5 acres. Why should this application be treated an differently?

Concerning financial matters, Mr. Creedon cited the new Wilderness Estates subdivision on CR 426 near SR 46. This has been subdivided into all 5+ acre lots that are selling for $350 – 450 thousand per lot. If Mr. Ciener developed only eight 5+ acre lots on his property, he would gross between $3.8 – 4.6 million. This is obviously not a financial hardship case.

In 2004 the citizens of Seminole County decided it would be best if the rural eastern section be preserved from urban development.

Mr. Creedon said that the citizens of Geneva strongly advise the commissioners to reject this application. Good planning requires an orderly, well thought out process. Approving this rezoning has the potential only to cause disorder, even

chaos, in the worst case scenario. Rejecting this application would be good planning and good politics.

Deborah Schafer of the Chuluota Community Association said that the development community and the Development Advisory Board have been seeking to raise the densities in rural areas, starting with De Minimus and the 1991 Comprehensive Plan. Ms. Schafer stated that her group feels there are many developers who are willing to do the right thing in the rural area with large lot developments. They are making a lot of money selling. This is a precedent setting request. It is not about going from 5 acres to 3 acres. It is going to a much higher density which will open up to requests from the next developer who will say "he got 3, I want 1 (acre)." What about our rights? We have rights too.

Mr. L.H. Carr said that he moved from the city to Geneva because he loves the country atmosphere. He is opposed to the request.

Jim Logue of the Black Hammock Association said that in 1991 a precedent was set by keeping the lots from being any smaller. If 72% were smaller, the change kept that from happening any further. He asked that the County keep this a rural area.

Emily Belaires of Shady Woods Road moved out to the country from a city. She said that this development will need schools, stores, etc., which are not there now. This will encourage further development.

William Dishman stated that youth also cares. How many are grandfathered in? He likes Geneva as it is. He doesn't want more houses. It is a small town. 7 houses on 5 acre lots would be better.

Tom King of the Seminole Woods Homeowners Association represents owners of 1,600 acres comprised of 260 5-acre lots. He requested that the application be denied. The majority of the HOA voted for denial. There was 1 dissenting vote. People want a rural area. He presented an informal petition which shows all but one homeowner voicing opposition to this request.

Mr. McDonald said that he lives close to this area. He moved there 20 years ago and saw all dirt roads in the area. He said that crime increases with road improvements and increases in density. He said that neighbors know their neighbors there. Schools are also a concern. Please deny this.

Raymond Harrison of Geneva said that this is not about money. He said that the green lots on the map are homesteaded lots. The numbers were skewed. The concept of rural does not have to be tied to agricultural. In the Comprehensive Plan, the Future Land Use Concept #11 says nothing about agriculture. It says we should preserve rural life styles in east Seminole County. In section 11.1 it says that the County shall enforce land use strategies that enforce a rural life

style. Geneva is a rural life style area. There is a difference between agricultural living and rural life style.

Marie Tatman of 12 Oak Trail in Geneva said that when the Comprehensive Plan was done, most of the smaller lots were already there. There have been no small parcels made since the Comprehensive Plan. Recently some properties have been enlarged. There is a demand for larger lots. The East Rural Land Study is now completed. Water has limits. 5,000 residents of Geneva are not here tonight. They trust that the Comprehensive Plan will be upheld.

Larry Brady lives next door to the property. He has an agricultural use. He feels that 7 to 9 houses is better than 15, as proposed. 72 percent of residents are on the east side of the property. Mr. Hattaway's facts are not supported. On the south, west, and north sides the data is not accurate. Eastern Seminole County is not awaiting urbanization. It is rural by character. The area was planned as rural since 1977. Roads are dangerous. SR 46 is very dangerous already. Reasons stated in 1991 are more valid today. This is an area of passive recreational facilities. You have to have a green belt. Agriculture is a dying thing. Agriculture is conducive to green areas. There are no compelling reasons to encourage urbanization. There is no reason to change the area.

Joe Eperhart of 543 Harney Heights Road. He is concerned about the flood zone. The ground in Geneva is sinking. He does not want homes built there. He understands that some development is necessary, but he requests that this be denied.

