

Kilgore Road Residents Opposition to:

Brentwood Club Phase 2 Rezoning Appeal
Case No.: RZ-19-09-037

Brentwood Club Preliminary Subdivision Plan
Case No.: CDR-19-08-267

A. Kurt Ardaman

FISHBACK ♦ DOMINICK

ESTABLISHED 1935

ATTORNEYS AND COUNSELORS AT LAW

Kilgore Road Residents

**Brentwood Club Lots
adjacent to Kilgore Road
Residents**

Kilgore Road



The Kilgore Road Residents abut the westerly border of Brentwood Club. The Kilgore Road lots are zoned R-CE and such zoning has existed since 1967, *prior* to Orange County's adoption of the its Comprehensive Plan and before Brentwood Club was zoned and developed.

The request to rezone Brentwood Club is improper and should be denied because:

- (i) Rezoning is inconsistent with the Orange County Comprehensive Plan and is, therefore, illegal; and
- (ii) Approving the rezoning will breach the agreement between the Kilgore Road Residents, the developer and his successors, and the Board of County Commissioners – zoning approval dated June 12, 1989.

On June 12, 1989, the Board of County Commissioners (“BCC”) held its rezoning hearing for Brentwood Club and the BCC found that in order for the rezoning to be compatible with the Kilgore Road homes and R-CE zoning and the County’s Comprehensive Plan, the following conditions were required:

1. All lots abutting the western property boundary shall be a minimum of $\frac{1}{2}$ acre.
2. All lots abutting the southern property boundary shall be a minimum of $\frac{1}{2}$ acre.
3. No access shall be permitted onto Darlene Drive.
4. Construction of a six (6) foot high brick wall along the southerly boundary line abutting Darlene Drive.
5. The minimum living area was required to be 2,200 square feet.
6. Building setbacks for principal structures along the rear (westerly) boundary shall be a minimum of fifty (50) feet; ***the westerly thirty-five (35) feet of which is to remain in its natural vegetative state.***
7. The owner of each lot located along the westerly boundary line shall be required to install a six (6) foot high shadowbox fence where no natural vegetation exists.

BCC Written Decision of Approval – June 12, 1989

COMMISSIONERS AT THEIR MEETING
JUN 12 1989

DECISION ON PUBLIC HEARING

BEFORE

THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA

June 12, 1989

THE BOARD OF COUNTY COMMISSIONERS approved A REQUEST
BY RICHARD E. BOSSERMAN, AGENT, P & Z HEARING #9 HEARD ON
MAY 18, 1989 FOR A CHANGE IN ZONING CLASSIFICATION FROM
IND-1A TO R-1AA, ON PROPERTY LOCATED NORTHWEST CORNER
APOPKA-VINELAND ROAD AND DARLENE DRIVE, SUBJECT TO THE
FOLLOWING CONDITIONS:

1. All lots abutting the Western property boundary shall be a minimum of 1/2 acre;
2. All lots abutting the Southern property boundary shall be a minimum of 1/3 acre;
3. No access shall be permitted onto Darlene Drive;
4. Construction of a six(6) foot high brick wall along the South boundary line abutting Darlene Drive;
5. Minimum living area shall be 2200 square feet for all lots within the subdivision;
6. Building setbacks for principal structures along the rear (Westerly) boundary line shall be a minimum of fifty(50) feet; the Westerly thirty-five(35) feet of which is to remain in its natural vegetative state;
7. The owner of each lot located along the Westerly boundary line shall be required to install a six(6) foot high shadowbox fence where no natural vegetation exists;
8. Sewer and water services are to be obtained from Orange County.

Jim Claiman

CHAIRMAN

THE FOREGOING DECISION HAS BEEN FILED
WITH ME THIS 16th DAY OF June, 1989.

Donna M. Hight
Asst. DEPUTY CLERK
Board of County Commissioners
Orange County, Florida

ENCLOSURE "2"

On August 23, 1989, the Development Review Committee ("DRC") considered the Preliminary Subdivision Plan for Brentwood Club. To ensure that all future owners were aware of the 35-foot natural vegetation buffer, the DRC required as a condition of approval, *prior to platting, deed restrictions and covenants shall be filed that prohibit clearing or removal of vegetation...on the western 35 feet of the project."*

Development Review Committee
Brentwood Club PSP
August 23, 1989 - Page 10

RECOMMENDATION:

DENY AS SUBMITTED - REDESIGN/RESUBMIT to address Findings as listed above and provide a species survey for review and approval. The following conditions should be considered by the developer for Redesign/Resubmit:

1. Development shall conform to the Brentwood Club Preliminary Subdivision Plan, dated Received _____, and to the following conditions of approval. Development based upon this approval shall comply with all other applicable federal, state and county laws, ordinances and regulations, which are incorporated herein by reference, except to the extent they are expressly waived or modified by these conditions or by action of Orange County.
2. Prior to platting or construction plan submittal, a survey for legally protected plant and animal species shall be submitted to the Planning Department for review and approval. If any legally protected species are found on-site, then a management plan for said species shall be submitted and approved by the Planning Department and the Florida Game and Freshwater Fish Commission prior to construction plan submittal.
3. Prior to platting, deed restrictions and covenants shall be filed that prohibit clearing or removal of vegetation (including ground cover) or placement of any structures on the western 35 feet of the project.

This condition was also included in the BCC's Preliminary Subdivision Plan approval. The developer abided by this condition of approval by:

- Including the condition on the **Plats**;
- Including the condition in the **Declaration of Covenants and Restrictions**; and
- Including the condition in **deeds** to lot owners.

