ITEM #_____

SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM

SUBJECT: Denberg Commercial Center Small Scale Future Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and rezone from A-1 (Agriculture) to C-1 (Retail Commercial)

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

AUTHORIZED BY: Alison Stettner AS **CONTACT:** Austin Watkins EXT. 7440

Agenda Date 5/7/2008 **Regular** ☐ **Work Session** ☐ **Briefing** ☐
Special Hearing – 6:00 ☐ **Public Hearing – 7:00** ☒

MOTION/RECOMMENDATION:

1. **RECOMMEND DENIAL** of a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a rezone from A-1 (Agriculture) to C-1 (Retail Commercial), for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road, based on staff findings (Joseph and Sheri Denberg, applicant); or

2. **RECOMMEND APPROVAL** of a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a rezone from A-1 (Agriculture) to C-1 (Retail Commercial), for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road (Joseph and Sheri Denberg, applicant); or

3. **CONTINUE** the public hearing until a time and date certain.

District 3 – Commissioner Dallari Austin Watkins, Senior Planner

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BACKGROUND:

The applicant is requesting a Small Scale Future Land Use Amendment (SSLUA) from LDR (Low Density Residential) to COM (Commercial) and a rezone from A-1 (Agriculture) to C-1 (Retail Commercial). The request COM Future Land Use designation (FLU)

Reviewed by:
Co Atty: DGS
DFS:_____
OTHER:_____
DCM:_____
CM: _____

File No. Z2008-5

will allow for the requested C-1 zoning classification. The applicant intends on developing a commercial use on the subject property.

STAFF RECOMMENDATION:

Staff recommends DENIAL of a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a Rezone from A-1 (Agriculture) to C-1 (Retail Commercial), for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road.

Attachments:

Staff Analysis
Location Map
Zoning and Future Land Use Map
Aerial Map
Denial Development Order
SSLUA Ordinance
Rezone Ordinance
Applicant's Justification Statement

Denberg Commercial Center SSLUA from LDR to COM and Rezone from A-1 to C-1		
APPLICANT	Joseph and Sheri Denberg	
PROPERTY OWNER	Joseph and Sheri Denberg	
REQUEST	Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a Rezone from A-1 (Agriculture) to C-1 (Retail Commercial)	
PROPERTY SIZE	4.51 ± acres	
HEARING DATE (S)	P&Z: May 7, 2008	BCC: June 24, 2008
PARCEL ID	07-21-29-300-022B-0000	
LOCATION	Southeast corner of Palomino Way and Red Bug Lake Road	
FUTURE LAND USE	LDR(Low Density Residential)	
ZONING	A-1 (Agriculture)	
FILE NUMBER	Z2008-5	
COMMISSION DISTRICT	#1 – Dallari	

CONSISTENCY WITH THE VISION 2020 COMPREHENSIVE PLAN:

FLU Element Plan Amendment Review Criteria:

The Future Land Use Element in the Comprehensive Plan lays out certain criteria that proposed future land use amendments must be evaluated against. Because this is a small scale Future Land Use amendment with localized impacts, an individual site compatibility analysis is required utilizing the following criteria:

A. Whether the character of the surrounding area has changed enough to warrant a different land use designation being assigned to the property.

Staff Evaluation

Red Bug Lake Road has transitioned to a commercial corridor. This is evident by Oviedo Marketplace Development of Regional Impact / Planned Unit Development and the CA Stone Planned Commercial Development. The CA Stone PCD is directly west of the subject property. The Oviedo Marketplace PUD is northwest of the subject property. Both Planned Developments allow for a variety of commercial uses. Additionally, other strip commercial developments have been approved near or adjacent to SR 417.

B. Whether public facilities and services will be available concurrent with the impacts of development at adopted levels of service.

C. Whether the site will be able to comply with flood prone regulations, wetland regulations and all other adopted development regulations.

D. Whether the proposal adheres to other special provisions of law (e.g., the Wekiva River Protection Act).

Staff Evaluation

The development will have to undergo Concurrency Review prior to Final Engineering approval and must meet all Concurrency standards in order to proceed.

The site will have to comply with all Land Development Regulations regarding development in and around wetland and floodplain areas at the time of Final Engineering. However, there appears to be no wetlands or flood prone areas on the subject property

The subject property is not located within any special or restrictive district.

E. Whether the proposed use is compatible with surrounding development in terms of community impacts and adopted design standards of the Land Development Code.

Staff Evaluation

The subject property is adjacent to Low Density Residential FLU to the south, east and west. The request is for a Commercial FLU and a C-1 zoning classification. This request does not take into account any additional design standards or limitations on uses. This lack of transitioning of land uses, sensitive site design and limitations on uses does not allow for a compatible transition of land uses. The CA Stone PCD, which is adjacent to this property and similar in nature has extensive limitations on uses, such as limitations on the operating hours from 7 a.m. until 11 p.m., restaurants may only be located on the eastern portion of the property with no outdoor seating and cannot be drive-thru or fast food, retention ponds must be designed as amenities, parking shall be located to the side and rear where feasible, and other various other design standards and development conditions were implemented. Due to the nature of the Commercial FLU, there cannot be additional sensitive site design standards, unless the property is rezoned to PUD or PCD and this application is for C-1. Therefore, Staff finds that this proposal does not create a compatible transitional land use, due to the lack of sensitive site design standards.

