

Item # 54

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Orange Boulevard Rezone From A-1 to R-1A

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Dan Matthys **CONTACT:** Tony Walter **EXT.** 7375

<b>Agenda Date</b> <u>9/27/05</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/>
<b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>

**MOTION/RECOMMENDATION:**

1. APPROVE the request to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District) with a minimum house size of 3,000 square feet of living space and a voluntary commitment for a maximum of 8 lots; (Anthony Nasko, Applicant); or
2. APPROVE the request to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1 (Single-Family Dwelling District); (Anthony Nasko, Applicant); or
3. DENY the request to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District); (Anthony Nasko, applicant); or
4. CONTINUE the public hearing until a time and date certain.

District 5 – Comm. Carey

Tony Walter, Planning Manager

**BACKGROUND:**

The applicant, Anthony Nasko, originally requested to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1 (Single-Family Dwelling District). Subsequently the applicant withdrew that request and now requests a rezone to R-1A based on staff's recommendation that R-1 is not compatible. The requested zoning to R-1A allows lots with a minimum size of 9,000 square feet and lot width of 75 feet. The future land use designation of the subject property is LDR (Low Density Residential), which permits a maximum density of four (4) dwelling units per acre.

<b>Reviewed by:</b> <b>Co Atty:</b> <u>KR</u> <b>DFS:</b> _____ <b>Other:</b> _____ <b>DCM:</b> _____ <b>CM:</b> _____ <b>File No.</b> <u>ph130pdp04</u>
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Section 30.1380.3 of the Land Development Code requires the application of the Weighted Method for Determining Single-Family Residential Compatibility in Residential Land Use. The analysis does not support the original request to rezone to R-1. The resulting weight of 8 corresponds to R-1A zoning, instead of the original request for R-1 zoning.

**PLANNING & ZONING COMMISSION RECOMMENDATION:**

At its meeting of August 3, 2005, the Planning & Zoning Commission unanimously (6 to 0) recommended approval of the request to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District) with a minimum house size of 3,000 square feet of living space and a voluntary commitment for a maximum of 8 lots.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District) with a minimum house size of 3,000 square feet of living space.

**Attachments:**

Staff Analysis  
Locator Map  
FLU/Zoning Map  
Plat Map  
Aerial map  
Ordinance  
Development Order  
Applicant's July 7, 2005 Letter  
LPA/P&Z Minutes

## ORANGE BOULEVARD REZONE A-1 TO R-1

REQUEST INFORMATION	
<b>APPLICANT</b>	Anthony Nasko
<b>PROPERTY OWNER</b>	Anthony Nasko & Ludmis Antonos
<b>REVISED REQUEST</b>	Rezone property from A-1 (Agriculture District) to R-1A (Single- Family Dwelling District)
<b>HEARING DATE (S)</b>	P&Z: August 3, 2005      BCC: September 27, 2005
<b>PARCEL ID</b>	16-19-30-5AB-0600-0070
<b>LOCATION</b>	The south side of Orange Boulevard and opposite Stargazer Terrace.
<b>FUTURE LAND USE</b>	LDR (Low Density Residential)
<b>FILE NUMBER</b>	Z2005-034
<b>COMMISSION DISTRICT</b>	#5 – Carey

### OVERVIEW

**Zoning Request:** The applicant, Anthony Nasko, originally requested to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1 (Single-Family Dwelling District). Subsequently the applicant withdrew that request and now requests a rezone to R-1A based on staff's recommendation that R-1 is not compatible. The requested zoning to R-1A allows lots with a minimum size of 9,000 square feet and lot width of 75 feet. The future land use district of the subject property is LDR (Low Density Residential), which permits a maximum density of four (4) dwelling units per acre. The minimum area regulations for the R-1A (Single-Family Dwelling Districts) are as follows:

A-1, R-1 and R-1A DISTRICT AREA REGULATIONS			
	A-1 (Existing)	R-1 (Original Request)	R-1A (Proposed)
Minimum Lot Size	1-Acre	8,400 Square Feet	9,000 Square Feet
Minimum House Size	N/A	700 Square Feet	3,000 Square Feet*
Minimum Width at Building Line	150 Feet	70 Feet	75 Feet
Front Yard Setback	50 Feet	25 Feet	25 Feet
Side Yard Setback	10 Feet	7.5 Feet	7.5 Feet
(Street) Side Yard Setback	50 Feet	25 Feet	25 Feet
Rear Yard Setback	30 Feet	30 Feet	30 Feet

