STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CITY OF CLEARWATER, for the use and benefit of LAWRENCE H. DIMMITT, III, and LAWRENCE H. DIMMITT, JR., as Trustee,	)	
Petitioners,	)	
vs.	)	Case No. 03-1500
PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS as COUNTYWIDE PLANNING AUTHORITY,	)	
Respondent.	)	

RECOMMENDED ORDER

Pursuant to notice, this matter was heard before the Division of Administrative Hearings by its assigned Administrative Law Judge, Donald R. Alexander, on July 10, 2003, in Clearwater, Florida.

APPEARANCES

For Petitioners: Stephen O. Cole, Esquire
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For Respondent: David S. Sadowsky, Esquire
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STATEMENT OF THE ISSUE

The issue is whether a proposed amendment to the Pinellas

County Countywide Future Land Use Plan (FLUP) changing the land use designation on a 22.18-acre parcel located at 2301 Chautauqua Avenue in the City of Clearwater (City) from Residential Suburban/Preservation to Residential Low/Preservation should be approved.

PRELIMINARY STATEMENT

This matter began on February 21, 2002, when Petitioner, Lawrence H. Dimmitt, III, and Lawrence H. Dimmitt, Jr., as Trustee (the Trustee) for an Amended Revocable Living Trust Agreement dated December 1, 1998, which owns certain real property in the City, filed an application (which was later amended) with the City seeking to change the land use on a 22.18-acre parcel of property from Residential Suburban (RS) and Preservation (P) to Residential Low (RL) and P. The effect of the change will be to increase the density of development allowed on the property from no more than 2.5 residential units per acre to 5.0 units per acre. Under the process established by Chapter 88-464, Laws of Florida, that change requires an amendment to the FLUP, which is administered by Respondent, Pinellas County Board of County Commissioners, sitting as the Countywide Planning Authority (CPA). The special act also sets out the process for review and approval of the amendment, beginning with review and approval by the City, then an intermediate review and approval

by the Pinellas Planning Council (PPC), a countywide land planning agency, and ending with a review and final decision by the CPA.

By virtue of the City's approving the amendment on June 20, 2002, the City became the nominal party in this appeal, acting on behalf of the Trustee. The matter was then considered by the PPC on September 18, 2002. After the PPC recommended denial of the application by a 6-5 vote, mainly because of traffic concerns, the case was forwarded to the CPA. At the request of the Trustee and the City, the proposal was remanded back to the PPC to reconsider the matter after new traffic mitigative measures were proposed. Thereafter, by a 9-3 vote, the amendment was approved by the PPC on March 19, 2003. Finally, on April 1, 2003, by a 7-0 vote, the CPA denied the proposed change because of adverse impacts on transportation and the character of the neighborhood.

Under Section 5.1.3.9 of the Countywide Plan Rules (Countywide Rules), the Trustee filed its Petition for Administrative Hearing with the PPC on April 18, 2003, requesting a hearing to contest the CPA's decision. Pursuant to a contract with the Division of Administrative Hearings (DOAH), the matter was forwarded to DOAH on April 28, 2003, with a request that an Administrative Law Judge be assigned to

conduct a hearing.

By Notice of Hearing dated May 8, 2003, a final hearing was scheduled on July 10 and 11, 2003, in Clearwater, Florida. At the final hearing, Petitioners presented the testimony of David P. Healy, Executive Director of the PPC; Michael Willenbacher, president of Rottlund Homes of Florida; Cynthia Tarapani, City Planning Director and accepted as an expert; and Robert C. Pergolizzi, a certified planner and accepted as an expert. Also, they offered Petitioners' Exhibits 1-36, which were received in evidence. Respondent presented the testimony of Steven B. McConihay, who resides near the subject property; Brian K. Smith, Director of the Pinellas County (County) Planning Department and accepted as an expert; and Paul T. Cassel, Director of the County Development Review Services Department and accepted as an expert. Also, it offered Respondent's Exhibits 1-19, which were received in evidence.

