

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Orange Commons/5701 W SR 46 CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial)

**DEPARTMENT:** Planning and Development      **DIVISION:** Planning

**AUTHORIZED BY:** Dori DeBord                      **CONTACT:** Austin Watkins                      **EXT:** 7440

**MOTION/RECOMMENDATION:**

1. Approve a request and authorize the Chairman to execute an ordinance for a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) on 0.41 + acres, located on the southwest corner West State Road 46 and Orange Boulevard, based on staff findings (Louis R. Fabrizio, applicant); or
  
2. Deny the request for a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) on 0.41 + acres, located on the southwest corner West State Road 46 and Orange Boulevard, and authorize the Chairman to execute the Denial Development Order (Louis R. Fabrizio, applicant); or
  
3. Continue the item until a time and date certain.

District 5 Brenda Carey

Austin Watkins

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**BACKGROUND:**

The applicant, Louis R. Fabrizio, is requesting a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) in order to redevelop this site, in conjunction with the surrounding C-1 zoned property. The applicant is proposing to construct a twelve unit, 18,200 square foot retail center. The subject property is in the Wekiva River Protection Area (WRPA) and has the Commercial (COM) Future Land Use designation (FLU), which existed prior to the 1988 Wekiva River Protection Act. The Commercial FLU allows the requested zoning district of C-1.

**PLANNING AND ZONING COMMISSION/LPA RECOMMENDATION:**

The Planning and Zoning Commission met on November 7, 2007 and voted 4 to 0 to recommend approval of the request for a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial), on approximately 0.41 ± acres, located on the southwest corner West State Road 46 and Orange Boulevard.

**STAFF RECOMMENDATION:**

Staff recommends the Board approve the request and authorize the Chairman to execute an ordinance for a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) on 0.41 ± acres, located on the southwest corner West State Road 46 and Orange Boulevard, based on staff findings

**ATTACHMENTS:**

1. Staff Analysis
2. Location Map
3. Zoning and Future Land Use Map
4. Aerial Map
5. Rezone Ordinance
6. Denial Development Order
7. November 7, 2007 P&Z Minutes

**Additionally Reviewed By:**

County Attorney Review ( Kathleen Furey-Tran )

## ORANGE COMMONS/5701 W SR 46

### Rezone from CN to C-1

<b>APPLICANT</b>	Louis R. Fabrizio	
<b>PROPERTY OWNER</b>	Orange Commons, LLC	
<b>REQUEST</b>	Rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial)	
<b>PROPERTY SIZE</b>	0.41 ± acres	
<b>HEARING DATE (S)</b>	P&Z: November 07, 2007	BCC: January 8, 2007
<b>PARCEL ID</b>	25-19-29-300-006A-0000	
<b>LOCATION</b>	Southwest Corner of West State Road 46 and Orange Boulevard	
<b>FUTURE LAND USE</b>	COM (Commercial)	
<b>ZONING</b>	CN (Restricted Neighborhood Commercial)	
<b>FILE NUMBER</b>	Z2007-55	
<b>COMMISSION DISTRICT</b>	#5 –Carey	

#### Proposed Development:

The applicant is requesting to rezone 0.41 ± acres from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial), in order to redevelop the property by combining the parcel with an adjacent parcel to construct a twelve (12) unit, 18,200 square foot retail center.

#### ANALYSIS OVERVIEW:

##### ZONING REQUEST

The following table depicts the minimum regulations for the current zoning district of CN (Restricted Neighborhood Commercial) and the requested zoning district of C-1 (Retail Commercial).

<b>DISTRICT REGULATIONS</b>	<b>Existing Zoning (CN)</b>	<b>Proposed Zoning (C-1)</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'	25'
Side Yard Setback	0	0*
(Street) Side Yard Setback	25'	25'
Rear Yard Setback	10'	10'*
Maximum Building Height	35'	35'

\* UNLESS A SIDE LOT LINE AND REAR LOT LINE ARE ABUTTING PROPERTY ASSIGNED RESIDENTIAL ZONING. PLEASE REFER TO SC LDC SECTION 30.1228

