

ITEM #

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

**SUBJECT:** Howell Branch Road (1940) Rezone from RP (Residential Professional) to RP (Residential Professional).

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

**AUTHORIZED BY:** Alison Stettner **CONTACT:** Ian Sikonia EXT. 7398

<b>Agenda Date</b> <u>10/7/09</u>	<b>Regular</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Special Hearing – 6:00</b> <input type="checkbox"/>	<b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>	

**MOTION/RECOMMENDATION:**

1. **RECOMMEND APPROVAL** of the request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road, based on staff findings, (Pushpa Seth, applicant); or
2. **RECOMMEND DENIAL** of the request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road, (Pushpa Seth, applicant); or
3. **CONTINUE** the item to a time and date certain.

District 4 – Henley

Ian Sikonia, Senior Planner

**BACKGROUND:**

The applicant is requesting a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located at 1940 Howell Branch Road. This property was originally rezoned to the RP (Residential Professional) zoning district on March 13, 1984. The rezoning allowed for general businesses as permitted uses and required any medical or dental uses to be brought back to the Board of County Commissioners for approval. The applicant would like to utilize the existing structure as a medical office for her internal medicine practice. The

<b>Reviewed by:</b> _____
<b>Co Atty:</b> <u>KFT</u>
<b>DFS:</b> _____
<b>OTHER:</b> _____
<b>DCM:</b> _____
<b>CM:</b> _____
<b>File No.</b> <u>Z2009-16</u>

property consists of a 1,560 square foot single-family home that was converted to an office.

The applicant has attended the August 24, 2009 Board of Adjustment meeting and applied for two variances for side setbacks for the existing office. The variances are from 10' to 5' and 3.5' for the east and west side setbacks. The Board of Adjustment approved these variances due to the building being constructed in 1954, which predated the Seminole County Land Development Code. By approving this use as a medical office the Board of County Commissioners makes a finding that the use requested is not detrimental to the character of the area and is not incompatible with the concept of low intensity of land usage and site coverage and does not have an unduly adverse effect on existing traffic patterns, movements and intensity. (LDC 30.624(a) & 30.629)

**STAFF RECOMMENDATION:**

Staff recommends approval of the request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road.

Attachments:

Staff Analysis  
Location Map  
Future Land Use & Zoning Map  
Aerial Map  
Site Plan  
Development Order  
Rezone Ordinance  
Parking Agreement Letter  
Denial Development Order (applicable only if denied)  
Ownership Disclosure Form

<b>Howell Branch Road (1940) Rezone</b>		
<b>APPLICANT</b>	Pushpa Seth	
<b>PROPERTY OWNER</b>	FJK, LLC.	
<b>REQUEST</b>	Rezone from RP (Residential Professional) to RP (Residential Professional)	
<b>PROPERTY SIZE</b>	.24 acres	
<b>HEARING DATE (S)</b>	P&Z: October 7, 2009	BCC: November 10, 2009
<b>PARCEL ID</b>	33-21-30-504-0F00-0010	
<b>LOCATION</b>	Located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road.	
<b>FUTURE LAND USE</b>	Medium Density Residential (MDR)	
<b>ZONING</b>	RP (Residential Professional)	
<b>FILE NUMBER</b>	Z2009-16	
<b>COMMISSION DISTRICT</b>	#4 – Henley	

**ANALYSIS OVERVIEW:**

The following tables depict the minimum regulations for the current zoning district of RP (Residential Professional):

<b>DISTRICT REGULATIONS</b>	<b>Existing Zoning (RP)</b>	<b>Proposed Zoning (RP)</b>
Minimum Lot Size	N/A	N/A
Minimum House Size	N/A	N/A
Minimum Width at Building Line	N/A	N/A
Front Yard Setback	25 feet	25 feet
Side Yard Setback (West)	10 feet	3.5 feet
Side Yard Setback (East)	10 feet	5 feet
Rear Yard Setback	30 feet	30 feet
Maximum Building Height	35 feet	35 feet