\*The applicant has committed to a minimum house size of 3,000 square feet. The required minimum house size per the R-1A district is 1,100 square feet

Section 30.1380.3 of the Land Development Code requires the application of the Weighted Method for Determining Single-Family Residential Compatibility in Residential Land Use. The analysis does not support the requested rezone to R-1. The resulting

weight of 8 corresponds to R-1A zoning, instead of the original request for R-1 zoning. The calculations assign differing weights to the various districts according to permitted development intensities within those districts. For example, the R-1 district, with a minimum lot size of 8,400 square feet, has a weight factor of 9, while A-1, which requires one-acre lots, has a weight factor of 4. A-1 zoned properties in proximity to a proposed rezoning receive a base weight of 4, but additional points can be assigned if water, sewer, and paved roads are available, up to a maximum weight of 7. Weighting factors, together with the acreage of parcels within a 660-foot radius of the subject property, determine the "compatible" zoning for the subject property.

**Existing Land Uses:**

The future land use designation, zoning districts and existing uses for the subject and abutting properties are as follows:

	(North)			
	<b>SE</b> Single-Family <i>A-1</i>	<b>PD</b> Single-Family <i>PUD</i>	<b>PD</b> Single-Family <i>PUD</i>	
(West)	<b>PD</b> Single-Family <i>PUD</i>	<b>(SUBJECT PROPERTY)</b> <b>LDR</b> Vacant <i>A-1</i>	<b>MDR</b> Single-Family <i>R-AH</i>	(East)
	<b>PD</b> Single-Family <i>PUD</i>	<b>PD</b> Single-Family <i>PUD</i>	<b>PD</b> Single-Family <i>PUD</i>	
	(South)			

For more detailed information regarding zoning and land use, please refer to the attached maps.

**SITE ANALYSIS:**

**Facilities and Services:**

Adequate public facilities and services must be available concurrent with the impacts of development. The applicant submitted an Affidavit of Concurrency Review Deferral. At the time of subdivision review, the applicant is required to submit an application for concurrency review.

The following table depicts the impacts the proposed development has on public facilities:

Public Facilities	Existing Zoning (A-1)	Proposed Development*	Net Impact
Water (GPD)	1,400	2,800	1,400
Sewer (GPD)	1,400	2,800	1,400
Traffic (ADT)	38	76	38
Schools			
Elementary	1.0	2.0	1.0
Middle	1.0	1.0	0
High	1.0	1.0	0

\*Proposed development on straight zoning is based on maximum units permitted using gross acreages

The site is located in the Northwest Service Area, where water capacity for new development is limited. Capacity availability is determined during the concurrency process. There is a 12 inch water main and a 4-inch force main on the south side of Orange Boulevard.

A letter confirming utility capacity for potable and reclaimed water is required at the time of subdivision review, and approval of the proposed water service utility plan is required prior to the approval of final engineering plans.

**Transportation / Traffic:**

The property accesses Orange Boulevard to the north, which is classified as a minor collector with a level of service "A". Staff determined that the proposed access to the site should align with Stargazer Terrace to the north.

**Compliance with Environmental Regulations:**

A Conservation Easement dedicated to Seminole County is required over wetlands and required upland buffers at the time of subdivision approval. A mitigation plan for any proposed wetland impacts and a listed species survey must be submitted before final engineering approval.

**Compatibility with Surrounding Development:**

Staff conducted a lot size compatibility analysis, as required by Section 30.1380.3 of the Land Development Code and Policy 2.10 of the Vision 2020 Comprehensive Plan. The Weighted Method for Determining Single-Family Residential Compatibility supports the request for R-1A zoning.

**PLANNING & ZONING COMMISSION RECOMMENDATION:**

At its meeting of August 3, 2005, the Planning & Zoning Commission unanimously (6 to 0) recommended approval of the request to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District) with a minimum house size of 3,000 square feet and a voluntary commitment of a maximum of 8 lots.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the to rezone approximately 4.26 acres, located on the south side of Orange Boulevard and opposite Stargazer Terrace, from A-1 (Agriculture District) to R-1A (Single-Family Dwelling District) with a minimum house size of 3,000 square feet of living space.