**PERMITTED & SPECIAL EXCEPTION USES:**

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

Uses	CN (existing)	C-1 (proposed)
Permitted Uses	Art studios, barber and beauty shops, book, stationery, and newsstands, clinics, except animal, confectionery and ice cream stores, dance and music studios, drug and sundry stores, fire stations, florist and gift shops, hobby and craft shops, interior decorating and draperies, jewelry stores, laundry and cleaning pick-up stations, libraries, locksmiths, luggage shops, office, business, and professional, photographic studios, physical fitness studio, retail paints and wallpaper stores, post offices, retail sporting goods, public and private schools, shoe repair shops, tailoring shops, tobacco shops, toy stores, watch and clock repair, wearing apparel stores.	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, laundrettes 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	Communication towers, 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.	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	N/A	N/A

### **COMPATIBILITY WITH SURROUNDING PROPERTIES:**

The subject property is an outparcel that is surrounded by land assigned the Future Land Use designation of COM (Commercial) and the C-1 (Retail Commercial) zoning classification. The Future Land Use designation of the surrounding property to the south and to the east across Orange Boulevard is COM (Commercial). The Future Land Use designation of the property to the west is COM (Commercial). The surrounding zoning districts are PCD (Planned Commercial Development) and C-1. Staff finds the proposed rezone consistent and compatible with the surrounding development patterns.

### **SITE ANALYSIS:**

#### ***Floodplain Impacts:***

Based on FIRM map12117C0040E, with an effective date of 1995 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 wetlands south of this parcel. Buffers from this wetland may affect the site layout.

#### ***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.

#### ***Utilities:***

The site is located in the Northwest Seminole County Service Area and will be required to connect to public utilities. Seminole County has a 12-inch water main on the south side of West State Road 46 and a 16- inch force main on the west side of Orange Boulevard. Seminole County has a 20-inch reclaimed water main on the south side of West State Road 46.

#### ***Transportation / Traffic:***

The property is adjacent to Orange Boulevard which is classified as a collector road. Orange Boulevard is not currently programmed to be improved according to the County 5-year Capital Improvement Program. Cross/joint access shall be provided for a possible future shared access with the parcel to the south.

***Drainage:***

The site is in a land locked basin and will be required to hold the entire 100-year storm onsite.

***Buffers and Sidewalks:***

Compliance with the Active/Passive Buffer will be required at the time of site plan submittal. Installation of a four (4) foot wide sidewalk for the frontage of the development along Orange Blvd and SR 46 will be required.

**APPLICABLE POLICIES:**

**FISCAL IMPACT ANALYSIS:**

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

**SPECIAL DISTRICTS:**

The subject property is located within the Wekiva River Protection Area (WRPA) and the Wekiva River Study Area. The Commercial Future Land Use designation assigned to the property was in place prior to the 1988 Wekiva River Protection Act. The Wekiva River Protection Act and the Vision 2020 Comprehensive Plan policies 14.1 through 14.9 relating to protection of the rural character and natural resources of the Wekiva River Protection Area do not allow for an increase in density and/or intensity on properties within the WRPA. The Commercial Future Land use designation allows a maximum FAR of 0.35, regardless of the commercial zoning district assigned, therefore, the proposed rezone to C-1 will not result in an increase in development intensity on the subject property, which is consistent with the Comprehensive Plan and the Wekiva River Protection Act. At the time of Site Plan approval, the subject property will have to comply with all the regulations of the WRPA and the Study Area.

The subject property is also located within the Aquifer Recharge (Part 54; Chapter 30 of the Seminole County Land Development Code); and the State Road 46 Gateway Corridor (Part 55; Chapter 30 of the Seminole County Land Development Code) and will have to comply with those regulations at the time of Final Site Plan approval.