Mr. Martin has lived there for 30 years. He said that the St Johns River Water Management pamphlet identifies the east rural area as a "priority resource water area" with a shortfall predicted. This application should be denied.

Stephanie Schrader of Butterfly Hill Road said that she wants Geneva the way it is. We cannot let this go forward. What will happen in 10 years? Deny this please.

Kathleen Green brought up quality of life issues, citing MyRegion.org. We should be preserving green space. She looked for 6 years to find her rural home. Please deny this.

Melissa Beckerman contacted the SJRWMD and asked what level of development could be sustained by the Geneva Lens. As of 1990, the lens would remain stabile. Higher levels of pumping will bring salt water intrusion. She asked when the salt water intrusion would occur. SJRWMD did not know. Please deny this request.

John Kiernan said that his property backs up to a 125 acre borrow pit. He is opposed.

John Moore stated in writing that he was opposed.

Christopher Stapleton of Saratoga Lane said that when the rural area is gone, it is gone forever. This is a 200% increase of density. Keep the rural area for the youth.

Jim Hattaway said that he disagrees with the speakers. He is not building townhouses. The lots will be 3 acre net buildable lots. His figures refer to ¼ mile around the site. Do not consider what happened elsewhere.

As for water, Mr. Hattaway said that currently Mr. Ciener is pumping 30 million + gallons per year. The proposed homes will only use 1/5 million gallons. Mr. Ciener is a property owner, not a developer.

This property lies above the 500 year flood plain.

As for trends of development, look at how the land is used today. 12 homes on 3 acre lots is not urbanization. He is applying for a rural use. The new homeowners will have a rural life style. This request is consistent with County goals.

The public hearing was now closed.

Commissioner Brown asked about the lot size on Harney Heights Road.

Tony Walter said that they were 2.5 to 3 acre lots.

Tyrone Smith said that the map showed from Lake Harney Road up to Harney Heights Road.

Commissioner Wolf said that Mr. Hattaway can develop at 5 acres. The Commissioner stated that he was strongly opposed to this request.

Commissioner Brodeur said that he was torn. The homes next to the site are similar. It will be identical to what is already there.

Commissioner Brown said that this would be a lessening of water use.

Commissioner Eismann said that 3 acre developments are rare today. He drove around in the area. This request is compatible with the area. This is taking out a business.

Commissioner Eismann made a motion to recommend approval of the application.

Commissioner Brodeur seconded the motion.

In discussion, Commissioner Brown said that the Geneva Elementary School is at less than 81% capacity. This would add 4 students.

Commissioner Wolf said that a line must be drawn somewhere....if this is not the line, then where is it? This is 5 acre parcels now in zoning. 5 and 10 acre tracts should be made to uphold the Comprehensive Plan.

Commissioner Brown asked about the land owner having to market a 5 acre parcel versus marketing a one acre parcel. Was every land owner notified in 1991 when the land use was changed?

Tony Walter said that there were ads, mailings, postings and community meeting in 1991.

Commissioner Brown said that in 1991 an owner may not have realized how the change in land use would affect his land. Asking where the line is ...that is the hardest thing.

Commissioner Wolf asked about property rights. Does it just apply to the applicant or does it apply to all property owners in the community?

Mr. Walter said that everybody that owns property in the community has property rights.

Commissioner Wolf asked if the other community members have a right to be heard.

Mr. Walter said that public hearings were for that purpose.

Commissioner Wolf said that we have heard from the community.

The vote was 5 to 1 in favor of the motion. Commissioner Wolf voted "no."

Commissioner Hattaway rejoined the meeting at this time.

B. <u>Cameron Heights PUD - 2006 Addition</u>; Robert Zlatkiss, applicant; approximately 13.51 acres; Large Scale Land Use Amendment from SE (Suburban Estates) to PD (Planned Development) and Rezone from A-1 (Agriculture District) to PUD (Planned Unit Development District); located on the northeast corner of Beardall and Hughey Streets. (Z2005-064 / 06S.FLU04)

Commissioner Carey – District 5
Tony Walter, Planning Manager

Tony Walter introduced the request involving 13.51 acres. The project will have 44 single family homes, with a density of 4 dwelling units per acre. This will be developed in conjunction with Tract D of the larger, original project. Staff recommendation is for approval.