**COMPATIBILITY WITH SURROUNDING PROPERTIES**

The surrounding properties consist of uses that include office and general business. The surrounding zoning districts consist of RP (Residential Professional), OP (Office), and R-1 (Single-Family Dwelling) zoning districts. The surrounding Future Land Use designations consist of Medium Density Residential, Low Density Residential, and Office. This property has frontage on Howell Branch Road which is a corridor consisting of commercial, office, and general business type uses. This property has been in use as a general business use since the rezone in 1984. Changing the use of this structure from general business to medical office would have minimal impact to the neighborhood and would not be out of character with the existing neighborhood or trend of development of the area. Staff feels the proposed rezone is consistent with the trend of development of the area and will provide a better mixture of services.

## **SITE ANALYSIS:**

### **ENVIRONMENTAL IMPACTS**

#### *Floodplain Impacts:*

Based on FIRM map, with an effective date of 2007, there appears to be no 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 not 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.

#### *Utilities:*

There is existing water service by the City of Casselberry from a 6-inch water main on the south side of Howell Branch Rd. The site will be utilizing a septic system for sewer service which is shown on the plan.

#### *Drainage:*

The proposed project is located within the Little Econlockhatchee Drainage Basin, and does not have limited downstream capacity. The site will have to be designed to meet the existing approved drainage design.

#### *Transportation / Traffic:*

The property proposes access onto Howell Branch Road, which is classified as a major collector roadway. Howell Branch Road has ongoing improvements which include the installation of handicap detectable warnings (Truncated Domes) for compliance with the American Disability Act. The project distance begins at S.R. 426, west to the County line. The projected ending date for all the improvements is scheduled for September 2009.

The RP zoning district requires that the Board of County Commissioners determine the acceptable amount of required parking for properties requesting this zoning district. The applicant is providing seven parking spaces on-site, located in the rear of the property. The Seminole County Land Development Code requires in a standard zoning district that this parcel have a minimum of 10 parking spaces provided on-site. However, since the RP zoning district specifically allows for the conversion of existing single-family homes into professional office buildings, some concessions must be made due to the limited lot area available on single-family home parcels. The applicant proposes to mitigate this impact by reserving three parking spaces for employees on a parcel of land to the west of this property. The applicant has submitted a letter signed by that property owner allowing for the parking to be utilized on their property. Staff feels that this medical office is relatively limited in size and is proposing parking mitigation which is compatible and will not cause a hardship to the surrounding property owners.

*School Impacts:*

The proposed use of the property as a medical office will not have any impact to the Seminole County Public School District.

*Parks, Recreation and Open Space:*

The applicant is required to provide 25% of the site in open space per Section 30.1344 of the Seminole County Land Development Code.

*Buffers and Sidewalks:*

There is an existing 5' sidewalk along the north and south side of Howell Branch Road. The applicant is proposing to buffer the south and east property lines by planting 2 canopy trees, 3 sub-canopy trees, and a viburnum hedge to supplement the existing landscaping on the site.

**APPLICABLE POLICIES:**

**SPECIAL DISTRICTS**

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

**COMPREHENSIVE PLAN**

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.

- Policy FLU 17.4: Relationship of Land Use to Zoning Classifications
- Policy FLU 17.5: Evaluation Criteria of Property Rights Assertions
- Policy FLU 2.6: Conversion of Residential Structures