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY; ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURE) ZONING CLASSIFICATION THE R-1A (SINGLE-FAMILY DWELLING DISTRICT) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. LEGISLATIVE FINDINGS.**

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled "Orange Boulevard Rezone."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. REZONINGS.** The zoning classification assigned to the following described property is changed from A-1 (Agriculture) to R-1A (Single-Family Dwelling District):

LOT 7, BLOCK 6 OF SANFORD FARMS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 127, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA

**Section 3. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this

Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**ORDINANCE NO. 2005-**

**SEMINOLE COUNTY, FLORIDA**

**Section 4. EFFECTIVE DATE.** A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon filing with the Department of State.

ENACTED this 27th day of September, 2005

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Carlton D. Henley  
Chairman

## **SEMINOLE COUNTY DEVELOPMENT ORDER**

On September 27, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

### **See Exhibit A attached**

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

### **FINDINGS OF FACT**

**Property Owner:** ANTHONY NASKO & LUDMILS ANTONOS JR.  
530 BELLTOWER AVE., SUITE B5  
DELTONA, FL 32725

**Project Name:** ORANGE BOULEVARD REZONE

#### **Requested Development Approval:**

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: TONY WALTER  
1101 East First Street  
Sanford, Florida 32771

## Order

### **NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
  - (a) A minimum house size of 3,000 square feet of living space.
  - (b) A voluntary commitment of a maximum of 8 lots.

(4) This Development Order touches and concerns the afore-described property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first above.

By: \_\_\_\_\_  
Carlton Henley, Chairman

STATE OF FLORIDA     )  
                                  )  
COUNTY OF SEMINOLE )

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public, in and for the County and State  
Aforementioned  
My Commission Expires:

Order

OWNER'S CONSENT AND COVENANT

COMES NOW, \_\_\_\_\_, the owner of the aforescribed property in this Development Order, on behalf of itself and its heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

STATE OF FLORIDA     )  
  )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

**EXHIBIT A**

**LEGAL DESCRIPTION**

**LOT 7, BLOCK 6 OF SANFORD FARMS, ACCORDING TO THE PLAT  
THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 127, OF THE  
PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA**



RECEIVED  
JUL 11 2005

July 7, 2005

Page 1 of 1

TO: SEMINOLE COUNTY GOVERNMENT  
1101 EAST FIRST STREET  
SANFORD FL 32771

RE: **PROJ# 05-2000011**  
"VIA FORESTA"  
4945 ORANGE AVENUE

*Original For File*

ATTN: Mr. EARNEST MCDONALD / BRIAN WALKER

Dear Sirs,  
Please, be advised that we are fully in agreement and would like to accept your recommendation for rezoning from A-1 to **R-1A**.  
At this time we would like you to concenter our application for rezoning to be for:  
Rezoning: A-1 to **R-1A** instead of R-1.

Best Regards,

**Anthony Nasko**  
Owner

*Orange Blvd Rezoning*

*0995 034*

MINUTES FOR THE SEMINOLE COUNTY LAND PLANNING AGENCY/PLANNING  
AND ZONING COMMISSION  
AUGUST 3, 2005

G. Orange Blvd. (4945) Rezone; Anthony Nasko and Ludmils Antonos, applicants; approximately 4.26 acres; rezone from A-1 (Agriculture District) to R-1A (Single Family Dwelling District); located on the south side of Orange Boulevard, opposite Stargazer Terrace. (Z2005-034)

Commissioner Carey – District 5

Tony Walter, Assistant Planning Manager

Tony Walter stated that the requested zoning is compatible with the low density future land use designation. Lots proposed will be 9,000 square feet, with a width at building line of 75 feet, and a minimum house size of 1,100 square feet. Staff recommendation was for a recommendation of approval of the request for R-1A zoning.

The applicant did not speak, but was in agreement with the staff recommendations.