Tom Daly stated that the property sits in the middle of the older part of the project. This piece ties the larger property together. This was originally called Beardall Avenue PUD. It will have 4 dwelling units per acre. This piece is not tied to the bigger one yet. It is intended to be associated with the builder and then built together, but it may not be. Hughey Street will not be extended out due to the presence of a drainage canal. Access to this will only be through Beardall Avenue.

Commissioner Tucker was concerned with only one access and egress shown.

Mr. Daly stated that with 44 lots, one entrance was enough.

Commissioner Hattaway made a motion to recommend approval.

Commissioner Brown seconded the motion.

The vote was 7 to 0 in favor of the motion.

C. <u>Edwards Estates Rezone</u>; Sam Bowyer, P.E., applicant; approximately 37.8 acres; Rezone from A-1 (Agriculture District) to R-1A (Single Family Residential District); located on the west side of Old Lockwood Road, south of Nak Nak Run, and north of McCulloch Road. (Z2005-069)

Commissioner Dallari, District 1
Brian Nelson, Principal Coordinator

Mr. Walter introduced the application for a single-family subdivision on 37.8 acres. The lots will be 9,000 square feet with a 75-foot width. Mr. Walter said that R-1A zoning is compatible with the surrounding uses. Staff recommendation is for approval.

Sam Bowyer spoke for the owners of the property. He agrees that the requested R-1A zoning is compatible with surrounding zonings.

Chairman Tucker asked if the Edwards family plan to develop the property to the south.

Mr. Bowyer said that the Edwards family planned on living in the proposed subdivision, and that they will be developing the property to the south later.

William Sloan of 3535 Old Lockwood Road said that he would like to see conditions similar to the nearby residences – 2,000 square foot houses on 11,000 square foot lots.

In rebuttal, Sam Bowyer agreed that 2,000 square foot houses will be acceptable, but lots will be 75 feet by 120 feet, which is consistent with surrounding zoning.

Commissioner Tucker asked if Mr. Bowyer would commit to 2,000 square foot houses.

Mr. Bowyer said he would commit to 2,000 square foot houses.

Commissioner Wolf stated that surrounding figures for house size included 2,400, 2,000 and 2,200 square feet. If this is so, then a 2,200 square foot minimum house size would be more consistent with the area.

Mr. Bowyer said that this will be an upscale community.

Commissioner Wolf asked if Mr. Bowyer would commit to 2,200 square foot houses.

Mr. Bowyer committed to a minimum of 2,200 square feet of living space.

Commissioner Wolf made a motion to recommend approval with staff conditions and a minimum of 2,200 square feet of living space in the homes.

Commissioner Hattaway seconded the motion.

The motion passed by a vote of 7 – 0.

D. <u>Lake Charm Rezone</u>; Brian Harris, Harris Construction Corporation, applicant. Rezone from A-1 (Agriculture District) to R-1A (Single Family Residential District); located on the northeast corner of Lake Charm Drive and Artesia Avenue. (Z2005-057)

Commissioner Morris – District 2
Chris Schmidt, Senior Planner

Chris Schmidt stated that the applicant is requesting to rezone 38.67 acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District). Staff has determined that in this case, the requested higher-intensity zoning of R-1A would be compatible with surrounding uses based on the following factors: 1) Zoning and lot sizes to the west of the subject site are consistent with the requested zoning of R-1A; 2) Zoning and lot sizes to the northwest, north, and northeast of

the subject site skews the compatibility analysis by awarding a base weight of only 2 points. Mr. Schmidt said that the trend in the area is consistent with R-1A zoning designation.
The proposed number of lots and resulting net density serves as a transition between properties to the south and west to those to the north and east.

Staff recommends approval of a request to rezone approximately 38.67 acres from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District), located on the northeast corner of Lake Charm Drive and Panther Street; based on staff findings.

Commissioner Wolf asked about transitions planned for the northern part of the parcel.

Mr. Schmidt stated that such issues would be addressed at the site development stage.