**INTERGOVERNMENTAL NOTIFICATION:**

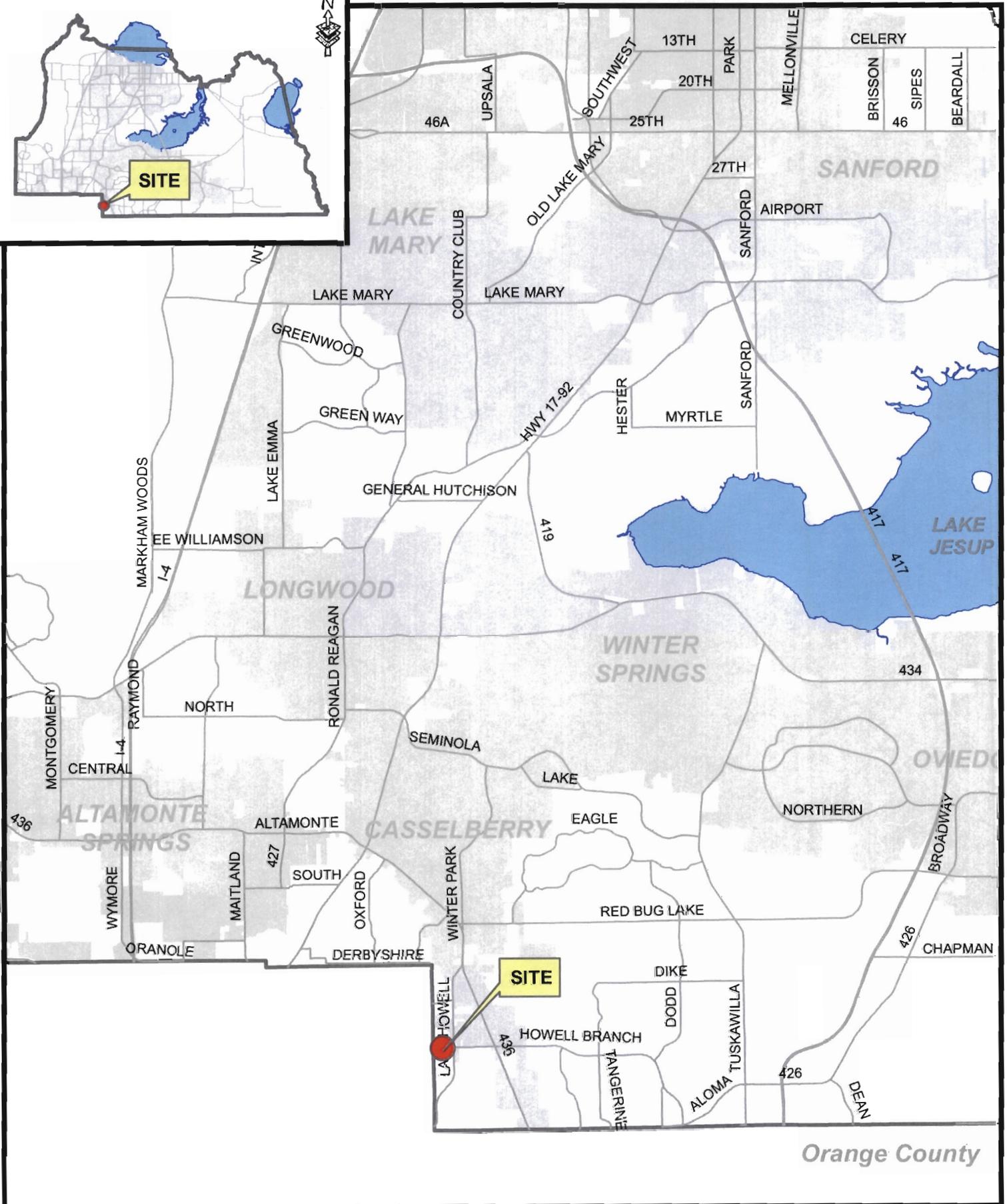
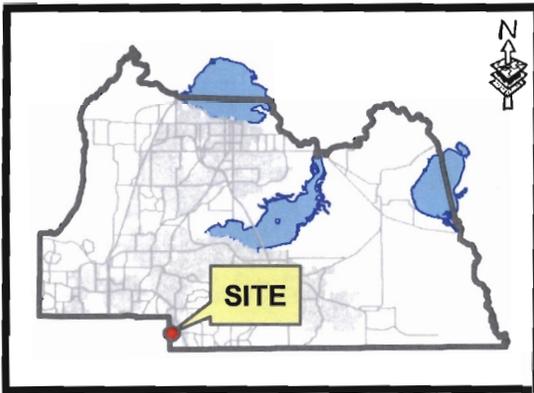
No intergovernmental notices were required for this project.