All of the current applicants and other Brentwood Club owners were aware of the conditions prior to buying their house.

Brentwood Club Phase 2 Plat

**Lots 8 through 28 are
subject to this request**

BRENTWOOD CLUB PHASE 2

SECTION 3, TOWNSHIP 24 SOUTH, RANGE 28 EAST
ORANGE COUNTY, FLORIDA

SEE REPORT OF GREENTWOOD CLUB PHASE 2 PLAT 29 PAGE 31 REPLATTING A PORTION OF PLAT

LEGAL DESCRIPTION

• PART OF THE WEST 1/2 OF SECTION 3, TOWNSHIP 24 SOUTH, RANGE 26 EAST, GRACE COUNTY, FLORIDA, LYING WEST OF APOPKA-VINELAND ROAD AND NORTH OF U.S. HWY 190 THE MOORE AND FREE.

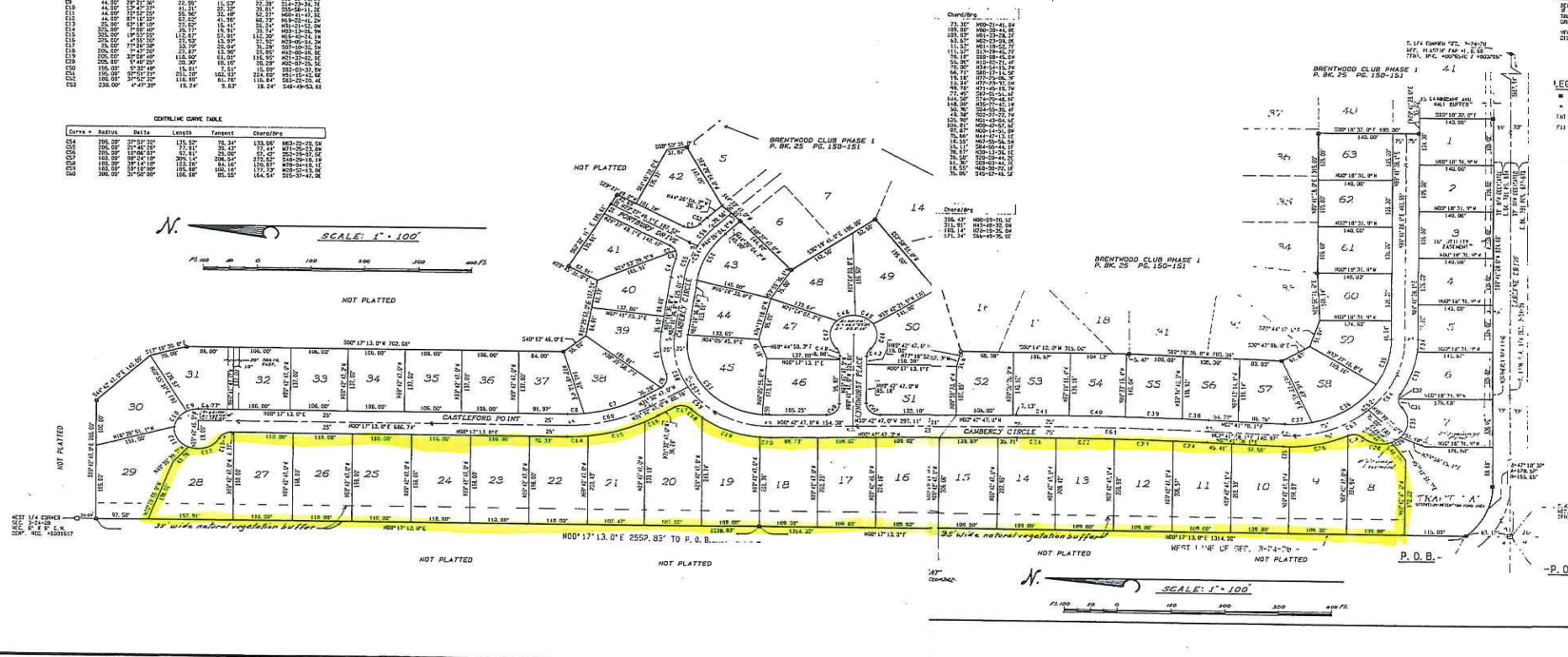
DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 2; RUN N 02° 17' 13" E ALONG THE WEST LINE OF SECTION 2 FOR 83.17 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE WEST LINE N 02° 17' 13" E FOR 2560.83 FEET; THENCE S 87° 42' 43" E FOR 246.00

[illegible]

