

**MINUTES FOR THE SEMINOLE COUNTY  
LAND PLANNING AGENCY/PLANNING AND ZONING COMMISSION  
JUNE 4, 2008**

**Members present:** Matthew Brown, Dudley Bates, Walt Eismann, Kim Day and Melanie Chase.

**Members absent:** Ben Tucker and Rob Wolf.

**Also present:** Alison Stettner, Planning Manager; Tina Williamson, Assistant Planning Manager; Kathleen Furey-Tran, Assistant County Attorney; Ian Sikonia, Senior Planner, Lee Shaffer, Principal Engineer, Development Review Division; and Connie R. DeVasto, Clerk to the Commission.

**OPENING BUSINESS:**

The meeting convened at 7:00 P.M. with Chairman Brown leading the Pledge of Allegiance. The Chairman then introduced the Commission members and reviewed the procedure used for conducting the meeting and the voting.

**Acceptance of Proof of Publication**

**Commissioner Bates made a motion to accept the proof of publication.**

**Commissioner Eismann seconded the motion.**

**The motion passed unanimously 5 – 0.**

**Approval of Minutes**

**Commissioner Eismann made a motion to accept the minutes as submitted.**

**Commissioner Bates seconded the motion.**

Commissioner Brown asked that the word “abstain” be struck from Item # 12 of the agenda as Commissioner Day did not abstain, she was not present due to a conflict.

**The motion passed unanimously 5 – 0.**

At this time, Commissioner Brown stated that a request had been received from the Applicant to continue Items C and D and he advised that these will be discussed individually.

**Commissioner Bates made a motion to continue Item C, Moores Station Road PCD, to the July 9<sup>th</sup> meeting.**

**Commissioner Chase seconded the motion.**

**The motion passed unanimously 5 – 0.**

Commissioner Brown asked if there was anyone in the audience who would like to speak regarding the request to continue Item C. There were citizens in the audience who were present for this item, but were not opposed to the Commission continuing this item.

Commissioner Brown stated that a request had been received from the Applicant to continue Item D to the July meeting.

**Commissioner Bates made a motion to continue Item D, Kentucky Street PCD, to the July 9<sup>th</sup> meeting.**

**Commissioner Chase seconded the motion.**

Commissioner Brown stated that he had 3 speaker forms from the audience who have asked to speak regarding Item D. The audience members were not opposed to the Commission continuing this item.

**The motion passed unanimously 5 – 0.**

**NEW BUSINESS:**

**Technical Review Item:**

**A. JA-BEN Estates Subdivision PSP; Stanley & Belinda Poloski, applicant;** approximately 13 acres; Preliminary Subdivision Approval for a 2 lot Single Family Residence Subdivision zoned A-5; located on Old Geneva Rd. approximately 1800 feet south of W. Osceola Road.

Commissioner McLean – District 2  
Brian Walker, Senior Planner

Tina Williamson presented this item on behalf of Brian Walker and stated that this is a request for approval of the Preliminary Subdivision Plan for the JA-BEN Estates Subdivision. The property is zoned A-5, which is a 5 acre minimum lot size. The proposed subdivision will utilize well and septic and meets all the requirements of the Land Development Code. Mrs. Williamson stated that Staff is recommending approval of the Preliminary Subdivision Plan.

**Commissioner Eismann made a motion to recommend approval of the plan as presented.**

**Commissioner Bates seconded the motion.**

**The motion passed unanimously 5 – 0.**

**Public Hearing Items:**

**B. Denberg Commercial Center; Bob Ziegenfuss, applicant; 4.51 ± acres; Small Scale Land Use Amendment from Low Density Residential (LDR) to Commercial (COM) and Rezone from A-1 (Agriculture) to C-1 (Retail Commercial); located at the southeast corner of Palomino Way and Red Bug Lake Road. (Z2008-05/02-08SS.01)**

Commissioner Dallari – District 1  
Austin Watkins, Senior Planner

Ian Sikonia presented this item on behalf of Austin Watkins. Mr. Sikonia stated that this is a request for a Small Scale Future Land Use Amendment from Low Density Residential to Commercial and a rezone from A-1 to C-1, Retail Commercial. The subject property is located at the southeast corner of Palomino Way and Red Bug Lake Road.

