

SEMINOLE COUNTY GOVERNMENT  
BOARD OF ADJUSTMENT  
AGENDA MEMORANDUM

**SUBJECT:** REQUEST FOR SPECIAL EXCEPTION TO PERMIT A RESTURANT TO SERVE BEER AND WINE WITHIN 1000 FEET OF A CHURCH; (RICHARD DE CANDIDO, APPLICANT).

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

**AUTHORIZED BY:** Kathy Fall **CONTACT:** Michael Rumer **EXT.** 7387

**Agenda Date** 07-25-05 **Regular**  **Consent**  **Public Hearing – 6:00**

**MOTION/RECOMMENDATION:**

1. **APPROVE** THE REQUEST FOR SPECIAL EXCEPTION TO PERMIT A RESTURANT TO SERVE BEER AND WINE WITHIN 1000 FEET OF A CHURCH; (RICHARD DE CANDIDIO, APPLICANT); OR
2. **DENY** THE REQUEST FOR SPECIAL EXCEPTION TO PERMIT A RESTURANT TO SERVE BEER AND WINE WITHIN 1000 FEET OF A CHURCH; (RICHARD DE CANDIDIO, APPLICANT); OR
3. **CONTINUE** THE REQUEST TO A TIME AND DATE CERTAIN.

<b>GENERAL INFORMATION</b>	APPLICANT: LOCATION: ZONING:	RICHARD DE CANDIDO 200 AVENUE C C-2 (RETAIL COMMERCIAL DISTRICT)
<b>BACKGROUND/REQUEST</b>	<ul style="list-style-type: none"> <li>• THE APPLICANT REQUESTS A SPECIAL EXCEPTION TO ALLOW THE INCIDENTAL SALE OF ALCOHOLIC BEVERAGES (BEER AND WINE) WITH MEALS IN A PROPOSED RESTAURANT THAT WOULD BE LOCATED APPROXIMATELY 716 FT FROM THE PROPERTY LINE OF AN EXISTING CHURCH.</li> </ul>	
<b>STAFF FINDINGS</b>	<ul style="list-style-type: none"> <li>• THE BOARD OF ADJUSTMENT MAY GRANT A SPECIAL EXCEPTION TO ALLOW A BONA FIDE RESTAURANT LOCATED WITHIN 1,000 FT OF A CHURCH OR SCHOOL TO SERVE ALCOHOLIC BEVERAGES WITH MEALS.</li> <li>• BASED ON REPRESENTATIONS OF THE APPLICANT, THE PLANNING MANAGER HAS DETERMINED THE PROPOSED USE TO BE A BONA FIDE RESTAURANT (WHERE A MAJORITY OF SALES AND PROFIT WOULD BE FROM THE SERVING OF MEALS AND NOT FROM THE SERVING OF ALCOHOLIC BEVERAGES).</li> </ul>	

	<ul style="list-style-type: none"><li>• THE PROPOSED SALE OF ALCOHOLIC BEVERAGES WOULD BE INCIDENTAL TO THE PRINCIPAL RESTAURANT USE AND WOULD NOT BE DETRIMENTAL TO THE CHARACTER OF THE AREA.</li><li>• THE PROPOSED USE WOULD NOT AFFECT TRAFFIC VOLUMES IN EXCESS OF WHAT THE EXISTING RESTAURANT WOULD GENERATE.</li><li>• THE PROPOSED USE WOULD BE CONSISTENT WITH THE COMPREHENSIVE PLAN'S DESIGNATION OF COMMERCIAL FUTURE LAND USE FOR THE SUBJECT PROPERTY AND SEVERAL ADJOINING PROPERTIES ALONG STATE ROAD 434.</li><li>• THE PROPOSED USE WOULD OTHERWISE BE PERMITTED IN THE C-1 ZONING DISTRICT IF BEYOND 1,000 FT OF THE EXISTING CHURCH.</li><li>• AS A BONA FIDE RESTAURANT, THE PROPOSED ESTABLISHMENT WILL NOT BE SUBJECT TO SEPARATION REQUIREMENTS FROM RESIDENTIAL PROPERTIES.</li></ul>
<b>STAFF RECOMMENDATION</b>	<ul style="list-style-type: none"><li>• BASED ON THE STATED FINDINGS, THE APPLICANT HAS SATISFIED THE CRITERIA FOR THE GRANTING OF A SPECIAL EXCEPTION.</li><li>• STAFF THEREBY RECOMMENDS THE BOARD OF ADJUSTMENT APPROVE THE REQUEST, SUBJECT TO THE FOLLOWING CONDITIONS:<ul style="list-style-type: none"><li>○ THE ESTABLISHMENT ON THIS PROPERTY SHALL BE A BONA FIDE RESTAURANT AS DEFINED BY THE SEMINOLE COUNTY LAND DEVELOPMENT CODE, WHERE A MAJORITY OF SALES AND PROFIT IS FROM THE SERVING OF MEALS AND NOT FROM THE SERVING OF ALCOHOLIC BEVERAGES AS DETERMINED BY THE PLANNING MANAGER; AND</li><li>○ THE PACKAGE SALE OF ALCOHOLIC BEVERAGES SHALL BE PROHIBITED, AND THE SALE OF ALCOHOLIC BEVERAGES SHALL BE PROHIBITED WHEN FOOD SERVICE IS NOT AVAILABLE.</li></ul></li></ul>



SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
 PLANNING DIVISION  
 1101 EAST FIRST STREET  
 SANFORD, FL 32771  
 (407) 665-7444 PHONE (407) 665-7385 FAX

**COPY**

APPL. NO. BS2005-007

**APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT**

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division. Applications for SPECIAL EXCEPTION shall only be received for processing following pre-application conference.

RECEIVED  
 JUN 03 2005

**APPLICATION TYPE:**

- VARIANCE**
- SPECIAL EXCEPTION** For the use of beer/wine as an accessory use to a restaurant.
- LIMITED USE**
- SF DWELLING UNDER CONSTRUCTION
- NIGHT WATCHMAN
- YEAR OF MOBILE HOME / RV (EXISTING \_\_\_\_\_) (PROPOSED \_\_\_\_\_)
- SIZE OF MOBILE HOME / RV \_\_\_\_\_
- PLAN TO BUILD  YES  NO IF SO, WHEN \_\_\_\_\_
- APPEAL FROM DECISION OF THE PLANNING MANAGER**

PROPERTY OWNER		AUTHORIZED AGENT *
NAME	<u>RABAN AHMAD, NASEN, TAPSE</u>	<u>RICHARD DE CANDIO</u>
ADDRESS	<u>200+210 AVE C GENEVA, FL 32739</u>	<u>407-234-2938</u>
PHONE 1		
PHONE 2		
E-MAIL		

PROJECT NAME: \_\_\_\_\_  
 SITE ADDRESS: 200 AVENUE C GENEVA  
 CURRENT USE OF PROPERTY: RESTAURANT  
 LEGAL DESCRIPTION: SEE ATTACHED

SIZE OF PROPERTY: \_\_\_\_\_ acre(s) PARCEL I.D. 21-20-32-504-0300-0160  
 UTILITIES: ● WATER ● WELL ○ SEWER ● SEPTIC TANK ○ OTHER \_\_\_\_\_  
 KNOWN CODE ENFORCEMENT VIOLATIONS NONE

IS PROPERTY ACCESSIBLE FOR INSPECTION  YES  NO  
 This request will be considered at the Board of Adjustment regular meeting on 7/25/05 (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.  
 \_\_\_\_\_  
 SIGNATURE OF OWNER OR AGENT\* 6/3/05  
DATE

**ADDITIONAL VARIANCES**

VARIANCE 2:  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE 3:  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE 4:  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE 5:  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE 6:  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE 7:  
\_\_\_\_\_  
\_\_\_\_\_

**APPEAL FROM BOA DECISION TO BCC**

APPELLANT INFORMATION	
NAME	_____
ADDRESS	_____
PHONE 1	_____
PHONE 2	_____
E-MAIL	_____

NATURE OF THE APPEAL \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

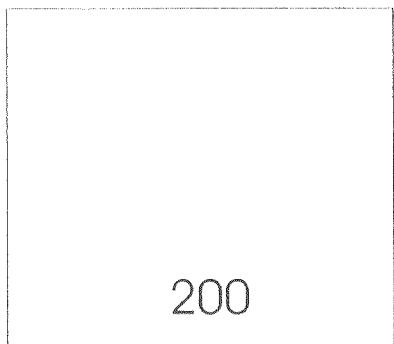
\_\_\_\_\_ APPELLANT SIGNATURE \_\_\_\_\_