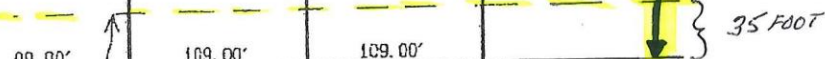
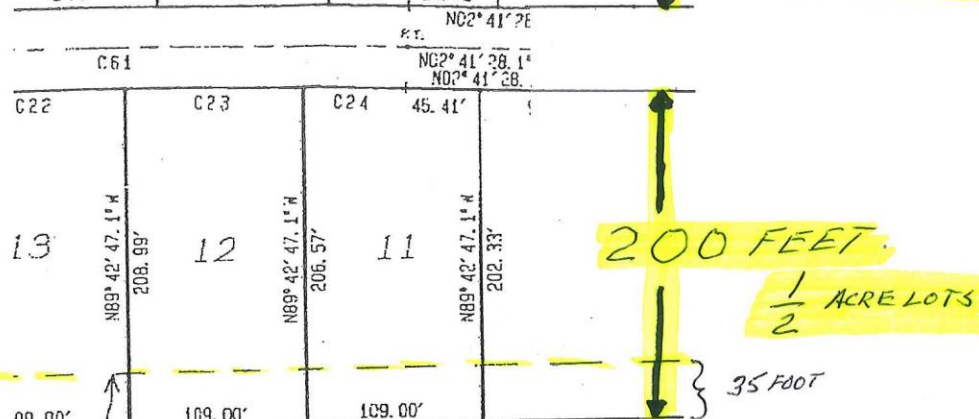
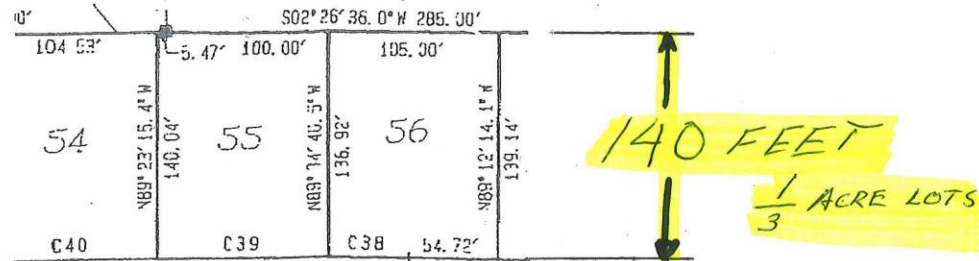
CURVE LENGTH					
Curve #	Station	Arts	Length	Tangent	Chord/Brg
C1	25.00	71°47'32"	34.34	30.50°	35.70
C2	25.00	71°47'32"	34.34	30.50°	35.70
C3	25.00	71°47'32"	34.34	30.50°	35.70
C4	25.00	71°47'32"	34.34	30.50°	35.70
C5	25.00	71°47'32"	34.34	30.50°	35.70
C6	25.00	71°47'32"	34.34	30.50°	35.70
C7	25.00	71°47'32"	34.34	30.50°	35.70
C8	25.00	71°47'32"	34.34	30.50°	35.70
C9	25.00	71°47'32"	34.34	30.50°	35.70
C10	25.00	71°47'32"	34.34	30.50°	35.70
C11	25.00	71°47'32"	34.34	30.50°	35.70
C12	25.00	71°47'32"	34.34	30.50°	35.70
C13	25.00	71°47'32"	34.34	30.50°	35.70
C14	25.00	71°47'32"	34.34	30.50°	35.70
C15	25.00	71°47'32"	34.34	30.50°	35.70
C16	25.00	71°47'32"	34.34	30.50°	35.70
C17	25.00	71°47'32"	34.34	30.50°	35.70
C18	25.00	71°47'32"	34.34	30.50°	35.70
C19	25.00	71°47'32"	34.34	30.50°	35.70
C20	25.00	71°47'32"	34.34	30.50°	35.70
C21	25.00	71°47'32"	34.34	30.50°	35.70
C22	25.00	71°47'32"	34.34	30.50°	35.70
C23	25.00	71°47'32"	34.34	30.50°	35.70
C24	25.00	71°47'32"	34.34	30.50°	35.70
C25	25.00	71°47'32"	34.34	30.50°	35.70
C26	25.00	71°47'32"	34.34	30.50°	35.70
C27	25.00	71°47'32"	34.34	30.50°	35.70
C28	25.00	71°47'32"	34.34	30.50°	35.70
C29	25.00	71°47'32"	34.34	30.50°	35.70
C30	25.00	71°47'32"	34.34	30.50°	35.70
C31	25.00	71°47'32"	34.34	30.50°	35.70
C32	25.00	71°47'32"	34.34	30.50°	35.70
C33	25.00	71°47'32"	34.34	30.50°	35.70
C34	25.00	71°47'32"	34.34	30.50°	35.70
C35	25.00	71°47'32"	34.34	30.50°	35.70
C36	25.00	71°47'32"	34.34	30.50°	35.70
C37	25.00	71°47'32"	34.34	30.50°	35.70
C38	25.00	71°47'32"	34.34	30.50°	35.70
C39	25.00	71°47'32"	34.34	30.50°	35.70
C40	25.00	71°47'32"	34.34	30.50°	35.70
C41	25.00	71°47'32"	34.34	30.50°	35.70
C42	25.00	71°47'32"	34.34	30.50°	35.70
C43	25.00	71°47'32"	34.34	30.50°	35.70
C44	25.00	71°47'32"	34.34	30.50°	35.70
C45	25.00	71°47'32"	34.34	30.50°	35.70
C46	25.00	71°47'32"	34.34	30.50°	35.70
C47	25.00	71°47'32"	34.34	30.50°	35.70