Mr. Sikonia stated that the subject property is adjacent to Low Density Residential FLU to the south, east and west. The request is for a Commercial FLU and a C-1 zoning district. This request does not take into account any additional design standards or limitation on uses. This lack of transitioning of land uses, sensitive site design, and limitation on uses does not allow for a compatible transition of land uses.

Mr. Sikonia stated that the CA Stone PCD, which is adjacent to this property and is similar in nature, has extensive limitations on uses, such as limiting the operating hours and restaurants on the eastern portion of the property may have no outdoor seating and cannot be drive-thru or fast food. Mr. Sikonia further stated that retention ponds must be designed as amenities and parking shall be located to the side and rear where feasible, and various other design standards and development conditions were implemented.

Mr. Sikonia also stated that due to the nature of the Commercial FLU, there cannot be additional sensitive site design standards unless the property is rezone to PUD or PCD and this application is for C-1. Therefore, Staff finds that this proposal does not create a compatible transitional land use, due to the lack of sensitive site design standards.

Mr. Sikonia advised that the PUD zoning classification allows for sensitive site design standards, such as sufficient buffers, limited building heights, architectural controls, limited hours of operation, and limiting adjacent uses to passive and unobtrusive uses. This request does not take into account any sensitive site design standards and does

not meet the definition of Neighborhood Commercial as defined by the Seminole County Comprehensive Plan.

Staff has reviewed the proposed Small Scale Land Use Amendment and rezone and determined that it is not consistent with the trend of development and not compatible with surrounding properties and therefore, recommends denial of the request from Low Density Residential to Commercial and rezone from A-1 to C-1 for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road.

Bob Ziegenfuss spoke of behalf of the owners, Joe and Sherry Denberg, and stated that this area has been transitioning to commercial for sometime now with the construction of the Oviedo Marketplace Mall and other commercial businesses in the area. Mr. Ziegenfuss further stated that there are other C-1 uses in the area as well as some C-2 uses in the area; for example, the Lowe's which was built across from the Oviedo Marketplace Mall is zoned C-2 and has a future land use of commercial.

Mr. Ziegenfuss stated that his client is proposing to rezone this property for marketing purposes due to the current real estate market. Rezoning this property will make this property more marketable for the owners.

Mr. Ziegenfuss further stated that the subject property is bounded by a future land use designation of low density residential on the south, east and portions of the west property boundaries. Mr. Ziegenfuss pointed out on the overhead the areas that are the CA Stone projects which were approved by this Commission and will be going to the Board of County Commissioners for approval for commercial uses at a later date.

Mr. Ziegenfuss also stated that neighbors both south and west of the subject property are transitioning to commercial. He further stated that the property to the east is not part of the CA Stone project; however, the owners of the area have approached Mr. and Mrs. Denberg regarding marketing their property to commercial use too.

Mr. Ziegenfuss further stated that this area is transitioning to commercial and they feel this request is an adequate request given the County's active/passive buffer standards. Mr. Ziegenfuss also stated that these active/passive buffer standards would be adhered to during the final site plan process.

Mr. Ziegenfuss, referring to the residential property to the south and west of the subject parcel; stated that this property will be separated from the proposed property by the CA Stone development and there will no direct vehicular access to that subdivision. He further stated that the County's active/passive buffer standards will provide substantial buffering from the residential property and the proposed project.

Mr. Ziegenfuss stated that compatibility is a major concern and presented a list of all the C-1 and C-2 uses as approved in the zoning code located within one mile of the proposed project. He also pointed out other uses that were allowed by special exception.

Mr. Ziegenfuss stated that they feel this is an appropriate request given the trend of the commercial development in this area as well as the previous projects that were approved by this Commission recently and asked the Commission to approve this request.

Commissioner Eismann, referring to Mr. Ziegenfuss' references to previous requests being approved by the Commission, asked if the Applicants are willing to make the same commitments the previous Applicants made on those.

Commissioner Brown advised that with C-1 zoning requests, the Commission can not require commitments.

