

LAKE COUNTY PLANNING AND COMMUNITY DESIGN ANALYSIS PETITION TO REZONE PROPERTY

LAKE COUNTY ZONING BOARD
January 4, 2012



BOARD OF COUNTY COMMISSIONERS
January 24, 2012

PH # 3-12-3 Summers Rezoning	Case Manager: Jennifer M. Cotch, Environmental Specialist	Agenda Item # 4
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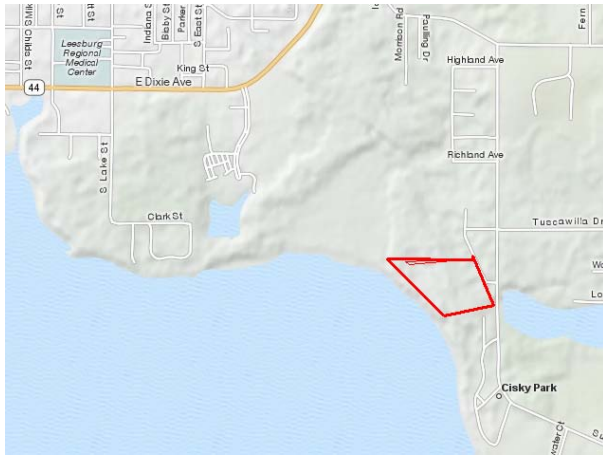
Owner: Bryan K. and Jacqueline A. Summers (the "Owner")

Applicant: Valerie C. Fuchs, Esq. (the "Applicant")

Requested Action: The Applicant requests to change the zoning of a 16-acre property from Rural Residential (R-1) to Agriculture (A) to conduct general agricultural uses.

Site Location and Information

Approximate site location shown in red



Site Visit(s): December 9, 2011

Sign(s) Posted: December 9, 2011 (2 signs posted)

Size	16 acres	
Location	Sunnyside area, South of SR 44 and US 441 intersection S 31, T19S, R25E	
Alternate Key Number(s)	1260060, 3840523	
Future Land Use	Rural	
Existing Zoning District	Rural Residential (R-1)	
Zoning District	Current	Proposed
Density	1 du/ acre	1 du/5 acres
FAR	.20	.10
ISR	.30	.10
Joint Planning Area	Leesburg	
Utility Area	Leesburg	
Site Utilities	Individual well, septic system	
Road District	Local	
Flood Zone / FIRM Panel	Zone X and Zone A/Panel 0340	
Commissioner's District	District 1- Jennifer Hill	

Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	R-1	vacant	owned by Owners
South	Rural	R-1	Subdivision/Residential	North Cisky Park
East	Rural	R-1	Subdivision/Residential	Lenora Park S
West	City of Leesburg	R-1-A	vacant	wetlands