F. Whether the proposed use furthers the public interest by providing:

1. **Sites for public facilities or facility improvements in excess of requirements likely to arise from development of the site**

2. **Dedications or contributions in excess of Land Development Code requirements**

3. **Affordable housing**

4. **Economic development**

5. **Reduction in transportation impacts on area-wide roads**

6. **Mass transit**

Staff Evaluation

The applicant is not proposing any additional facility improvements above and beyond requirements of the Seminole County Land Development Code. The applicant's proposal does not consider affordable housing, economic development, mass transit, nor reduction in transportation impacts.

G. Whether the proposed land use designation is consistent with any other applicable Plan policies, the Strategic Regional Policy Plan and the State Comprehensive Plan.

The following are other applicable Vision 2020 Policies and Exhibits and staff's evaluation:

Policy FLU 5.3: Strip Commercial Development

To discourage the proliferation of urban sprawl, the County shall not designate additional strip commercial development through Plan amendments. Instead, commercial and retail uses shall be:

A. Located adjacent to collector and arterial roadway intersections to maintain road capacity and not set a precedent for further strip development; or

Staff Evaluation

The subject property is located approximately 200 feet from the intersection of Red Bug Lake Road and Slavia Road. Red Bug Lake Road is classified as an arterial roadway and Slavia Road is classified as a collector road by the Seminole County Public Works Department. The site is not located at one of the three corners of the arterial and collector roadway intersection points.

However, the CA Stone PCD (west of the subject property) is the current demarcation line for commercial uses along the Red Bug Lake Corridor. Therefore, Staff finds that this will not set a precedent for further westward strip commercial development.

B. Located where commercial uses are the predominant existing use along the roadway in both directions from the site and, therefore, the proposed development represents infill development; or

Staff Evaluation

The CA Stone PCD is directly west of the property and is being developed with primarily C-1 uses. To the east is a vacant piece of property assigned the Low Density Residential FLU, north is the Oviedo Marketplace PUD. On the north side of Red Bug Lake Road similar conditions exist with commercial and office as the predominant use. This property represents an infill commercial development along the Red Bug Lake Road corridor.

C. Located within a mixed use planned development to provide convenient retail services and reduce residential traffic on area roadways; or

Staff Evaluation
The subject property is not located within a mixed use planned development.

D. Located adjacent to residential areas only where compatibility with the residential area can be maintained in order to preserve viability and community character.

Staff Evaluation
Staff finds that the proposed Commercial FLU and C-1 zoning classification does not allow for compatibility between the existing single-family subdivision to the south and the Low Density Residential FLU to the south and west. The proposed uses are consistent with the Community/Regional Commercial uses, as defined by the Seminole County Comprehensive Plan. This not an appropriate or transitional land use, according to *Exhibit FLU: Appropriate Transitional Land Uses.* Additionally, Commercial FLU may have more severe impacts on the community character of the existing single-family subdivisions to the south versus a Planned Development FLU.

Policy FLU 2.5: Transitional Land Uses

The County shall evaluate Plan amendments to ensure that transitional land uses are provided as a buffer between residential and nonresidential uses, between varying intensities of residential uses and in managing redevelopment of areas no longer appropriate as viable residential areas. *Exhibit FLU: Appropriate Transitional Land Uses* is to be used in determining appropriate transitional uses.

Staff Evaluation

Exhibit FLU: Appropriate Transitional Land Uses in the Future Land Use Element is used as a guide in evaluating compatibility between proposed and adjacent land uses. According to *Exhibit FLU: Appropriate Transitional Lands Uses* the Commercial FLU is not an appropriate transitional land use when adjacent to the Low Density FLU. Only Neighborhood Commercial, when utilizing sensitive site design standards, may be compatible adjacent to the Low Density Residential FLU. This request does not meet the definition of Neighborhood Commercial, per the Seminole County Comprehensive Plan.

ANALYSIS OVERVIEW:

ZONING REQUEST

The following tables depict the minimum regulations for the current zoning district of OP (Office) and the requested district of PUD (Planned Unit Development):

DISTRICT REGULATIONS	Existing Zoning (A-1)
Minimum Lot Size	1-acre
Minimum House Size	N/A
Minimum Width at Building Line	150 feet
Front Yard Setback	50 feet
Side Yard Setback	10 feet
(Street) Side Yard Setback	50 feet
Rear Yard Setback	30 feet
Maximum Building Height	35 feet
DISTRICT REGULATIONS	**Proposed Zoning (C-1)**
Minimum Lot Size	N/A
Minimum House Size	N/A
Minimum Width at Building Line	N/A
Front Yard Setback	25 feet
Side Yard Setback	0 feet*
(Street) Side Yard Setback	25 feet
Rear Yard Setback	10 feet*
Maximum Building Height	35 feet

* Unless adjacent to residential

PERMITTED & SPECIAL EXCEPTION USES

The following table depicts the permitted and special exception uses within the existing and proposed zoning districts:

Uses	A-1 (existing)	C-1 (proposed)
Permitted Uses	Single-family detached, agricultural uses such as citrus or other fruit crops cultivation, production and horticulture, truck farms, plant nurseries and greenhouses not involved with retail sales to the general public, silva culture, public and private elementary schools, publicly owned and/or controlled parks and recreation areas, bait production, stables, barns, single-family dwelling and customary accessory uses including one (1) guesthouse or cottage, docks and boathouses, churches and structures appurtenant thereto, community residential homes (group homes and foster care facilities) housing six (6) or fewer permanent unrelated residents.	Any uses permitted in the CS District, amusement and commercial recreation within an enclosed building, appliance stores, bakeries, where all goods are sold on premises at retail, banks, churches, day nurseries, kindergartens, employment agencies, funeral homes, furniture stores, hardware stores, launderettes and Laundromats, pet stores, plant nurseries, private clubs and lodges, quick print shops, radio and television broadcasting studios, excluding towers, radio and television sales and services, restaurants, but not drive-in, theatres, but not drive-in, multifamily housing-such as condominiums, apartments and townhouses of medium to high density. Density and design criteria must conform to the standards for properties assigned the R-3 zoning classification, above-store or above-office flats, dry cleaners utilizing a Perman R308 dry cleaning machine or machine, found to be similar in nature by the Planning Manager, which provide dry cleaning services to only those customers bringing clothing and other materials to the site for service; provided, however, that this provision shall not apply to dry cleaning businesses with pick-up service or satellite facilities or to a dry cleaning plant, veterinary clinics with no overnight boarding except for animals being treated on the premises at the time of their boarding, communication towers when camouflage in design.
Special Exception Uses	Special Exception such as cemeteries and mausoleums, kennels including the commercial raising or breeding of dogs, hospitals, sanitariums and convalescent homes, veterinary clinics and assisted living facilities and group homes, public and private nursery schools, kindergartens, middle schools, high schools and colleges, public utility and service structures, fishing camps, marinas, gun clubs, or similar enterprises or clubs making use of land with nominal impacts to natural resources, privately owned and operated recreational facilities open to the paying public, such as athletic fields, stadium, racetracks, and speedways, golf driving ranges, riding stables, water plants, and sanitary landfill operations, off-street parking lots, farm worker housing, mobile homes, retail nurseries, landscaping contractors as an accessory use to a wholesale nursery or wholesale tree farm, communication towers, bed and breakfast establishments.	Alcoholic beverage establishments, public utility structures, gasoline pumps as an accessory use, living quarters, in conjunction with a commercial use, to be occupied by the owner or operator of the business or an employee, hospitals and nursing homes, all communication towers which are not permitted uses, parking of semi-tractor trailers and cargo trailer boxes in rural areas for the sale of feed, hay, or other agricultural products when such products are offered for retail sale from said trailer and when the trailer is located outside of the urban/rural boundary. Trailers must be mobile and used on an interim basis until exchanged for a like trailer.
Minimum Lot Size	1-Acre	N/A

COMPATIBILITY WITH SURROUNDING PROPERTIES

The proposed Future Land Use designation on the subject property is COM (Commercial) and the proposed zoning classification is C-1. The subject property is located adjacent to the Low Density Residential FLU. Additionally, the subject property

is located in an area that has the PUD or PCD zoning classification as the final form of development. The PUD zoning classification allows for sensitive site design standards, such as sufficient buffers, limited building heights, architectural controls, limited hours of operation, and limiting adjacent uses to passive and unobtrusive uses. This request does not take into account any sensitive site design standards and does not meet the definition of Neighborhood Commercial, as defined by the Seminole County Comprehensive Plan. *Exhibit FLU: Appropriate Transitional Lands Uses* indicates that the Commercial FLU is not an appropriate transitional land use adjacent to the Low Density Residential FLU.

Staff has reviewed the proposed Small Scale Land Use Amendment and rezone and determined that the proposed FLU and zoning is not consistent with the trend of development and not compatible with surrounding properties.

SITE ANALYSIS:

Floodplain Impacts:

Based on FIRM map with an effective date of 2007, there appears to be one-acre of floodplains on the subject property.

Wetland Impacts:

Based on preliminary aerial photo and County wetland map analysis, there appears to be no wetlands on the subject property.

Endangered and Threatened Wildlife:

Based on a preliminary analysis, there are endangered and threatened wildlife on the subject property. A listed species survey will be required prior to final engineering approval.

PUBLIC FACILITY IMPACTS

Rule 9J-5.0055(3), Florida Administrative Code, requires that adequate public facilities and services be available concurrent with the impacts of development. The applicant has elected to defer Concurrency Review at this time. The applicant will be required to undergo Concurrency Review prior to final engineering approval.

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

Public Facility	Existing Future Land Use (LDR)*	Proposed Land Use (COM) Calculated as General Retail / Shopping Center**	Net Impact
Water (GPD)	1,400	24,065	+22,665
Sewer (GPD)	1,200	18,049	+16,849
Traffic (ADT)	38	1,947	+1,909

** LDR calculated as 4 single family detached homes.*
***COM calculated at a .35 FAR*

Utilities:

The site is located in the Southeast Seminole County utility service area, and will be required to connect to public utilities. Seminole County has an 8-inch water main to a fire hydrant adjacent to the west property line. There is an 8-inch force main on the south side of Slavia Rd. and a 6-inch force main on the north side of Red Bug Lake Rd. The subject property is in the ten year master plan for reclaimed water. An alternative source for irrigation water, such as a shallow well, may be required until reclaimed water becomes available.

Transportation / Traffic:

The property proposes access onto Red Bug Lake Road, which is classified as an Arterial roadway. Red Bug Lake Road is currently operating at a level-of-service "C" and does not have improvements programmed in the County 5-year Capital Improvement Program.

Drainage:

The proposed project is located within the Howell Creek Drainage Basin, and does not have limited downstream capacity. The site will have to be designed to meet the pre-development rate of discharge for the 25-year, 24-hour storm event.

Public Safety:

The County Level-Of-Service standard for fire protection and rescue, per Policy PUB 2.1 of the Comprehensive Plan, is 5 minutes average response time. The nearest response unit to the subject property is Station #27, which is located at 5280 Red Bug Lake Road. Based on an average of two minutes per mile, the average response time to the subject property is less than 5 minutes.