**LETTERS OF SUPPORT OR OPPOSITION:**

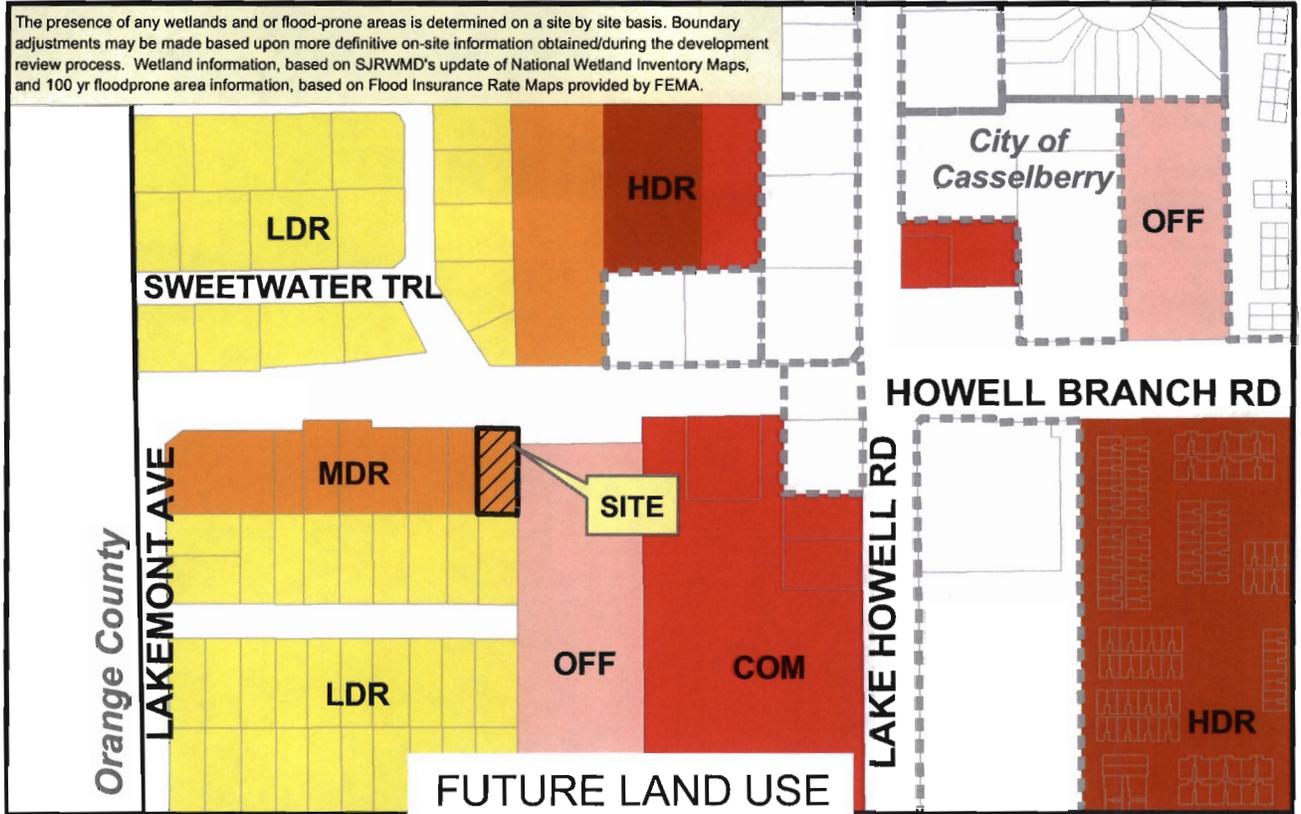
No letters of support or opposition have been received.

**STAFF RECOMMENDATION:**

Staff recommends approval of the request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road.