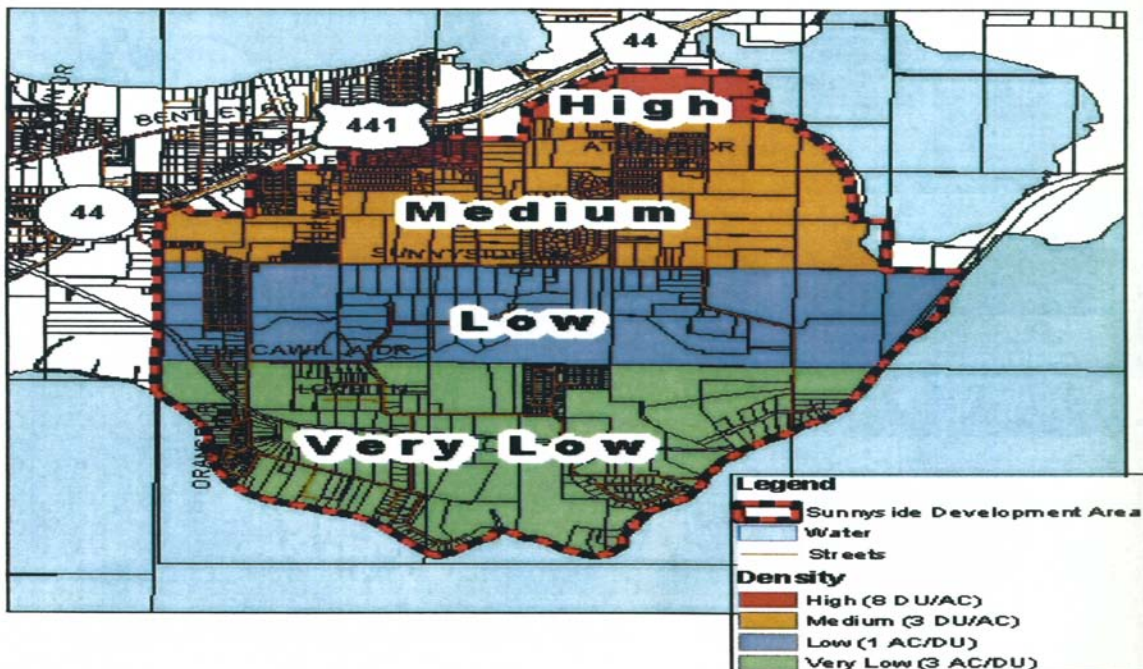
Summary of Staff Determination

STAFF RECOMMENDATION: Staff recommends **APPROVAL**, based on findings of facts, to rezone the 16-acre property from Rural Residential (R-1) to Agriculture (A).

ZONING BOARD RECOMMENDATION: The Zoning Board recommended **APPROVAL**, with a 4-0 vote

Summary of Analysis

The Owner is requesting to rezone a 16-acre property from Rural Residential (R-1) to Agriculture (A). The future land use is Rural, which allows the Agriculture zoning district. A vast majority of the parcels in the area have zoning districts not consistent with the Rural Future Land Use Category (FLUC). The prevailing use in this area is rural residential and agricultural uses. The Sunnyside Report completed by the City of Leesburg (in cooperation with the County) recommends this area of the Sunnyside Community to be maintained for rural uses and is a major reason for the reduced density. This rezoning request will start the reconciliation process with the existing Future Land Use Categories. The 2030 Comprehensive Plan Future Land Use Map designates the area as Rural. The report determined that the southernmost section of the area should have the lowest density, no more than one dwelling unit per three (3) acres. This was established to help maintain the quality of life in this area of the Sunnyside Community by encouraging more uniform development rather than the current hodge-podge of varying densities within the area parcels. The figure below shows the recommended density levels of the Sunnyside Area.



Analysis

(According to the Lake County Development Regulations, Section 14.03.03, Standards for Review)

A. Whether the proposed rezoning is in conflict with any applicable provisions of these Regulations;

The Applicant seeks to rezone the property in order to conduct general agriculture activities on the property. General agriculture is permitted in the Agriculture Zoning District and is defined as "Establishments for the keeping, grazing or feeding of livestock and animals; feedlots; croplands; silviculture; apiaries, honey extracting; and buildings which are an accessory use to these agriculture use". The proposed zoning is allowed in the Rural Future Land Use Category according to Table 3.00.03 of the Land Development Regulations.

B. Whether the proposed rezoning is consistent with all elements of the Lake County Comprehensive Plan;

This property is located within the Rural FLUC (2030 Future Land Use Map). Policy 1-1.4.4 of the Comprehensive Plan allows agriculture and residential uses within the Rural FLUC. New Plan Policy I-1.4.1 *Elements of Rural Character* describes development within the Rural FLUC as "Individual parcels that are generally equal to or larger than five (5) acres in size." The proposed rezoning is consistent with the Rural FLUC and would bring the zoning of the property into conformance with the Rural Future Land Use.

C. Whether, and the extent to which, the proposed rezoning is inconsistent with existing and proposed land uses;

The proposed rezoning is consistent with the surrounding land uses within the area. The surrounding area includes a mix of permitted low intensity agriculture uses, a citrus farm, and large acre residential tracks with non-intensive agriculture uses.

D. Whether there have been changed conditions that require a rezoning;

The conditions of the area have not changed. There have been no rezonings in the area since the adoption of the Official Zoning Map in 1987. However, the zoning districts assigned to the area are not reflective of the current uses and/or the current Future Land Use Category for the area.

E. Whether, and the extent to which, the proposed rezoning would result in demands on public facilities, and whether, or to the extent to which, the proposed rezoning would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities;

No adverse impacts on public facilities are anticipated from the proposed rezoning. The site is currently served by an on-site individual well and septic system.

F. Whether, and the extent to which, the proposed rezoning would result in significant adverse impacts on the natural environment;

Although the property contains wetlands, no wetland impacts are anticipated by this rezoning.