Buffers and Sidewalks:

There is an existing 5-foot sidewalk along Red Bug Lake Road.

The subject property is adjacent to the Low Density Residential FLU to the south and west. Therefore, compliance with the Active/Passive buffers will be required at the time of site plan approval, per Section 30.1232 of the Seminole County Land Development Code.

APPLICABLE POLICIES:

FISCAL IMPACT ANALYSIS

This project does not warrant running the County Fiscal Impact Analysis Model.

SPECIAL DISTRICTS

The subject property is not located within any Overlay Districts.

COMPREHENSIVE PLAN (VISION 2020)

The County's Comprehensive Plan is designed to preserve and enhance the public health, safety and welfare through the management of growth, provision of adequate public services and the protection of natural resources.

The proposed project is consistent with the following list of policies (there may be other provisions of the Comprehensive Plan that apply that are not included in this list):

Policy FLU	2.5:	Transitional Land Uses
Policy FLU	5.3:	Strip Commercial Development
Policy FLU	12.4:	Relationship of Land Use to Zoning Classifications
Policy FLU	12.5:	Evaluation Criteria of Property Rights Assertions
Policy POT	4.5:	Potable Water Connection
Policy SAN	4.4:	Sanitary Sewer Connection
Policy PUB	2.1:	Public Safety Level-of-Service

INTERGOVERNMENTAL NOTIFICATION:

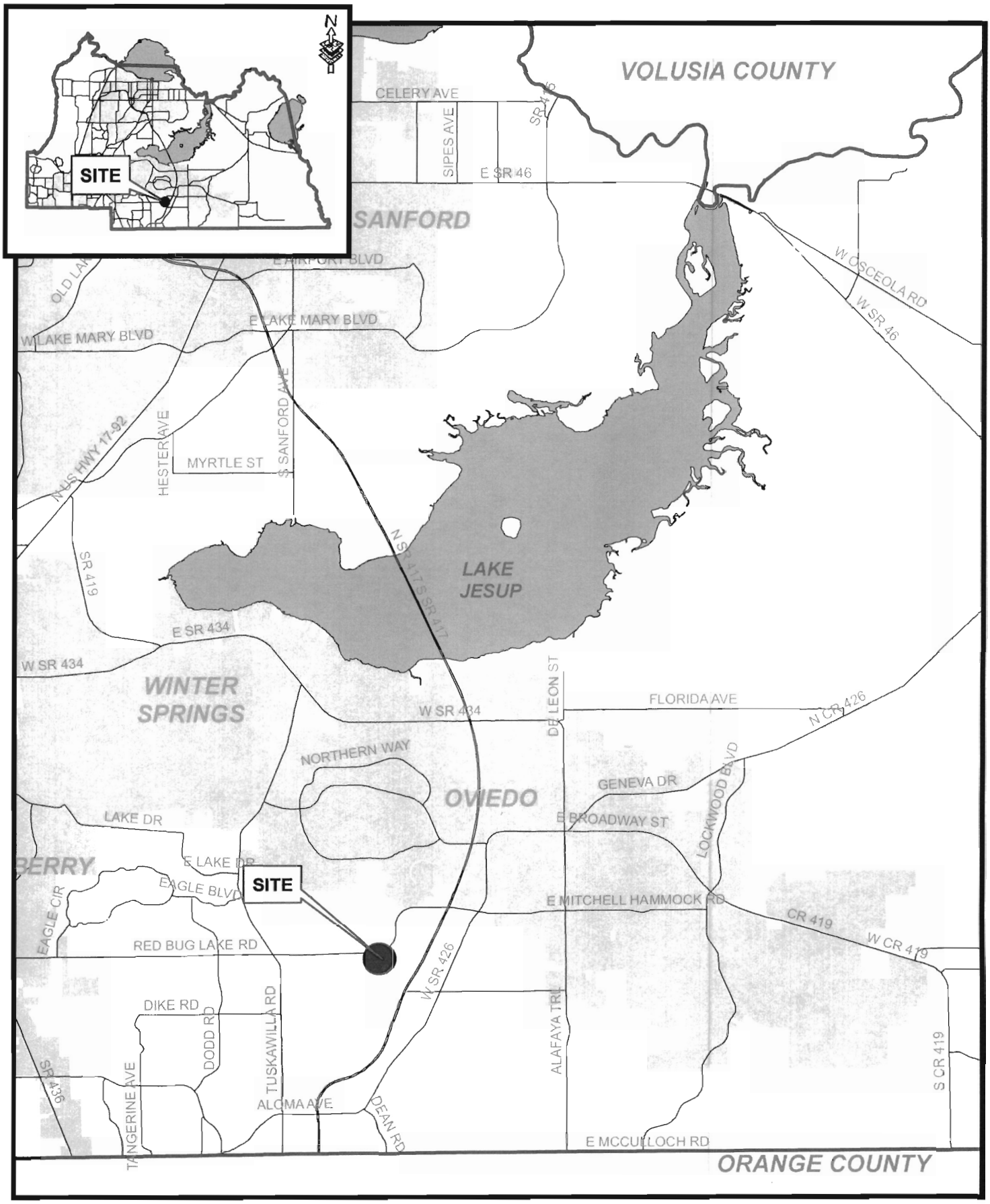
No intergovernmental notices were required.