**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 objectives and policies (there may be other provisions of the Comprehensive Plan that apply that are not included in this list):

Policy POT 4.5: Potable Water Connection  
Policy SAN 4.4: Sanitary Sewer Connection  
Policy FLU 12.4: Relationship of Land Use to Zoning Classifications  
Policy FLU 12.5: Evaluation Criteria of Property Rights Assertions  
Objective FLU 14: Wekiva River Protection Area  
Objective FLU 15: Wekiva Study Area

**INTERGOVERNMENTAL NOTIFICATION:**

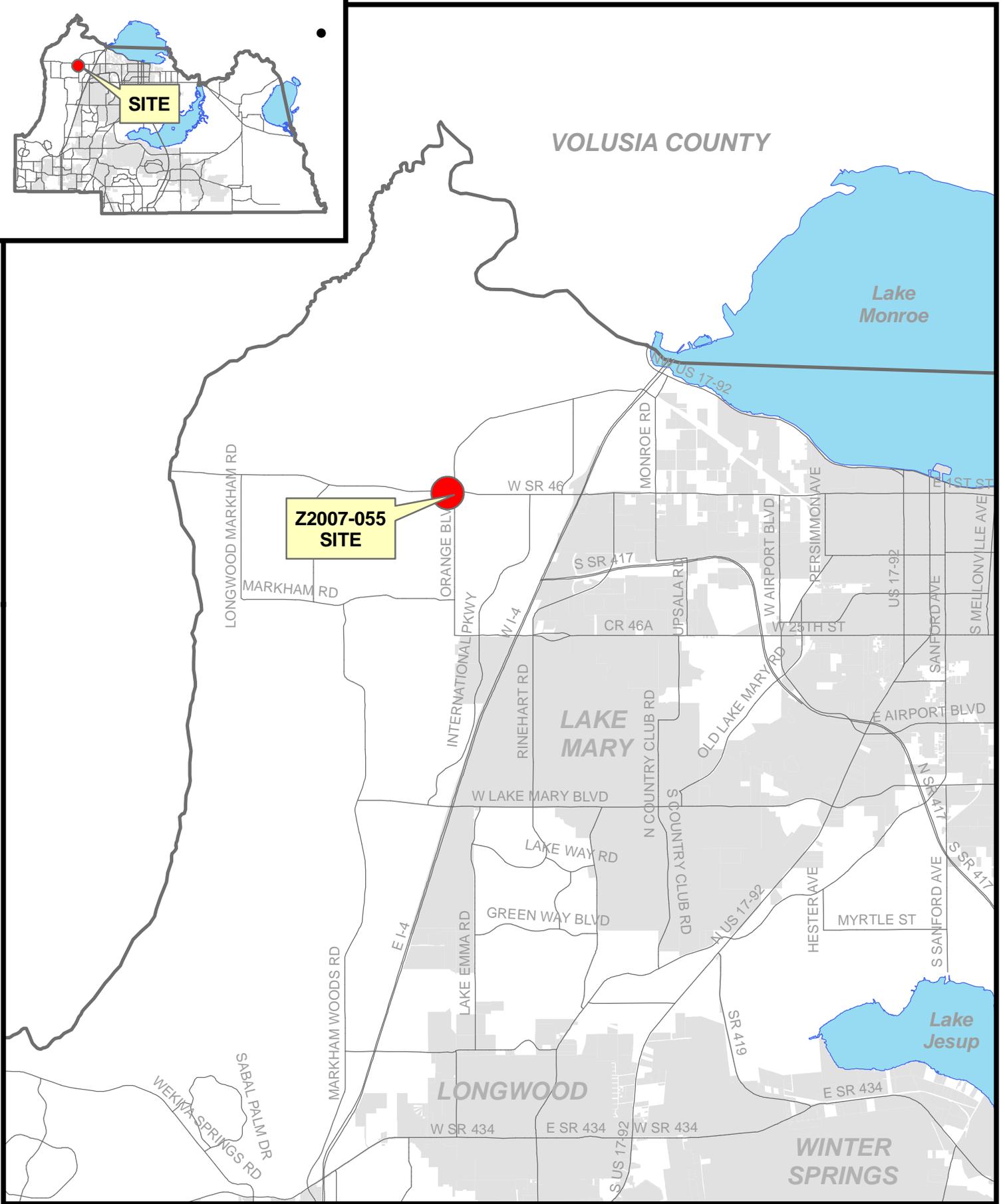
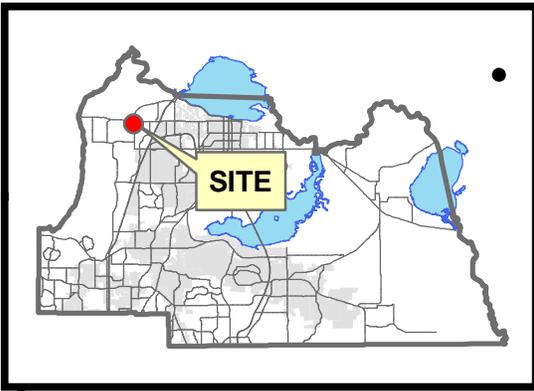
No intergovernmental notice is required for this development.