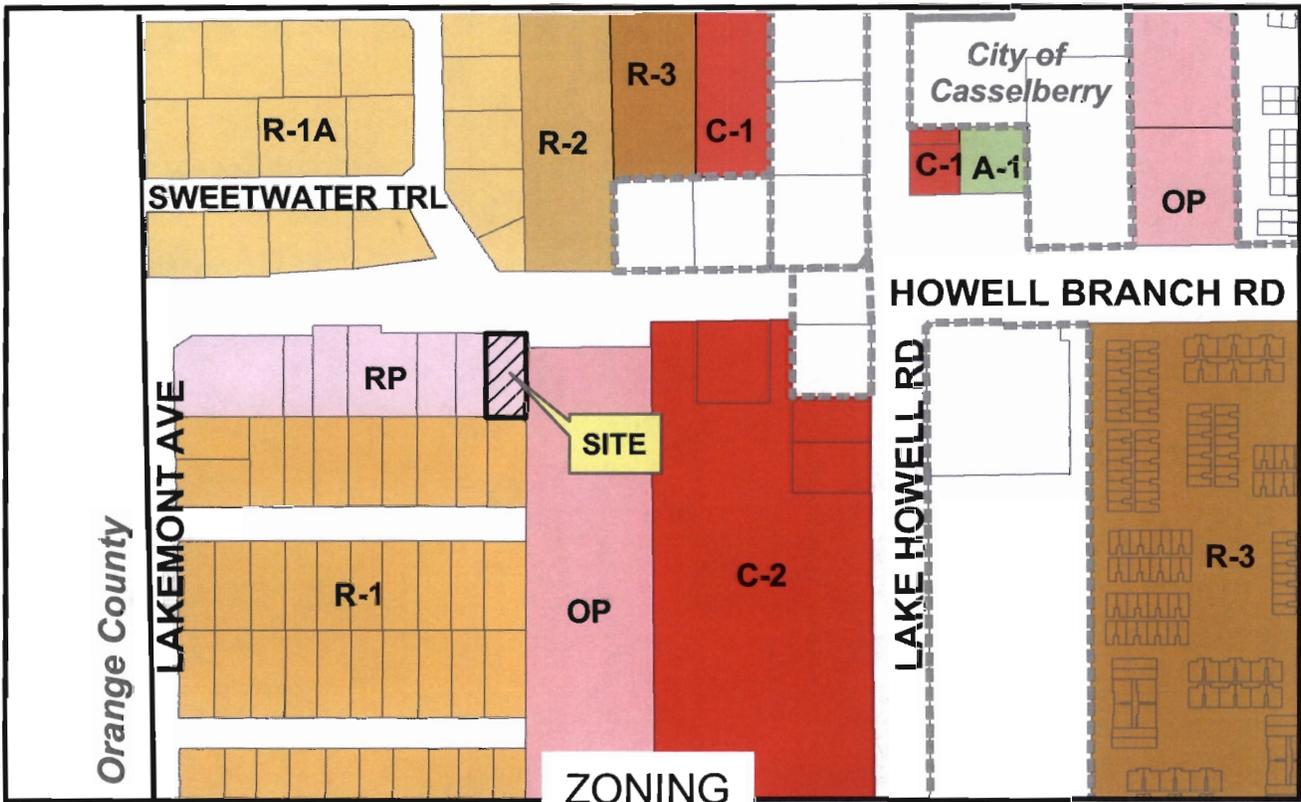
The presence of any wetlands and or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained/during the development review process. Wetland information, based on SJRWMD's update of National Wetland Inventory Maps, and 100 yr floodprone area information, based on Flood Insurance Rate Maps provided by FEMA.



