

SEMINOLE COUNTY GOVERNMENT

COUNTY SERVICES BUILDING
1101 EAST FIRST STREET
SANFORD, FLORIDA 32771-1468



Meeting Minutes (Draft) - Final

Wednesday, May 4, 2016

6:00 PM

BCC Chambers

Planning and Zoning Commission

CALL TO ORDER

Present 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused 1 - Vice Chairman Jay Zembower

Opening Statement

The meeting convened at 6:00 p.m. with Chairman Dudley Bates leading the Pledge of Allegiance. The Chairman then introduced the Commission members and reviewed the procedure used for conducting the meeting and voting.

Staff Present

Rebecca Hammock, Planning and Development Manager; Kim Fischer, Development Review Engineering Manager; Paul Chipok, Assistant County Attorney; Matt Davidson, Planner; Joy Giles, Senior Planner; and Tammy Brushwood, Clerk to the Planning and Zoning Commission.

Accept Proofs of Publication

A motion was made by Commissioner Matt Brown, seconded by Commissioner Rob Wolf, that the Proofs of Publication be Approved. The motion CARRIED by the following vote:

Aye: 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused: 1 - Vice Chairman Jay Zembower

Approval of Minutes

A motion was made by Commissioner Rob Wolf, seconded by Commissioner Richard Jerman, that the April 6, 2016 Minutes be Approved as submitted. The motion CARRIED by the following vote:

Aye: 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused: 1 - Vice Chairman Jay Zembower

NEW BUSINESS

Technical Review Items:

- 1 [A-2037-16](#) Approve the Preliminary Subdivision Plan for the Serenity Cove subdivision containing 7 lots on approximately 4.94 acres zoned Planned Development (PD), located on the west side of Orange Boulevard, approximately 1,800 feet north of Markham Road; (Dave Schmitt, Applicant) District5 - Carey (Brian Walker, Project Manager)

Joy Giles, Senior Planner, presented this item and stated that the applicant is requesting approval of the Serenity Cove Preliminary Subdivision Plan (PSP) for 7 single family residential lots with a maximum density of 2.5 units per net buildable acre. The PSP complies with all conditions of the Final Development Plan and Chapter 35 of the Seminole County Land Development Code. All internal roads will be private and Seminole County is the utility provider for water and sewer. Staff recommends approval of the Serenity Cove Preliminary Subdivision Plan as requested.

Bruce Taylor, for the applicant, stated he works at Dave Schmitt Engineering and he is available to answer any questions.

A motion was made by Commissioner Rob Wolf, seconded by Commissioner Michelle Ertel, that this Technical Review item be Approved. The motion CARRIED by the following vote:

Aye: 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused: 1 - Vice Chairman Jay Zembower

Public Hearing Items:

- 2 [2016-320](#) **Adult Toy Storage Ph 2 Small Scale Future Land Use Map Amendment and Rezone** - Consider a Small Scale Future Land Use Map Amendment from Low Density Residential to Industrial, and the associated Rezone from A-1 (Agriculture) to C-3 (General Commercial & Wholesale) on 3.34 acres, located on the south side of Oaklando Drive, approximately ¼ mile east of S.R. 434; (Z2016-013) (Bob Hattaway, Applicant) District3 - Constantine (Joy Giles, Project Manager)

Joy Giles, Senior Planner, presented this item and stated that the applicant is requesting a Small Scale Future Land Use Amendment from Low Density Residential to Industrial and a Rezone from A-1 (Agriculture) to C-3 (General Commercial and

Wholesale) on 3.34 acres. The site is located on the south side of Oaklando Drive, west of Matthews Road. The properties adjacent to the west and east of the subject site are owned by the applicant and allow for C-3 and M-1A, very light industrial uses. Staff finds the requested land use designation and zoning classification to be consistent and compatible with the trend of development in the area. Staff recommends the Board of County Commissioners adopt the Ordinance enacting a Small Scale Land Use Amendment from low density residential to industrial and adopt the associated Ordinance enacting a Rezone from A-1 to C-3 for 3.34 acres.

Commissioner Rob Wolf asked how often the County looks at the Future Land Use Map, to update it and reflect current trends and Ms. Giles stated that is driven by the property owner to request the land use amendment. Commissioner Wolf further stated that the current land use for this property is low density residential, but it's not low density residential and it is completely different than what the County had envisioned it would be. How often does the County look at the in-fills, so that Developer's would know what our intent is and we would stick with our intent as opposed to having a huge variation from what our plan is versus what the applicant is requesting.