Jean Abi-Aoun of the Florida Development Group stated that this project has 2 to 6 acres of wetlands. He is asking for a gross density of 1.67 per acre. The starting price of the houses would be around $400,000.00.

Commissioner Wolf said that his calculations came out to be 2.654 units per net buildable acre. Oviedo does not approve of the density of the subdivision across the street called Lake Charm.

Tony Walter explained that the other subdivision had not been transmitted to the Department of Community Affairs for approval. An annexation agreement is still being worked out. This property will have varied lots.

Jim Logue spoke on behalf of the Black Hammock Association. He stated that this project will be annexed into the City of Oviedo. The water must come from the City of Oviedo. This process is wasting time.

Linda Smart said that she lives next door to the project on Lake Charm Drive. She opposed this due to its impact on area traffic.

Jean Abi-Aoun said that the City of Oviedo will not process anything until March 3, 2006. Construction on this project should start in May. He is planning 65 lots. This project is 23 lots less than the other neighborhood. The density is more like 1.68 units per acre. There will be a pond. He will work to make this an attractive development. The current project is flat. There is a vegetative buffer on the north end of the proposed project.

The public hearing was now closed.

Commissioner Brodeur stated that the traffic would be handled by final engineering, with the road being upgraded as required.

Dan Matthys stated that concurrency will handle the roads. There would be final handling of the roads at the time of final subdivision planning, depending on annexation.

Commissioner Hattaway asked if the County had heard from the City of Oviedo on this project.

Mr. Matthys said that the County had not heard from Oviedo.

Commissioner Hattaway asked if there would be another area school built, since Lawton Elementary School is at 105 % capacity now.

Mr. Matthys said that he did not know.

Commissioner Brown asked Mr. Matthys how he felt about annexing.

Mr. Matthys said that the County takes all applications. They are processed as if they were going to be developed within the County. There will be negotiations with the City of Oviedo. The applicant would have to answer as to why he chose to come to the County at this time.

Commissioner Brown said that there will be different processes with the City of Oviedo.

Commissioner Tucker stated that he has some real issues with the border projects and how they annex. The fight is with the City. We all know that this is contingent on the obtaining of sewer and water. The City has overturned our approved density in the past. A letter was sent to the City in December. No one has responded to us. We will not resolve this. The water and sewer will resolve this. Commissioner Tucker stated that he will be voting against the rezoning. They should not side-step concurrency. He is not opposed to single family development in this area.

Commissioner Wolf asked if this is built, would Seminole County assume the costs of paving from the north side of this project all the way down the road to Florida Avenue.

Commissioner Tucker said that was a good question, but for another time.

Commissioner Brown asked if any to the transitions are carried by those on the rural side. Is the City of Oviedo looking at that?

Tony Walter stated that 150 feet of buffer had been put in the other project across the street.

Commissioner Brown said this project should have something similar.

Commissioner Wolf made a motion to deny the request.

The motion died for lack of a second.

Commissioner Brown asked if was not fair to move the project on, in reference to the developer?

Commissioner Tucker said that it was fair to move it on. His objection was about the process.

Commissioner Brown made a motion to recommend approval of the application, with Staff comments.

Commissioner Eismann seconded the motion for the purpose of discussion.

Commissioner Wolf asked Mr. Abi Aoun how he would address the transitional buffers on the urban-rural boundary.

Mr. Abi-Aoun said that he had no problem with putting in an average of 150 foot of buffer, similar to what is in the other subdivision to the west. A buffer with dense vegetation, and a well landscaped pond will go into this. Right now there is nothing but a band of trees.

Commissioner Wolf asked about the project being gated and having a playground and recreation area.

Mr. Abi-Aoun said that he has spoken to the City of Oviedo and he is aware of the commitments they want from the other subdivision to the west. The wetland area will be left alone. The playground will put in. This project is different from the one across the road, since it has room for buffers and transitions. He would commit to a minimum house size of 2,200 square feet.

Commissioner Hattaway asked why the developer needed this rezone approved by the County if he was going to the City of Oviedo in March?

Mr. Abi-Aoun said that the pre-annexation could begin in March. He could get his rezone from the County and have the infrastructure done, prior to getting approval from the City. The pre-annexation agreement will become binding.