The Transcript of the hearing (two volumes) was filed on August 11, 2003. Proposed Findings of Fact and Conclusions of Law were filed by Respondent and Petitioners on August 12 and 14, 2003, respectively, and they have been considered by the undersigned in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence, the following findings of

fact are determined:

a. Background

1. In 1988, the Legislature provided the County with countywide planning authority (*see* Chapter 88-458, Laws of Florida). That same year, the Legislature enacted Chapter 88-464, Laws of Florida, which amended Chapter 73-594, Laws of Florida, and required the County to develop "a countywide future land use plan" and "other [necessary] elements," also known as the Countywide Comprehensive Land Use Plan of Pinellas County. Among other things, Chapter 88-464 prescribes the process by which changes to land use designations are made within the County. Under that process, all local government comprehensive plans, including the City's, are required to be consistent with the FLUP. Presumably, the laws were enacted because of the County's dense development (it is one of, if not the most, densely developed counties in the State), the large number of incorporated cities and towns (24) within the County, and the desire to have some degree of countywide uniformity in land use planning decisions. The law goes on to provide that amendments to the FLUP "relating to land use designation for a particular parcel of property may be initiated only by a local government that has jurisdiction over the subject property." In this case, the subject property lies within the City;

therefore, the proposed change was initiated by the City.

2. Under the review process in place for adopting an amendment to the FLUP, the proposed amendment is first presented to the City, then to the PPC, which consists of 13 representatives from various towns and cities in the County, the School Board, and the County, and finally to the Pinellas County Board of County Commissioners, sitting as the CPA.

3. The subject property is located at 2301 Chautauqua Avenue, Clearwater, Florida. Chautauqua Avenue (also identified as Main Street on some maps) runs for a short distance in a north-south direction parallel to, and just east of, U.S. Highway 19 in the northeastern part of the City. Except for two houses, some tennis courts, and assessory buildings, the 22.18-acre tract of land is largely undeveloped. The land also includes a small pond located in the northwest quadrant and wetlands along its eastern side, which fronts on Lake Chautauqua (the Lake). Mr. Lawrence H. Dimmitt, III, one of the two co-trustees, acquired ownership of the southern half of the property in January 1986, while the remainder of the parcel was not acquired by the Trustee until December 2001. In June 2002, the property was annexed by the City pursuant to a request by the Trustee (to enable City water and wastewater services to be extended to the property). The property is now under contract to be sold to a

developer (The Rottlund Company, Inc.), who desires to construct 90 town homes in 34 buildings, assuming the amendment is approved.

4. Since July 21, 1982, the upland portion of the property (16.22 acres) has been classified as RS, which allows 2.5 residential units per acre. The wetlands and some adjacent land totaling around 4.6 acres on the eastern portion of the property next to the Lake are classified as, and must remain, Preservation. In addition, a small pond (1.35 acres) on the property is classified as Water/Drainage Feature. The proposed amendment does not affect the classifications of the wetlands and pond.

5. All of the surrounding property (except the property immediately to the west between Chautauqua Avenue and U.S. Highway 19, which is classified as Commercial Limited) also carries an RS land use designation. The other nearby property along U.S. Highway 19 is classified as some form of commercial or mixed office/residential use. Countrywide Mall, the County's only regional shopping mall, is situated on U.S. Highway 19, less than a mile away.

6. The property is located approximately 700 feet east of U.S. Highway 19 between Second Avenue South and Second Avenue North. U.S. Highway 19 is six lanes wide, was

described by witnesses as being the most heavily traveled roadway in the County, and has intense commercial or mixed use development on both sides of the highway. Immediately to the west of the property (between U.S. Highway 19 and Chautauqua Avenue) is a Chevrolet automobile dealership and repair facility owned by the Dimmitts. A Cadillac dealership (also owned by the Dimmitts) is just south of the Chevrolet dealership. The entire eastern boundary of the property fronts on the Lake, while perhaps a dozen or so single-family homes, mainly constructed in the 1990s, sit on large lots scattered throughout the area immediately north of the property. From that area to Enterprise Road, a major arterial east-west roadway approximately 2,000 feet north of the Trustee's property, the land is largely undeveloped. The property immediately to the south is also classified as RS and is also largely vacant at the present time, except for a few single-family dwellings. The land which lies southeast of the property and the Lake is also designated RS and consists of a series of upscale, large, single-family residential subdivisions.