C48	25.00	71°47'32"	34.34	30.50°	35.70
C49	25.00	71°47'32"	34.34	30.50°	35.70
C50	25.00	71°47'32"	34.34	30.50°	35.70
C51	25.00	71°47'32"	34.34	30.50°	35.70
C52	25.00	71°47'32"	34.34	30.50°	35.70
C53	25.00	71°47'32"	34.34	30.50°	35.70
C54	25.00	71°47'32"	34.34	30.50°	35.70
C55	25.00	71°47'32"	34.34	30.50°	35.70
C56	25.00	71°47'32"	34.34	30.50°	35.70
C57	25.00	71°47'32"	34.34	30.50°	35.70
C58	25.00	71°47'32"	34.34	30.50°	35.70
C59	25.00	71°47'32"	34.34	30.50°	35.70
C60	25.00	71°47'32"	34.34	30.50°	35.70
C61	25.00	71°47'32"	34.34	30.50°	35.70
C62	25.00	71°47'32"	34.34	30.50°	35.70
C63	25.00	71°47'32"	34.34	30.50°	35.70
C64	25.00	71°47'32"	34.34	30.50°	35.70
C65	25.00	71°47'32"	34.34	30.50°	35.70
C66	25.00	71°47'32"	34.34	30.50°	35.70
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C69	25.00	71°47'32"	34.34	30.50°	35.70
C70	25.00	71°47'32"	34.34	30.50°	35.70
C71	25.00	71°47'32"	34.34	30.50°	35.70
C72	25.00	71°47'32"	34.34	30.50°	35.70
C73	25.00	71°47'32"	34.34	30.50°	35.70
C74	25.00	71°47'32"	34.34	30.50°	35.70
C75	25.00	71°47'32"	34.34	30.50°	35.70
C76	25.00	71°47'32"	34.34	30.50°	35.70
C77	25.00	71°47'32"	34.34	30.50°	35.70
C78	25.00	71°47'32"	34.34	30.50°	35.70
C79	25.00	71°47'32"	34.34	30.50°	35.70
C80	25.00	71°47'32"	34.34	30.50°	35.70
C81	25.00	71°47'32"	34.34	30.50°	35.70
C82	25.00	71°47'32"	34.34	30.50°	35.70
C83	25.00	71°47'32"	34.34	30.50°	35.70
C84	25.00	71°47'32"	34.34	30.50°	35.70
C85	25.00	71°47'32"	34.34	30.50°	35.70
C86	25.00	71°47'32"	34.34	30.50°	35.70
C87	25.00	71°47'32"	34.34	30.50°	35.70
C88	25.00	71°47'32"	34.34	30.50°	35.70
C89	25.00	71°47'32"	34.34	30.50°	35.70
C90	25.00	71°47'32"	34.34	30.50°	35.70
C91	25.00	71°47'32"	34.34	30.50°	35.70
C92	25.00	71°47'32"	34.34	30.50°	35.70
C93	25.00	71°47'32"	34.34	30.50°	35.70
C94	25.00	71°47'32"	34.34	30.50°	35.70
C95	25.00	71°47'32"	34.34	30.50°	35.70
C96	25.00	71°47'32"	34.34	30.50°	35.70
C97	25.00	71°47'32"	34.34	30.50°	35.70
C98	25.00	71°47'32"	34.34	30.50°	35.70
C99	25.00	71°47'32"	34.34	30.50°	35.70
C100	25.00	71°47'32"	34.34	30.50°	35.70