Commissioner Eismann stated that he was aware that the Commission could not ask for commitments, but wanted to point out that the approval of the previous requests were based on the Applicants meeting certain commitments.

Mr. Ziegenfuss advised that he is aware that commitments are not required for approval by the Commission, but would like to address the issue brought up by Commissioner Eismann. Mr. Ziegenfuss stated that the owners of this property are interested in marketing their property, not developing it. He further stated that due to the fact that the owners do not know who might purchase the property, it would be very difficult for them to make any kind of commitments without knowing what type of development would be forthcoming.

Mr. Ziegenfuss also stated that the active/passive buffer standards between the residential property and the subject property, per the code, are intended to separate incompatible land uses and eliminate or minimize adverse impacts on adjacent residential uses.

No one spoke in favor of this item from the audience.

Lynn Vouis spoke on behalf of Bob and Becky Navidomskis who live directly east of the subject property. Ms. Vouis stated that they would oppose this project because they do not have any assurances of any kind of controls or conditions on the property. Ms. Vouis also stated that Mr. and Mrs. Navidomskis' property is still zoned LDR and this needs to be taken into consideration especially since the CA Stone property is a PUD and had many conditions put on it that negated any negative impacts.

Tom Cook of 1575 Francois Court spoke on behalf of the Red Bug Residential Coalition and stated that they have reviewed the Staff report and concurs with Staff findings. They feel that the trend in this area is commercial; however, tightly controlled commercial, and do not believe that C-1 is an appropriate transition for this area. Mr. Cook further stated that they would support denial of this request.

**Commissioner Eismann made a motion to recommend denial of this request based on Staff findings.**

**Commissioner Chase seconded the motion.**

Commissioner Brown discussed the trend in this area and stated that there are many standards in the code that have to be met. He further stated that the active/passive buffer standards remain in effect whether this area is PUD or C-1; and if this property remains residential, it will eventually be surrounded by commercial. Commissioner Brown further stated that there are wetlands to the south and this would prevent development in that direction.

Commissioner Bates inquired as to where in the process the LDR land they considered last month is right now.

Commissioner Brown stated that he believes they are between the Planning and Zoning Board and the Board of County Commissioners.

Commissioner Eismann stated that the Commission put a lot of restrictions on the agenda items that were heard at last month's meeting. He also stated that this area is difficult because it is a corner and there will be a lot of access issues to deal with.

**The motion passed 4 – 1 with Commissioner Brown voting “no”.**

**E. Johnson Warehouse PCD Rezone; Jack Reynolds, applicant; 3 ± acres; Small Scale Land Use Amendment from LDR (Low Density Residential) to PD (Planned Development) and Rezone from R-1 (Single Family Dwelling) to PCD (Planned Commercial Development) Warehouse located on the west side of the intersection of Kennedy Point and 6th Street. (Z2007-86 / 03-08SS.01)**

Commissioner McLean – District 2  
Ian Sikonia, Senior Planner

Ian Sikonia stated that the Applicant is Jack Reynolds and this is a request for a Small Scale Land Use Amendment from Low Density Residential to Planned Development and rezone from R-1 (Single-Family Dwelling) to PCD (Planned Commercial Development) on 3 ± acres, located on the west side of the intersection of Kennedy Point and 6<sup>th</sup> Street.

Mr. Sikonia further stated that the Applicant is making this request in order to develop a 38,500 square foot manufacturing warehouse. The requested rezone will allow all permitted uses in the M-1A zoning district with the allowance of outdoor storage properly screened from view. The Applicant was granted a right-of-way vacation for a portion of 6<sup>th</sup> Street and Avenue C at the May 20, 2008 Board of County Commissioner hearing.

Mr. Sikonia advised that this project is located in an area which has a mixture of single-family home subdivisions and industrial parks, and was designed to minimize the impacts to the neighborhood to the west by establishing significant buffers, orienting the building away from the neighborhood and utilizing some LEED environmental commitments.

He further stated that the area on the south side of CR 426 is a mixture of single-family homes and developed and vacant industrial sites. The industrial zoning to the east of this site was approved in 1989 and has developed into the Off Broadway Industrial Park. The subject property is a transitional parcel between the Low Density Residential FLU to the north and west and the Industrial FLU to the east.