7. The local roads adjacent to and near the property are substandard and do not meet the City or County standards. The main access to the property (from the west) is from U.S. Highway 19 using First Avenue North, which intersects with

U.S. Highway 19 next to the car dealership. Because of a median in the middle of U.S. Highway 19, however, cars entering U.S. Highway 19 from First Avenue North can only turn right (northbound).[1] The only access from the property to an intersection allowing vehicles to turn north or south on U.S. Highway 19 is provided by traveling south on a series of narrow, meandering, residential County roads (e.g., Third Avenue South, Second Street East, Fourth Avenue South, Union Street, and Soule Road) and eventually reaching Sunset Point Road (State Road 588), an east-west roadway intersecting with U.S. Highway 19 to the west. There is no access to the property from the north. The evidence shows that partly because of the poor road access, the nearby car dealerships and other commercial development, and the commercial lighting at the car dealerships which remains on throughout the night, the property has never been developed. Another contributing factor is that the former long-time owners of the northern half of the property (until it was sold to the Dimmitts in December 2001) had no wish to develop the property while they retained ownership.

b. The Land Use Categories and History of the Area

8. When the County's first comprehensive plan was adopted in 1974, three residential categories were established: low density (up to 7.5 units per acre); medium

density (up to 15 units per acre); and high density (up to 30 units per acre). At that time, the Trustee's property and most of the surrounding residential properties were designated the least intensive residential use category and remained unchanged until 1982. In response to the state Growth Management Act, in 1980 the PPC developed more specific residential categories to manage population growth. The low density category was further defined to include five residential categories: Preservation (0.5 units per acre); Residential Conservation (1.0 units per acre); Residential Suburban (2.5 units per acre); Residential Low (5.0 units per acre); and Residential Urban (7.5 units per acre).

9. As noted above, in 1982 the County reclassified the upland portion of the property, as well as the properties to its north and south, and west of the Lake, as RS. Some other areas to the southeast and northwest of the Trustee's land were reclassified at 5.0 dwelling units per acre, which category is now known as RL.

10. In September 1984, two zoning requests "in the neighborhood [of the Trustee's property]" to allow "multifamily development at 5.0 units/acre" were denied by the County, mainly because the area contained "very low density single-family housing, with houses sitting on large lots (mostly about 2 acres in size), used in a

residential/agricultural manner." At the same time, the County instructed its staff to "review zoning and Land Use Plan designation in the area to insure protection of the existing character of the land." That same year, the County amended the land use classification on these properties from RL, which permitted 5.0 units per acre, to RS, which permitted only 2.5 units per acre.

11. In 1987, the City annexed a 17.4-acre vacant tract of land directly south of the Lake (and southeast of the Trustee's property). Before annexation, the property was classified as Residential/Open Space. According to a PPC recommendation presented to the County, the City filed an application with the County seeking to amend the CLUP (now known as the FLUP) by changing the land use to RS so that the vacant land would "be compatible with the existing land use pattern in this vicinity." The change was approved by the County.

12. In all, at least thirteen parcels in the Lake Chautauqua area have been reclassified since 1980. Many of these are downzoning changes which merely reflect what had actually been planned, developed, and built pursuant to the dictates of the marketplace. In other words, the change reflected existing development of not more than 2.5 units per acre. There are also two instances when the Commission

upzoned parcels in the area, that is, increased the allowable density from Recreation/Open Space to a higher category (7.5 units per acre), but these properties are outlying parcels and not in the immediate area.

13. Most recently (early 2003), a developer proposed (and has pending a request) to develop six lots 130 feet by 600 feet in depth with single-family dwellings on property lying on the western shore of the Lake just north of the Trustee's property. These large lots would be consistent with the development now existing immediately to the west (and just north of the Trustee's property).

14. It is fair to infer from the evidence that the County's intent over the last 25 years or so has been to restrict development in the area around the Trustee's property to single-family residences with a density of no more than 2.5 units per acre.

c. The Application

15. On February 21, 2002, the Trustee filed an application with the City for a change in land use designation on its property from RS and P to RL and P (so as to increase density from 2.5 to 7.0 units per acre). Although not a part of this proceeding, the Trustee also filed an application seeking to rezone the property from Rural Residential to Low Medium Residential and Preservation.

16. The City's Zoning Department reviewed the application, found that all applicable criteria had been met, and recommended approval. The application then proceeded to a public hearing before the City's Community Development Board (CDB) on May 21, 2002. Following the public hearing, the CDB recommended approval of both applications.