LETTERS OF SUPPORT OR OPPOSITION:

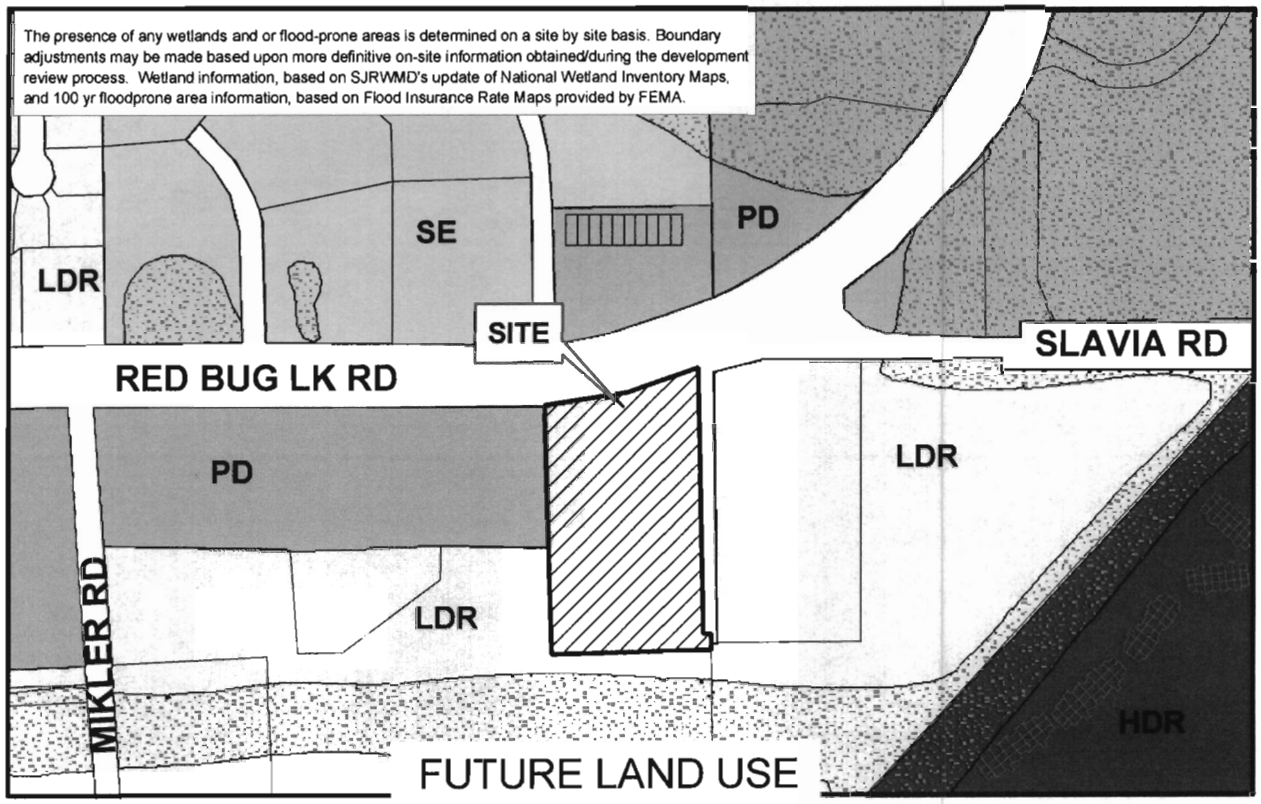
At this time, Staff has received no letters of support or opposition.

STAFF RECOMMENDATION:

Staff recommends DENIAL of a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a Rezone from A-1 (Agriculture) to C-1 (Retail Commercial), for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road.



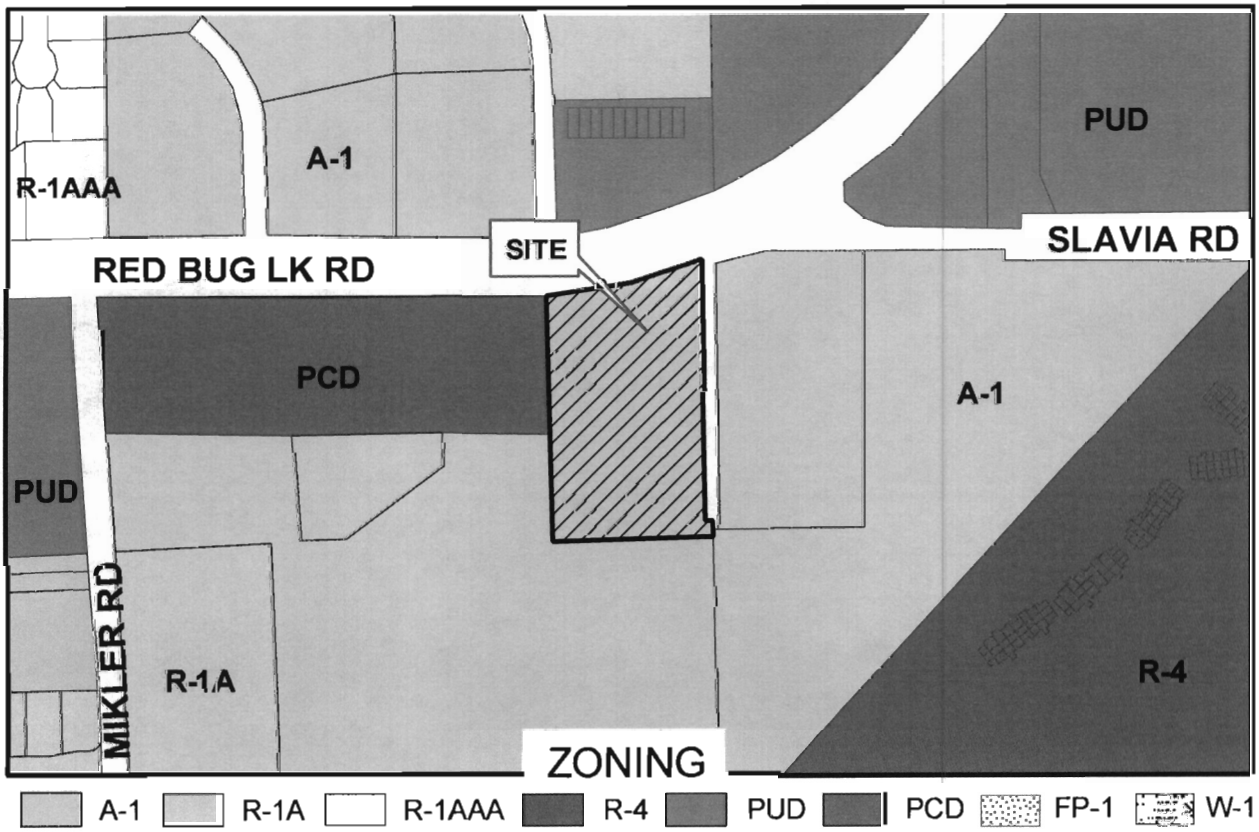
filename: L:/pl/projects/p&z/2008/GIS/staff_report_pkgs/sitemaps_large/Z2008-005 sitemap.mxd 04/16/08