G. Whether, and the extent to which, the proposed rezoning would adversely affect the property values in the area;

No information has been submitted to indicate that the proposed rezoning would adversely affect the property values in the area.

H. Whether, and the extent to which, the proposed rezoning would result in an orderly and logical development pattern, specifically identifying any negative effects on such patterns;

The proposed rezoning will not affect the existing development patterns for the area. The proposed rezoning will make the property consistent with the future land use for this area, as well as the Sunnyside Report. The surrounding development pattern is a mix of agriculture and rural residential development. This request is a continuation of the agriculture/residential development pattern for the area.

I. Whether the proposed rezoning would be in conflict with the public interest, and in harmony with the purpose and intent of these Regulations;

The proposed rezoning would be in harmony with the general intent of the Comprehensive Plan and LDR as stated in Sections A through H above.

J. Any other matters that may be deemed appropriate by the Lake County Zoning Board or the Board of County Commissioners, in review and consideration of the proposed rezoning.

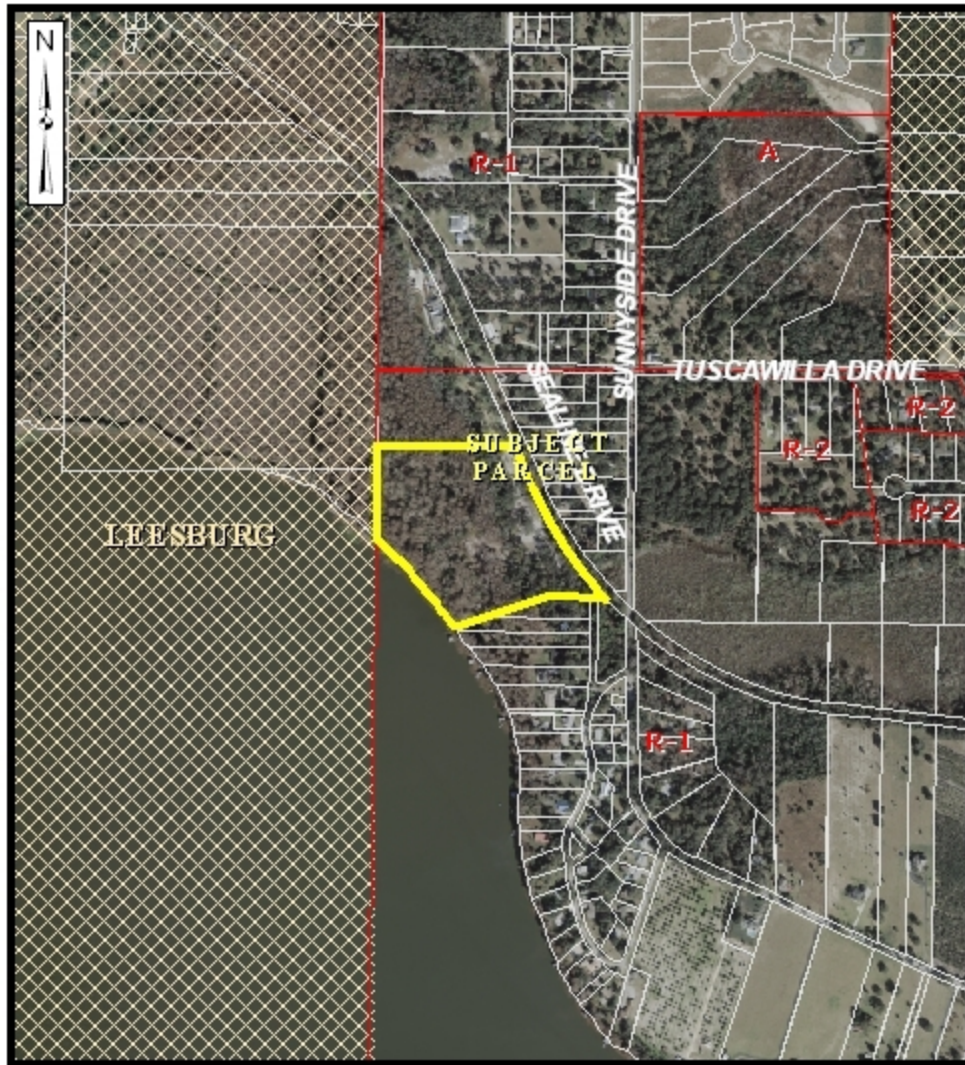
N/A

FINDINGS OF FACT: Staff has reviewed the application for this rezoning request and found:

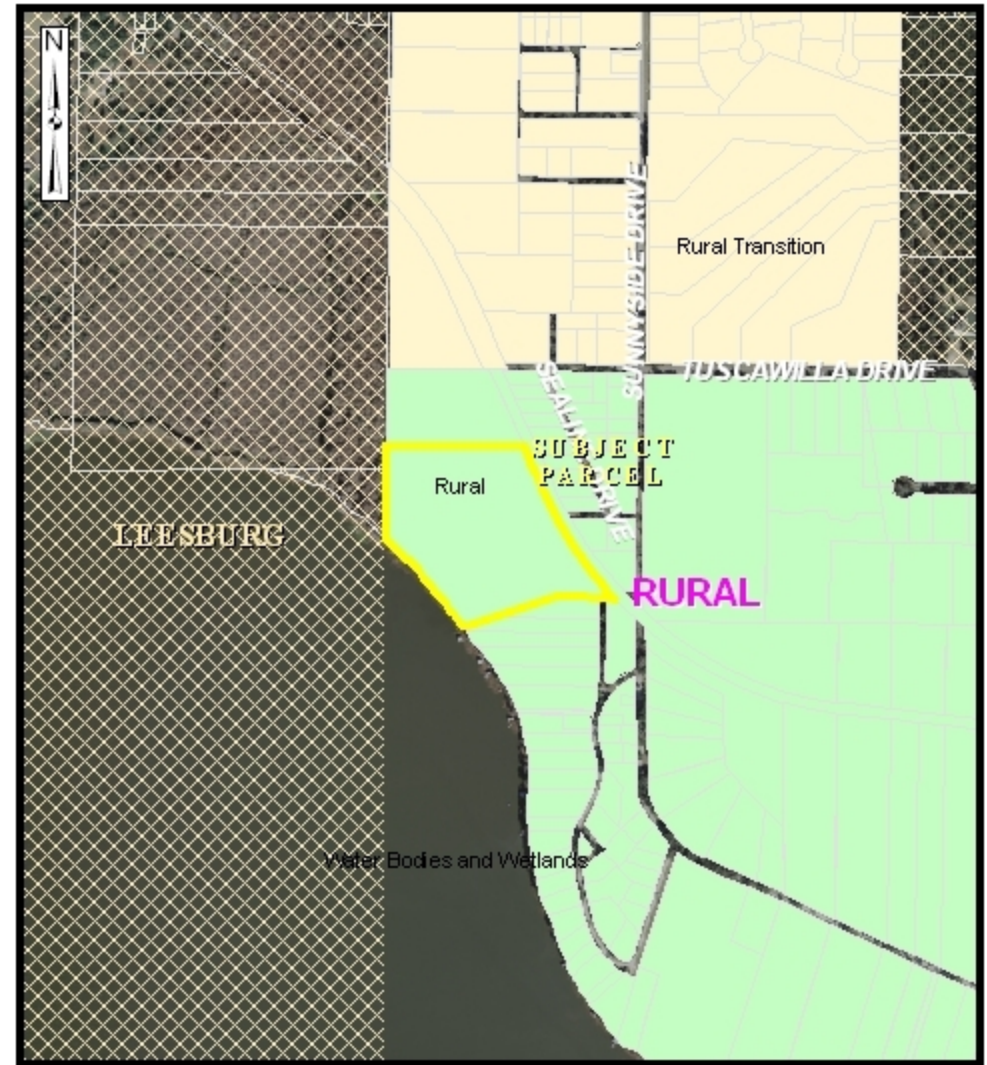
1. The request is consistent with Comprehensive Plan Policy-1.4, which allows agriculture and residential uses in the Rural Future Land Use Category.
2. This request is consistent with LDR Tables 3.00.03 and 3.01.03, which allows agriculture/residential uses in the Agriculture Zoning District.
3. The request is consistent with the recommendations of the Sunnyside Report.

Based on these findings of fact, Staff recommends **APPROVAL**, as specified in the proposed ordinance.