Dr. Ira Schwartzberg spoke as a representative of Lake Forest. He said that there were 732 homes in Lake Forest. His neighborhood did not object to this project. They are concerned that the character of the new neighborhood be of the same standard as their homes. In addition, recent flooding has prompted concerns for proper drainage. He would also like an appropriate barrier between Lake Forest and the neighboring lots.

Jack Vetar said that he is concerned about the clear-cutting of the lots affecting the value of his home. He would like to preserve property values of existing surrounding homes and preserve the character of the neighborhood.

Cesar Toro of Stonebark Cove lives next door to the subject property. He stated that he is concerned about flooding of his property and wanted to see quality homes created to maintain property values. The subject lot has a lot of water on it.

Anthony Nesko stated that as the developer, he has proposed 8 homes. The price will be \$500,000.00 and up. They will have superior landscaping. The lots will be engineered to eliminate a drainage problem.

Commissioner Tucker asked about minimum requirements for the homes.

Mr. Nesko stated that minimum house size will be 3,500 square feet of living area, with 2 stories. Lot size will be 75 feet by 170 feet.

Commissioner Tucker asked if Mr. Nesko would commit to 8 lots and 3,000 square feet minimum living size.

Tony Walter stated that according to the Land Development Code, one can specify size.

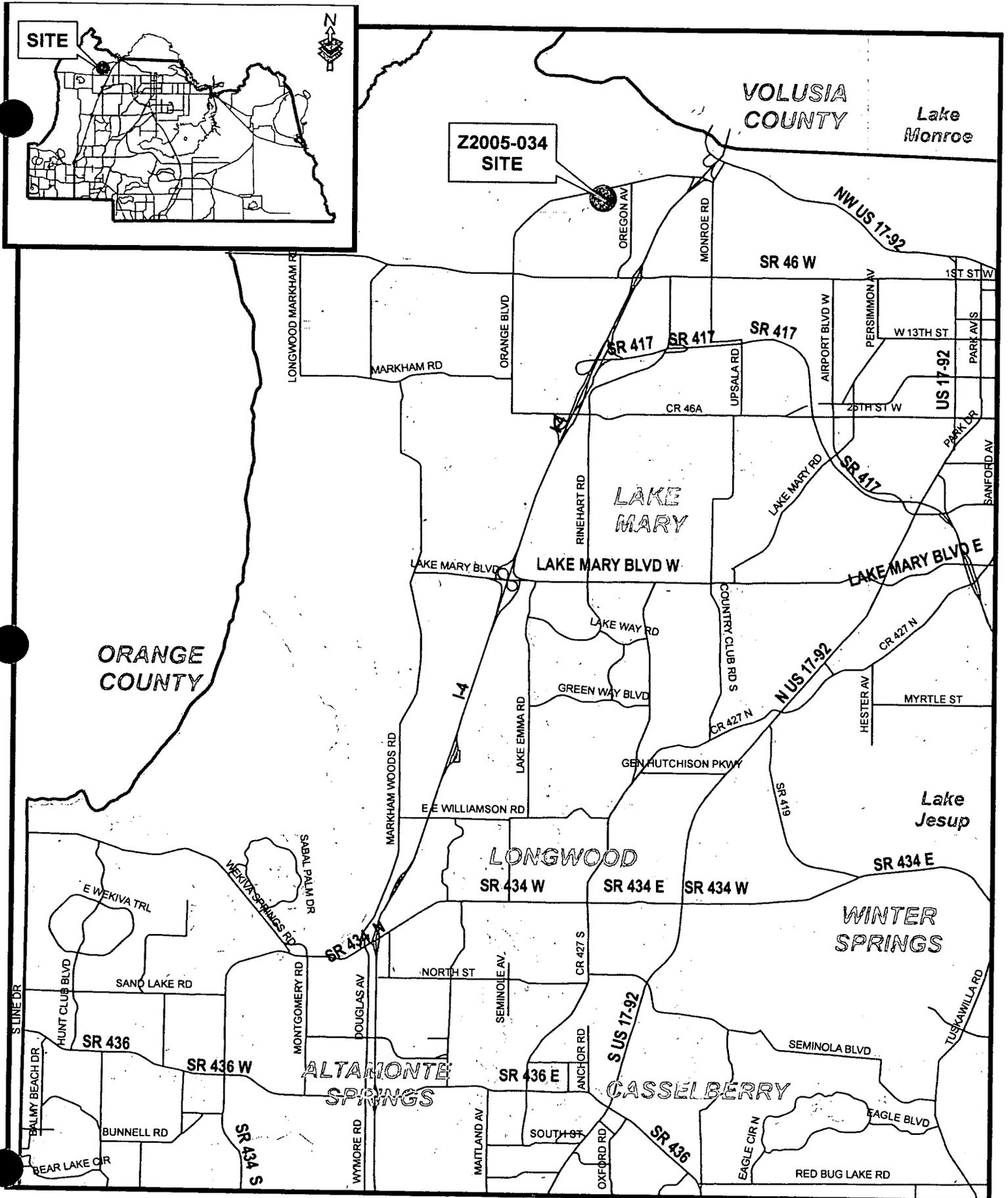
Mr. Nesko stated that he had no problem with 3,000 square feet.