17. On June 20, 2002, the matters were taken up by the City Commission. The staff's detailed report recommending approval is found in Petitioners' Exhibit 2. Because of neighborhood opposition, however, the Trustee agreed to amend the application by reducing the density from 7.5 units per acre (RL) to 5.0 units per acre (RS). Thereafter, the City approved the application. This approval was formalized through the adoption of Ordinance No. 6978-02. At that point, the City became the nominal applicant for the amendment.

18. A copy of the amendment was then forwarded to the Department of Community Affairs (DCA). The DCA's review was completed on October 3, 2002, when it advised the City by letter that it had "no objections to the proposed amendment" and that its letter would serve as the DCA's Objections, Recommendations and Comments.

19. The application was submitted to the PPC on August 13, 2002. Following its review, the PPC staff, together with

the staff of the Professional Advisory Committee (PAC), which is composed of professional planning staff members from the various municipalities throughout the County, recommended that the application be approved.

20. On September 18, 2002, the PPC, by a 6-5 vote, recommended denial of the application, mainly because of traffic issues. Under the review process, the matter then came before the CPA. However, the City and the Trustee requested that the matter be remanded to the PPC to enable the Trustee to address the traffic issues. A remand was approved by the CPA on October 15, 2002.

21. After reconsideration of the matter, which included proposed changes by the City to mitigate the traffic impact, the PPC staff and PAC unanimously recommended approval of the application. The application then proceeded to the PPC, and by a 9-3 vote on March 19, 2003, the PPC recommended approval.

22. Although land use amendments recommended for approval by the PPC are "rarely" overturned or changed by the CPA, on April 1, 2003, the Board of County Commissioners, sitting as the CPA, unanimously rejected the proposed amendment. The same date, Resolution No. 03-55 was adopted which memorialized this action and indicated that the decision was based "upon the facts presented at the hearing, which included the character of the neighborhood and transportation

impacts." According to the parties' Pre-Hearing Stipulation, the rejection was "due to [the amendment's] incompatibility with and negative impact on the established character of the neighborhood and the precedence [sic] of allowing multi-family development into an overwhelming single-family residential area." This appeal followed.

d. The issues in the case

23. Under the Countywide Rules, which were adopted in 1989 and govern changes to the FLUP, depending on their size and nature, plan amendments are classified into two categories: subthreshold amendments and general amendments. The former type of amendment is minor in nature and entails a less rigid review process while general amendments (those that do not qualify as subthreshold amendments) must be evaluated according to six "Relevant Countywide Considerations" (Considerations) found in Sections 5.3.5.1 through 5.3.5.6. Because the proposed amendment falls within the general amendment category, the six Considerations must be reviewed to determine if any come into play. If an amendment adversely impacts a Consideration, it is not consistent with the FLUP. In denying the amendment, the CPA determined that only two Considerations were relevant and would be impacted - Section 5.3.5.2 (Adopted Roadway Level of Service (LOS) Standard) and Section 5.3.5.6 (Adjacent to or Impacting an Adjoining

Jurisdiction). All other Considerations were determined to be inapplicable.

24. Although the County's Resolution indicated that the traffic Consideration played a part in its decision to deny the amendment, the parties' Prehearing Stipulation reflects that the CPA no longer considers that Consideration to be in issue. However, because evidence concerning traffic was presented at hearing, albeit more in the context of impacts on the character of the neighborhood than on LOS standards on U.S. Highway 19, a discussion of that Consideration is appropriate.

25. Section 5.3.5.2 provides in part that "the amendment must not be located on or impact a roadway segment where the existing Level of Service (LOS) is below LOS 'D', or where projected traffic resulting from the amendment would cause the existing LOS to fall below LOS 'D'." Here, however, the evidence shows that the portion of U.S. Highway 19 (directly west of the property) between Enterprise Road and Sunset Point Road is already operating at LOS "F".

26. Under the existing land use classification (RS), the Trustee (or developer) can construct as many as 46 single-family homes. At hearing, the developer acknowledged that the property can be successfully developed in that mode. Assuming that the maximum number of homes would be built, regardless of

which type of development occurs, the traffic impacts would be essentially the same since a town home generates only 60 percent of the traffic of a single-family home. The evidence also shows that any additional traffic generated by development will have a negligible overall impact (less than three-tenths of one percent of the existing capacity) on U.S. Highway 19, which is already at LOS "F". The Florida Department of Transportation concurs in this finding, and has concluded that the development will not adversely impact that road.