Commissioner Eismann pointed out that County staff winds up doing all of the work under that process. This does not make any sense.

Commissioner Hattaway called for the vote.

The vote was 4 to 3 in opposition to the motion.
Commissioner Wolf made a motion to recommend denial of the request.

Commissioner Eismann seconded the motion.

Dan Matthys pointed out that the County does collect fees for this process.

Commissioner Brown wondered if the City of Oviedo would annex this property if it were vacant.

Mr. Matthys said that the JPA agreement with the City says that the City may annex the property if it is vacant land.

Commissioner Tucker asked what the waiting period for annexation would be if the County denied this application for the rezone.

Mr. Matthys said that he did not know of any waiting period if it were denied without prejudice; otherwise, there would be a waiting period of one year with the County. Mr. Matthys said that if this is denied by the BCC, the property owner can go to the City and progress with the rezoning.

Commissioner Brown said that he felt this is hurting the property owner.

Commissioner Eismann pointed out that the applicant would pay new fees with the City of Oviedo.

Commissioner Brown pointed out that this denial would be against the property owner. He will not vote in favor of the motion.

Commissioner Tucker said that based on concurrency, the County has a right to deny based on density and the County's ability to supply sewer and water.

The vote was 6 – 1 in favor of the motion. The application was recommended for denial.

E. 1711 Timocuan Way Rezone; Seminole County School Board / George Kosmac, Deputy Superintendent, applicant; approximately 1.03 acres; Rezone from A-1 (Agriculture District) to M-1A (Light Industrial District); located at 1711 Timocuan Way, approximately .15 miles south of General Hutchinson Parkway. (Z2005-062)

Commissioner Carey – District 5
Chris Schmidt, Senior Planner

Chris Schmidt stated that the applicant is requesting to rezone 1.03 ± acres from A-1 (Agriculture District) to M-1A (Very Light Industrial District). The Future Land Use designation of the subject site is IND (Industrial). Staff recommends approval of a request based on staff findings.

No one from the audience asked any questions.

Commissioner Tucker asked Mr. Kosmac for the status of the contamination on the site.

Scott Stegall, Director of Capital Outlay, spoke on behalf of the School Board, stating that environmental concerns stem from the time when this was a school transportation site. The school district acquired the site to remediate the issues that had arisen while they used the site. All contamination on the site has been remediated. There is a "no further action" on the site. We would like to rezone this property to its best and highest use so that it can be sold.

Chairman Tucker asked how the contamination was remediated.

Mr. Stegall said that it basically dissipated. The plume of gasoline that went into the ground from the site has gone away. Following two successful, clear monitoring tests, the site is declared clean, following a DEP review.

Commissioner Tucker asked about the status of the other parcels adjacent to this one, zoned for residential purposes.

Mr. Stegall said that they were clear of contamination.

Commissioner Tucker asked if a shallow well would be required for irrigation.

Mr. Matthys said that it would be required.

Commissioner Tucker said that he wanted to be sure that all of the contamination had been removed, so that the County would not have to buy the property back from the next owner.

Commissioner Brown made a motion to recommend approval with staff conditions.

Commissioner Hattaway seconded the motion.

The motion passed 7 – 0.

F. <u>W SR 46/C&C Plaza Rezone</u>; Young Bok Kim, applicant; approximately 1 acre; Rezone from A-1 (Agriculture District) to C-1 (Commercial District); located on the north side of W SR 46, approximately 830 feet east of Orange Blvd. (Z2005-070)

Commissioner Carey - District 5
Chris Schmidt, Senior Planner

Chris Schmidt stated that the applicant is requesting to rezone 1.0 acres from A-1 (Agriculture District) to C-1 (Retail Commercial District). The Future Land Use designation of the subject site is COM (Commercial). Staff recommends approval of a request to rezone based on staff findings.

Commissioner Brown asked for the name of the subdivision located behind the subject property.

Mr. Schmidt stated that it was Forest Glen.

Greg Wilson represented the owners of the property. He stated that he concurred with the conditions presented by the staff.

Margaret Anthony of the Forest Glen Homeowners' Association asked what kind of retail office would be in the site.