Applicant: Bob Ziegenfuss
Physical STR: 16-21-31-5CA-0000-0830
Gross Acres: 4.71+/- BCC District: 1
Existing Use: vacant
Special Notes:

	Amend/ Rezone#	From	To
FLU	02-08SS.01	LDR	COM
Zoning	Z2008-005	A-1	C-1

N



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FLU No: 02-08SS.01
From:LDR To:COM
Rezone No: Z2008-05
From: A-1 To: C-1

Parcel
Subject Property

N

Winter 2006 Color Aerials

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SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On June 24, 2008, Seminole County issued this Denial Development Order relating to and touching and concerning the following property described in the attached legal description as Exhibit "A".

Property Owner(s): Joseph and Sheri Denberg

Project Name: Denberg Commercial Center SSLUA/Rezone

Requested Development Approval: The applicant is requesting a Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and a rezone for 4.51 ± acres located at the southeast corner of Palomino Way and Red Bug Lake Road, from A-1 (Agriculture) to C-1 (Retail Commercial).

The Board of County Commissioners has determined that the requested Small Scale Land Use Amendment to COM (Commercial) and associated rezone to C-1 (Retail Commercial) is not compatible with the surrounding area and could not be supported.

After fully considering staff analysis titled "Denberg Commercial Center SSLUA/Rezone" and all evidence submitted at the public hearing on June 24, 2008 , regarding this matter the Board of County Commissioners have found, determined and concluded that the requested Small Scale Land Use Amendment to COM and rezone to C-1 should be denied.

ORDER

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:
The aforementioned application for development approval is **DENIED**.
Done and Ordered on the date first written above.

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Brenda Carey, Chairman

EXHIBIT "A"

Legal Description

EAST ONE HALF OF LOT 83 AND NORTH 30 FEET OF EAST ONE HALF OF LOT 80, LESS THE ROAD RIGHT OF WAY TO THE NORTH OF LOT 83 KNOWN AS RED BUG LAKE ROAD, THE SLAVIA COLONY CO.S SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGE 71 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.
TOGETHER WITH THAT PORTION OF THE UNNAMED 30 FOOT RIGHT OF WAY LYING WEST OF AND ADJACENT TO LOT 69 AND EAST OF AND ADJACENT TO LOT 80. THE SLAVIA COLONY CO.S SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGE 71, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA. LESS AND EXCEPT LYING WITHIN 25 FEET OF THE SOUTH LOT LINES OF AFORESAID LOTS 69 AND 80, AS VACATED IN THE RESOLUTION RECORDED IN OFFICIAL RECORDS BOOK 3227, PAGE 488, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.
BEING MORE PARTICULARLY DESCRIBED AS:
BEGINNING AT A POINT OF COMMENCEMENT AT FOUND NAIL & DISC SEC ONE-QUARTER COR EAST, THENCE SOUTH 19 DEGREES 02 MINUETS 46 SECONDS WEST A DISTANCE OF 131.57 FEET TO A FOUND IRON ROD W/CAP LB68 AND THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 57 MINUETS 02 SECONDS EAST A DISTANCE OF 580.58 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE NORTH 88 DEGREES 30 MINUETS 48 SECONDS EAST A DISTANCE OF 15.00 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE SOUTH 00 DEGREES 57 MINUETS 02 SECONDS EAST A DISTANCE OF 30.00 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE SOUTH 88 DEGREES 30 MINUTES 48 SECONDS WEST A DISTANCE OF 351.31 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE NORTH 01 DEGREES 02 MINUET 50 SECONDS WEST A DISTANCE OF 556.78 FEET TO A FOUND HALF INCH IRON ROD W/CAP MCINTOSH LB68; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 110.15 FEET, WITH A RADIUS OF 1377.26 FEET, TO A FOUND HALF INCH IRON ROD W/CAP LB68 THENCE NORTH 78 DEGREES 43 MINUETS 37 SECONDS EAST A DISTANCE OF 231.95 FEET TO THE POINT OF BEGINNING.