Curve = Radius	Delta	Length	Tangent	Chord/deg	
C54	705.35'	37°53'32"	135.57'	73.34'	133.06'
C56	705.35'	37°44'32"	135.57'	73.34'	133.06'
C58	705.35'	37°35'32"	135.57'	73.34'	133.06'
C60	705.35'	37°26'32"	135.57'	73.34'	133.06'
C62	705.35'	37°17'32"	135.57'	73.34'	133.06'
C64	705.35'	37°08'32"	135.57'	73.34'	133.06'
C66	705.35'	36°59'32"	135.57'	73.34'	133.06'
C68	705.35'	36°50'32"	135.57'	73.34'	133.06'
C70	705.35'	36°41'32"	135.57'	73.34'	133.06'
C72	705.35'	36°32'32"	135.57'	73.34'	133.06'
C74	705.35'	36°23'32"	135.57'	73.34'	133.06'
C76	705.35'	36°14'32"	135.57'	73.34'	133.06'
C78	705.35'	36°05'32"	135.57'	73.34'	133.06'
C80	705.35'	35°56'32"	135.57'	73.34'	133.06'
C82	705.35'	35°47'32"	135.57'	73.34'	133.06'
C84	705.35'	35°38'32"	135.57'	73.34'	133.06'
C86	705.35'	35°29'32"	135.57'	73.34'	133.06'
C88	705.35'	35°20'32"	135.57'	73.34'	133.06'
C90	705.35'	35°11'32"	135.57'	73.34'	133.06'
C92	705.35'	35°02'32"	135.57'	73.34'	133.06'
C94	705.35'	34°53'32"	135.57'	73.34'	133.06'
C96	705.35'	34°44'32"	135.57'	73.34'	133.06'
C98	705.35'	34°35'32"	135.57'	73.34'	133.06'
C100	705.35'	34°26'32"	135.57'	73.34'	133.06'
C102	705.35'	34°17'32"	135.57'	73.34'	133.06'
C104	705.35'	34°08'32"	135.57'	73.34'	133.06'
C106	705.35'	33°59'32"	135.57'	73.34'	133.06'
C108	705.35'	33°50'32"	135.57'	73.34'	133.06'
C110	705.35'	33°41'32"	135.57'	73.34'	133.06'
C112	705.35'	33°32'32"	135.57'	73.34'	133.06'
C114	705.35'	33°23'32"	135.57'	73.34'	133.06'
C116	705.35'	33°14'32"	135.57'	73.34'	133.06'
C118	705.35'	33°05'32"	135.57'	73.34'	133.06'
C120	705.35'	32°56'32"	135.57'	73.34'	133.06'
C122	705.35'	32°47'32"	135.57'	73.34'	133.06'
C124	705.35'	32°38'32"	135.57'	73.34'	133.06'
C126	705.35'	32°29'32"	135.57'	73.34'	133.06'
C128	705.35'	32°20'32"	135.57'	73.34'	133.06'
C130	705.35'	32°11'32"	135.57'	73.34'	133.06'
C132	705.35'	32°02'32"	135.57'	73.34'	133.06'
C134	705.35'	31°53'32"	135.57'	73.34'	133.06'
C136	705.35'	31°44'32"	135.57'	73.34'	133.06'
C138	705.35'	31°35'32"	135.57'	73.34'	133.06'
C140	705.35'	31°26'32"	135.57'	73.34'	133.06'
C142	705.35'	31°17'32"	135.57'	73.34'	133.06'
C144	705.35'	31°08'32"	135.57'	73.34'	133.06'
C146	705.35'	30°59'32"	135.57'	73.34'	133.06'
C148	705.35'	30°50'32"	135.57'	73.34'	133.06'
C150	705.35'	30°41'32"	135.57'	73.34'	133.06'
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C154	705.35'	30°23'32"	135.57'	73.34'	133.06'
C156	705.35'	30°14'32"	135.57'	73.34'	133.06'
C158	705.35'	30°05'32"	135.57'	73.34'	133.06'
C160	705.35'	29°56'32"	135.57'	73.34'	133.06'
C162	705.35'	29°47'32"	135.57'	73.34'	133.06'
C164	705.35'	29°38'32"	135.57'	73.34'	133.06'
C166	705.35'	29°29'32"	135.57'	73.34'	133.06'
C168	705.35'	29°20'32"	135.57'	73.34'	133.06'
C170	705.35'	29°11'32"	135.57'	73.34'	133.06'
C172	705.35'	29°02'32"	135.57'	73.34'	133.06'
C174	705.35'	28°53'32"	135.57'	73.34'	133.06'
C176	705.35'	28°44'32"	135.57'	73.34'	133.06'
C178	705.35'	28°35'32"	135.57'	73.34'	133.06'
C180	705.35'	28°26'32"	135.57'	73.34'	133.06'
C182	705.35'	28°17'32"	135.57'	73.34'	133.06'
C184	705.35'	28°08'32"	135.57'	73.34'	133.06'
C186	705.35'	27°59'32"	135.57'	73.34'	133.06'
C188	705.35'	27°50'32"	135.57'	73.34'	133.06'
C190	705.35'	27°41'32"	135.57'	73.34'	133.06'
C192	705.35'	27°32'32"	135.57'	73.34'	133.06'
C194	705.35'	27°23'32"	135.57'	73.34'	133.06'
C196	705.35'	27°14'32"	135.57'	73.34'	133.06'
C198	705.35'	27°05'32"	135.57'	73.34'	133.06'
C200	705.35'	26°56'32"	135.57'	73.34'	133.06'
C202	705.35'	26°47'32"	135.57'	73.34'	133.06'
C204	705.35'	26°38'32"	135.57'	73.34'	133.06'
C206	705.35'	26°29'32"	135.57'	73.34'	133.06'
C208	705.35'	26°20'32"	135.57'	73.34'	133.06'
C210	705.35'	26°11'32"	135.57'	73.34'	133.06'
C212	705.35'	26°02'32"	135.57'	73.34'	133.06'
C214	705.35'	25°53'32"	135.57'	73.34'	133.06'
C216	705.35'	25°44'32"	135.57'	73.34'	133.06'
C218	705.35'	25°35'32"	135.57'	73.34'	133.06'
C220	705.35'	25°26'32"	135.57'	73.34'	133.06'
C222	705.35'	25°17'32"	135.57'	73.34'	133.06'
C224	705.35'	25°08'32"	135.57'	73.34'	133.06'
C226	705.35'	24°59'32"	135.57'	73.34'	133.06'
C228	705.35'	24°50'32"	135.57'	73.34'	133.06'
C230	705.35'	24°41'32"	135.57'	73.34'	133.06'
C232	705.35'	24°32'32"	135.57'	73.34'	133.06'
C234	705.35'	24°23'32"	135.57'	73.34'	133.06'