It is sometimes difficult for industrial sites to be compatible with surrounding single family subdivisions due to the intensity of the development; however, it is possible with sensitive site design standards. The Applicant is proposing numerous enhancements to mitigate the impact of the development, such as establishing significant buffers with additional landscaping, orienting the building away from the residential neighborhood and utilizing some LEED environmental commitments.

Mr. Sikonia further stated that the Applicant has positioned the warehouse building so that it faces the existing industrial park and the only access is through the existing industrial park entrance road. The building will be buffered from the single-family neighborhood by a minimum 25' buffer containing 4 canopy trees and 8 understory trees per 100 linear feet and a large retention pond to the north. The west side of the building will remain passive and the 25' buffer will include a 6-foot tall PVC fence with 8 canopy trees per 100 linear feet. They are also providing parking space for hybrid cars, energy efficient mechanical equipment with the highest SEER rating, building insulation will have maximum R-value, all glazing will be tinted and they are also providing a bike rack.

This site will create an additional employment center for an area which has been established as an industrial park. The proposed use of this site allows for a mixture of compatible low density residential and non residential uses in the area.

Staff finds that the requested rezone and land use amendment are compatible with the surrounding uses and existing development patterns of the area and therefore recommends approval of the request.

David Axel of Axel Real Estate advised that he represents the current property owners and the potential future property owner. Mr. Axel further advised that he agrees with Staff's recommendation.

No one spoke in favor of this item from the audience.

Steven Wagner of 377 Sugar Sand Lane advised that he lives just north of the subject property and would like to speak in opposition of this request. Mr. Wagner further advised that he brought a couple of pictures to show the Commission and will discuss them with the Commission as soon as the computer opens them.

Mr. Wagner stated that up until this point, he had not been totally against this request given the fact that the Mr. Reynolds and Mr. Axel met with him and several of his neighbors and they felt that the Applicants seemed very attentive to their needs or at least the needs they have so far.

Mr. Wagner stated that he felt this was a matter of equal rights of property owners. The property owner in question has twelve times the amount of property that he has, but shouldn't have anymore rights than he does.

Mr. Wagner further stated that he understands what the Applicant wants to do but he believes the voices of the many property owners should be taken into consideration. He also stated that many of his neighbors have lived there for over 30 years. He moved into this neighborhood about 5 years ago and all the development that shows on the map has occurred in the last 5 years.

Mr. Wagner also stated that this construction will be right outside his window. He explained that he took a picture of a 2 x 4 and held it up where the proposed construction would be to show how close it is to his property and how big the project would be.

Mr. Wagner advised that he opposes this request and would ask the Commission to at least postpone this item or decide today to deny the request to rezone.

Commissioner Brown asked Mr. Wagner what he would like to see changed if the item was approved today.

Mr. Wagner stated that he opposes the line of sight or the height of the building, the facade of the building and would like to see the size of the facility reduced.

Michael Russell of 399 Sugar Sand Lane stated that he is the gentleman who wrote the letter that Mr. Sikonia passed out prior to the meeting. Mr. Russell further stated that he invested a lot of money on his house and was not expecting to have this type of building constructed in his neighborhood along with all the noise, trucks, and excess light coming from the proposed building.

Mr. Russell also stated that 6<sup>th</sup> Street, which is a block away from him, is industrial and yet they are proposing to build this on a residential block right down the street from him. Mr. Russell expressed his opposition to this project.

Commissioner Brown asked Mr. Russell to show him where his home is located on the map and Mr. Russell pointed it out and advised that his home runs parallel to 6<sup>th</sup> Street.

Mr. Russell stated that he does not believe the trend for this area is industrial and he believes that the owners want it to be industrial. He further stated that this is where he wants to make a life for himself and his family and opposes this request.

Mr. Axel stated that in designing this project, they tried to anticipate the concerns of the neighbors and be sensitive from a design prospective, to the concerns of what the neighbors would see that they weren't expecting.