**LETTERS OF SUPPORT OR OPPOSITION:**

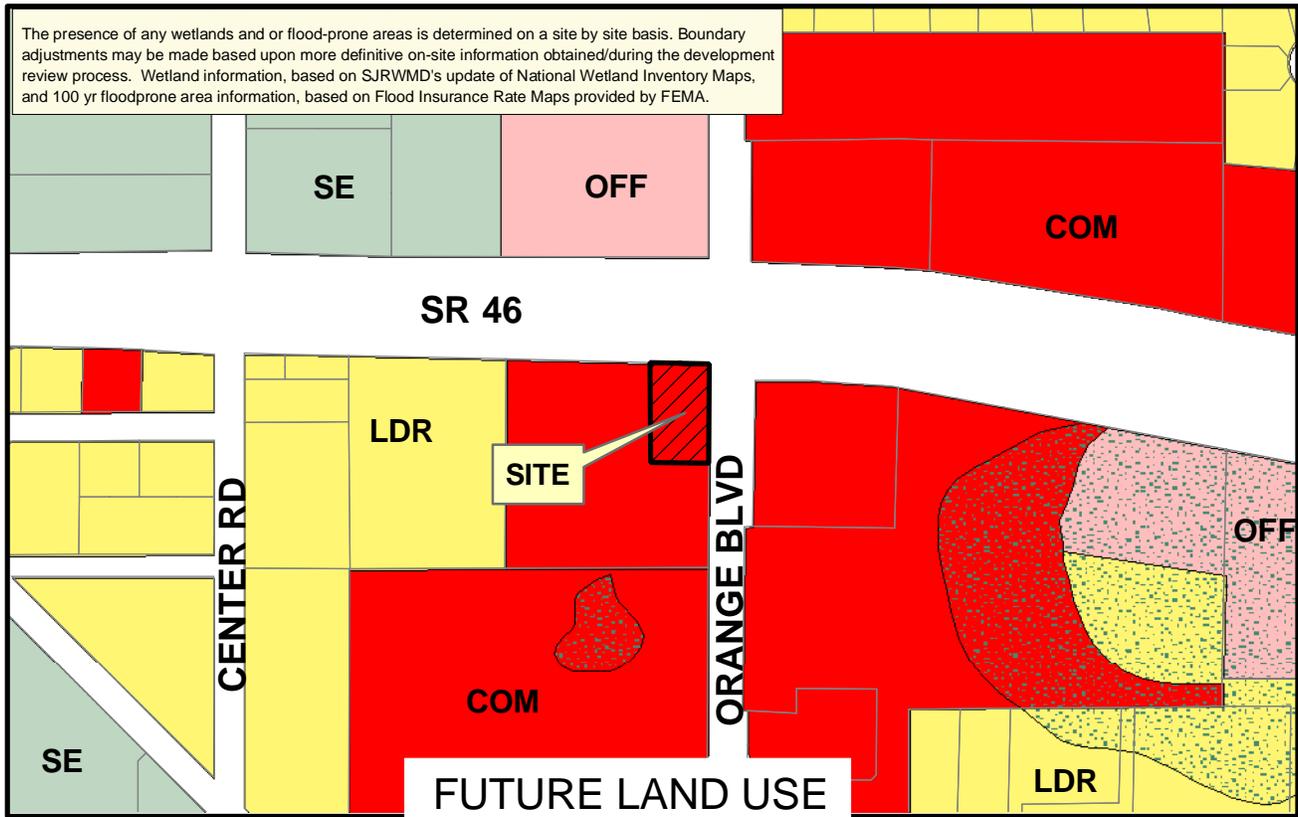
At this time, Staff has received no letters of support or opposition.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the request for a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) on 0.41 ± acres, located on the southwest corner West State Road 46 and Orange Boulevard, based on staff findings.