Rebecca Hammock, Planning and Development Division Manager, stated that it is not often that we do administrative land use changes, however it does happen in certain instances. She further stated that Planning is looking at the HIPTI land use category and having a study done to see if any changes need to be made to it. If they recognize that there is an issue, they may look at it on an area-wide basis, and at a particular land use category. Normally, however, this is reviewed on a case-by-case basis and it is initiated by the property owner.

Commissioner Wolf stated that the Future Land Use is the County's responsibility to designate a vision and a plan for where it will go.

Ms. Hammock stated that is true and when someone requests a Future Land Use change, they have to justify the request by stating what has changed in the area and why the current land use is no longer the appropriate land use. If Staff agrees with the recommendation and based on the trend of development or changing market conditions, then Staff would recommend changes be made.

Commissioner Wolf stated that he understands the process as to how it is done, he wished that the County was more proactive in addressing this.

Bob Hattaway, the applicant, stated that he is available to answer any questions. Mr. Hattaway further stated that the property was formerly a hog farm for commercial use. The applicant has cleaned up the property since the Google Earth photos were previously taken. This is an in-fill of what they are already doing and this is an expansion of Adult Toy Storage.

No one from the audience spoke in favor or in opposition to this request.

Commissioner Wolf stated that he doesn't have an issue with the applicant, but has an issue with the County by not having a transition plan that would make it easier for the Board and for future growth and in-fill if there was a future land use plan that was mapped out to reflect the intentions of the County and to not do it by exception.

Commissioner Brown stated that Mr. Hattaway has done an excellent job with the property.

A motion was made by Commissioner Michelle Ertel, seconded by

Commissioner Matt Brown, that the Adult Toy Storage Phase 2 Small Scale Future Land Use Map Amendment and Rezone be Approved and Referred to the Board of County Commissioners. The motion CARRIED by the following vote:

Aye: 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused: 1 - Vice Chairman Jay Zembower

3 [2016-319](#)

Lake Howell Road - RP Rezone - Consider a Rezone from A-1 (Agriculture) to RP (Residential Professional) for 0.23 acres, located on the east side of Lake Howell Road, approximately 100 feet north of Meadow Avenue; (Z2016-01) (Jonathan Wood, Applicant) District4 - Henley (Matt Davidson, Project Manager)

Matt Davidson, Planner, presented this item and stated that the applicant is requesting a Rezone to Residential Professional (RP) in order to develop the subject vacant property for general office uses listed in Section 30.624(b)(1) of the Land Development Code of Seminole County as permitted under the Residential Professional zoning district. Per Section 30.621, the development of vacant land for office use shall, at the minimum, comply with the lot size setback, landscaping and buffer requirements contained in the OP Office district. The intent of the requested RP zoning district is to provide for low intensity office and services uses along a collector roadway while maintaining compatibility with the adjacent residential areas. The subject site will access from Lake Howell Road, which is classified as a major urban collector road. Regarding the surrounding zoning on the subject property, to the north is Seminole County RP zoning, to the west is Lake Howell Road, to the east is the City of Casselberry RMF 13 Multi-Family Residential, 13 dwelling units per acre and the 10 parcels to the south are within the City of Casselberry city limits and zoned OR (Office Residential). The site is located in the City of Casselberry utility service area and will be required to connect to public utilities. The applicant has communicated with the City of Casselberry and will be required to file an annexation petition with the City in order to receive their utilities prior to engineering approval. The applicant proposes a 15 foot landscape buffer around the north, south, and west property lines and is also proposing a 10 foot landscape buffer along the east property line adjacent to Lake Howell Road. Regarding consistency of the Land Development Code, the proposed RP zoning designation and the associated site plan have been evaluated for compatibility with the Land Development Code of Seminole County in accordance with Chapter 30, Part 34 and Part 36. The request is consistent with the Land Development Code of Seminole County and the surrounding area. The proposed project supports the objectives of the RP zoning designation in that it provides adequate buffering and proposes office uses that are compatible with the adjacent Residential Professional zoning classifications. Regarding the consistency with the Comprehensive Plan, the Future Land Use designation of the subject property is commercial permitting a variety of retail and office uses at a maximum floor area ratio of 0.35. The proposed Residential Professional zoning classification is compatible with the surrounding area and trend of development in the area and is consistent with both the allowable use and density provisions of the commercial Future Land Use designation. Consequently, Staff recommends the Board of County Commissioners adopt the Ordinance enacting a Rezone from A-1 (Agriculture) to RP (Residential Professional) for 0.23 acres.