C236	705.35'	24°14'32"	135.57'	73.34'	133.06'
C238	705.35'	24°05'32"	135.57'	73.34'	133.06'
C240	705.35'	23°56'32"	135.57'	73.34'	133.06'
C242	705.35'	23°47'32"	135.57'	73.34'	133.06'
C244	705.35'	23°38'32"	135.57'	73.34'	133.06'
C246	705.35'	23°29'32"	135.57'	73.34'	133.06'
C248	705.35'	23°20'32"	135.57'	73.34'	133.06'
C250	705.35'	23°11'32"	135.57'	73.34'	133.06'
C252	705.35'	23°02'32"	135.57'	73.34'	133.06'
C254	705.35'	22°53'32"	135.57'	73.34'	133.06'
C256	705.35'	22°44'32"	135.57'	73.34'	133.06'
C258	705.35'	22°35'32"	135.57'	73.34'	133.06'
C260	705.35'	22°26'32"	135.57'	73.34'	133.06'
C262	705.35'	22°17'32"	135.57'	73.34'	133.06'
C264	705.35'	22°08'32"	135.57'	73.34'	133.06'
C266	705.35'	21°59'32"	135.57'	73.34'	133.06'
C268	705.35'	21°50'32"	135.57'	73.34'	133.06'
C270	705.35'	21°41'32"	135.57'	73.34'	133.06'
C272	705.35'	21°32'32"	135.57'	73.34'	133.06'
C274	705.35'	21°23'32"	135.57'	73.34'	133.06'
C276	705.35'	21°14'32"	135.57'	73.34'	133.06'
C278	705.35'	21°05'32"	135.57'	73.34'	133.06'
C280	705.35'	20°56'32"	135.57'	73.34'	133.06'
C282	705.35'	20°47'32"	135.57'	73.34'	133.06'
C284	705.35'	20°38'32"	135.57'	73.34'	133.06'
C286	705.35'	20°29'32"	135.57'	73.34'	133.06'
C288	705.35'	20°20'32"	135.57'	73.34'	133.06'
C290	705.35'	20°11'32"	135.57'	73.34'	133.06'
C292	705.35'	20°02'32"	135.57'	73.34'	133.06'
C294	705.35'	19°53'32"	135.57'	73.34'	133.06'
C296	705.35'	19°44'32"	135.57'	73.34'	133.06'
C298	705.35'	19°35'32"	135.57'	73.34'	133.06'
C300	705.35'	19°26'32"	135.57'	73.34'	133.06'
C302	705.35'	19°17'32"	135.57'	73.34'	133.06'
C304	705.35'	19°08'32"	135.57'	73.34'	133.06'
C306	705.35'	18°59'32"	135.57'	73.34'	133.06'
C308	705.35'	18°50'32"	135.57'	73.34'	133.06'
C310	705.35'	18°41'32"	135.57'	73.34'	133.06'
C312	705.35'	18°32'32"	135.57'	73.34'	133.06'
C314	705.35'	18°23'32"	135.57'	73.34'	133.06'
C316	705.35'	18°14'32"	135.57'	73.34'	133.06'
C318	705.35'	18°05'32"	135.57'	73.34'	133.06'
C320	705.35'	17°56'32"	135.57'	73.34'	133.06'
C322	705.35'	17°47'32"	135.57'	73.34'	133.06'
C324	705.35'	17°38'32"	135.57'	73.34'	133.06'
C326	705.35'	17°29'32"	135.57'	73.34'	133.06'
C328	705.35'	17°20'32"	135.57'	73.34'	133.06'
C330	705.35'	17°11'32"	135.57'	73.34'	133.06'
C332	705.35'	17°02'32"	135.57'	73.34'	133.06'
C334	705.35'	16°53'32"	135.57'	73.34'	133.06'
C336	705.35'	16°44'32"	135.57'	73.34'	133.06'
C338	705.35'	16°35'32"	135.57'	73.34'	133.06'
C340	705.35'	16°26'32"	135.57'	73.34'	133.06'
C342	705.35'	16°17'32"	135.57'	73.34'	133.06'
C344	705.35'	16°08'32"	135.57'	73.34'	133.06'
C346	705.35'	15°59'32"	135.57'	73.34'	133.06'
C348	705.35'	15°50'32"	135.57'	73.34'	133.06'
C350	705.35'	15°41'32"	135.57'	73.34'	133.06'
C352	705.35'	15°32'32"	135.57'	73.34'	133.06'
C354	705.35'	15°23'32"	135.57'	73.34'	133.06'
C356	705.35'	15°14'32"	135.57'	73.34'	133.06'
C358	705.35'	15°05'32"	135.57'	73.34'	133.06'
C360	705.35'	14°56'32"	135.57'	73.34'	133.06'
C362	705.35'	14°47'32"	135.57'	73.34'	133.06'
C364	705.35'	14°38'32"	135.57'	73.34'	133.06'
C366	705.35'	14°29'32"	135.57'	73.34'	133.06'
C368	705.35'	14°20'32"	135.57'	73.34'	133.06'
C370	705.35'	14°11'32"	135.57'	73.34'	133.06'
C372	705.35'	14°02'32"	135.57'	73.34'	133.06'
C374	705.35'	13°53'32"	135.57'	73.34'	133.06'
C376	705.35'	13°44'32"	135.57'	73.34'	133.06'
C378	705.35'	13°35'32"	135.57'	73.34'	133.06'
C380	705.35'	13°26'32"	135.57'	73.34'	133.06'
C382	705.35'	13°17'32"	135.57'	73.34'	133.06'
C384	705.35'	13°08'32"	135.57'	73.34'	133.06'
C386	705.35'	12°59'32"	135.57'	73.34'	133.06'
C388	705.35'	12°50'32"	135.57'	73.34'	133.06'
C390	705.35'	12°41'32"	135.57'	73.34'	133.06'
C392	705.35'	12°32'32"	135.57'	73.34'	133.06'
C394	705.35'	12°23'32"	135.57'	73.34'	133.06'
C396	705.35'	12°14'32"	135.57'	73.34'	133.06'
C398	705.35'	12°05'32"	135.57'	73.34'	133.06'
C400	705.35'	11°56'32"	135.57'	73.34'	133.06'
C402	705.35'	11°47'32"	135.57'	73.34'	133.06'
C404	705.35'	11°38'32"	135.57'	73.34'	133.06'
C406	705.35'	11°29'32"	135.57'	73.34'	133.06'
C408	705.35'	11°20'32"	135.57'	73.34'	133.06'
C410	705.35'	11°11'32"	135.57'	73.34'	133.06'
C412	705.35'	11°02'32"	135.57'	73.34'	133.06'
C414	705.35'	10°53'32"	135.57'	73.34'	133.06'
C416	705.35'	10°44'32"	135.57'		