27. As noted above, the plan amendment was initially rejected by the PPC by a 6-5 vote, mainly because of traffic issues, and a concern that the additional traffic onto U.S. Highway 19 at First Avenue South might have a negative impact on that roadway. The City and Trustee then requested that the CPA remand the application to the PPC so that traffic issues could be further addressed. At that time, the City considered two alternatives to alleviate traffic concerns and provide a different access route to the area.

28. First, it considered the possibility of extending Second Avenue South to the east and southeast to connect with, and widen, Lake Shore Drive (a County road), which runs around parts of the northwestern and southwestern sections of the Lake, and eventually provides access to Sunset Point Road,

which then runs west to U.S. Highway 19. However, the County declined to participate in that effort and thus this proposal was not considered to be feasible.

29. The City also considered extending Chautauqua Avenue north (over City right-of-way) to Enterprise Road, a main arterial east-west roadway that also intersects with U.S. Highway 19 (and enables the driver to turn either left or right at that intersection). If the road is extended in that fashion, it would provide residents in and near the subject property with access to Enterprise Road, and also provide other area residents with access to a City park that may be built just south of Enterprise Road. As to this alternative, even though the developer's share of costs (using the City's calculations) is only 17 percent, the developer has agreed to pay one-half of the cost of the road improvements. With this improvement, both parties now agree that the traffic Consideration has been resolved.

30. Based on the foregoing, it is found that the plan amendment is consistent with the transportation Consideration and will not adversely impact LOS standards on U.S. Highway 19. Two of the County witnesses conceded as much at the final hearing.

31. Section 5.3.5.6 generally provides that if the property adjoins another jurisdiction, the plan amendment must

not adversely impact that jurisdiction. In determining whether the plan amendment is consistent with this Consideration (and does not impact the adjoining County land), reference to the goals and policies within the Countywide Comprehensive Plan is necessary. The Land Use Element Goal provides in part that "[t]he land uses associated with development should be compatible and reasonable in terms of both the land, surrounding uses, and the public interest." Two unnumbered Policies within the same Element further provide that "land development patterns should recognize and support coherent neighborhoods," and that "land planning should weigh heavily the established character of predominately developed areas when changes of use or intensity of development is contemplated."

32. In this case, there are enclaves of County land lying on the northern, southern, and eastern boundaries of the Trustee's land. The County contends that the proposed change is inconsistent with the Consideration because it adversely affects the "character" of the adjoining County land in two ways: (a) by the creation of a new access road to the north through a quiet, residential neighborhood, and (b) by the construction of town homes in an area historically classified as RS, which only allows the construction of single-family homes.

33. If the plan amendment is approved, the City has decided to extend Chautauqua Avenue to Enterprise Road, giving the new (and existing) residents an outlet to the north. This alternative was chosen since the County has declined to participate in the southern alternative. The extension will provide access to a new City park, and the developer will pay more than his fair share to aid in the construction of the road. According to the City, the extension is necessary to mitigate the increased traffic from the new project.

34. Currently, the roads in the area around where the extension will be built can be characterized as secluded and rural, with only a small amount of traffic. Besides the automobiles of the existing residents, the only other vehicles using the roads are those being tested by the nearby Chevrolet dealership after being repaired. If the plan amendment is approved, and the town homes constructed, the project will generate hundreds of new trips per day. Understandably so, existing residents of the area (as well as the County) fear that if the road is extended, it will become a "cut-through" street for non-residents traveling north on U.S. Highway 19 to Enterprise Road and who wish to avoid that intersection. Given the current level of traffic on U.S. Highway 19 (LOS "F"), it is fair to infer that this fear is well-founded. Accordingly, by extending Chautauqua Avenue to Enterprise

Road, the character of the existing neighborhood will be adversely impacted by the increased traffic generated by new residents seeking an outlet and non-residents using the street as a cut-through.

35. It is true that some form of traffic mitigation will still be required if the plan amendment is not approved, and single-family homes are built on the Trustee's property. However, when or if the property will be developed, and the extent of such development, is not known, and there is no indication in the record that the City will still seek to mitigate this traffic by extending Chautauqua Avenue.

36. The evidence shows that the established character of the neighborhood is quiet, secluded, and low density residential, with many of the homes having large, oversized lots. As noted earlier, a proposal is now pending before the County to develop the area directly north of the Trustee's property along the Lake with six single-family dwellings on "large estate lots behind a gated wall." By doubling the density on the Trustee's property from 2.5 to 5.0 units per acre, the character of the area would be changed, and the new density would be inconsistent with the historic land use and development pattern of the area.