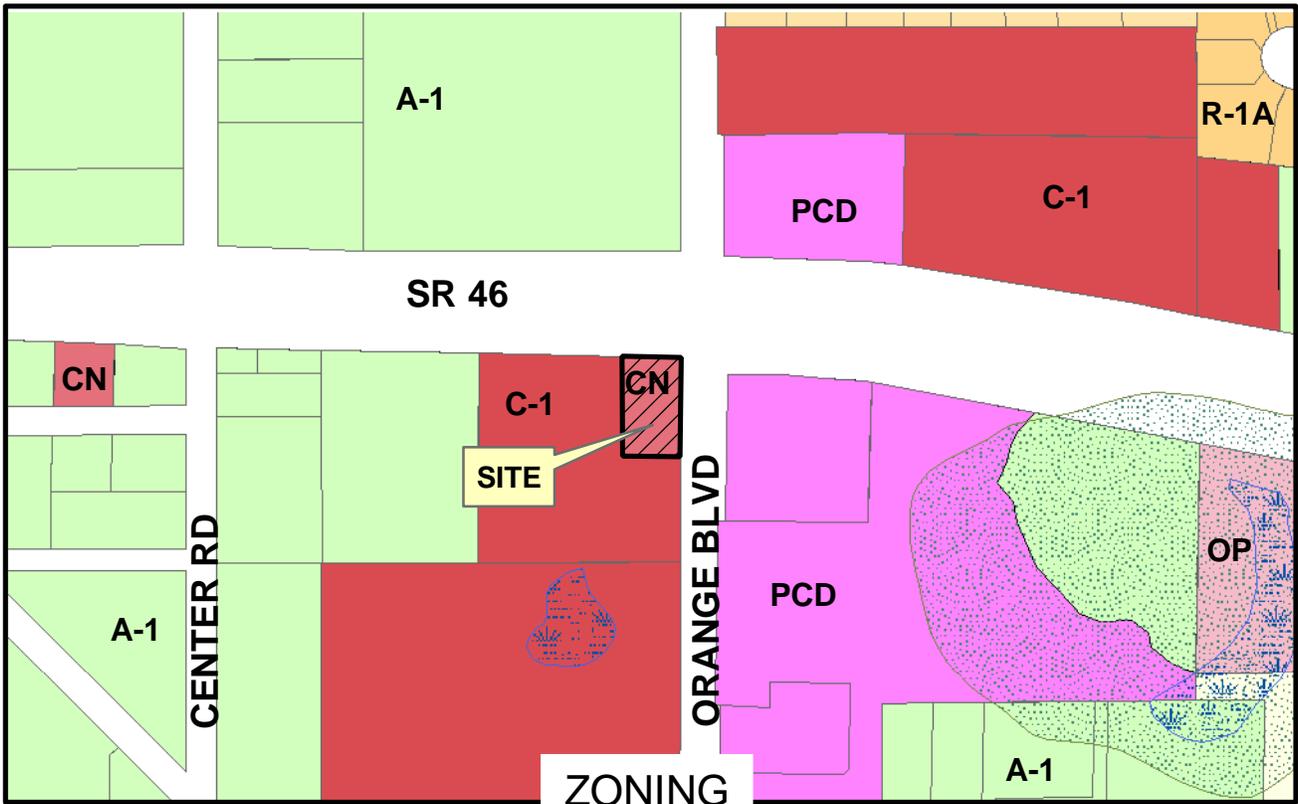
The presence of any wetlands and or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained/during the development review process. Wetland information, based on SJRWMD's update of National Wetland Inventory Maps,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



LDR
  OFF
  COM
  SE
  Site
  CONS

Applicant: Louis Fabrizio, manager  
 Physical STR: 25-19-29-300-006A-0000  
 Gross Acres: .41 +/- BCC District: 5  
 Existing Use: commercial  
 Special Notes: \_\_\_\_\_

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2007-055	CN	C-1



A-1
  R-1A
  CN
  C-1
  OP
  PCD
  FP-1
  W-1



Rezone No: Z2007-055

From: CN To: C-1

 Parcel

 Subject Property



Winter 2006 Color Aerials

**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 CN (RESTRICTED NEIGHBORHOOD COMMERCIAL) 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 "Orange Commons/5701 W SR 46".