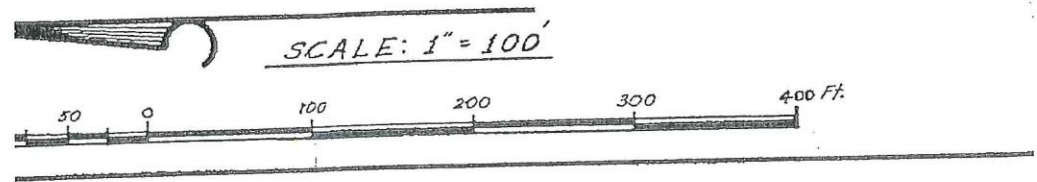


**35' wide natural
vegetation buffer**

LOT DEPTHS



WEST LINE OF SEC
TED



Declaration of Covenants and Restrictions for Brentwood Club Phase 2:

ARTICLE IV

ADDITIONAL RESTRICTIONS: In addition to the Covenants and Restrictions that are incorporated by reference as provided in Article III, the following additional restrictions shall apply to BRENTWOOD CLUB PHASE 2:

The West 35 feet of Lots 8-29, inclusive, is designated as a natural vegetation buffer. Clearing or removal of vegetation, including ground cover, and placement of any structures on the West 35 feet of these lots is prohibited.

In 1989, the BCC found that to make the Brentwood Club development compatible with the adjacent properties, the 35-foot natural vegetation buffer was required – neither the houses, vegetation, or other conditions which required the 35-foot buffer 1989 has changed.

CONCLUSION AND RATIONALE TO DENY APPEAL

1. The BCC did not “eliminate” the backyards from the requesting Brentwood owners. Even if one were to exclude the 35 foot natural vegetation buffer and pretend that the 35 feet is not part of these Brentwood lots, each one of these lots has a larger backyard than the other Brentwood lots.
2. There was never any “unintentional” consequence to the County Commission’s actions. The 35 foot natural vegetation buffer was an agreed compromise between the Kilgore Road residents, the developer, and the County Commission.
3. Thus, the 35 foot natural buffer was absolutely and expressly an agreed condition and each of the requesting Brentwood lot owners knew about the requirement when they acquired their property. It is a condition of the Brentwood Club R-1AA zoning, it is expressly reflected on their plats, it is set forth in their declaration of covenants and restrictions, and the plat is referenced in their deeds.

4. The 35 foot natural vegetation buffer was already a compromise when Brentwood Club was zoned and platted.
5. Incompatible with Comprehensive Plan Policies 8.1.1 and 8.2.1 and Objective 8.2, as compatibility is the fundamental required consideration.
6. Kilgore Road zoning is R-CE and Brentwood Club zoning is R-1AA making the adjacent zonings incompatible with one another thus, requiring the 35-foot natural vegetation buffer to maintain rural characteristics.
7. Each of the requesting Brentwood lots are between 198 feet and 243 deep, most of which are approximately 200 feet deep, averaging 60 feet more than the other Brentwood lots that average 140 feet deep.
8. These Brentwood owners' lot depths are approximately 25% larger than the other lots in Brentwood while the other lots in the subdivision are 1/3-acre lots. Therefore, these 21 Brentwood lots were platted and made extra-large and deep to accommodate the 35 foot buffer.

9. No change in circumstances since 1989 – thus, the 35-foot buffer is still required to maintain compatibility.

10. The Kilgore Road Residents purchased lots in reliance on this condition and provides an intrinsic value to their respective lots AND the Kilgore Road Residents gave up their right to appeal in exchange for these conditions.

11. If approved, this will set a precedent for other subdivisions to request the removal of buffers.

12. The Orange County Planning and Zoning Commission recommended denial of the rezoning and we respectfully request that you do so and deny the requested change to the plat.

Request **DENIAL** of the
Rezoning Appeal and
Preliminary Subdivision Plan
regarding applicant's request to
reduce or eliminate the
required 35-foot natural
vegetation buffer.

John Smogor Analysis:

The Comp Plan supports providing for compatibility:

FLU Policy 8.1.1 specifies that R-CE is not allowed in the USA boundary. The existing R-CE was approved in 1967, prior to the adoption of the Comp Plan, and is grandfathered-in. Therefore the R-1AA was incompatible with the existing R-CE. That is why staff in 1989 recommended that the lots along the west would have to meet the R-CE site and building requirements. As a compromise between the Developer and the R-CE property owners, the conditions were negotiated and adopted.