Commissioner Tucker said that the zoning requested would allow a variety of uses. Tonight only the zoning was being considered.

Loretta Talley of 5495 Glen Oak Place asked about the type of commercial business that could be set up on only one acre. She also wanted to know the buffers and setbacks that pertained to the property.

Commissioner Tucker stated that such things are considered at the time of site plan approval. This is not a site plan approval tonight.

Dan Matthys stated that the public can attend the Development Review Committee meeting for the site plan.

Greg Frey of 5474 Glen Oak Place was concerned with flooding from the site.

Commissioner Tucker pointed out that any development of the site would have to conform to the engineering codes of Seminole County.

Doreena Doro of 5489 Forest Glen was concerned about the wild life and the disturbance of the forest. She also was concerned with this business going in and the future expansion of SR 46.

There were no further speakers from the floor.

Greg Wilson stated that he would comply with the code and where a buffer is required, a natural buffer will be there. This may become a dry cleaners, with the other half of the building leased out.
The public hearing was now closed.

Commissioner Brown asked about the lighting code and if boxed lighting would be used.

Dan Matthys stated that there is a lighting ordinance requiring boxed lighting.

Commissioner Wolf asked about buffers.

Chris Schmidt stated that 15 to 25 foot active/passive buffers were required.

Dan Matthys said that he would meet with citizens about the uses on the property.

Commissioner Brodeur made a motion to recommend approval with staff conditions.

Commissioner Bates seconded the motion.

The motion passed 7 – 0.

G. <u>Lakeshore Preserve</u>; Morrison Homes, applicant; 55.94 acres; Rezone from A-1 (Agriculture District) to PUD (Planned Unit Development); located on the corner of International Parkway and Wilson Road. (Z2005-065)

Commissioner Carey – District 5
Tyrone Smith, Senior Planner

Tyrone Smith presented the application for a PUD with 450 town homes with a density of 12.5 dwelling units per acre. The parcel's only access is from Wilson Road. It cannot have access to International Drive and is requesting approval with the design constraints of the property. Staff recommends approval of the request. The following conditions were included in the staff report: 1) The project shall be limited to the density of 10 dwelling units per acre 2) Communication towers, billboards and pole signs shall be prohibited; 3) The applicant shall extend the existing southbound left turn lane on International Parkway to provide additional vehicle storage; 4) The applicant shall construct a turn around (cul-de-sac or hammerhead) near the east end of Wilson Road; 5) Garage parking spaces shall have minimum dimensions of 11' by 19'; 6) Garages shall not be converted to living space; 7) Parking of recreation vehicles and/or boats on trailers shall be prohibited within the development; 8) Where

sidewalks are installed, the front building setback shall be no less than 20 feet from the nearest edge of the sidewalk. Sidewalks shall be provided adjacent to all dwelling units, and crosswalks shall be designated to establish continuous pedestrian access to all parts of the development; 9) Retention ponds designed as an amenity shall be in accordance with Section 30.1344 of the Land Development Code; 10) Interior drives and parking areas within the townhouse tract shall be owned and maintained by a Homeowners Association; 11) Townhouse units shall have a minimum of one car garage each; 12) Required parking within the boundaries of the residential tract shall be 2.33 parking spaces per dwelling unit.

Commissioner Brown questioned why a minimum of 450 townhomes was specified. Why do we not specify a maximum number?

Dan Matthys said that this condition had been changed to be a minimum density figure of 10 dwelling units per acre.

Commissioner Brown asked why communication towers and billboards were eliminated. We have stringent codes in place that address this need. Why not allow the uses if the code is complied with? Communication towers are how we communicate. If the property owner can fit one on the property and it is along I-4, we need it.

Mr. Smith said that communication towers and pole signs and billboards were not in the aesthetic that was wanted along the HIPTI corridor along I-4. The HIP core area is meant to be a more attractive aesthetic area.

Commissioner Brown said that we need communications. I-4 is a mass transit corridor, not a scenic road. When we have good codes, why not allow the property owner his rights.

Mr. Walter said that staff would take that recommendation under advisement.