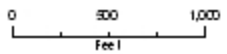
WRITTEN COMMENTS FILED: Support: -0- Concern: -0- Oppose: -0-



CURRENT ZONING
RURAL RESIDENTIAL (R-1)



ADOPTED FUTURE LAND USE
RURAL



SUMMERS REZONING

CASE NO.
 PH# 03-12-3

CASE LOCATION:
 31-19S-25E

RE QUE STING:
 Rural Residential (R-1) to Agriculture (A)

ZONING (Red outline)

LAND USE (Purple outline)

SUBJECT PARCEL (Yellow outline)

DISCLAIMER:
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MAP COMPOSITION
 JANUARY, 2003

LAKE COUNTY
 TEXAS

ORDINANCE #2012-XX
Summer Property Rezoning
PH #3-12-3

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS
AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, Valerie C. Fuchs, Esq. (the "Applicant") has submitted a rezoning petition on behalf of Bryan K. and Jacqueline A. Summers (the "Owner") to rezone property from Rural Residential (R-1) to Agriculture (A) and;

WHEREAS, the property consists of approximately 16+/- acres located in the Leesburg area, located south Tuscawilla Drive and west of Kentucky Avenue, in Section 31, Township 19 South, Range 25 East, Lake County, Florida, lying within Alternate Key Numbers 1260060 and 3840523, more particularly described as follows:

LEGAL DESCRIPTION: [EXHIBIT "A" – ATTACHED]

WHEREAS, the subject property is located within the Rural Future Land Use Category as shown on the Lake County Comprehensive Plan Future Land Use Map (FLUM); and

WHEREAS, the Lake County Zoning Board reviewed petition PH #03-12-3 on the 4th day of January, 2012, after giving Notice of Hearing on a petition for a change in the use of land, including a notice that said petition would be presented to the Board of County Commissioners of Lake County, Florida, on the 24th day of January, 2012; and

WHEREAS, the Board of County Commissioners reviewed said petition, the recommendations of the Lake County Zoning Board, and any comments, favorable or unfavorable, from the public and surrounding property owners at a duly advertised public hearing;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, as described in EXHIBIT "A", subject to the following terms:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map from Rural Residential (R-1) to Agriculture (A) in accordance with this Ordinance.

Section 2. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Development Review and Approval: Development shall comply with all County codes and ordinances, as amended.

Section 4. Effective Date. This Ordinance shall become effective as provided for by law.

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ENACTED this _____ day of _____, 2012.
FILED with the Secretary of State _____, 2012.
EFFECTIVE _____, 2012.

BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA

LESLIE CAMPION, Chairman

ATTEST:

NEIL KELLY, Clerk of the
Board of County Commissioners
Lake County, Florida

APPROVED AS TO FORM AND LEGALITY

SANFORD A. MINKOFF, County Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

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That part of Lot 10, lying North of a drainage ditch, being in Section 31, Township 19 South, Range 25 East of Mary K. and T.S. Johnson's Subdivision of the John M. Hanson Tract on Lake Harris, according to the Plat thereof, as recorded in Plat Book 1, Page 7, Public Records of Lake County, Florida AND All of Lot 11 and Lot 12, lying West of the former Leesburg and Indian River Railroad right of way, and Lot 17 in Mary K. and T.S. Johnson's Subdivision, according to the Plat thereof, as recorded in Plat Book 1, Page 7, Public Records of Lake County, Florida.

Together with Easements for Ingress and Egress as set forth in instrument recorded in Official Records Book 3314, Page 668 and Official Record Book 3314, Page 670, Public Records of Lake County, Florida, more particularly described as follows:

A 40.00 foot wide none-exclusive easement, over and across the following described lands:

Beginning at the intersection of the North right-of-way line of Kentucky Avenue, being 40.00 feet wide, as per the Plat of Lenora Park, recorded in Plat Book 11, Page 103, in the Public Records of Lake County, Florida and the Easterly right-of-way line as per said plat, of the Seaboard Airline Railroad, being 60.00 feet wide, (now abandoned); thence run North 89 degrees 30 minutes 10 seconds West, along a Westerly projection of the North right-of-way of said Kentucky Avenue to the Westerly right-of-way line Seaboard Airline Railroad, (now abandoned); thence Southeasterly along said Westerly right-of-way line to an intersection with the Westerly right-of-way line of said Kentucky Avenue; thence South 89 degrees 30 minutes 10 seconds East, along a Westerly projection of the South right-of-way line of said Kentucky Avenue to the Easterly right-of-way line of said Seaboard Airline Railroad, (now abandoned); thence Northwesterly along the Easterly right-of-way of said Seaboard Airline Railroad, (now abandoned) to the Point of Beginning. AND

A 20.00 foot wide non-exclusive easement, over and across the following described lands:

Begin at the intersection of the North right-of-way line of Carolina Avenue, being 40.00 feet wide, as per the plat of Lenora Park, recorded in Plat Book 11, Page 103, in Public Records of Lake County, Florida and the Easterly right-of-way line as per said plat, of the Seaboard Airline Railroad, being 60.00 feet wide, (now abandoned); thence North 89 degrees 30 minutes 10 seconds West along a Westerly projection of the South right-of-way line of said Carolina Avenue to the Westerly right-of-way line of said Seaboard Airline Railroad (now abandoned); thence Northwesterly along said Westerly right-of-way line to an intersection with the Westerly right-of-way line of said Seaboard Airline Railroad and a Westerly projection of the centerline of said Carolina Avenue; thence South 89 degrees 30 minutes 10 seconds East along a Westerly projection of a centerline of said Carolina Avenue to the Easterly right-of-way line said Seaboard Airline Railroad (now abandoned); thence Southeasterly along the Easterly right-of-way line of said Seaboard Airline Railroad (now abandoned), to the Point of Beginning.

CASE NO: PH# 3-12-3**TAB NO.** 2**OWNER:** Bryan K. and Jacqueline A. Summers
APPLICANT: Valerie C. Fuchs, Esq.
PROJECT NAME: Summers Rezoning

Jennifer Cotch, Environmental Specialist, presented the case and staff's recommendation for approval. She stated that the Applicant is requesting to rezone from Rural Residential (R-1) to Agriculture (A), which is the only zoning district that would be allowed in Rural Future Land Use.

Valerie C. Fuchs, Esq., the applicant, stated that her clients are requesting a straight rezoning so that they can come into compliance with the newly adopted Comprehensive Plan.

Ron Coletti, concerned citizen, stated that he would like more information. He added that he would like to know the reason why the owners want to rezone, what kind of farm animals they might have and how many of each animal. He also had a question about if they would be allowed to fill any of the wetlands and what percentage, should they be allowed to do so. Lastly, he questioned if in the future they could rezone back to R-1 and if they would be allowed to build more houses or condos on the property.

Vice Chairman Morris pointed out that there was an agreement made between the County and the City on high, medium, low, and very low density in the Sunnyside Area in the Comprehensive Plan. In regard to the questions about animals, Ms. Cotch answered that due to the rezoning, staff would have no jurisdiction over animals and that the owners would be allowed to have as many as they wanted. She explained that any issues would need to be addressed by Code Enforcement as far as the general agricultural uses taking place on the property. In response to the question regarding houses or condos, Ms. Cotch mentioned that the Rural Future Land Use only allows one dwelling unit per five acres. In regards to wetlands being filled, Ms. Cotch stated that if you put farm animals in wetlands, they are allowed to go into those areas. She explained that the County has limited say on what goes on in those areas if it is used as agricultural property and is considered Ag exempt through the property appraiser. She further explained that it is the same with the Department of Environmental Protection (DEP) because agriculture is promoted in Florida and there are typically limited regulations when something is used for agricultural purposes in wetlands. In regards to structures on the property, Ms. Cotch stated that if it is farm equipment, they do not need to abide by the Zoning Regulations that would require a 50 ft. setback from wetlands; however, a house would, indicating that it would depend on the type of structure.

L. G. John Ameri, Board member, asked if any study had been done of the effects on neighboring properties and if the request was in compliance with major provisions. Ms. Cotch answered that no study had been done but that most of the neighboring properties should also be zoned Agriculture (A) since the Rural Future Land Use was adopted in the 2030 Comprehensive Plan. She also pointed out that the request is in compliance because the County would eventually get around to making the area compliant with the Future Land Use category anyway.

Ms. Fuchs reiterated that their main goal is to come into compliance with the Comprehensive Plan. In regards to the wetlands, she mentioned that the owners would have to abide by all state, federal, and local regulations, but that her clients had no intentions of filling the wetlands. Lastly she added that she had a petition signed by 6 of the surrounding neighbors who are in support of the rezoning request, should the Board want to take that into consideration.

MOTION by Ted DeWitt, **SECONDED** by Rick Gonzalez to **APPROVE** PH# 3-12-3, Summers Rezoning.

FOR: DeWitt, Gonzalez, Morris, Ameri

ABSENT: Bryan, Kesselring, Miller

AGAINST: None

NOT PRESENT: Childers

MOTION CARRIED: 4-0

DRAFT