**FOR OFFICE USE ONLY**

PROCESSING:  
FEE(S): 370.00 COMMISSION DISTRICT 2 FLU / ZONING C-2 / COM  
BCC HEARING DATE \_\_\_\_\_ (FOR APPEAL)  
LOCATION FURTHER DESCRIBED AS north of Avenue C at intersection  
of Avenue C & N Hart Rd.  
PLANNING ADVISOR Kathy Fall DATE 6-3-05  
SUFFICIENCY COMMENTS \_\_\_\_\_  
\_\_\_\_\_



Building 30'-0" Wide

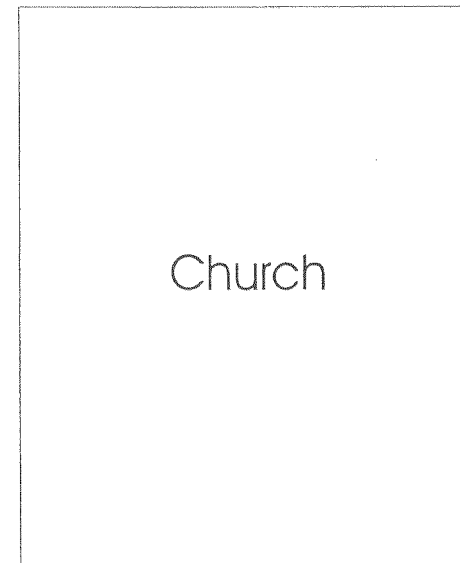


Bldg 30' 0" Deep

200

67' - 0"

2nd  
Street



Church

84' - 0"

Avenue "C"

Personal Property Please Select Account

<p><b>PARCEL DETAIL</b></p> <p>DAVID JOHNSON, CFA, ASA</p> <p><b>PROPERTY APPRAISER</b></p> <p>SEMINOLE COUNTY FL</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7508</p>																																																											
<p><b>GENERAL</b></p> <p>Parcel Id: 21-20-32-504-0300-0160 Tax District: 01-COUNTY-TX DIST 1</p> <p>Owner: RABAH AHMAD &amp; RABAH NASEN &amp; Exemptions: 00-HOMESTEAD</p> <p>Own/Addr: RABAH TAREK</p> <p>Address: 210 AVENUE C</p> <p>City,State,ZipCode: GENEVA FL 32732</p> <p>Property Address: 210 AVENUE C GENEVA 32732</p> <p>Facility Name:</p> <p>Dor: 12-COMM AND RES MIXED</p>		<p><b>2005 WORKING VALUE SUMMARY</b></p> <p>Value Method: Market</p> <p>Number of Buildings: 2</p> <p>Depreciated Bldg Value: \$98,839</p> <p>Depreciated EXFT Value: \$11,229</p> <p>* Land Value (Market): \$19,872</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$129,940</p> <p>Assessed Value (SOH): \$129,940</p> <p>Exempt Value: \$25,000</p> <p>Taxable Value: \$104,940</p> <p>Tax Estimator</p>																																																									
<p><b>SALES</b></p> <table border="1"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> </tr> </thead> <tbody> <tr> <td>QUIT CLAIM DEED</td> <td>12/1999</td> <td>03803</td> <td>0834</td> <td>\$120,000</td> <td>Improved</td> </tr> <tr> <td>QUIT CLAIM DEED</td> <td>03/1991</td> <td>02278</td> <td>0697</td> <td>\$100</td> <td>Improved</td> </tr> <tr> <td>QUIT CLAIM DEED</td> <td>03/1991</td> <td>02278</td> <td>0696</td> <td>\$39,800</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>04/1987</td> <td>01844</td> <td>0940</td> <td>\$150,000</td> <td>Improved</td> </tr> <tr> <td>QUIT CLAIM DEED</td> <td>01/1977</td> <td>01415</td> <td>1967</td> <td>\$100</td> <td>Vacant</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1975</td> <td>01067</td> <td>1734</td> <td>\$26,500</td> <td>Improved</td> </tr> </tbody> </table> <p>Find Comparable Sales within this DOR Code</p>		Deed	Date	Book	Page	Amount	Vac/Imp	QUIT CLAIM DEED	12/1999	03803	0834	\$120,000	Improved	QUIT CLAIM DEED	03/1991	02278	0697	\$100	Improved	QUIT CLAIM DEED	03/1991	02278	0696	\$39,800	Improved	WARRANTY DEED	04/1987	01844	0940	\$150,000	Improved	QUIT CLAIM DEED	01/1977	01415	1967	\$100	Vacant	WARRANTY DEED	01/1975	01067	1734	\$26,500	Improved	<p><b>2004 VALUE SUMMARY</b></p> <p>Tax Value(without SOH): \$1,781</p> <p>2004 Tax Bill Amount: \$1,766</p> <p>Save Our Homes (SOH) Savings: \$15</p> <p>2004 Taxable Value: \$104,473</p> <p>DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>															
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Richard De Cardido  
 200 Avenue C  
 Geneva, FL 32732