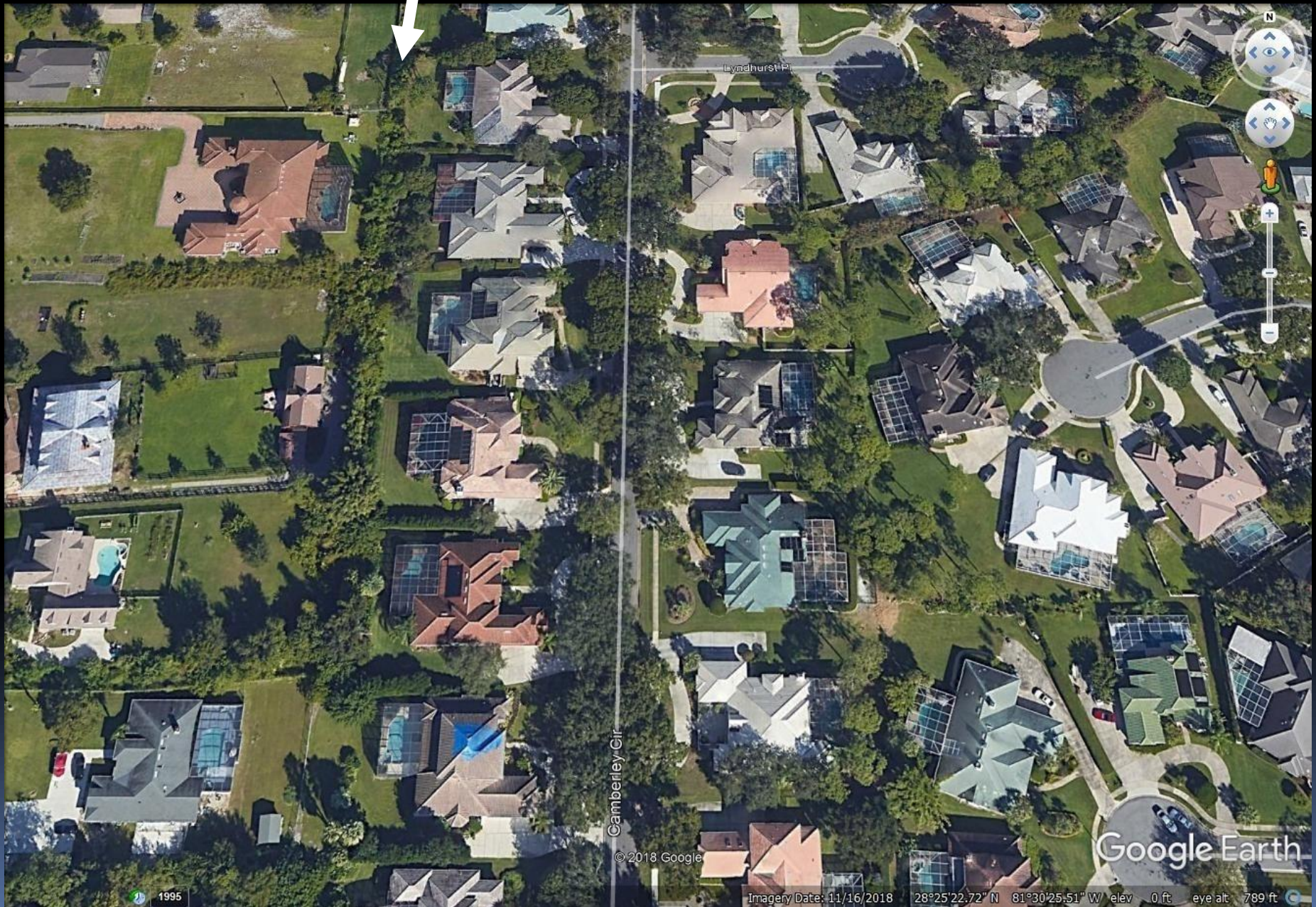
FLU Policy 8.2.1 requires that land use changes shall be compatible with existing development. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility.

OBL FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

We represent 17 of 21 homeowners along Kilgore Road:

Sherri Fragomeni
Ronald Hartog
Gary Gentry
Marguerite Gentry
Paul Vissers
Elise Vissers
George E. Smith
Barbara Sheridan
John Stephens
Laura Stephens
David Wilson
Wayne Murray
Priscilla Murray
John Link
Richard Citron
Mohammed Diab
Celestina Rojas

35-foot natural vegetation buffer



**Rezoning Brentwood Club to remove the 35-foot
buffer is inconsistent with the County's
Comprehensive Plan and therefore illegal:**

Over 30 years ago, the BCC made the finding that the 35-foot natural vegetation buffer and shadowbox fence conditions were necessary to meet the County's Comprehensive Plan compatibility requirements. Policy FLU 8.2.1 requires land use changes to be compatible with existing development. Objective FLU 8.2 requires compatibility to be the fundamental consideration in all land uses and zoning decisions.

The July 1989 BCC approval for the Brentwood Club R-1AA zoning is an agreement benefiting the Kilgore Road Residents and each of the Brentwood Club houses. Approving the current rezoning request is a breach of such agreement.

The development records for Brentwood Club are clear that the 1989 zoning approval containing the 35-foot natural vegetation buffer and shadowbox fence conditions were and are for the benefit of the Kilgore Road Residents and was a requirement to allow Brentwood Club to develop. The BCC imposed requirements to maintain the rural characteristics consistent with the R-CE zoning while allowing the R-1AA lots to be approved and homes to be developed. In return, **the Kilgore Road Residents gave up their rights to challenge the 1989 zoning approval, which is now time barred.**

The County's prior actions supports the agreement reached in 1989. The County has consistently treated the BCC's 1989 zoning approval as an agreement.

In a letter from a representative of the Kilgore Road Residents to then Commissioner Vera Carter dated June 18, 1990, the representative stated that the June 12, 1989 zoning approval is a "legal agreement reached between residents of Kilgore Road and the Board of County Commissioners," and requesting the BCC enforce the 35 feet natural vegetation buffer condition.

In another letter to County staff dated August 10, 1990, the damage to the 35-foot natural vegetation buffer was addressed and that such damage be repaired to restore such buffer.

Applicant's Change in Arguments:

Original rezoning request based on health and safety concerns due to wildlife corridor and “varmints” invading the lot owners’ backyards.

P&Z recommended denial of the rezoning, resulting in the applicant’s appeal.

On the applicant’s appeal form, the applicant states the 35-foot natural vegetation buffer was an “Unintentional Consequence” imposed by the BCC.