Commissioner Harris stated that the Future Land Use map of the area indicates wetlands here, but the aerial does not show wetlands. He wondered if the lots had been built up. He said that this parcel is lower and will have to be built up to keep from flooding.

Commissioner Harris made a motion to recommend approval of the R-1A zoning with 8 lots and 3,000 square feet of living space.

Commissioner Eismann seconded the motion.

The motion passed unanimously.



SITE

Z2005-034  
SITE

VOLUSIA  
COUNTY

Lake  
Monroe

ORANGE  
COUNTY

LAKE  
MARY

LONGWOOD

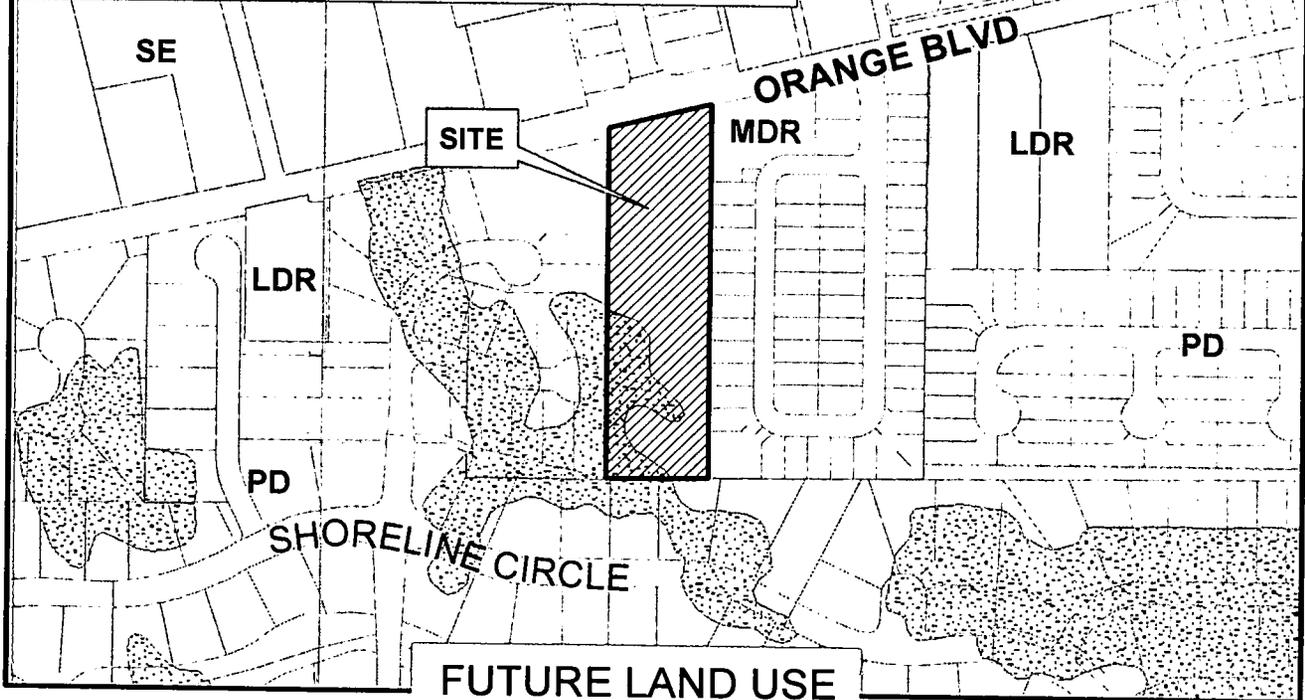
Lake  
Jesup

WINTER  
SPRINGS

ALTAMONTE  
SPRINGS

CASSELBERRY

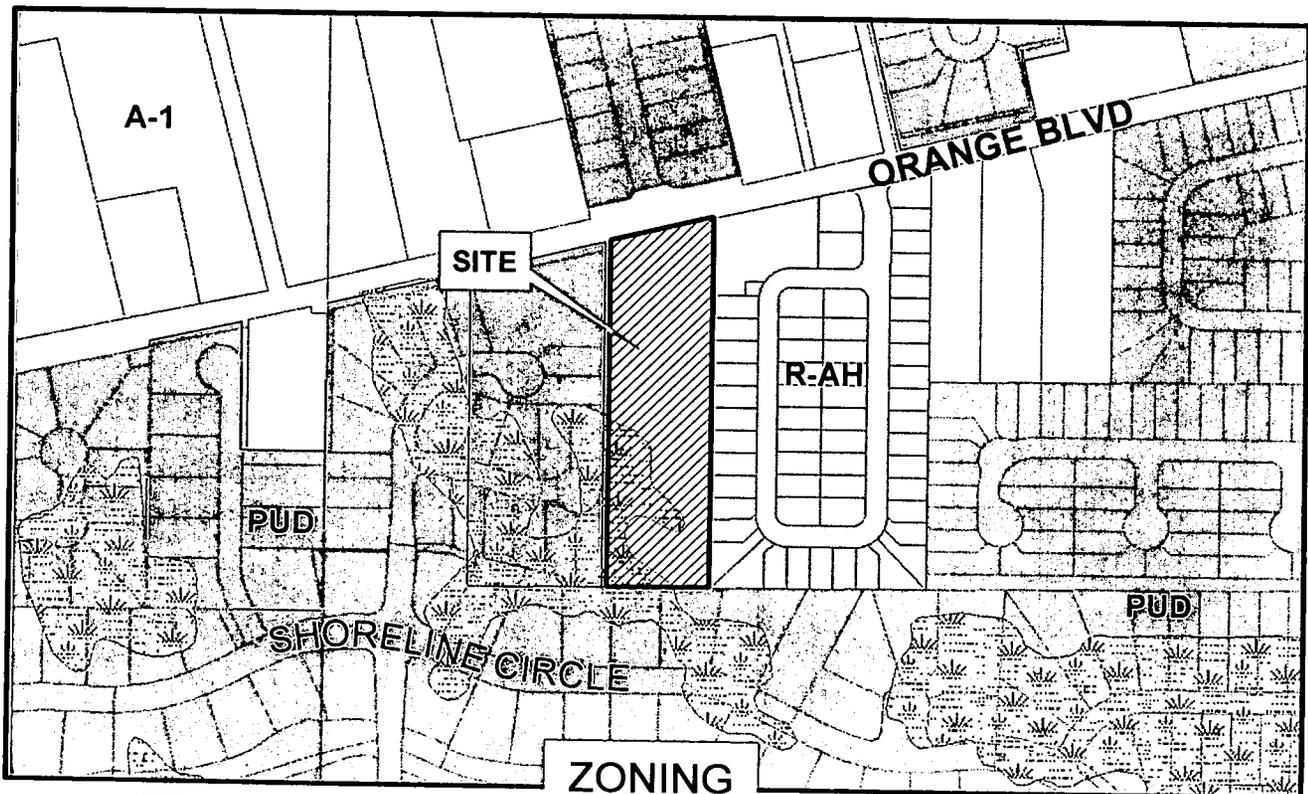
The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.  
 \*Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.  
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