ORDINANCE NO. 2008- **SEMINOLE COUNTY, FLORIDA**
Z2008-5

AN ORDINANCE FURTHER AMENDING ORDINANCE NUMBER 91-13, AS PREVIOUSLY AMENDED, KNOWN AS THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF SMALL SCALE DEVELOPMENT AMENDMENT (LEGAL DESCRIPTION IS SET FORTH AS AN APPENDIX TO THIS ORDINANCE); CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTY FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM THE SEMINOLE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County enacted Ordinance Number 91-13 which adopted the 1991 Seminole County Comprehensive Plan ("the Plan"), which Plan has been subsequently amended from time-to-time and in accordance with State law; and

WHEREAS, the Board of County Commissioners has followed the procedures set forth in Sections 163.3184 and 163.3187, Florida Statutes, in order to further amend certain provisions of the Plan as set forth herein relating to a Small Scale Development Amendment; and

WHEREAS, the Board of County Commissioners has substantially complied with the procedures set forth in the Implementation Element of the Plan regarding public participation; and

WHEREAS, the Seminole County Local Planning Agency held a Public Hearing, with all required public notice, on June 24, 2008, for the purpose of

providing recommendations to the Board of County Commissioners with regard to the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners held a Public Hearing on June 24, 2008, with all required public notice for the purpose of hearing and considering the recommendations and comments of the general public, the Local Planning Agency, other public agencies, and other jurisdictions prior to final action on the Plan amendment set forth herein; and

WHEREAS, the Board of County Commissioners hereby finds that the Plan, as amended by this Ordinance, is consistent and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, the State Comprehensive Plan, and the Comprehensive Regional Policy Plan of the East Central Florida Regional Planning Council.

NOW, THEREFORE, BE IN ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. RECITALS/LEGISLATIVE FINDINGS:

(a) The above recitals are true and correct and form and include legislative findings which are a material part of this Ordinance.

(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. AMENDMENT TO COUNTY COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:

(a) The Future Land Use Element's Future Land Use Map as set forth in Ordinance Number 91-13, as previously amended, is hereby further amended by amending the future land use designation assigned to the following property and which is depicted on the Future Land Use Map and further described in the attached Appendix "A" to this Ordinance:

(b) The associated rezoning request was completed by means of Ordinance Number 08-_____.

(c) The development of the property is subject to the development intensities and standards permitted by the overlay Conservation land use designation, Code requirements and other requirements of law.

Section 3. SEVERABILITY:

If any provision of this Ordinance or the application 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.

Section 4. EXCLUSION FROM COUNTY CODE/CODIFICATION:

(a) It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall not be codified into the Seminole County Code, but that the Code Codifier shall have liberal authority to codify this Ordinance as a separate document or as part of the Land Development Code of Seminole County in accordance with prior directions given to said Code Codifier.

(b) The Code Codifier is hereby granted broad and liberal authority to codify and edit the provisions of the Seminole County Comprehensive Plan, as amended.

Section 5. EFFECTIVE DATE:

(a) A certified copy of this Ordinance shall be provided to the Florida Department of State and the Florida Department of Community Affairs by the Clerk of the Board of County Commissioners in accordance with Section 125.66 and 163.3187, Florida Statutes.

(b) This ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however, that the effective date of the plan amendment set forth herein shall be thirty-one (31) days after the date of adoption by the Board of County Commissioners or, if challenged within thirty (30) days of adoption, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendment is in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent on an amendment may be issued or commence before an amendment has become

effective. If a final order of noncompliance is issued by the Administration Commission, the affected amendment may nevertheless be made effective by the Board of County Commissioners adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

ENACTED this 24th day of June, 2008.

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

By:_____

Brenda Carey, Chairman

APPENDIX A

LEGAL DESCRIPTION

EAST ONE HALF OF LOT 83 AND NORTH 30 FEET OF EAST ONE HALF OF LOT 80, LESS THE ROAD RIGHT OF WAY TO THE NORTH OF LOT 83 KNOWN AS RED BUG LAKE ROAD, THE SLAVIA COLONY CO.S SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGE 71 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

TOGETHER WITH THAT PORTION OF THE UNNAMED 30 FOOT RIGHT OF WAY LYING WEST OF AND ADJACENT TO LOT 69 AND EAST OF AND ADJACENT TO LOT 80. THE SLAVIA COLONY CO.S SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGE 71, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA. LESS AND EXCEPT LYING WITHIN 25 FEET OF THE SOUTH LOT LINES OF AFORESAID LOTS 69 AND 80, AS VACATED IN THE RESOLUTION RECORDED IN OFFICIAL RECORDS BOOK 3227, PAGE 488, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT A POINT OF COMMENCEMENT AT FOUND NAIL & DISC SEC ONE-QUARTER COR EAST, THENCE SOUTH 19 DEGREES 02 MINUETS 46 SECONDS WEST A DISTANCE OF 131.57 FEET TO A FOUND IRON ROD W/CAP LB68 AND THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 57 MINUETS 02 SECONDS EAST A DISTANCE OF 580.58 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE NORTH 88 DEGREES 30 MINUETS 48 SECONDS EAST A DISTANCE OF 15.00 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE SOUTH 00 DEGREES 57 MINUETS 02 SECONDS EAST A DISTANCE OF 30.00 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE SOUTH 88 DEGREES 30 MINUTES 48 SECONDS WEST A DISTANCE OF 351.31 FEET TO A FOUND HALF INCH IRON ROD W/CAP LB68; THENCE NORTH 01 DEGREES 02 MINUET 50 SECONDS WEST A DISTANCE OF 556.78 FEET TO A FOUND HALF INCH IRON ROD W/CAP MCINTOSH LB68; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 110.15 FEET, WITH A RADIUS OF 1377.26 FEET, TO A FOUND HALF INCH IRON ROD W/CAP LB68 THENCE NORTH 78 DEGREES 43 MINUETS 37 SECONDS EAST A DISTANCE OF 231.95 FEET TO THE POINT OF BEGINNING.