Commissioner Rob Wolf asked since the property is adjoining a residential area, does the Development Order limit the hours of operation, so that night time noise is not a factor and Mr. Davidson responded that since it is office in nature, they don't feel the need to make that a stipulation. He further stated the applicant is also proposing a storm water pond behind the property, which will also serve as an additional buffer.

Jonathan Wood, the applicant, stated he was available to answer any questions.

No one from the audience spoke in favor or in opposition to this request.

Commissioner Wolf stated that this request is compatible with the Future Land Use, which is commercial and exactly what the applicant has proposed.

Commissioner Mya Hatchette concurred with Commissioner Wolf.

A motion was made by Commissioner Rob Wolf, seconded by Commissioner Mya Hatchette, that the Lake Howell Road RP Rezone be Approved and Referred to the Board of County Commissioners. The motion CARRIED by the following vote:

Aye: 6 - Commissioner Matt Brown, Chairman Dudley Bates, Commissioner Rob Wolf, Commissioner Richard Jerman, Commissioner Mya Hatchette, and Commissioner Michelle Ertel

Excused: 1 - Vice Chairman Jay Zembower

CLOSING BUSINESS

Planning & Development Manager's Report

Planning & Development Manager's Report – Rebecca Hammock, Planning & Development Division Manager stated that Mr. Paul Chipok, the Assistant County Attorney would like to address a couple of items relating to the Bylaws and Code of Ethics.

Paul Chipok, Assistant County Attorney, stated there were questions and discussion about Section 12, Voting Conflicts of the Planning & Zoning Bylaws at last month's meeting. He further stated the following:

** To provide a fuller picture, voting conflicts are not the only thing that the Board needs to be aware of.*

** Voting conflicts are based in Chapter 112, Part III of the Florida Statutes, which is part of the Code of Ethics for Public Officers and Employees.*

** In an effort to provide the Board with more information, if a conflict is declared and the Board member abstains in voting, that is good, however there is a little bit broader picture that the Board should also be aware of.*

** In Section 112.313(3) – there is a prohibition against doing business with one's own agency.*

** In Section 112.313(7)(a) – there is a provision for conflicting employment or contractual relationships, which specifically states that no public officer shall have a contractual relationship with any business entity, which is subject to regulation of the public officer's agency.*

** In 112.316 - Construction, states it's not the intent of this part, meaning the Code of Ethics, to prevent an officer from accepting other employment, which does not interfere*

with the full and faithful discharge of his duty of as an officer.

** This sounds like two ends of the spectrum and the Board members have to consider and work out where they are on the spectrum.*

** He has looked at several Commission on Ethics Opinions and examples of these were provided to the Board regarding conflicts with employment.*

** Case Number CEO10-24, the conclusion was that an attorney could sit on the Economic Development Commission of the jurisdiction even if clients of his law firm came before the Commission, provided his law firm did not prepare the applications to the Commissions for that particular client.*

** Case Number CEO96-1, Special Counsel to a law firm sat on the Jacksonville Electric Authority Board (JEA) and the law firm also served as the bond underwriter to the JEA Board. The conclusion was that appearances by the law firm before the JEA would be a prohibited conflict since the Special Counsel's duty of loyalty to the law firm's clients creates an impediment to the full and faithful discharge of his public duties. But on the flip side in this same Opinion, it states that there would be no conflict for clients of the law firm to appear before the JEA without the law firm's representation in that particular matter. So, the Special Counsel could sit on the Board and clients of his law firm could appear before him, provided that the law firm wasn't doing work for the client in that particular instance.*

** Case Number CEO08-1, in this case, there was a Councilman voting on matters affecting a Developer of adjacent property to the Councilman's property and when the Councilman had a private settlement agreement with that adjacent property owner, it did not create a voting conflict and it did not create a prohibited business relationship.*

** Case Number CEO89-29, in this case, they found that there was no conflict where a City Councilman is the Chamber of Commerce Executive Director. In that particular situation, that the Executive Director's duties did not encompass activities related to lobbying before the City Commission. So in this case, it found that it was okay for that type of employment.*

Mr. Chipok stated that the conclusion of these vignettes is for the Board to be cautious. Each situation is always very fact specific and there should be an awareness by the Board that there is more to consider than just the duty to declare the conflict and abstain from voting. If there are any particular questions on a particular circumstance, please feel free to contact the County Attorney's office.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:28 P.M.