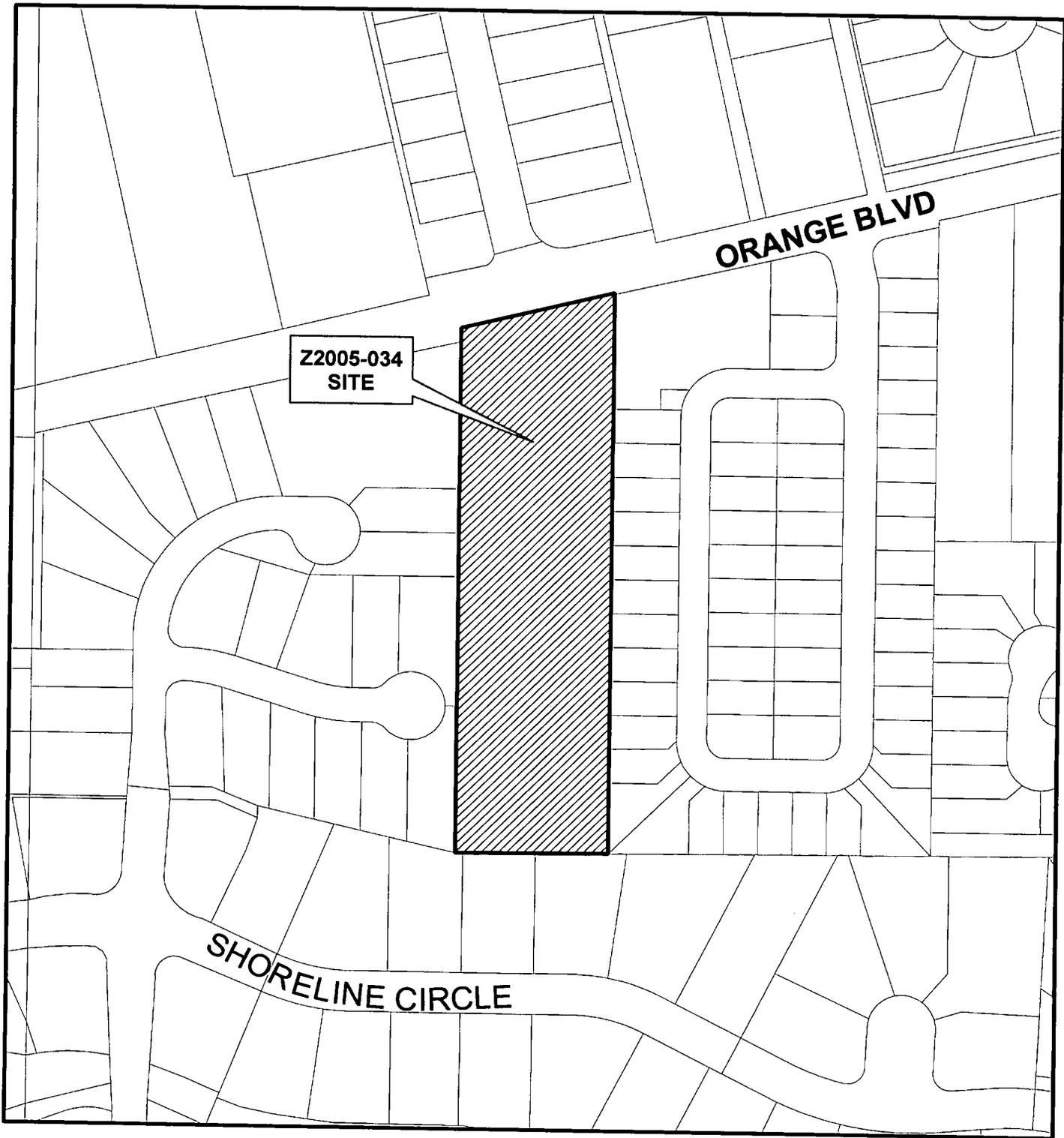
**FUTURE LAND USE**  
 [Hatched Box] Site [Stippled Box] Municipality [White Box] LDR [White Box] MDR [White Box] SE [White Box] PD [Stippled Box] CONS