Mr. Axel also stated that, after meeting with Mr. Wagner and his neighbors, they got with Staff and committed to adding additional buffers, including a double row of trees and additional landscaping, and to keep the building as far away from the residents as possible who would be most affected. Mr. Axel further stated that they have met all the requirements set by the County, but would be willing to make additional commitments to try to diminish some of the concerns of the neighbors but did not feel they would be able to totally eliminate all of the neighbors' concerns.

Commissioner Brown asked if there would be 60 feet behind the building.

Mr. Sikonia stated that the west side of the building will be passive and they are providing a 25 foot buffer and a 40 foot building setback.

Commissioner Brown asked if the passive buffer is 40 feet, not 50 feet.

Tina Williamson advised that the passive buffer is required to be 25 feet.

Commissioner Brown asked if the setback is only 25 feet.

Mrs. Williamson advised that the setback is 25 feet and the actual buffer is 15 feet and they are proposing to do the 40 foot building setback with a 25 foot buffer.

Commissioner Brown stated that the landfill is still located in that area and it is probably 40 or 50 feet high.

Commissioner Eismann asked if the original future land use on this property was low density residential.

Alison Stettner advised that it was.

General discussion ensued regarding the current trend of this area and how it differed from the agenda item that was heard at last month's meeting.

Mr. Sikonia advised that Mr. Wagner's photographs came up on the computer and the Commission discussed the pictures.

Commissioner Bates stated that Mr. Axel said that this issue was going to the Board of County Commissioners sometime in July.

Mrs. Stettner advised that they have a tentative date of July 22.

Commissioner Bates also stated that Mr. Axel advised that there were still opportunities for them to make some additional concessions prior to this item going to the Board of County Commissioners and wanted to know if continuing this item to the July 9 agenda would be enough time for them to make these concessions or commitments and then come back on July 9 to see if the concerns have been addressed.

Commissioner Bates asked if they did move this item to July 9, would there still be enough time for this item to get on the July 22 Board of County Commissioner meeting.

Mrs. Stettner advised that if the Commission would like to do this, Staff would make it happen.

General discussion ensued regarding the possible changes that could be made and the fact that, according to the proposed commitments the Applicants have already made, there really aren't any other opportunities for additional changes to issues or concerns regarding building height, landscaping, or buffers.

Commissioner Brown asked if the order discussed door spacing and fire exits.

Mrs. Williamson stated that the west side would remain passive.

Commissioner Brown asked if under "passive", there would still be emergency exits.

Mrs. Williamson advised that there would be.

General discussion ensued regarding the possibility of bringing this item back to the July 9 meeting.

Commissioner Day asked if it was mentioned that all the truck traffic be limited to 6<sup>th</sup> Street.

Mrs. Williamson advised that the only access point to the property will be from 6<sup>th</sup> Street, which is the existing entrance to the Industrial Park.

General discussion ensued regarding the rights of both parties and how the buffer requirements are designed to protect all parties involved.

Commissioner Day asked if there was a limitation regarding the hours of operation included in the commitments.

Mr. Sikonia stated that the Development Order does not address hours of operation, but if the Board wishes, it can be added.

Commissioner Day stated that she felt the Applicants have done everything possible, with the exception of the hours of operation, to insure that the surrounding residents would not hear the sound of trucks at inappropriate hours.

Commissioner Brown asked what would be an appropriate limitation on hours and inquired if 6 A.M. to 10 P.M. reasonable.

Commissioner Day stated that she felt it should not be 10 P.M., but should be earlier than that – somewhere around 8 P.M. She further stated that anything later than 8 P.M. would not be reasonable.

**Commissioner Eismann made a motion to recommend approval of this request with the stipulation to limit the hours of operation from 6 A.M. to 8 P.M.**

**Commissioner Day seconded the motion.**

**The motion passed unanimously 5 – 0.**

Commissioner Brown asked Mrs. Stettner if she had anything to address in her Manager's Report and she advised that she did not.

Commissioner Brown asked Mrs. Stettner when the workshops would begin on the Land Development Code and she advised that they will begin sometime in August or September and will bring the schedule with her to the July 9 meeting.

General discussion ensued regarding the upcoming Land Development Code workshops.

There being no further business, the meeting was adjourned at 8:07 P.M.

Respectfully submitted,

Connie R. DeVasto