LDR
  MDR
  HDR
  COM
  OFF
  Site
  ESLO
  City Bnd

Applicant: EKJ, LLC  
 Physical STR: 33-21-30-504-0F00-0010  
 Gross Acres: .24 +/- BCC District: 4  
 Existing Use: \_\_\_\_\_  
 Special Notes: \_\_\_\_\_

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2009-016	RP	RP



A-1
  R-1
  R-1A
  R-2
  R-3
  OP
  RP
  C-1
  C-2
  ESLO



Rezone No: Z2009-016

From:RP To:RP

- Parcel
- Subject Property



Winter 2009 Color Aerials





## SEMINOLE COUNTY DEVELOPMENT ORDER

On November 10, 2009 Seminole County issued this Development Order relating to and touching and concerning the following described property:

See Attached Exhibit A

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

### FINDINGS OF FACT

**Property Owner:** FKJ, LLC  
901 Versailles Circle  
Maitland, FI 32751

**Project Name:** Howell Branch Road Rezone

**Requested Development Approval:** Request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road.

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: Ian Sikonia, Senior Planner  
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. Development shall comply with the Site Plan attached as Exhibit B.
  - B. Permitted Uses: Medical Office and General Office
  - C. The maximum allowable building height is 35'.
  - D. The setbacks shall comply with Section 30.626 unless a variance is granted by the Board of Adjustment.
  - E. A minimum of 7 parking spaces are required on-site.
  - F. 25% usable open space shall be provided on the subject property.
  - G. The applicant shall install 2 canopy trees, 1 sub-canopy tree, and a viburnum hedge in the south buffer.
  - H. The applicant shall install 2 sub-canopy trees and a viburnum hedge in the east buffer.
  - I. If this property ceases to operate as a medical office or is expanded in building area, the Planning Manager shall make a determination if the property will have to go through the rezoning process due to compatibility and site development issues.
- (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.**

**SEMINOLE COUNTY BOARD  
OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Bob Dallari, Chairman



**EXHIBIT A**

**LEGAL DESCRIPTION**

LEG LOT 1 BLK F (LESS RD) TEMPLE TERRACE ANNEX PB 8 PG 61

**Exhibit B**

(See attached page for Site Plan)





**AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LENGTHY LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE RP (RESIDENTIAL PROFESSIONAL) ZONING CLASSIFICATION THE RP (RESIDENTIAL PROFESSIONAL) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM CODIFICATION; 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 "Howell Branch Rezone", dated November 10, 2009.

(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 RP (Residential Professional) to RP (Residential Professional):

**SEE ATTACHED EXHIBIT A**

**Section 3. 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 on the recording date of the Development Order #09-20000004 in the Official Land Records of Seminole County.

ENACTED this 10th day of November 2009.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Bob Dallari, Chairman

**EXHIBIT A**

**LEGAL DESCRIPTION**

LEG LOT 1 BLK F (LESS RD) TEMPLE TERRACE ANNEX PB 8 PG 61

*Jorge Cardona Insurance Broker, Inc.  
1932 Howell Branch Road  
Winter Park, Florida 32792  
Telephone 407-678-3709, Fax 407-478-8820  
Jorge.Cardonainsurancebroker@yahoo.com*

*June 15, 2009*

*To Whom It May Concern:*

*My name is Jorge Cardona, owner of Jorge Cardona Insurance Broker, Inc. located at 1932 Howell Branch Road in Winter Park. The present is to confirm my verbal agreement with Monisha Seth (dba FKJ, LLC), owner of 1940 Howell Brach Road, to allow her staff to use four of my parking spaces on a daily basis. This agreement is valid for the time we don't need those spaces.*

*Please do not hesitate to contact me with questions.*

*Sincerely,*

A handwritten signature in black ink, appearing to be 'Jorge Cardona', written over a horizontal line.

*Jorge Cardona*

**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On November 10, 2009, Seminole County issued this Denial Development Order relating to and touching and concerning the following described property:

See Attached Exhibit A

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

**Property Owner(s):** FKJ, LLC  
901 Versailles Circle  
Maitland, FI 32751

**Project Name:** Howell Branch Road Rezone

**Requested Development Approval:** Request for a rezone from RP (Residential Professional) to RP (Residential Professional) on .24 acres, located 600 feet east of the intersection of Lakemont Avenue and Howell Branch Road.