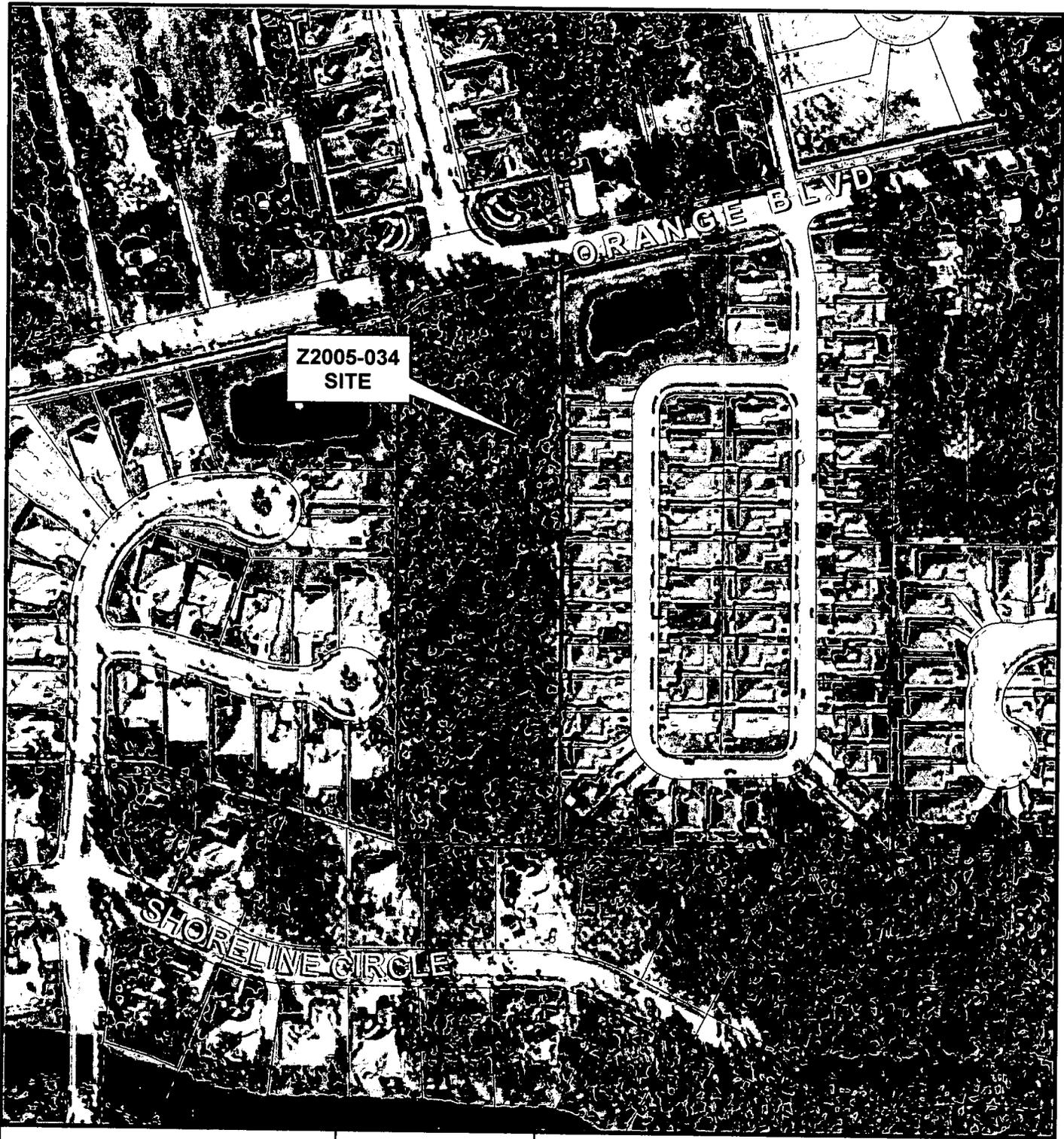
Applicant: Ludmils Antonos and Anthony Nasko  
 Physical STR: 16-19-30-5AB-0600-0070  
 Gross Acres: 4.08 BCC District: 5  
 Existing Use: Vacant  
 Special Notes: None

	Amend/ Rezoning#	From	To
FLU	ENTER NO.	FLU	FLU
Zoning	Z2005-34	A-1	R-1



**ZONING**  
 [Hatched Box] Site [White Box] A-1 [White Box] R-AH [White Box] PUD [Stippled Box] FP-1 [Patterned Box] W-1





Z2005-034  
SITE

Rezone No: Z2005-034

From: A-1 To: R-1

 Parcel

 Subject Property



January 2004 Color Aerials