Commissioner Tucker said that this has been a concern of his for years. Soon state laws will take the communication towers out of local jurisdiction. It is the same as the losing of jurisdiction over half-way houses. The counties would not approve them, so they were taken over by the state. You talk about the 35 foot maximum height along an interstate; what is so unpleasing about seeing a 50-foot flagpole with an American Flag on it along a highway? We will loose the right to have any jurisdiction over communication towers if we keep using boiler plate language on such issues. Home rule will be lost.

Commissioner Tucker said that one thing is missing here on this item. As with the last multi-family along I-4 that was previously addressed, he pointed out the need to have either a sound easement over the property to address the noise from the highway, or do something to address the need for a wall, so that the

County does not have to go back at taxpayer expense to put in a wall later. Now is the time to address this issue.

Mr. Walter said that the way it was handled before was to have a notification similar to an avigation easement.

Commissioner Tucker said that it could be a deed restriction that prohibits them from coming back and requiring that the state DOT come back in to put in the sound baffling walls.

Mr. Walter said that he would take that under advisement as well as removing the language about the communication towers.

Commissioner Wolf said that it had been stated before that such language would become part of the "boiler plate" in the future on such properties.

Commissioner Brown said that he would like to let the BCC is made aware of this board's desire to see this need addressed. It has not gotten through in the past through the staff.

Commissioner Brodeur pointed out that, pertaining to staff recommendation #3, the applicant does not own the small strip of property adjacent to Wilson Road. Commissioner Brodeur said that he did not want to see the applicant have to extend turn lanes onto property he does not own.

Commissioner Tucker asked if it would be extended within the existing right-of-way and the applicant would pay for the pavement.

Mr. Walter said it would.

Commissioner Brown asked why the applicant did not have access to International Parkway.

Mr. Walter said that they do not have frontage on International Parkway. There is a different property owner.

Mr. Smith said that the access is from Wilson Road to International Parkway.

Chad Moorehead of Madden Engineering spoke for Morrison Homes. He said that he agrees with staff recommendations. He stated that he would be extending an existing turn lane, not requiring any additional right-of-way to do so.

Commission Tucker asked Mr. Moorehead what his position was on an easement or sound barrier, as previously discussed.

Mr. Moorehead said that his intention was to put a retention pond on that side, making the distance from the edge of the right-of-way to any units at least 450 feet. It was planned that this would be the buffer. Anything else as a possible protection would be addressed at site plan approval time.

Commissioner Tucker asked if the applicant would commit to a deed restriction saying that there would be no future requirements.

Mr. Moorehead agreed.

There were no questions from the floor.

The public hearing was now closed.

Commissioner Brown made a motion to recommend approval.

Commissioner Hattaway seconded the motion.

Commissioner Brown said that he is not asking to change about communications towers, since the applicant has not asked for it, but he would like to see that removed in the future. Also, Commissioner Brown said that he had an understanding that the sound barrier walls were only good for up to 300 feet. So for this situation there would be no need for one to be put there.

Commissioner Brown said that he would amend his motion to include a deed restriction for the sound.

Commissioner Hattaway agreed to a second.

The motion passed 7 – 0.

PLANNING MANAGER'S REPORT

Tony Walter stated that the first order of business next month would be to elect new officers.

OTHER BUSINESS

Commissioner Tucker said that the issue of whether or not the applicant is able to speak during technical reviews has been investigated. The applicant is not considered a member of the public and therefore can address the board. There is no need to open things up with the public. This procedure will continue. Technical reviews will be public meetings, but not public hearings. The applicants will be allowed to speak. This is what we have done in the past.

Commissioner Brown asked if the board will recommend that the issues concerning the sound wall be sent to the BCC, which could direct staff to compose deed restrictions on properties as they are rezoned. This would make people aware of what they are moving in next to.

Dan Matthys said that he would pass this on.

Commissioner Tucker said that if the 300-foot barrier standard were something they would like to put in, that could be done.

The BCC could direct staff to look at DOT standards to try to develop something that would fit this need.

Dan Matthys said that he would communicate that directive.

There being no further business, the meeting was adjourned at 10:25 P.M.

Respectfully submitted,

Candace Lindlaw-Hudson