**Seminole County Board of Adjustment**  
 July 25, 2005  
 Case: BS2005-007  
 Parcel No: 21-20-32-504-0300-0160

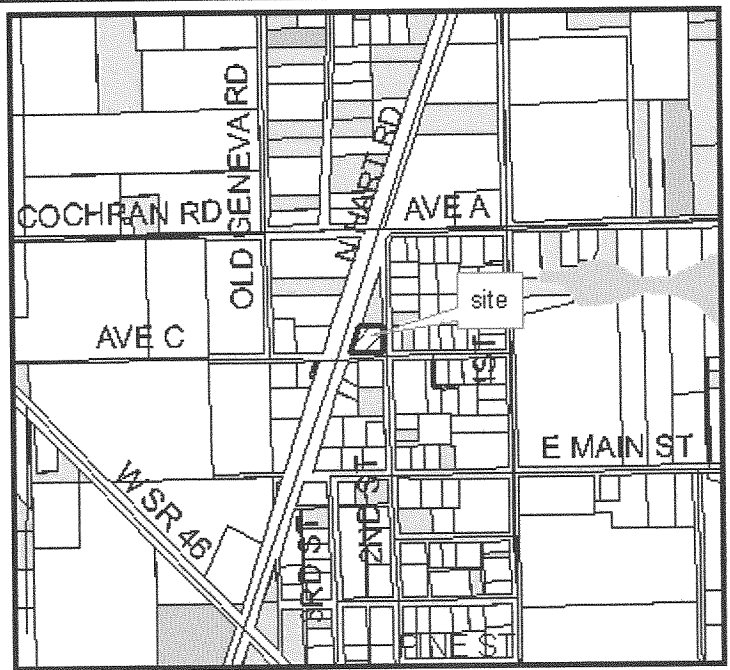
**Zoning**

- A-1 Agricultural-1Ac
- A-5 Rural-5Ac
- R-1 Single Fam-8400
- C-2 Retail Commercial
- M-1 Industrial