(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 CN (Restricted Neighborhood Commercial) 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 filing a copy of this Ordinance with the Florida Department of State by the Clerk of the Board of County Commissioners.

ENACTED this 8th day of January 2008.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Brenda Carey, Chairman

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Beginning at a point 1,157 feet South of the Northeast corner of Government Lot 1, in Section 25, Township 19 South, Range 29 East, Seminole County, Florida. Run thence West a distance of 25 feet, more or less, to the Westerly right-of-way line of Orange Boulevard; run thence North along the Westerly right-of-way line of Orange Boulevard 25 feet, more or less, to the Southerly right-of-way line of State Road 46 as the point of beginning. Run thence South along the Westerly right-of-way line of Orange Boulevard a distance of 175 feet; run thence West a distance of 100 feet; run thence North a distance of 175 feet, more or less, to the Southerly right-of-way line of State Road 46; run thence East along the Southerly right-of-way line of State Road 46 a distance of 100 feet to the point of beginning

**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On January 8, 2007, 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):** Orange Commons, LLC

**Project Name:** Orange Commons/5701 W SR 46

**Requested Development Approval:** The applicant is requesting a rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial).

The Board of County Commissioners has determined that the rezone request from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) is not compatible with the surrounding area and could not be supported.

After fully considering staff analysis titled "Orange Commons/5701 W SR 46" and all evidence submitted at the public hearing on January 8, 2007, regarding this matter the Board of County Commissioners have found, determined and concluded that the requested rezone from CN (Restricted Neighborhood Commercial) to C-1 (Retail Commercial) 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**

Beginning at a point 1,157 feet South of the Northeast corner of Government Lot 1, in Section 25, Township 19 South, Range 29 East, Seminole County, Florida. Run thence West a distance of 25 feet, more or less, to the Westerly right-of-way line of Orange Boulevard; run thence North along the Westerly right-of-way line of Orange Boulevard 25 feet, more or less, to the Southerly right-of-way line of State Road 46 as the point of beginning. Run thence South along the Westerly right-of-way line of Orange Boulevard a distance of 175 feet; run thence West a distance of 100 feet; run thence North a distance of 175 feet, more or less, to the Southerly right-of-way line of State Road 46; run thence East along the Southerly right-of-way line of State Road 46 a distance of 100 feet to the point of beginning

**MINUTES FOR THE SEMINOLE COUNTY  
LAND PLANNING AGENCY/PLANNING AND ZONING COMMISSION  
NOVEMBER 7, 2007**

**Members present:** Melanie Chase, Ben Tucker, Matthew Brown, and Kim Day

**Members absent:** Walt Eismann, Rob Wolf, and Dudley Bates

**Also present:** Tina Williamson, Acting Planning Manager; Dori DeBord, Director of Planning and Development; Herman Wright, Principal Planner; Ian Sikonia, Senior Planner; Tony Walter, Principal Planner; Tony Nelson, Senior Engineer; Kathy Furey-Tran, Assistant County Attorney; Candace Lindlaw-Hudson, Clerk to the Commission

**C. Orange Commons Rezone; Louis Fabrizio, applicant; 0.4± acres.** Rezone from CN (Neighborhood Commercial) to C-1 (Commercial); located on the southwest corner of W SR 46 and Orange Boulevard. (Z2007-55)

Commissioner Carey – District 5  
Herman Wright, Principal Planner

Herman Wright stated that the applicant would like to remove the existing building from the site and combine the outparcel site with a 2.85 surrounding adjacent property to construct a 12 unit, 18,200 square foot retail center. The surrounding parcel is currently zoned C-1 Retail Commercial. Surrounding property future land uses and zonings are compatible with the request. Staff recommendation is for approval.

Louis Fabrizio said that he concurred with staff. He wants to have a consistent zoning for his land for the development planned.

No one spoke from the audience on the application.

Commissioner Tucker said that the property has had many uses through the years. The request is compatible with the area.

**Commissioner Tucker made a motion to recommend approval of the request.**

**Commissioner Chase seconded the motion.**

**The motion passed 4 – 0.**