The Board of County Commissioners has determined that the rezone request from RP (Residential Professional) to RP (Residential Professional) district is not compatible with the surrounding area and could not be supported.

After fully considering staff analysis titled "Howell Branch Road Rezone" and all evidence submitted at the public hearing on November 10, 2009, regarding this matter the Board of County Commissioners have found, determined and concluded that the requested rezone from RP (Residential Professional) to RP (Residential Professional) 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:** \_\_\_\_\_  
Bob Dallari, Chairman

**FILE # Z2009-16**

**DEVELOPMENT ORDER # 09-20000004**

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**LEG LOT 1 BLK F (LESS RD) TEMPLE TERRACE ANNEX PB 8 PG 61**

**SEMINOLE COUNTY  
APPLICATION & AFFIDAVIT**

**Ownership Disclosure Form**

The owner of the real property associated with this application is a (check one)

- Individual                       Corporation                       Land Trust  
 Limited Liability Company    Partnership  
 Other (describe): \_\_\_\_\_

1. List all natural persons who have an ownership interest in the property, which is the subject matter of this petition, by name and address.

NAME	ADDRESS	PHONE NUMBER
Monisha Seth	901 Versailles Circle	407 644 8946
dba FKJ, LLC	Maitland, FL 32751	407 461 1768

(Use additional sheets for more space.)

2. For each corporation, list the name, address, and title of each officer; the name and address of each director of the corporation; and the name and address of each shareholder who owns two percent 2% or more of the stock of the corporation. Shareholders need not be disclosed if a corporation's stock are not traded publicly on any national stock exchange. FKJ, LLC

NAME	TITLE OR OFFICE	ADDRESS	% OF INTEREST
Monisha Seth	Manager	901 Versailles Circle Maitland FL 32751	100

(Use additional sheets for more space.)

3. In the case of a trust, list the name and address of each trustee and the name and address of the beneficiaries of the trust and the percentage of interest of each beneficiary. If any trustee or beneficiary of a trust is a corporation, please provide the information required in paragraph 2 above.

Trust Name: \_\_\_\_\_

NAME	TRUSTEE OR BENEFICIARY	ADDRESS	% OF INTEREST
	N/A		

(Use additional sheets for more space.)

**SEMINOLE COUNTY  
APPLICATION & AFFIDAVIT**

4. For **partnerships**, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners. If any partner is a corporation, please provide the information required in paragraph 2 above.

NAME	ADDRESS	% OF INTEREST
	N/A	

(Use additional sheets for more space.)

5. In the circumstances of a **contract for purchase**, list the name and address of each contract purchaser. If the purchaser is a corporation, trust, or partnership, provide the information required for those entities in paragraphs 2, 3, and/or 4 above.

Name of Purchaser: \_\_\_\_\_

NAME	ADDRESS	% OF INTEREST
	N/A	

Date of Contract: \_\_\_\_\_

Please specify any contingency clause related to the outcome of the consideration of the application.

6. As to any type of owner referred to above, a change of ownership occurring subsequent to this application, shall be disclosed in writing to the Planning and Development Director prior to the date of the public hearing on the application.

7. I affirm that the above representations are true and are based upon my personal knowledge and belief after all reasonable inquiry. I understand that any failure to make mandated disclosures is grounds for the subject rezone, future land use amendment, special exception, or variance involved with this Application to become void. I certify that I am legally authorized to execute this Application and Affidavit and to bind the Applicant to the disclosures herein.

Date 6/15/09

Monisha Seth (dba FRT, LLC)  
Owner, Agent, Applicant Signature

STATE OF FLORIDA  
COUNTY OF ORANGE

Sworn to (or affirmed) and subscribed before me this 15 day of June, 2009 by Monisha Seth

Celeste M. Womack  
Signature of Notary Public      Celeste M. Womack  
Print, Type or Stamp Name of Notary Public



Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

For Use by Planning & Development Staff	
Date: _____	Application Number: _____