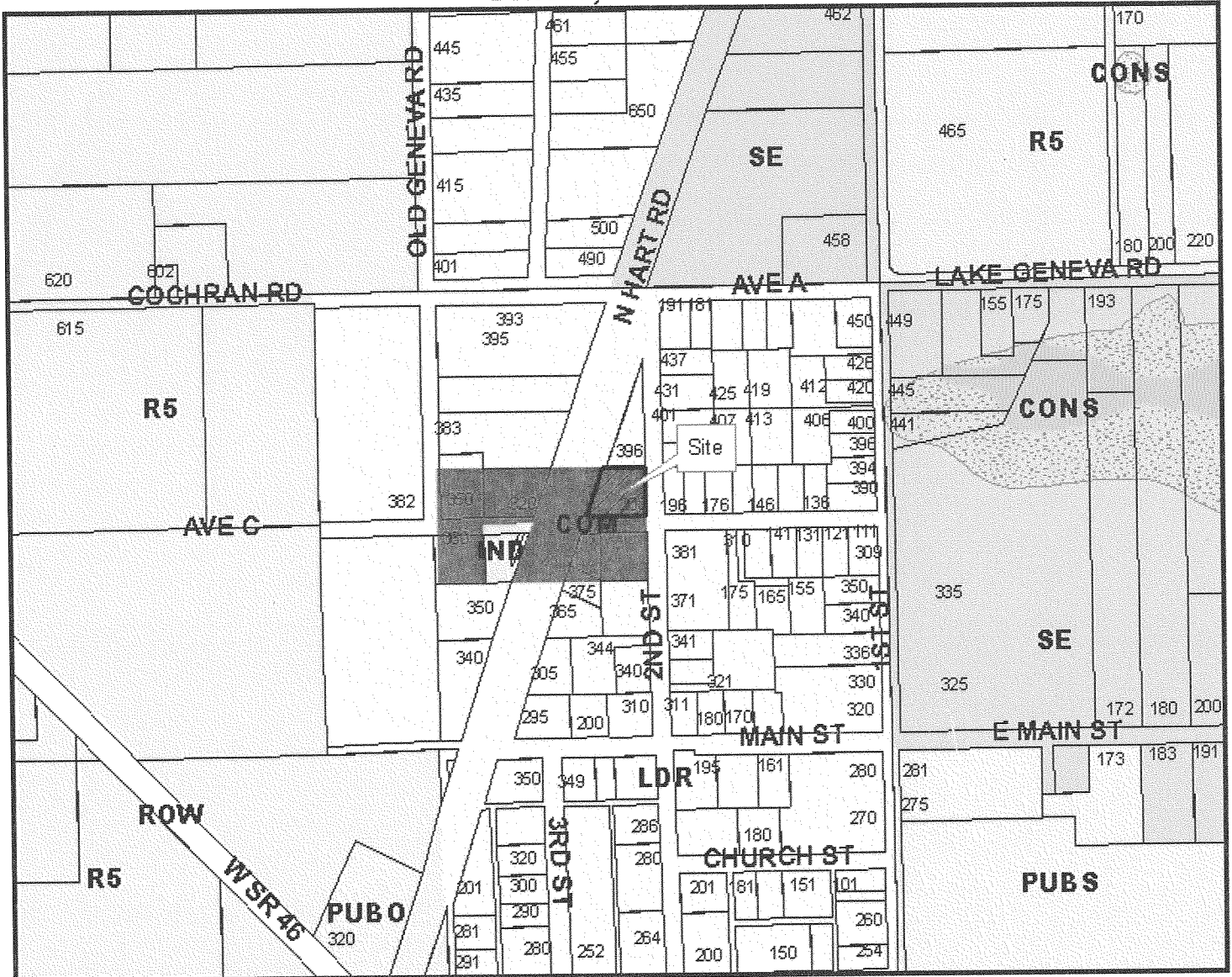
**Parcel Use**

- All Other Values
- Vacant Residential
- Single Family Residential
- Mobile Home
- BS2005-007

0 95 190 380 570 760 Feet



Richard De Cardido  
 200 Avenue C  
 Geneva, FL 32732

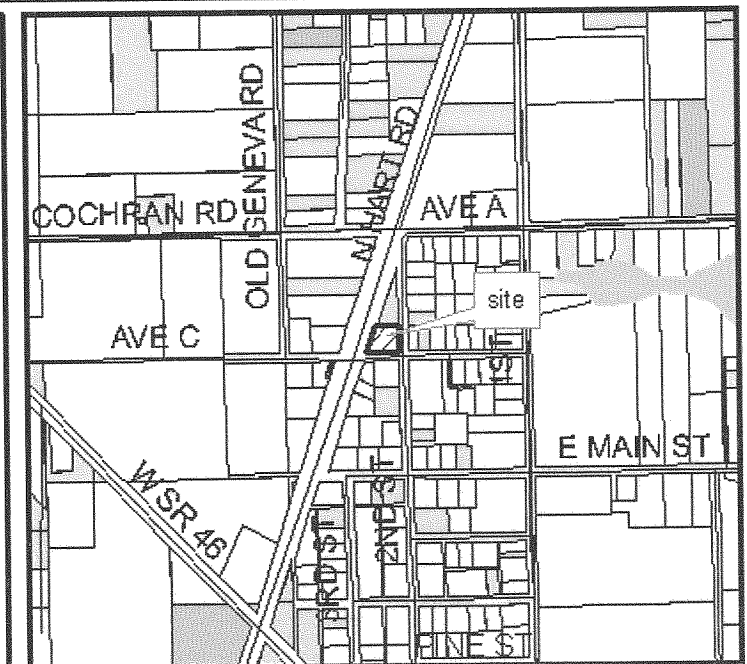


Seminole County Board of Adjustment  
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**Future Land Use**