ORDINANCE NO. 2008-Z2008-5 **SEMINOLE COUNTY, FLORIDA**

AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURE) ZONING CLASSIFICATION THE C-1 (RETAIL COMMERCIAL) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM CODIFICATION; AND PROVIDING FOR 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 "Denberg Commercial Center SSLUA/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 C-1 (Retail Commercial):

SEE ATTACHED "EXHIBIT A"

Section 3. EXCLUSION FROM CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

Section 4. 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.

Section 5. 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 the date of filing with the Department and recording of Development Order #08-22000001.

ENACTED this 24th day of June 2008.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By:_____
Brenda Carey, Chairman

EXHIBIT "A"
LEGAL DESCRIPTION:

EAST ONE HALF OF LOT 83 AND NORTH 30 FEET OF EAST ONE HALF OF LOT 80, LESS THE ROAD RIGHT OF WAY TO THE NORTH OF LOT 83 KNOWN AS RED BUG LAKE ROAD, THE SLAVIA COLONY CO.S SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGE 71 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.
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Denberg Commercial Center
Small Scale Future Land Use Amendment
Proposed change from LDR to COM
Rezone from A-1 to C-1

This justification statement is provided in support of the application to amend the Future Land Use of the 4.5 acre tract located on the south side of Red Bug Road, just west of Slavia Road. The applicant is requesting to amend the Future Land Use from a low density residential to a commercial designation. We are also requesting to rezone the subject site from A-1 to C-1designation. There are several sections of the Vision 2020 Plan that are applicable to these requests.

- Issue FLU 1 – Concurrency Management
  - **The subject property will be serviced by public facilities with sufficient capacity for the intended use.**

- Issue FLU 4 – Urban Sprawl
  - **This section of the Vision 2020 Plan addresses the desire to limit urban sprawl which is defined as scattered and poorly planned development. This project is located in an area where commercial development is prevalent and the request is consistent with the development trends in the area. The request to change to C1 zoning will limit the use of the property to these approved C1 uses while providing useful goods and services to the residents in the area.**

- Objective FLU 2 – Protection of Residential Neighborhoods
  - **The subject property will adhere to all active buffering standards against adjacent residential properties. These buffers will contain appropriate landscape or other visual barriers to protect the adjacent residentially zoned properties. Based on the development trends of the area, we would expect that these properties will also be submitting similar requests in the future eliminating the need for such buffers.**

- Policy FLU 2.4 Neighborhood Commercial Uses
  The County may allow commercial Plan amendments in areas designated for residential uses only under the following conditions:

  A. Uses do not encourage urban sprawl;

  B. Uses are located at the intersection of a collector or arterial roadways and will not set a precedent for future strip commercialization;

  C. Development intensity is limited and designed to serve the needs of the immediate neighborhoods.

- **As mentioned previously, the proposed development does not contribute to urban sprawl as there are several commercial developments in the area including the Oviedo Market Place.**

- **The project is located just west of Slavia Road which is designated as a collector road by Seminole County.**

- **The request to only C1 uses will allow for the development to supply the necessary goods and services for the area with an intensity that will not affect the neighboring residential properties.**

- **The property owner is committed to develop the site responsibly and provide the necessary design elements to protect the neighboring residential properties.**

- Policy FLU 5.3 – Strip Commercial Development
  This policy addresses the discouragement of urban sprawl by requiring that commercial and retail development shall be required to:

  A) Be located adjacent to collector and arterial roadway intersections.

  - **The subject site is located near the intersection of Red Bug Lake Road and Slavia Road. Both of these roadways are classified as collectors.**

  B) Be located adjacent to other commercial uses in both directions.

  - **There are several other commercial developments both east and west of the subject property along Red Bug Lake Road.**

  C) Located within a mixed use planned development to provide convenient retail services for resident and reduce residential traffic on area roadways;

  - **Although this project is not located within a planned development, there are a sufficient number of residential developments in the area that will be served by these goods and services.**

  D) Located adjacent to residential areas only where compatibility with the residential area can be maintained in order to preserve neighborhood viability and community character.

  - **The subject site is located adjacent to residential property and will be compatible through the use of required buffers.**

- Objective FLU 8 – Utilities
  The county shall ensure the availability of suitable land for utility facilities to support new development.

  - **Sufficient utility service lines include a 6" sanitary sewer force main and an existing 16" water main.**

- Future Land Use Standard of Review

  - **The following is a list of the criteria to be evaluated with the request to amend the future land use map:**

  - **The character of this area has changed and was started with the construction of the Oviedo Market Place. Since that time, several commercial developments have been constructed in the vicinity of the subject property.**

  - **All public facilities necessary for the development of this project are available and have sufficient capacity for the project.**

  - **There are no other provisions of law that affect the subject property.**

  - **As mentioned previously, the area is in transition with several other commercial developments constructed recently.**

  - **The development of the site will have minimal impact on the facilities in the area.**