37. The evidence also shows that the residents who live immediately north of the Trustee's property purchased their

land, and built their homes, with the expectation that the area would be "a detached single-family residential community within the 2.5 units per acre limitation." For more than 20 years, the County's land use decisions have been consistent with this expectation.

38. Petitioners' witnesses contend, however, that the town homes will (a) serve as a buffer between the commercial uses which lie on the western side of Chautauqua Road and the existing single-family homes which lie on the eastern side, and (b) provide a transition or gradual stepdown in intensity from the commercial uses along U.S. Highway 19 to town homes to single-family homes, which practice is consistent with good land use planning. However, the area maps and site plan introduced into evidence clearly show that the town homes would not buffer anything except the Lake, since the town homes would run from the Lake all the way westward to the rear of the Chevrolet dealership. In other words, to provide a buffer, logically it would be necessary that the town homes be placed between the commercial areas and the single-family homes. The residential property to the north and south (which purportedly would be buffered) is already located adjacent to, and directly east of, the commercial development along U.S. Highway 19, and the town homes would simply increase the density of the property between the two residential areas by

100 percent. For the same reasons, the construction of town homes would not provide a transition or step down in the intensity of development from west to east since they would not be built between the existing homes and U.S. Highway 19.

39. Based on the foregoing facts, it is found that the proposed amendment will adversely affect the character of the neighborhood (and impact the adjoining County land) and is therefore inconsistent with Section 5.3.5.6 of the Countywide Rules.

CONCLUSIONS OF LAW

40. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties hereto pursuant to Chapter 88-464, Laws of Florida, and Sections 120.569 and 120.57(1), Florida Statutes.

41. Section 5.1.3.9 of the Countywide Rules provides that "[i]f the CPA denies an amendment which was recommended to be approved by the PPC, any substantially affected person may apply for an administrative hearing within twenty-one (21) days of denial." Utilizing that provision, Petitioners have filed their request for a hearing.

42. The Countywide Rules are silent as to the standard of proof to be used in this type of hearing. However, Section 5.1.3.4 provides that all applications for an administrative hearing "will be in a form for consideration under, and

subject to the procedures of, Chapter 120, F.S." Under Chapter 120, Florida Statutes, a request for a hearing commences a *de novo* proceeding, which is intended to formulate final agency action, not to review action taken earlier and preliminarily. *See, e.g., Fla. Dep't of Transportation v. J.W.C. Co., Inc.*, 396 So. 2d 778 (Fla. 1st DCA 1981). Therefore, Petitioners' suggestion that this case does not come to DOAH as an appeal or for the review of the CPA's decision of April 1, 2003, is correct.[2]

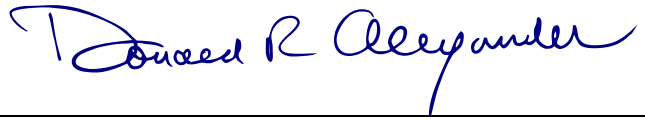
43. The more persuasive evidence shows that the plan amendment will be inconsistent with Section 5.3.5.6 by adversely impacting the character of the adjoining County land. This being so, the request to amend the FLUP should be denied.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Board of County Commissioners of Pinellas County, sitting as the Countywide Planning Authority, enter a final order determining that the plan amendment is inconsistent with Section 5.3.5.6 and that the amendment should be denied.

DONE AND ENTERED this 8th day of September, 2003, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the
Division of Administrative Hearings
this 8th day of September, 2003.

ENDNOTES

1/ Maps and drawings received in evidence also reflect that residents of the area can apparently access U.S. Highway 19 by traveling south on Chautauqua Avenue, to Lake Shore Drive, to Soule Street, and then turning westbound on McCormick Drive until it dead ends on U.S. Highway 19. Even if this assumption is correct, however, vehicles can still only turn right (northbound) at that intersection.

2/ Respondent's contention that the fairly debatable standard applies to this proceeding has been rejected. Unlike Chapter 163, Florida Statutes, which specifically adopts that standard for plan amendment hearings arising under that Chapter, the Countywide Rules provide that this type of hearing is "subject to the procedures of Chapter 120, F.S."

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the Pinellas County Planning Council.