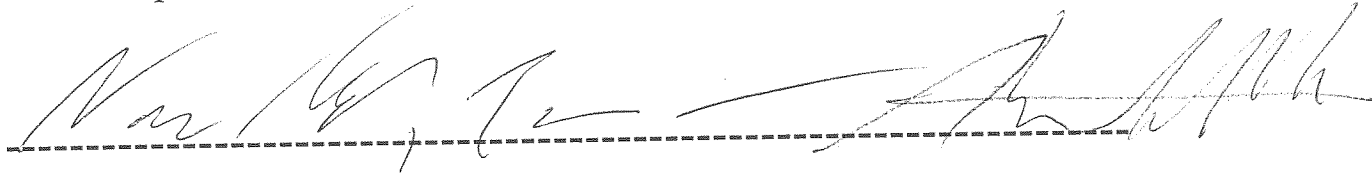
	CONS, SE	<b>Parcel Use</b>		All Other Values
	CONS, R5			Vacant Residential
	PUBO, NONE			Single Family Residential
	PUBS, NONE			Mobile Home
	R5, NONE			BS2005-007
	SE, NONE			
	LDR, NONE			
	COM, NONE			
	IND, NONE			

0 95 190 380 570 760 Feet



TO: Seminole County Planning & Development Department  
From Owners: Ahmad Rabah, Nasen Rabah, & Tarek Rabah

We the owners and lessors of the property, Parcel Id: 21-20-32-504-0300-0160, the restaurant located at 200 Avenue C, Geneva Florida 32732 give our authorization to Torelli's Gourmet Foods, LLC and Richard De Candido the lessee to obtain a special exception and licence for the sale and consumption of alcoholic beverages on this property.

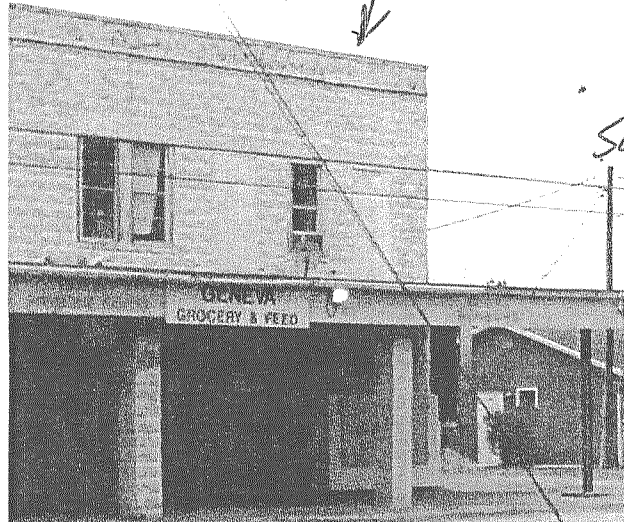
Handwritten signatures of the owners, Ahmad Rabah, Nasen Rabah, and Tarek Rabah, written in black ink above a dashed line.

Signature of Owners

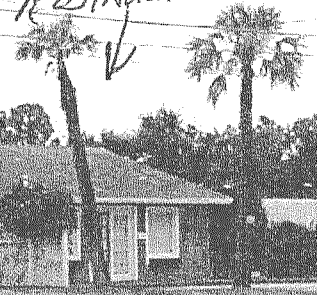
7/8/05  
Date



GROCERY & FEED STORE  
WITH BEER & WINE  
↓



SUBJECT  
RESTAURANT  
↓



CHURCH



AVENUE C





2ND ST

AVE C

STOP









**SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER**

On July 25, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LOTS 16 17 18 & 19 & S ½ OF ALLEY ABUTTING ON N BLK 3 GENEVA  
PB 2 PG 12

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

**FINDINGS OF FACT**

**Property Owner:** AHMAD & NASEN RABAH  
210 AVENUE C  
GENEVA, FL 32732

**Requested Development Approval:**

1. Special Exception to allow a bona-fide restaurant with incidental sales of alcoholic beverages within 1,000 feet of a church.

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: Michael Rumer  
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) THE ESTABLISHMENT ON THIS PROPERTY SHALL BE A BONA FIDE RESTAURANT AS DEFINED BY THE SEMINOLE COUNTY LAND DEVELOPMENT CODE, WHERE A MAJORITY OF SALES AND PROFIT IS FROM THE SERVING OF MEALS AND NOT FROM THE SERVING OF ALCOHOLIC BEVERAGES AS DETERMINED BY THE PLANNING MANAGER; AND
- b) THE PACKAGE SALE OF ALCOHOLIC BEVERAGES SHALL BE PROHIBITED, AND THE SALE OF ALCOHOLIC BEVERAGES SHALL BE PROHIBITED WHEN FOOD SERVICE IS NOT AVAILABLE.

(4) This Development Order touches and concerns the aforescribed 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 written above.**

By: \_\_\_\_\_  
Matthew West  
Planning Manager

**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 Matthew West who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
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: