



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**May 4, 2023**

Zoning Division

**BOARD OF ZONING ADJUSTMENT (BZA)**  
**ORANGE COUNTY GOVERNMENT**

**Board Member**

**District**

Thomas Moses

1

John Drago (Vice Chair)

2

Juan Velez

3

Deborah Moskowitz (Chair)

4

Joel Morales

5

Sonya Shakespeare

6

Roberta Walton Johnson

At Large

**BZA Staff**

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Planner II

Jenale Garnett

Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
MAY 4, 2023**

<b>Case #</b>	<b>Applicant</b>	<b>Commission District</b>	<b>Staff Recommendation</b>	<b>BZA</b>	<b>Page #</b>
VA-23-05-015	Dave Hewitt	1	Denial	Approval w/Conditions	1
SE-22-08-064	Mattaniah Jahn For Coral Towers LLC	2	Withdrawn	Withdrawn	13
VA-23-04-007	Joel Rodriguez For Solutions Auto Sale And Repair	6	Request #1, Approval w/Conditions Request #2, Unnecessary	Request #1, Approval w/Conditions Request #2, Unnecessary	14
VA-23-05-016	Ollie Rives	2	Denial	Approval w/Conditions	27
VA-23-05-020	Matthew Cullivan	2	Denial	Approval w/Conditions	41
VA-23-05-024	Rhona Isgar	1	Approval w/Conditions	Approval w/Conditions	54
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**Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on May 23, 2023.**

# ORANGE COUNTY ZONING DISTRICTS

## Agricultural Districts

- A-1** Citrus Rural
- A-2** Farmland Rural
- A-R** Agricultural-Residential District

## Residential Districts

- R-CE** Country Estate District
- R-CE-2** Rural Residential District
- R-CE-5** Rural Country Estate Residential District
- R-1, R-1A & R-1AA** Single-Family Dwelling District
- R-1AAA & R-1AAAA** Residential Urban Districts
- R-2** Residential District
- R-3** Multiple-Family Dwelling District
- X-C** Cluster Districts (where X is the base zoning district)
- R-T** Mobile Home Park District
- R-T-1** Mobile Home Subdivision District
- R-T-2** Combination Mobile Home and Single-Family Dwelling District
- R-L-D** Residential -Low-Density District
- N-R** Neighborhood Residential

## Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District
- C-3** Wholesale Commercial District
- I-1A** Restricted Industrial District
- I-1/I-5** Restricted Industrial District
- I-2/I-3** Industrial Park District
- I-4** Industrial District

## Other District

- P-D** Planned Development District
- U-V** Urban Village District
- N-C** Neighborhood Center
- N-A-C** Neighborhood Activity Center

## SITE & BUILDING REQUIREMENTS

### Orange County Code Section 38-1501. Basic Requirements

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.)<sup>m</sup></i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)<sup>a</sup></i>	<i>Min. rear yard (ft.)<sup>a</sup></i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets <i>f</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	<i>a</i>
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets <i>g</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	<i>a</i>

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

**NOTE:** These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

#### FOOTNOTES

<i>a</i>	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
<i>b</i>	Side setback is 30 feet where adjacent to single-family district.
<i>c</i>	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
<i>d</i>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> <li>(i) are either platted or lots of record existing prior to 3/3/97, and</li> <li>(ii) are 75 feet in width or greater, but are less than 90 feet, and</li> <li>(iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.</li> </ul>
<i>e</i>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<i>f</i>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<i>g</i>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<i>h</i>	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
<i>j</i>	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
<i>k</i>	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
<i>m</i>	Based on gross square feet.

***These requirements are intended for reference only; actual requirements should be verified in the Zoning Division prior to design or construction.***



## VARIANCE CRITERIA:

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. **Special Conditions and Circumstances** – Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. **Not Self-Created** – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
4. **Deprivation of Rights** – Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. **Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

## SPECIAL EXCEPTION CRITERIA:

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

**In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#1**

Case #: **VA-23-05-015**

Case Planner: **Laekin O'Hara (407) 836-5943**  
**Laekin.O'Hara@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** DAVE HEWITT

**OWNER(s):** KENNETH COHEN, JUDITH COHEN

**REQUEST:** Variance in the PD zoning district to allow a north rear setback of 7 ft. in lieu of 15 ft.

**PROPERTY LOCATION:** 5129 Watervista Dr., Orlando, FL 32821, north side of Watervista Dr., south of Central Florida Pkwy., east of Orangewood Blvd., west of S. John Young Pkwy.

**PARCEL ID:** 07-24-29-9101-00-180

**LOT SIZE:** +/- 0.12 acres (5,242 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 82

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, second by Juan Velez; 4 in favor: Thomas Moses, John Drago, Juan Velez, Sonya Shakespeare; 1 opposed: Deborah Moskowitz; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan dated April 20, 2023 and elevations dated March 14, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The addition shall match the existing home in material and color.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support, and no comments were received in opposition.

The applicant briefly spoke about the need for the request.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA asked clarifying questions about the homeowner's association involvement, the reason for choosing this location for the addition, discussed the request, stated justification for the six (6) criteria and recommended approval of the Variance by a 4-1 vote, with two absent, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

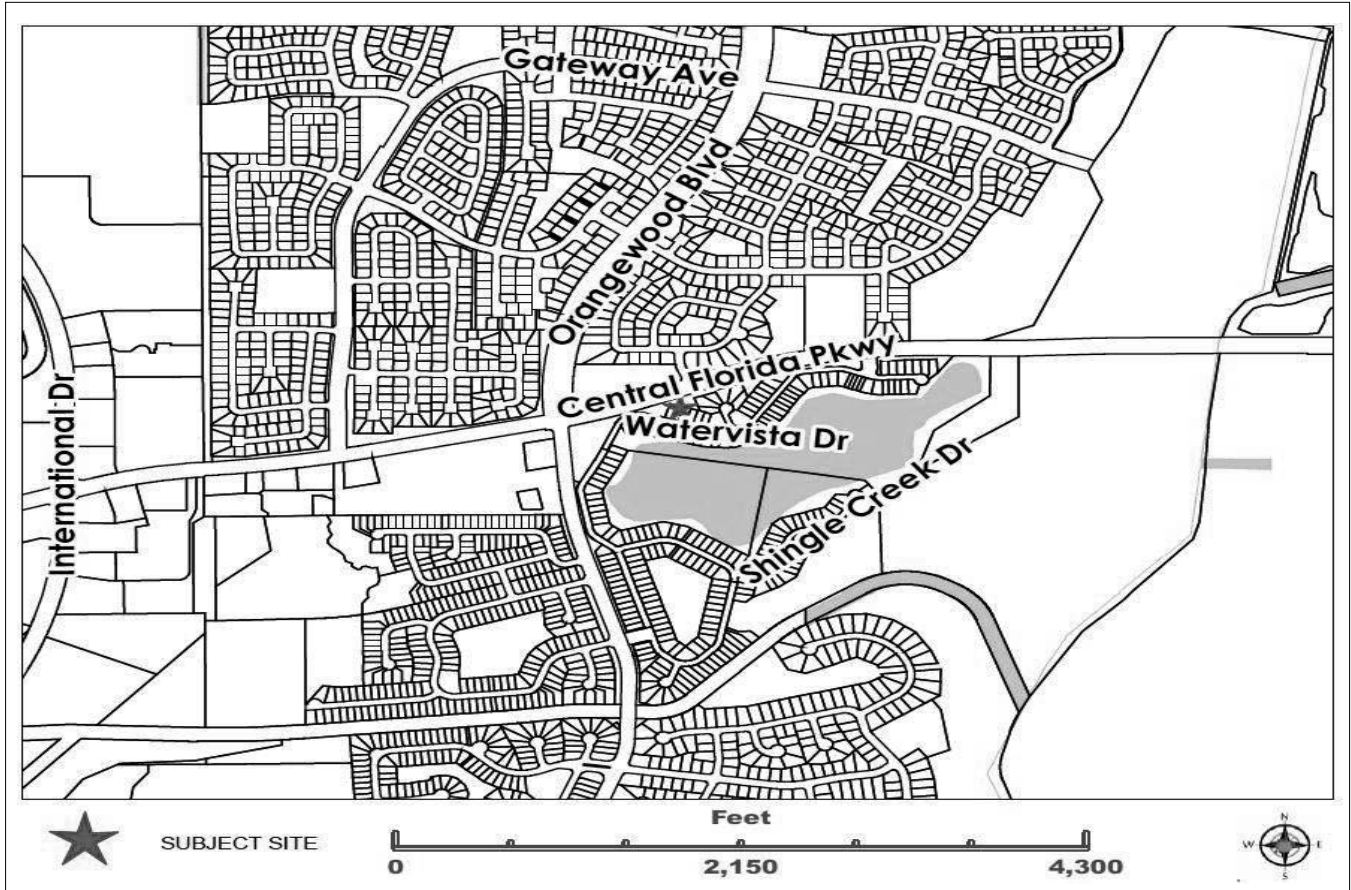
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a Variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	Orangewood PD	Orangewood PD	Orangewood PD	Orangewood PD	Orangewood PD
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the Orangewood PD, which allows single-family uses. The Future Land Use is Low Density Residential, LDR, which is consistent with the zoning district.

The subject property is 5,242 sq. ft. in size, located in the Waterview Townhomes – Section 1 Phase 3 plat, recorded in 1994, and is considered to be a conforming lot of record. The property was purchased by the current owner in 2014, and is developed with a 2-story, 2,294 sq. ft. single-family home, constructed in 1996, and screen room at the rear of the residence.

Sec. 38-79(18) allows for a screen room in a planned development to extend up to fifty (50) percent into the required rear yard, which is 7.5 ft. in this case. The existing screen room is 20.1 ft. x 9.5 ft. and has an aluminum roof and complies with the rear setback requirement. The applicant is proposing to demolish the screen room and build a 393 sq. ft. (17'4" x 22'8") addition as an extension to the existing living room. Thus, a Variance is being requested to allow a 7 ft. setback from the north rear property line in lieu of the required 15 ft.

The existing home is two-story, with a one-story portion at the front and rear. After assessing the request, staff recommends denial since the applicant has other options to provide a code compliant addition including the provision of a smaller one-story addition in the same location, or at maximum a 417.6 sq. ft. (34.8' x 12') one-story addition in line with the existing house. Any of these alternatives would allow for a functional space that complies with the code required setbacks. Although the location of the proposed addition backs up to an open space tract at the rear with no direct impact to adjacent property owners, the 15 ft. setback established by the PD is lower than required minimum rear setbacks for single-family residential zoning districts, which typically range from 20 ft. to 35 ft.

The applicant has provided a letter from the homeowner’s association (HOA), noting that the replacement of a homogeneous metal structure addition would not be approved, and that a separate request would be required for review of the HOA architectural review board (ARB). No additional written documentation from the HOA has been provided. As of the date of this report, no comments have been received in favor or in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	13 ft. (Addition)
Min. Lot Width:	45 ft.	45 ft.
Min. Lot Size:	5,242 sq. ft.	5,242 sq. ft.

**Building Setbacks (that apply to structure in question)**

	PD Requirement	Proposed
Front:	20 ft.	20.1 ft. existing home (South)
Rear:	15 ft.	7.06 ft. (North) (Addition – Variance) 24.4 ft. existing home (North)
Side:	5 ft.	5.2 ft. (East) (existing home & addition) 11 ft. (West) (addition)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

There are no special conditions and circumstances; a code compliant addition could be constructed.

**Not Self-Created**

The request is self-created since a code compliant addition could be constructed.

**No Special Privilege Conferred**

Granting the Variance as requested would confer special privilege as an addition could be constructed that complies with code setback requirements.

**Deprivation of Rights**

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and an addition could be built which complies with code setback requirements.

**Minimum Possible Variance**

The request is not the minimum possible as a code compliant addition could be constructed.

**Purpose and Intent**

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed addition is complying with the required side setbacks and the property backs up to an open space tract, so the encroachment does not impact adjacent properties.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan dated April 20, 2023 and elevations dated March 14, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The addition shall match the existing home in material and color.

C: David Hewitt  
8503 Wythmere Lane  
Orlando, FL 32835

---

## COVER LETTER

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Mr. Ted Kozak  
Chief Planner  
Orange County

Re: 5129 Watervista Drive, Orlando, Florida 32821

Mr. Kozak-

My wife Judith Cohen and I are requesting approval to remove the existing structure and to replace it with a brand new structure (addition) that will be a major improvement to our property. Currently, the existing structure is in complete disrepair and is not usable (livable) space. It has leaks from the roof and is not a structure that is adequate for today. We are proposing to replace it with a new addition that will be in conformity to all current building codes and will be tied into the remainder of the house. The current structure has nothing in common with the house and looks like it was just added as an afterthought. In order to complete the project, we would need a variance of seven feet in the back of the property to allow for the new addition to be built.

We have completed architectural drawing which we have included with our application and all of the measurements for the project. We have already gone to our HOA and they have approved the concept of knocking down the existing structure and replacing it. We are going to conform to their request to mirror it to all materials that were used for the current home. It will match the house and the roof structure will also mirror the house.

This structure will allow that area of the home to be utilized in the way it was intended. In its current state it is not usable and is an eyesore to the community. What is being proposed would be a beautiful addition to the house and the neighborhood and meet all the variance criteria as illustrated below.

- 1) The special condition exists in that the existing structure is a hazard and a danger to the house and the houses around it. It is in disrepair.
- 2) This condition was not created by us but this structure was in place when we purchased the home
- 3) The new structure will not create any privilege but instead will improve the property and the neighborhood
- 4) The new structure will eliminate any issues that can be created by the existing dangerous condition of an unsafe existing structure and condition
  
- 5) This request is very minimal and will improve the use of the property for the owner and the neighborhood
- 6) The neighborhood will be dramatically improved with the new structure and will make the entire neighborhood look better.

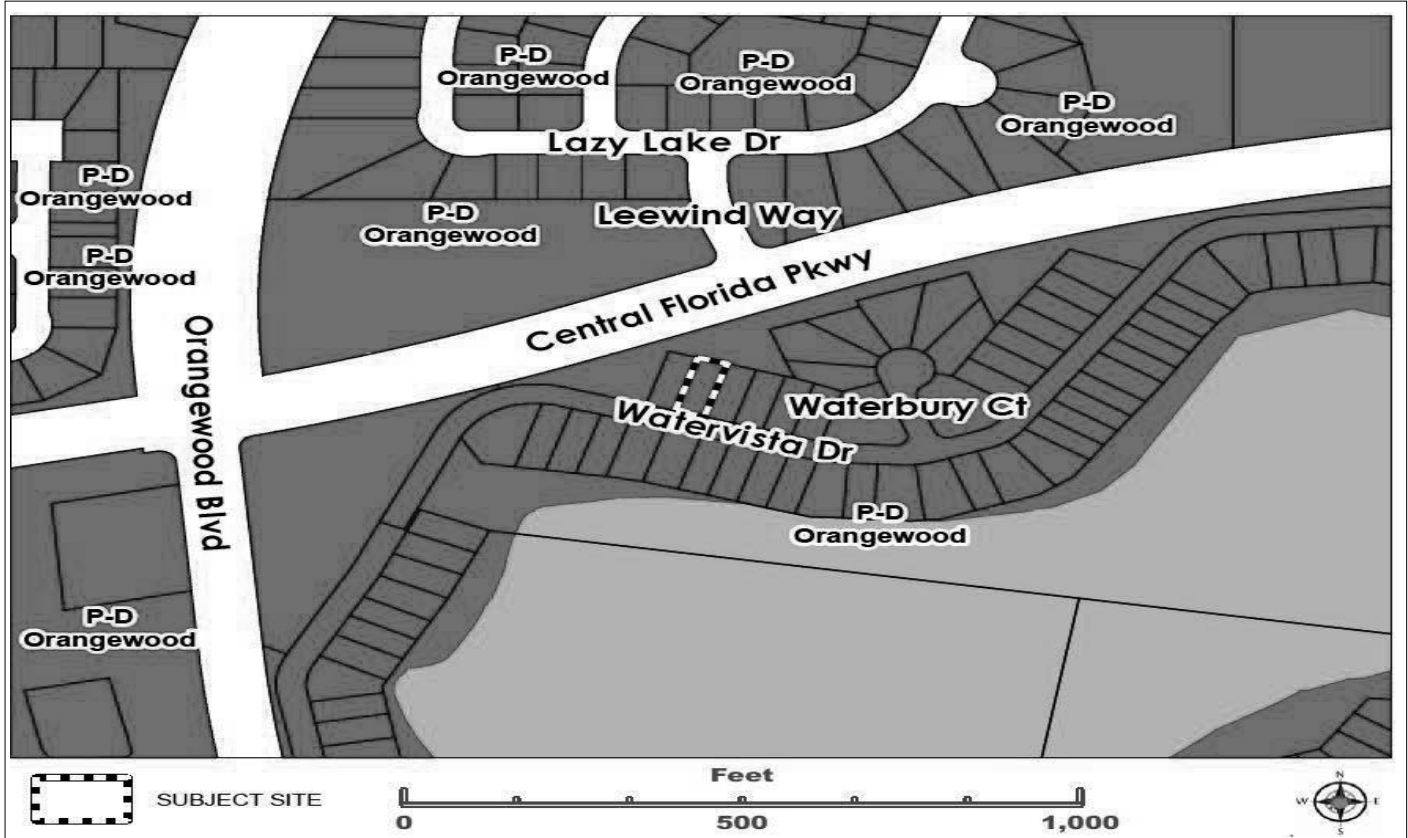
We appreciate your review and await your approval so that we can replace the existing structure with a much safer and more beautiful area for us and the neighborhood.

Thank you for your consideration.

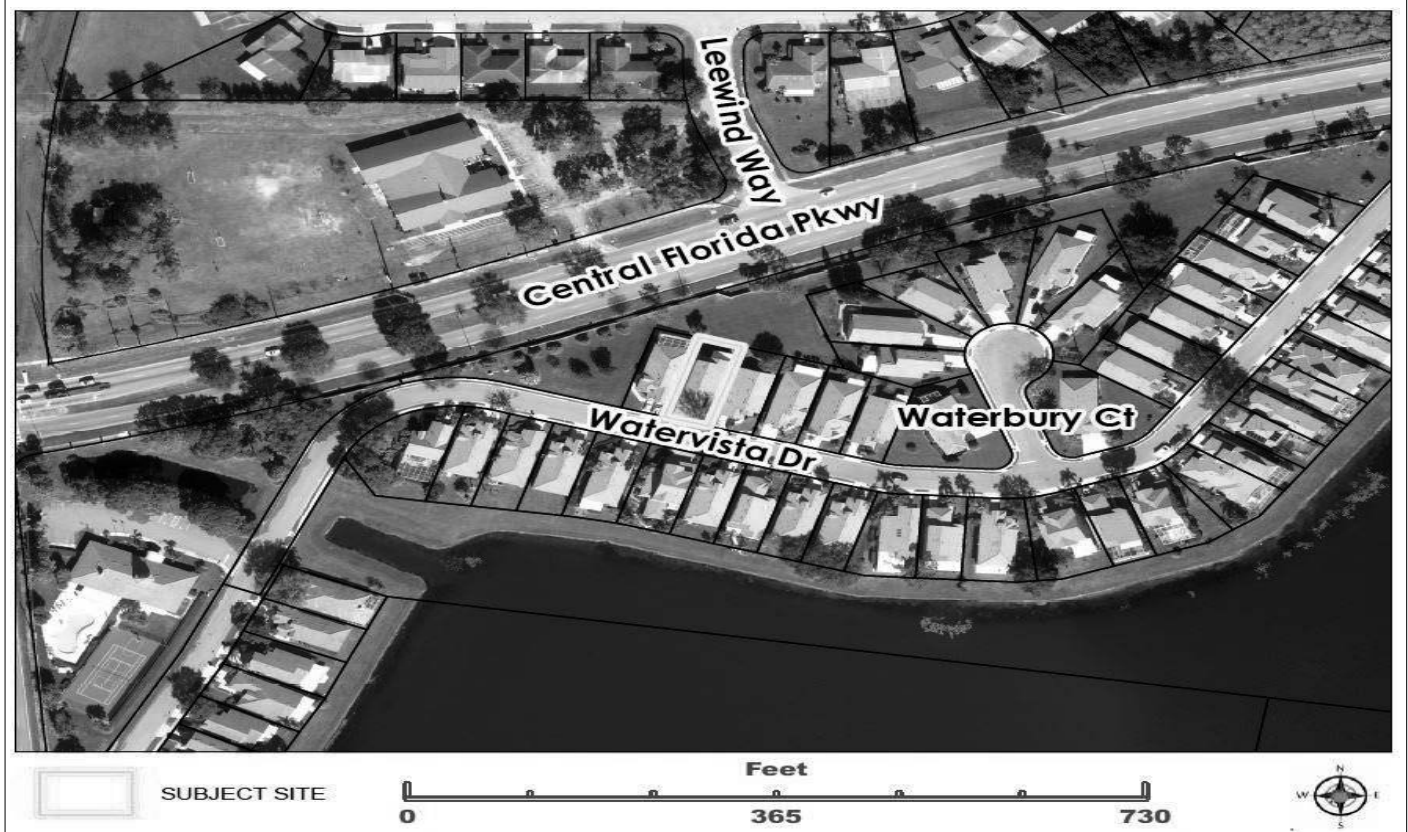
Kenneth Cohen  
5129 Watervista Drive  
Orlando, Florida 32821



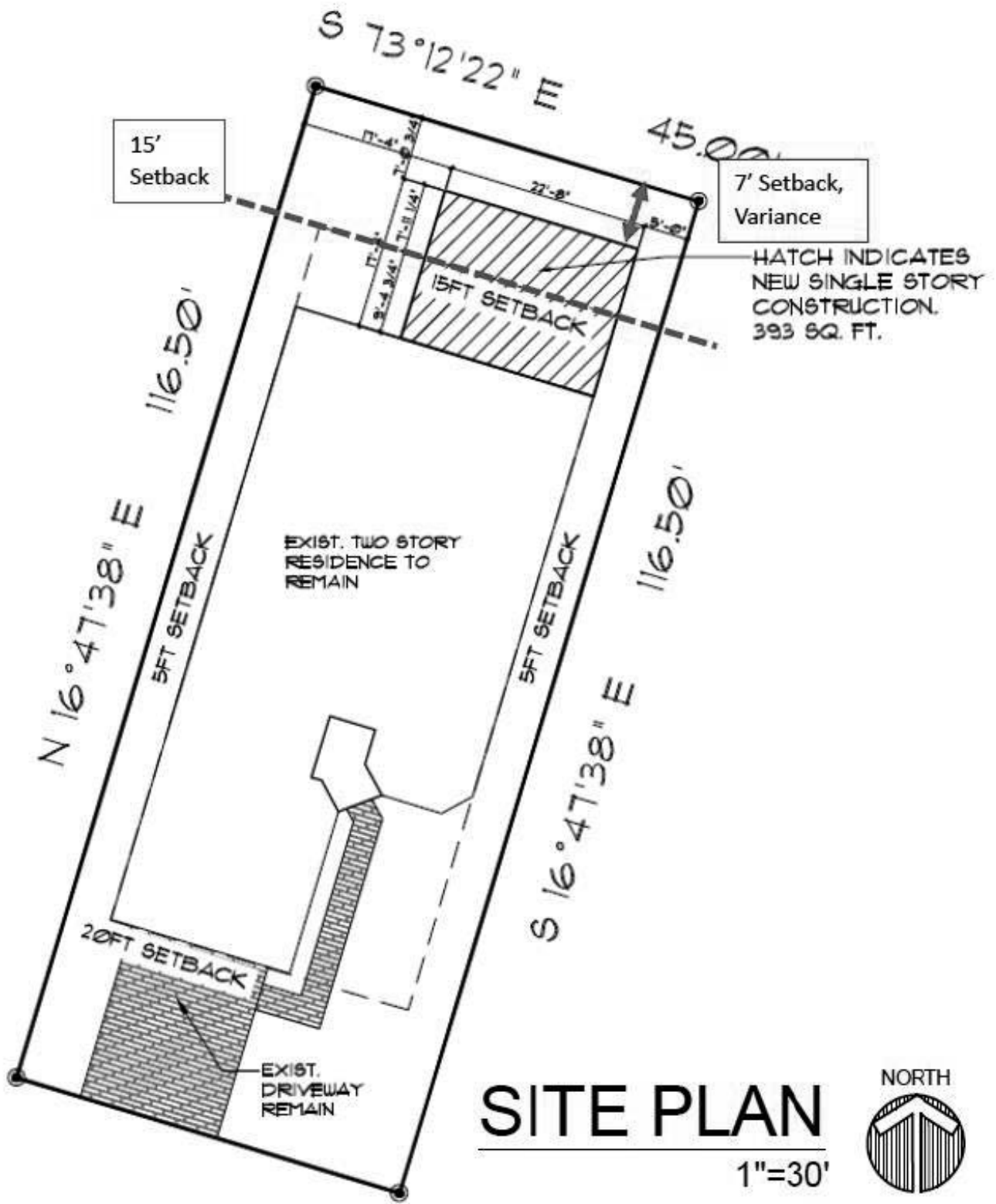
ZONING MAP



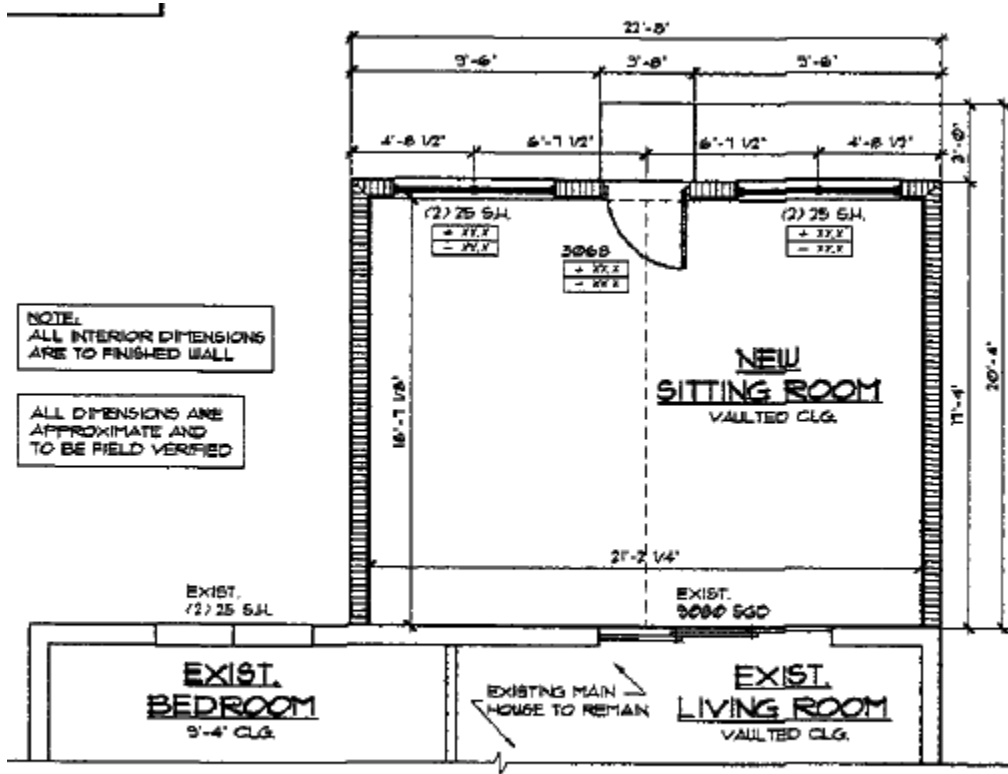
AERIAL MAP



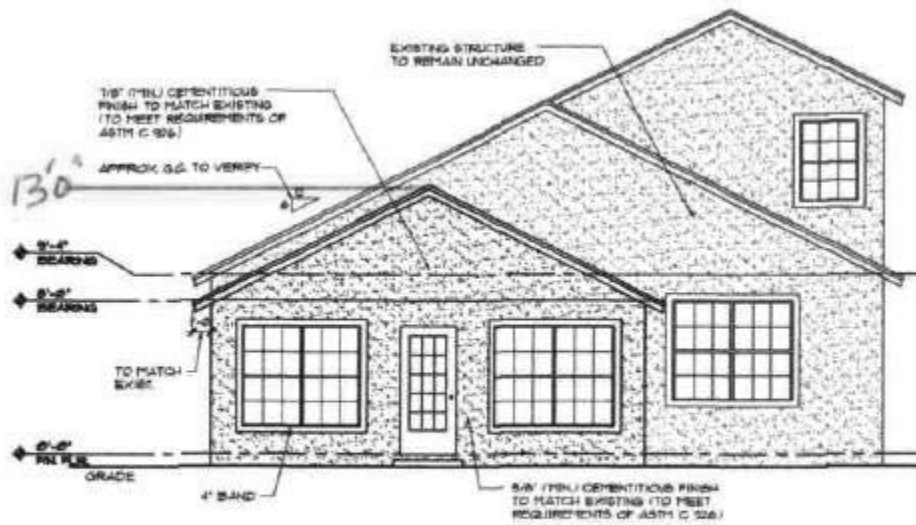
SITE PLAN



## FLOOR PLAN



## ELEVATIONS

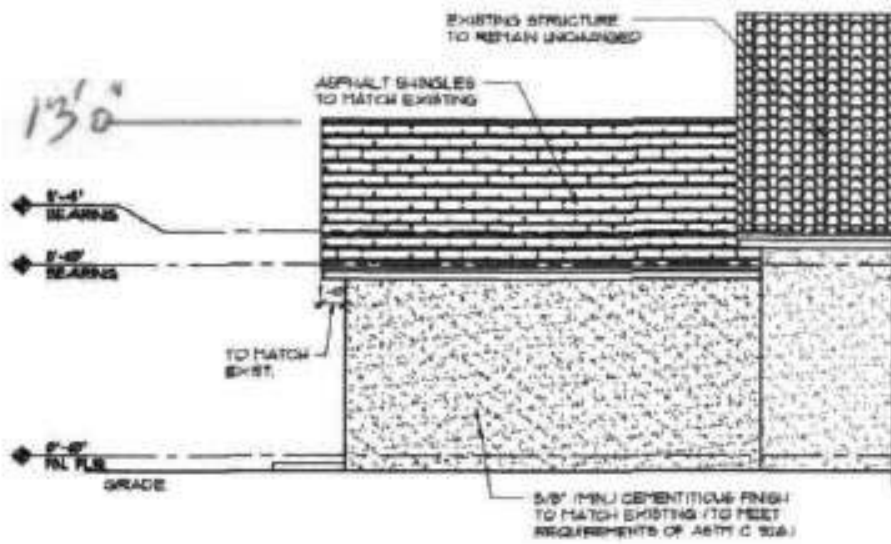


## REAR ELEVATION

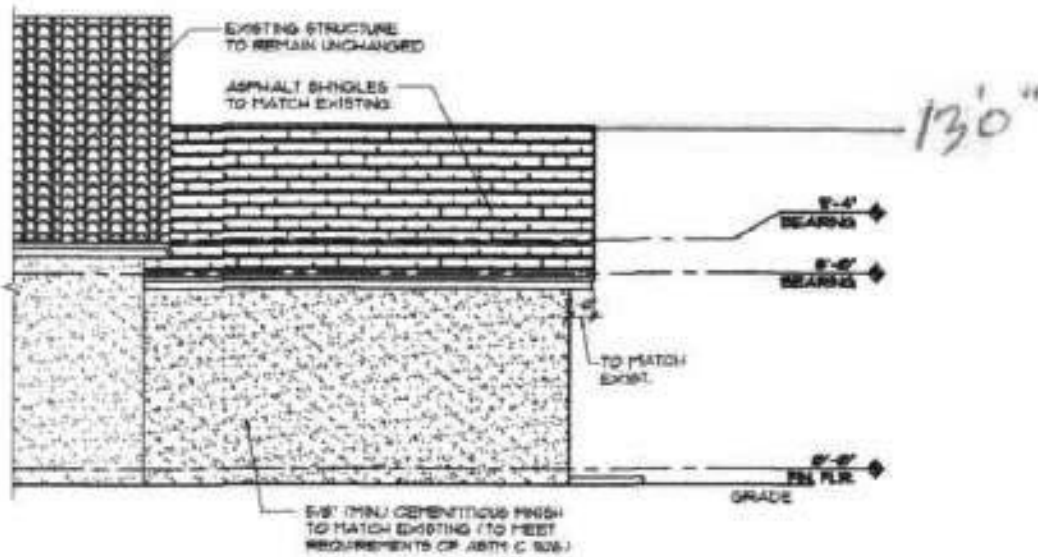
(NORTH)

1/8"=1'-0"

ELEVATIONS



**LEFT ELEVATION**  
(EAST) 1/8"=1'-0"



**RIGHT ELEVATION**  
(WEST) 1/8"=1'-0"

**SITE PHOTOS**



**Facing south towards rear of subject property; existing screen room**



**Birdseye, facing south showing adjacent property improvements**

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**SITE PHOTOS**

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**Rear yard, facing west.**



**Rear yard, facing east towards proposed addition**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 4, 2023**

Commission District: **#2**

Case #: **SE-22-08-064**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MATTANIAH JAHN FOR CORAL TOWERS LLC  
**OWNER(s):** ORRIN BARNES  
**REQUEST:** Special Exception in the A-1 zoning district to allow the construction of a 140 ft. high camouflaged monopole communication tower.  
**PROPERTY LOCATION:** 1755 W. McCormick Rd., Apopka, FL 32703, north side of W. McCormick Rd., west side of SR. 429, east of Ocoee Apopka Rd.  
**PARCEL ID:** 32-21-28-0000-00-016  
**LOT SIZE:** +/- 2.4 acres  
**NOTICE AREA:** 1,500 ft.  
**NUMBER OF NOTICES:** 311

**WITHDRAWN BY THE APPLICANT**

## LOCATION MAP



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

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Meeting Date:	<b>MAY 04, 2023</b>	Commission District:	<b>#6</b>
Case #:	<b>VA-23-04-007</b>	Case Planner:	<b>Ted Kozak, AICP (407) 836-5537</b> <b>Ted.Kozak@ocfl.net</b>

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## GENERAL INFORMATION

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**APPLICANT(s):** JOEL RODRIGUEZ FOR SOLUTIONS AUTO SALE AND REPAIR

**OWNER(s):** PERALTA CARLOS

**REQUEST:** Variances in the C-2 zoning district as follows:

- 1) To allow a 6 ft. high chain link fence with 1 ft. of barbed wires with 6 ft. high gates with 1 ft. of barbed wires within the clear view triangle.
- 2) ~~To allow an 8 ft. high chain link fence with 1 ft. of barbed wires within the clear view triangle.\*~~

\*Variance #2 has been deemed unnecessary

Note: This is the result of Code Enforcement.

**PROPERTY LOCATION:** 4404 S. Orange Blossom Trl., Orlando, FL 32839, northwest corner of 45th St. and S. Orange Blossom Trl., north of Holden Ave., south of Interstate 4.

**PARCEL ID:** 10-23-29-6152-06-220

**LOT SIZE:** +/- 0.39 acres (17,314 sq. ft.)

**NOTICE AREA:** 600 ft.

**NUMBER OF NOTICES:** 94

**DECISION:** Recommended **APPROVAL** of the Variance request **#1**, in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions; and, Variance request **#2**, is deemed as **UNNECESSARY** (Motion by Sonya Shakespeare, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and fence specifications received March 14, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.



3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. To maintain visibility, no slats shall be installed on the chain link fences or gates located within the visibility triangle.
5. Prior to the issuance of a building permit, the property owner shall record in the Official Records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to 45th St. and adjacent to S. Orange Blossom Trl., as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, including the location of the existing fencing and gates, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in favor or in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variance by a 5-0 vote, with two absent, subject to the five (5) conditions in the staff report.

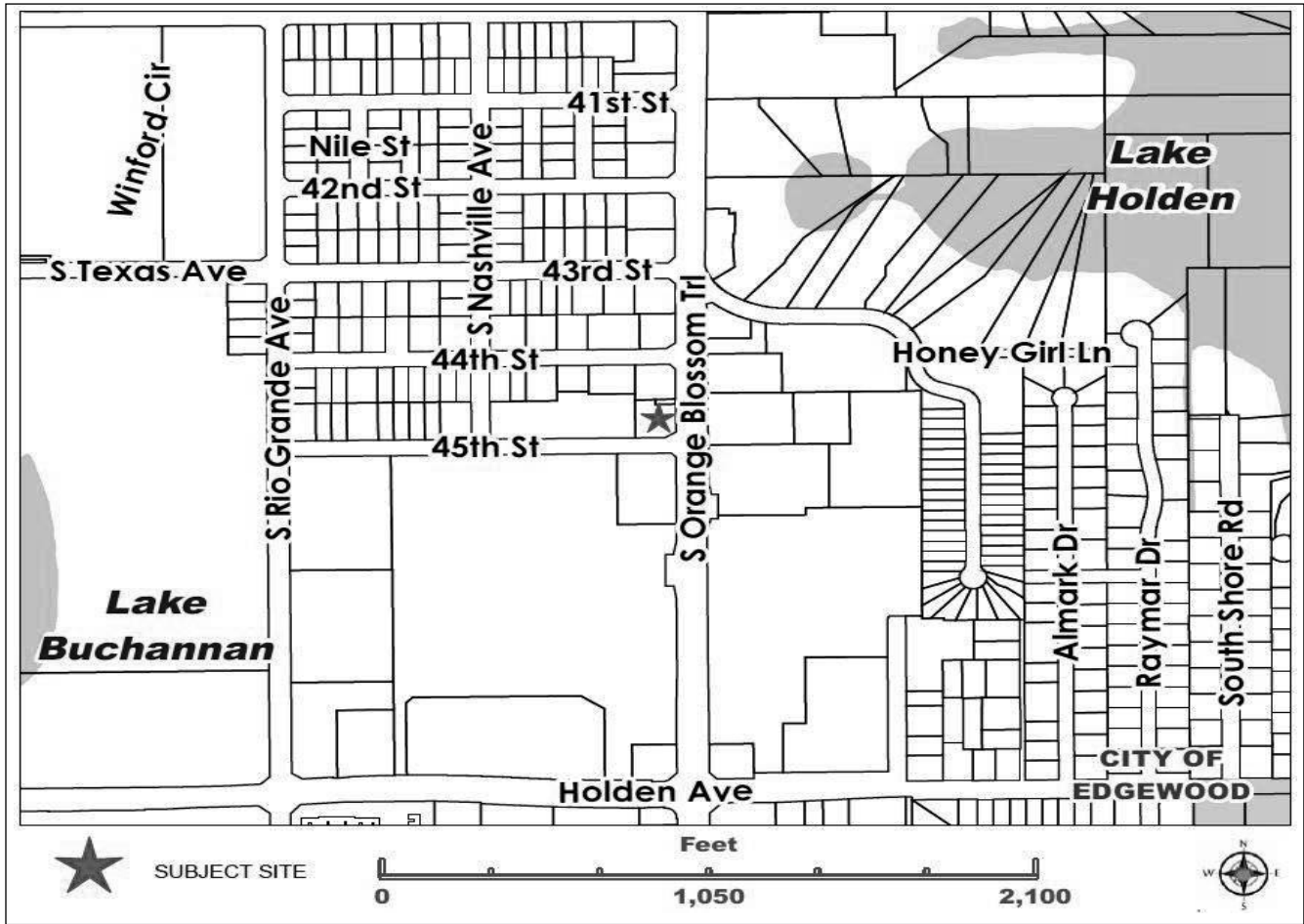
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#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	C-2	C-1	C-2	C-1	C-1
Future Land Use	Commercial	Commercial	Commercial	Commercial	Commercial
Current Use	Commercial	Restaurant	Retail	Retail	Mini-Storage

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the C-2. General Commercial district, which allows a wider variety of commercial uses including automotive repair and auto sales, as well as selected trade shops, and requires a larger lot area than the C-1 Retail Commercial district. The Future Land Use is Commercial, which is consistent with the C-2 district. The property is also located within the Orange Blossom Trail Overlay District, which was established to regulate billboard signs within the Orange Blossom Trail corridor, and as such does not impact the request.

The area around the subject site consists of a mix of commercial, retail, restaurants and an adjacent mini-storage to the west. The subject property is a +/- 0.39 acre lot that was platted in 1925 as a portion of Block F, Lots 22, 23 and 24 of the Ohio Homesites subdivision, and is a conforming lot. The property is a corner lot with frontage on both 45th St. and S. Orange Blossom Trl. S. Orange Blossom Trl. is considered the front as frontage for commercial property is determined by the width of the lot abutting the street with heaviest traffic usage. The site is developed with a 3,968 sq. ft. commercial building, constructed in 1964, containing retail, commercial and auto sales and repair uses. The owner purchased the property in 2018.

The property has been improved since at least 2006, with 6 ft. chain link fences and gates initially installed by a prior owner without a permit. The owner was cited by code enforcement on April 25, 2022 (CE#607463) for a number of issues, such as the installation of signage and fencing without permits. With the exception of the fence and gates, the remainder of the issues have since been resolved. A permit was submitted on November 12, 2022 for the existing 6 ft. high fences and gates (F22023760), which required revisions, however the permit was voided due to no activity within 6 months.

The proposal is to allow the already installed 6 ft. high chain-link fences and 6 ft. high gates located within the clear view triangle, including a 6 ft. high chain link fence and gate with 1 ft. of barbed wires along the south property line adjacent to 45<sup>th</sup> St., and a 6 ft. high chain link fence and gate with 1 ft. of barbed wires along the east property line adjacent to S. Orange Blossom Trl., respectively, for security of vehicular inventory on the property. Per Section 38-1408(b), "a fence of any style or material shall maintain a clear view triangle from the right-of-way line for visibility from driveways on the lot or on an adjacent lot. The clear view triangle area for a driveway is formed on each side of a driveway by measuring a distance of fifteen (15) feet along the right-of-way and fifteen (15) feet along the edge of the driveway." The proposed fences and gates are within the clear view triangle of the driveway access from 45th St. and S. Orange Blossom Trl., requiring Variance #1. Although Variance #2 was advertised to allow for an 8 ft. high fence, it has been deemed unnecessary since there is only a 6 ft. high chain link fence requested along the west property line and the existing 8 ft. high fence is located on the adjacent mini-storage property, not on the subject property. Staff observed the fence and gate located adjacent to 45<sup>th</sup> St. with barbed wires overhanging into the ROW, evidenced by the photos in this report. Since the date of inspection, as required per Section 38-1408, the barbed wires have been modified to overhang over the subject property.

Although the fences and gates were installed without permits, staff recommends approval of the request. Since the fences and gates are chain link, there is still some visibility. Along 45th St., approximately 2 ft. of grass right-of-way (ROW) is located between the property line and sidewalk, with approximately 17 ft. of ROW between the property line and the edge of pavement. The property to the west, a mini-storage, has an opaque fence, however the fence was permitted prior to the 2016 amendment to the county code which added the visibility triangle requirement. Further, along S. Orange Blossom Trl., the property line is setback 1 ft. from the adjacent 10 ft. wide sidewalk and street which allows for visibility for pedestrian and vehicular traffic.

As of the date of this report, no comments have been received in favor or in opposition to this request.

## District Development Standards

	Code Requirement	Proposed
Max Height:	No fence and gates in the required visibility triangle	6 ft. high chain link fence and gates in the visibility triangle (Variance #1)
Min. Lot Width:	100 ft. (corner lot at major street)	128 ft.
Min. Lot Size:	6,500 sq. ft.	17,314 sq. ft.

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### **Special Conditions and Circumstances**

The special conditions and circumstances particular to the property include existing site conditions. Due to the location of the driveways on site, the visibility triangles take up a large portion of the front and street side yard of this site, limiting code compliant fencing opportunities that offer reasonable site security. The property line is setback from the sidewalk and street and that, in combination with the transparent fence and gates allows for visibility for pedestrian and vehicular traffic.

#### **Not Self-Created**

The need for the Variances result from the existing location of the driveways on this property relative to security issues and the existing location of fencing and gates which were installed over 17 years ago in the same location, albeit without a permit.

#### **No Special Privilege Conferred**

Granting the Variances as requested will not confer special privilege that is denied to other properties in the same area and zoning district, as fencing and gates would be allowed, but the location of the existing onsite driveways makes it difficult to meet code requirements without shifting the fencing and gates back into onsite vehicular parking and maneuvering areas.

#### **Deprivation of Rights**

Without the requested Variances, the ability to install fencing with gates for security would be very limited due to site constraints. Furthermore, the fencing and gates were installed over 17 years ago in the current locations.

#### **Minimum Possible Variance**

Given the configuration and location of improvements on the property, the requested Variances are the minimum possible.

#### **Purpose and Intent**

Approval of the requested variance will allow improvements in an appropriate location which is in harmony with the purpose and intent of the Zoning Regulations. As proposed, the request would not be detrimental to the surrounding area since the fence and gates will still allow visibility as the chain link is 6 ft. high and provides a significant amount of transparency. Further, there is approximately 6.7 ft. between the fence and gate and the sidewalk location along 45th St. Along S. Orange Blossom Trl., and while there is approximately 1 ft. between the fence and gate and the sidewalk, there is a 10-foot-wide sidewalk.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and fence specifications received March 14, 2023 subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. To maintain visibility, no slats shall be installed on the chain link fences or gates located within the visibility triangle.
5. Prior to the issuance of a building permit, the property owner shall record in the Official Records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to 45th St. and adjacent to S. Orange Blossom Trl., as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location.

C: Joel Rodriguez  
4404 S. Orange Blossom Trl.  
Orlando, FL 32839

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**COVER LETTER**

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1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

We would like to keep a pre-existing fence, in place at its current height which is 8 feet, because as we are located on S. Orange Blossom, the crime rate in our area is in what the police crime map would categorize as a high crime area or crime rate of (F) and we deal with automobiles both privately owned by us and owned by our clients and at times we have to keep the cars we service over night, the fence helps deter would be criminals from stealing parts from our cars parts such as catalytic, radios, mirrors, and rims, to name a few.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The fence in question was on the property prior to our acquiring the property in 2018. we are simply requesting to permit the fence where is, how its is to maintain our property and that of our clients safe.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

There is no special privilege conferred, other than the safety of the vehicles in our care

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

The only right we feel, that we would be deprived of would be, the right to feel safe in leaving our business and vehicles unattended at night.

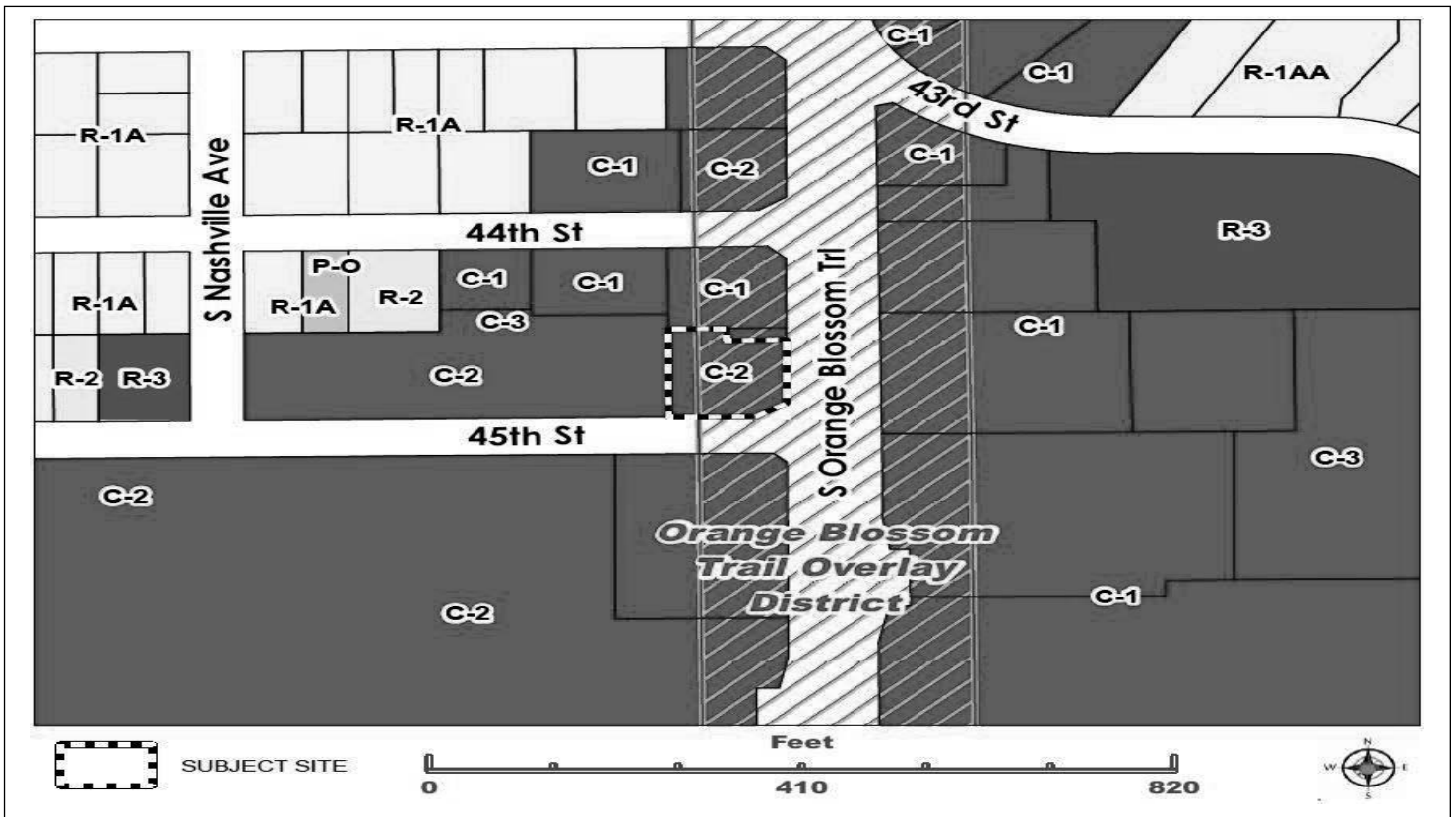
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The minimum states that at the entry way of the Plaza (Drive way) visibility should be 15 FT or the "fence should stand at 4 feet tall"

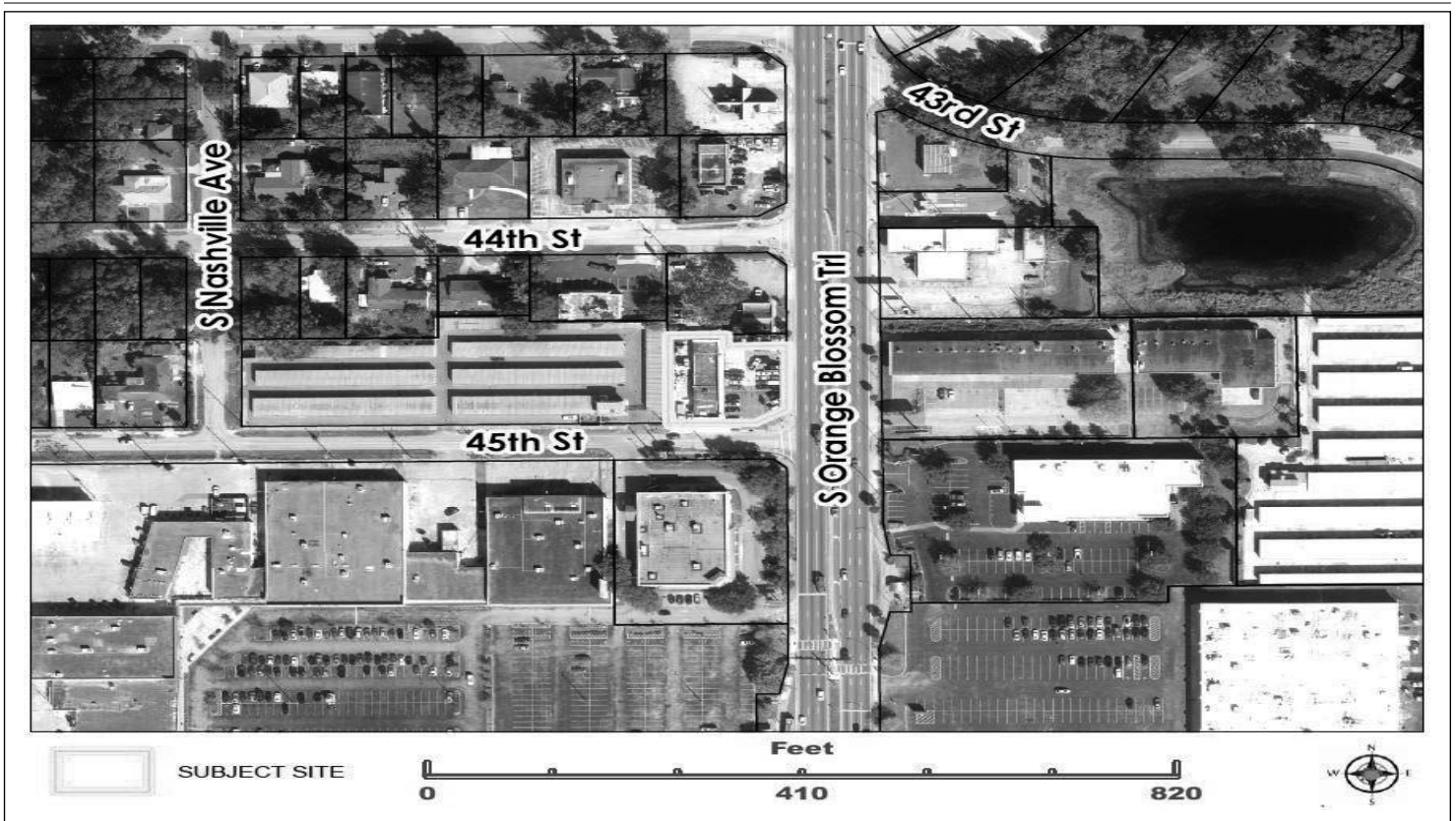
5. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The purpose and intent for the fence or (variant) is to keep a pre-existing fence and get it permitted for the fence it self it poses no detrimental consequence for the public other than the safety of our property.

### ZONING MAP



### AERIAL MAP



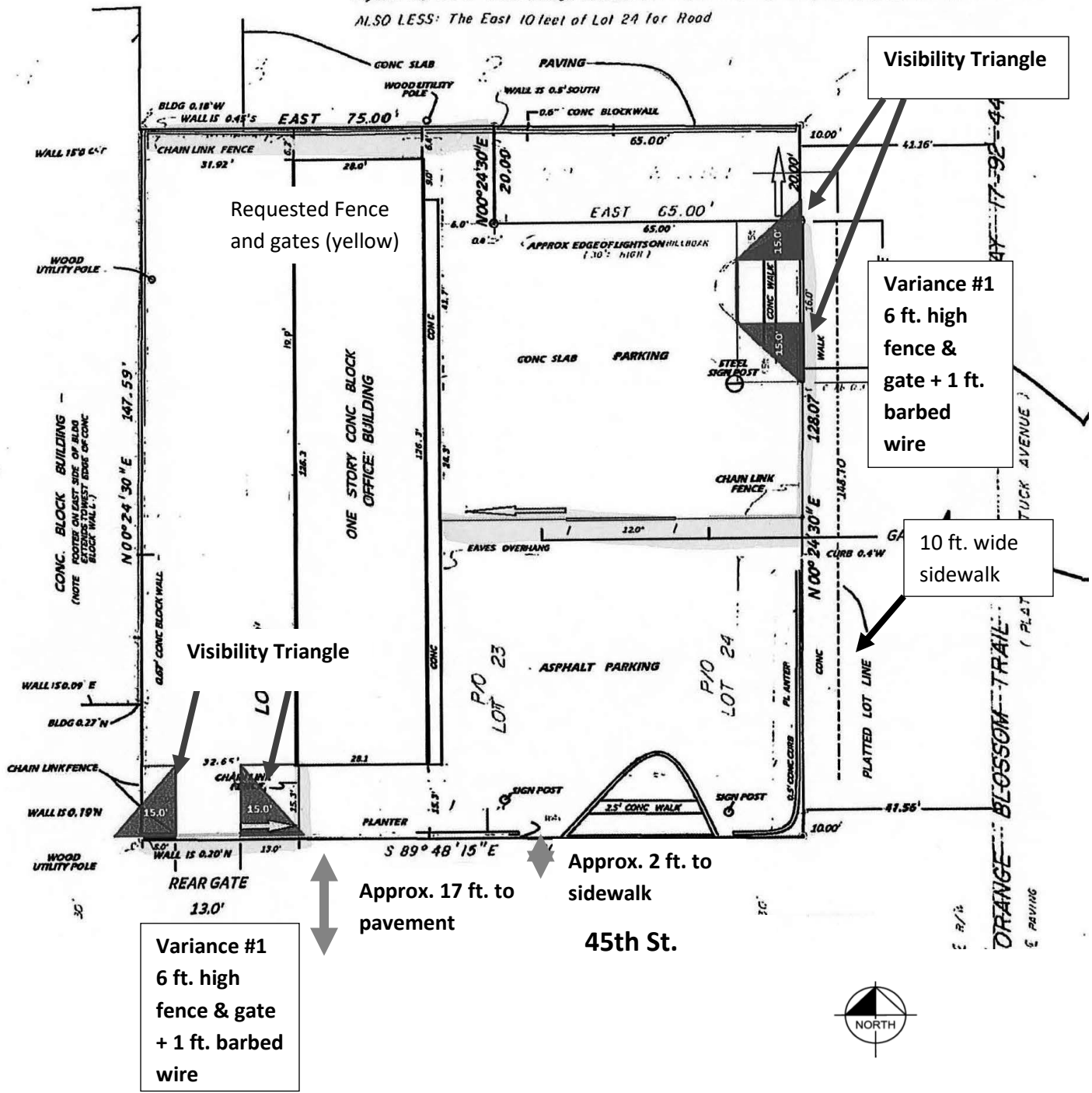
# PLAT OF SURVEY

## DESCRIPTION :

Lots 22, 23 & 24, Block "F", OHIO HOMESITES, as recorded in Plat Book "K", Page 120, Public Records Orange County, Florida.

LESS: The East 65 feet of that part of the North 20 feet of Lots 22, 23 & 24, Block "F", OHIO HOMESITES as recorded in Plat Book "K", Page 120, Public Records of Orange County, Florida, lying West of the West right of way line of South Orange Blossom Trail (U.S. Highway No. 441) as is now laid out and exists.

ALSO LESS: The East 10 feet of Lot 24 for Road



Variance #1  
6 ft. high  
fence & gate  
+ 1 ft. barbed  
wire

Visibility Triangle

Variance #1  
6 ft. high  
fence &  
gate + 1 ft.  
barbed  
wire

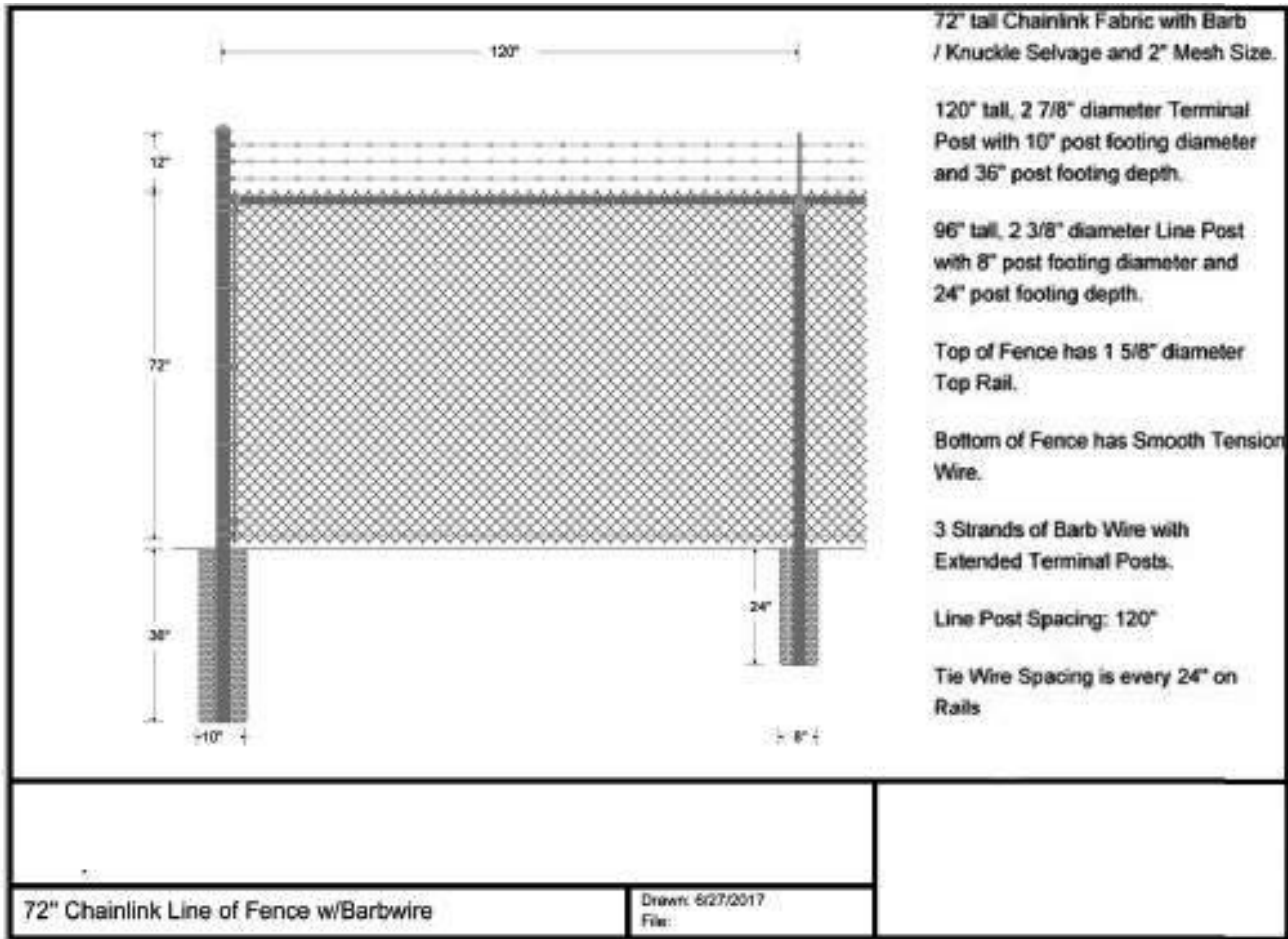
10 ft. wide  
sidewalk

Approx. 17 ft. to  
pavement

Approx. 2 ft. to  
sidewalk  
45th St.



**6 FT. HIGH CHAIN LINK FENCE DETAIL WITH 1 FT. BARBED WIRE - GATE SIMILAR DESIGN**



**SITE PHOTOS**



**View of the west property line, fence and gates from the sidewalk along 45th Street facing northwest**



**Close up view of the west property line, fence and gate location from 45th Street**

**SITE PHOTOS**



**Fence and gate from the sidewalk along 45th Street facing north**



**Fence and gate facing north along east property line from S. Orange Blossom Trl.**

**SITE PHOTOS**



**Fence and gate along S. Orange Blossom Trl. facing northeast**



**Facing northwest towards property at the corner of 45th St. and S. Orange Blossom Trl.**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **VA-23-05-016**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** OLLIE RIVES

**OWNER(s):** OLLIE RIVES

**REQUEST:** Variance in the A-1 zoning district to allow a detached accessory structure in front of the primary structure.

**PROPERTY LOCATION:** 6682 Dudley Ave., Mount Dora, FL 32757, south side of Dudley Ave., east of N. Orange Blossom Trl., north of Sadler Rd.

**PARCEL ID:** 09-20-27-0000-00-051

**LOT SIZE:** +/- 2 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 41

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by John Drago, Second by Juan Velez; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and elevations received April 12, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to obtaining a permit for the accessory structure, a permit shall be obtained for the boat on the property, or it shall be removed.

5. The accessory structure shall be constructed of the same materials and be painted to match the house.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that two (2) comments were received in support, and no comments were received in opposition.

The applicant noted that the structure will be 91 feet from the front property line, and that they have a loop driveway and it would make more sense to have the garage in front of the house. The applicant also noted that the proposed location is in a clear area where trees would not need to be removed.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the size of the structure, noted the constraints on the property and the provision of a 91 foot front setback, the preservation of trees, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report, with the addition of Condition #5, which states "The accessory structure shall be constructed of the same materials and be painted to match the house."

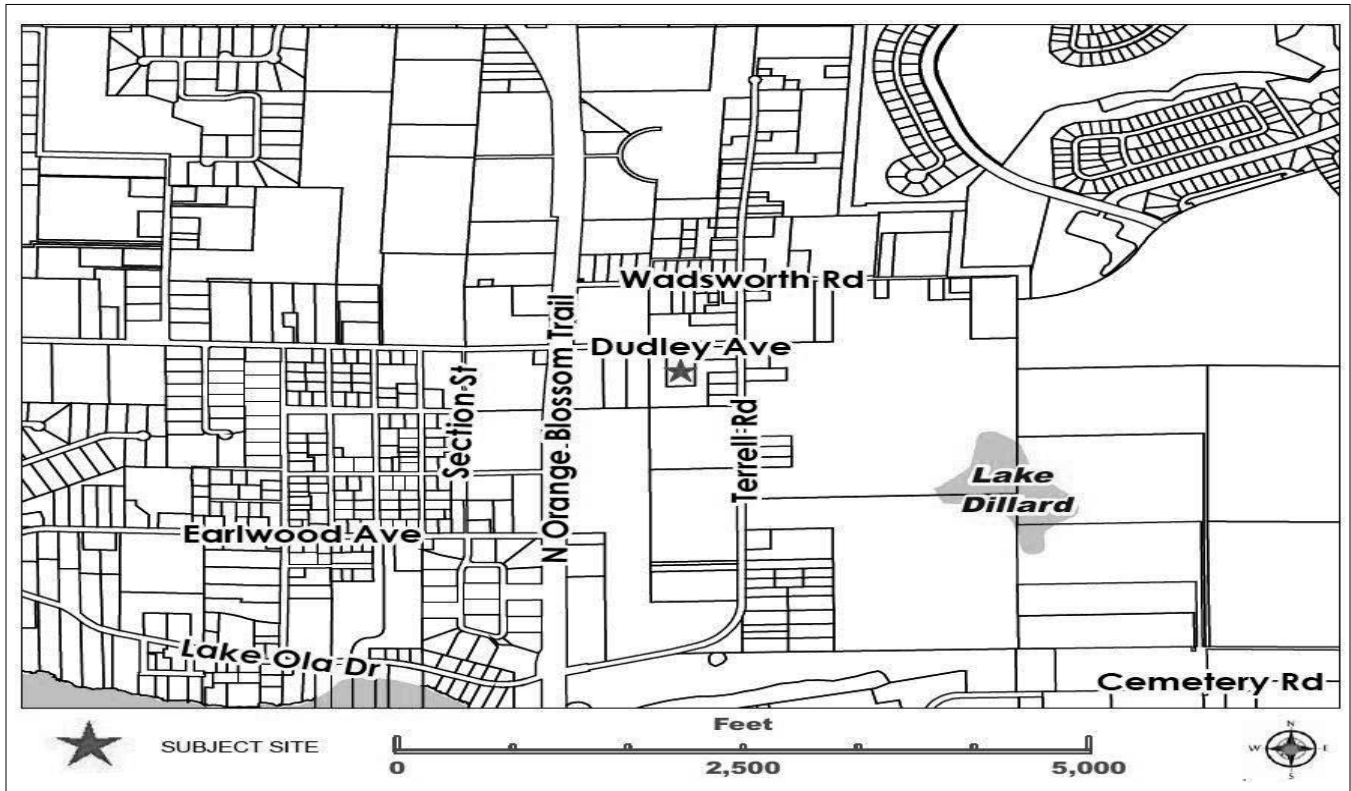
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#### **STAFF RECOMMENDATIONS**

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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS-1/1	RS-1/1	RS-1/1	RS-1/1	RS-1/1
Current Use	Single-family residential	Single-family residential	Vacant	Vacant, Single-family residential	Vacant

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-1, Citrus Rural zoning district, which primarily allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The Future Land Use is RS 1/1, which is consistent with the A-1 zoning district.

The property is located in the Tangerine Rural Settlement. Rural settlements are established through the Comprehensive Plan and are intended to identify areas with unique traits and characteristics which the residents of those areas wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. In the Tangerine Rural Settlement, the maximum density is one (1) unit per one acre for new development.

The subject property is a 2 acre unplatted parcel that conforms with the zoning regulations for the district. It is developed with a 2,554 gross sq. ft. single-family home, constructed in 2006. The current owner purchased the property in 2003.

The applicant is proposing to install a 30 ft. x 68 ft., 2,040 sq. ft., 4 car garage in front of the existing house. Per Sec.38-1426 (a) (3) (b) (3) of the Orange County Code, an accessory structure shall not be located in front of the primary dwelling unit. Thus, the applicant is applying for a variance. The garage will comply with all other performance standards for the zoning district. The owner applied for a permit for the garage in January of 2023 (B22023861), which is on hold pending the outcome of this BZA case.

Staff is recommending denial of the Variance, as other options are available, including placing the accessory structure parallel to, or behind the house, or attaching the accessory structure to the house, which would not require a Variance. However, it is worth noting that the property is accessed from a lightly travelled dirt road, and the accessory structure is proposed to be set back 91 ft. from the front property line, thus minimizing visual impact.

Staff observed a boat in front of the property and was unable to locate an issued permit. A permit will be required to be obtained to park the boat on the property, or it shall be removed.

As of the date of this report, two (2) comments have been received in favor of this request from neighbors to the west, and no comments have been received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	25 ft.	16 ft.
Min. Lot Width:	100 ft.	209 ft.
Min. Lot Size:	0.5 acres (single family)	2 acres

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	35 ft.	91 ft. (North)
Rear:	10 ft.	284 ft. (South)
Side:	10 ft.	121 ft. (East) 59 ft. (West)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could construct an accessory structure in a compliant location, parallel to, or behind the house, or attach the accessory structure to the house, which would not require a variance.



**Not Self-Created**

The request is self-created since there are alternatives to construct a code compliant accessory structure or modify the proposal to attach the accessory structure to the house.

**No Special Privilege Conferred**

Granting the requested Variance will confer special privilege not conferred to others under the same circumstances since the property can continue to be used for a single-family residence, and an accessory structure could be placed in a location that meets code.

**Deprivation of Rights**

The owner is not being deprived of the right to use the property for a single-family residence with an accessory structure that meets code.

**Minimum Possible Variance**

The requested Variance is not the minimum possible as a code compliant accessory structure could be built on the property.

**Purpose and Intent**

Approval of the request would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the property fronts on a dirt road, and the accessory structure is proposed to be set back 91 ft. from the front property line, thus minimizing visual impact.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received April 12, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to obtaining a permit for the accessory structure, a permit shall be obtained for the boat on the property, or it shall be removed.

C: Ollie Rives  
6682 Dudley Ave.  
Mount Dora, FL 32757

C: Theodore McElroy  
6758 Dudley Ave.  
Mount Dora, FL 32757

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## COVER LETTER

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Cover letter for an Orange County Zoning variance.

This variance request is for the property located at 6682 Dudley Ave Mt Dora FL 32757

We are requesting a variance to allow a detached garage (Auxiliary Building) to be constructed and located in front of the front set back of our existing home.

The stamped and sealed plans to include a site drawing with dimensions are included in this variance request submittal.

The new structure will be constructed with a concrete Slab, Concrete masonry unit walls to a height of 9' 4". The roof system will be engineered trusses, a Hip roof System with a 5 / 12 roof pitch. Architectural shingles. Stamped construction documents are included in the variance submittal.

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Letters of approval from the only 2 neighbors on Dudley Ave. are included in the Variance request submittal.

The land Parcel ID Number is 09-20-27-0000-00-051

Thank You For Considering This Variance Request.

COVER LETTER

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

No special conditions exist on the property and no zoning violations are evident on neighboring properties

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

No self hardship has been created

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Approval of the variance will not give any special privilege to the property owners

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Literal interpretation would not deprive the owner of rights enjoyed by other properties in the same zoning district

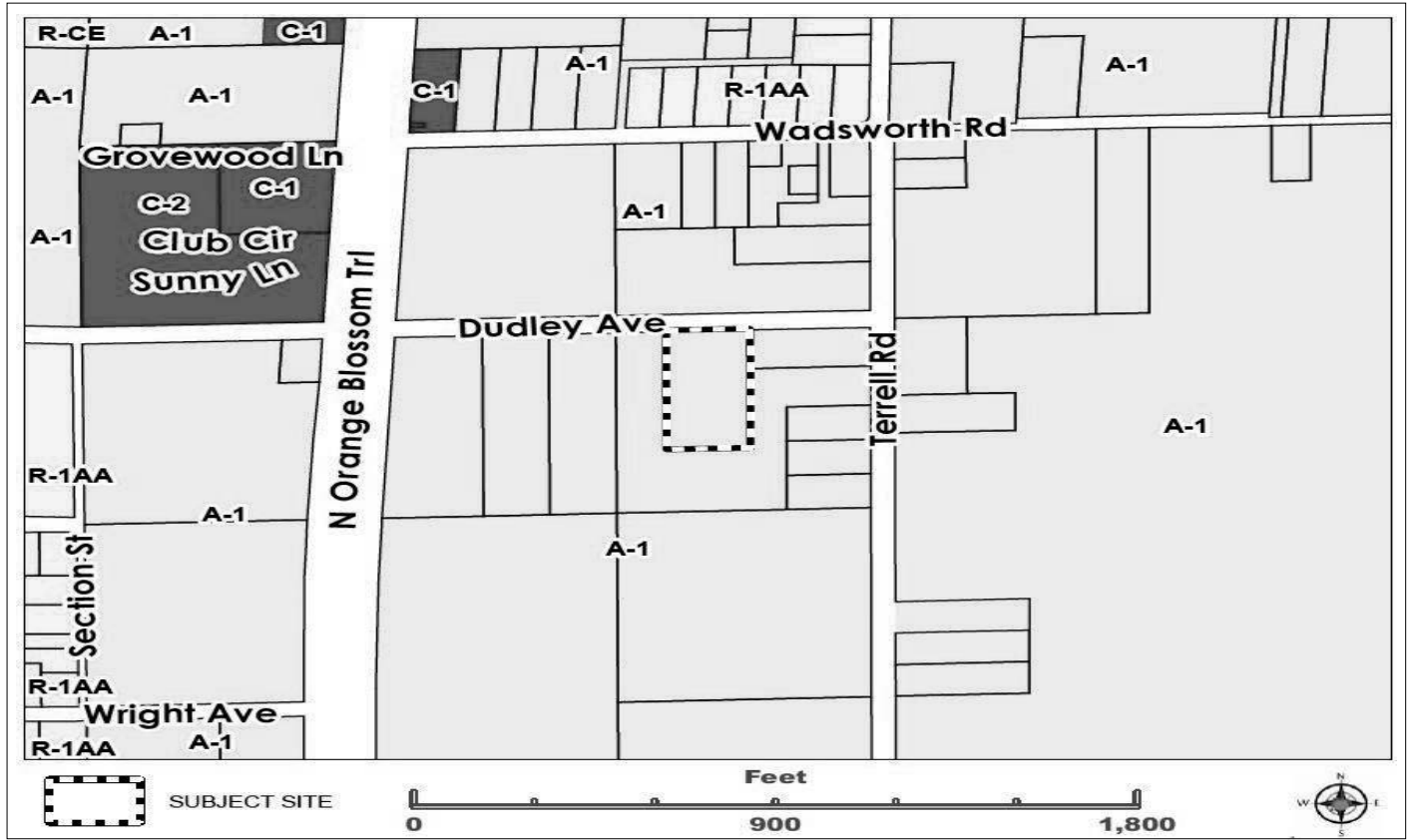
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The variance requested is the minimum needed to allow the best use of the new building

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of the variance will not cause disharmony with neighboring properties. It will not cause an injurious or detrimental impact to the public

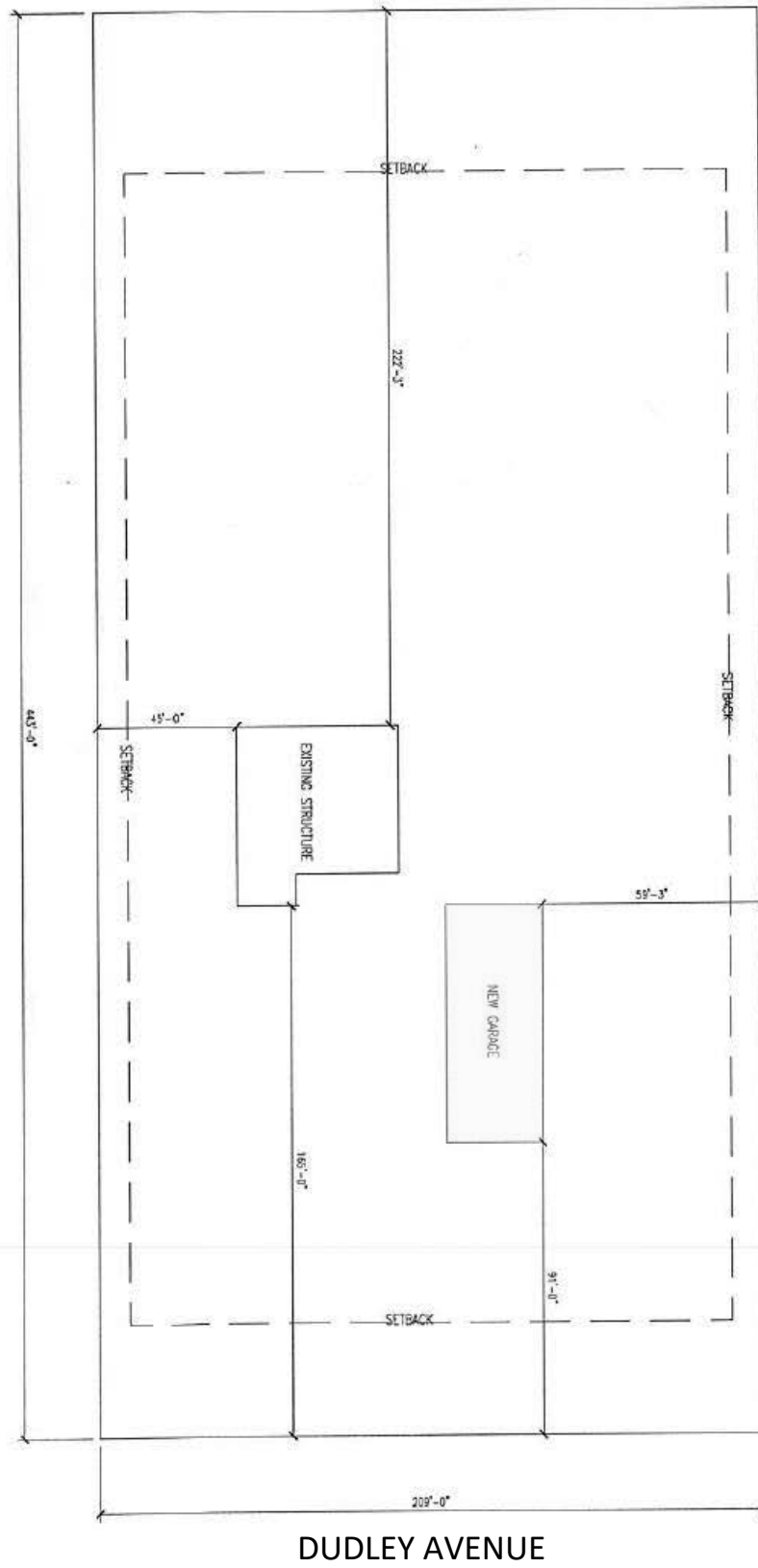
ZONING MAP



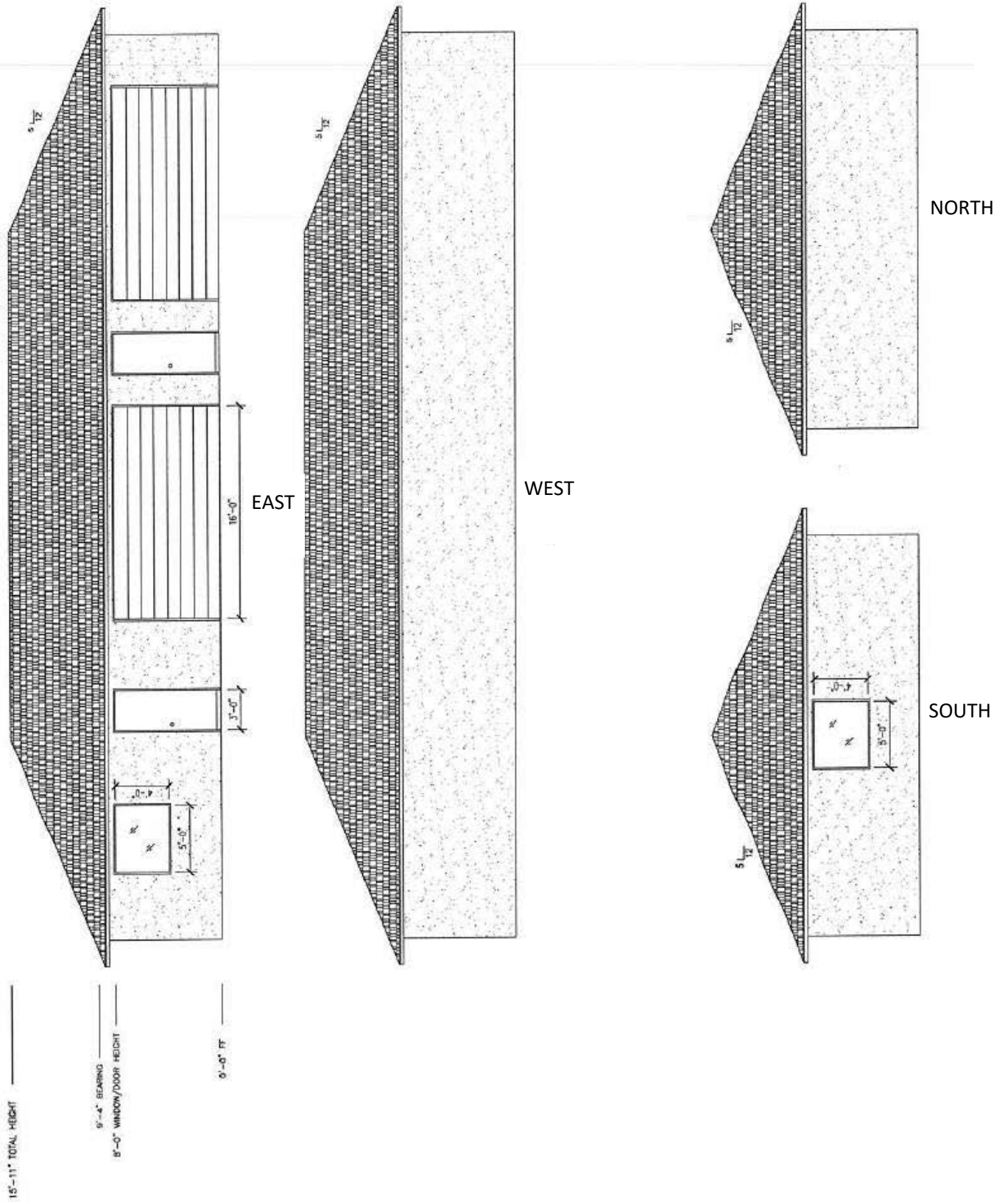
AERIAL MAP



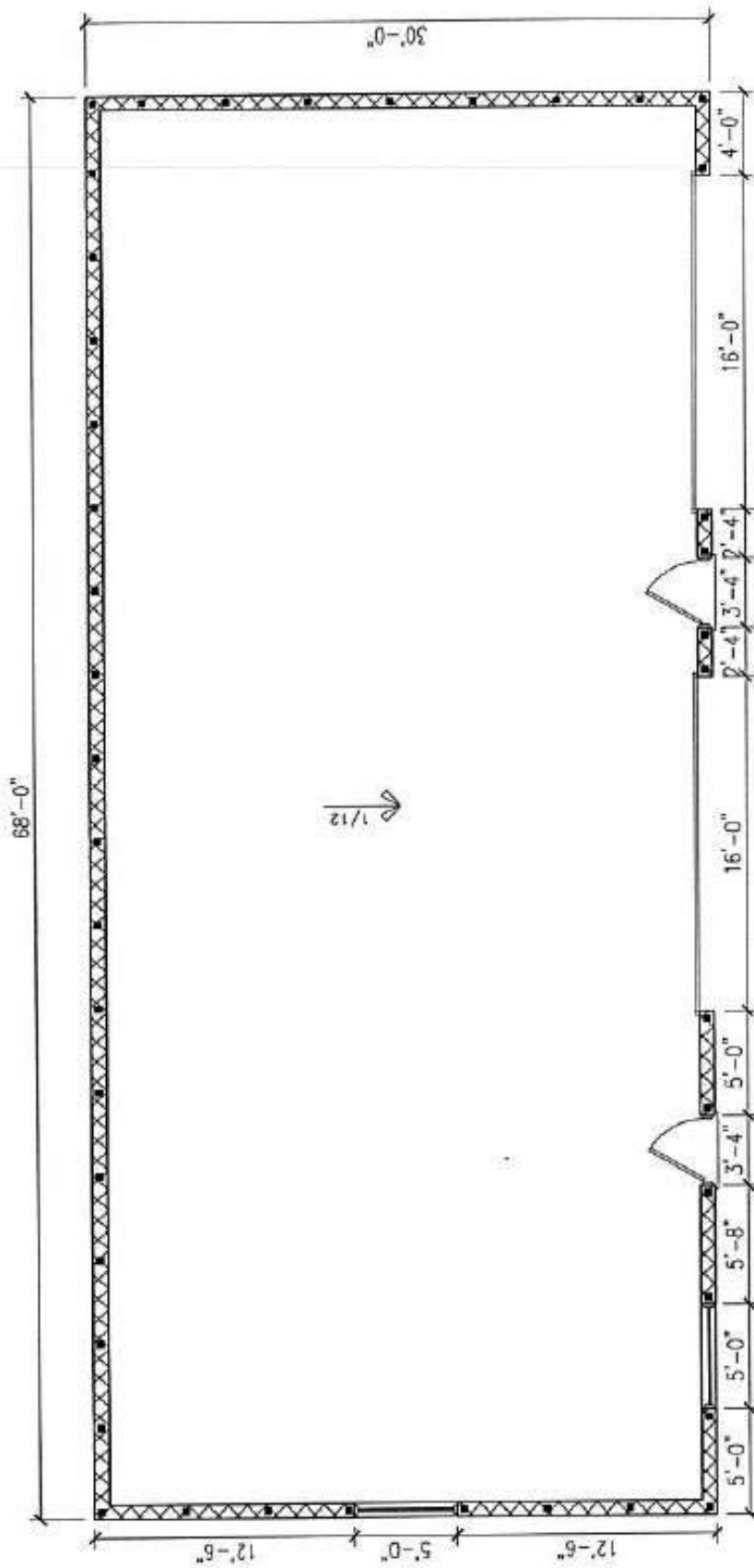
SITE PLAN



# ELEVATIONS



FLOOR PLAN





**SITE PHOTOS**



**Dudley Ave.**



**Front from Dudley Ave. facing south**

**SITE PHOTOS**



**Garage location facing east**



**Garage location facing south**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **VA-23-05-020**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MATTHEW CULLIVAN

**OWNER(s):** MATTHEW CULLIVAN

**REQUEST:** Variance in the R-1 zoning district to allow an existing screen room with a front setback of 18.9 ft. in lieu of 25 ft.

Note: This is the result of Code Enforcement.

**PROPERTY LOCATION:** 20 E. Hammon Drive, Apopka, FL 32703, south side of E. Hammon Dr., west of Clarcona Rd., north of S.R. 414, east of S. Washington Ave.

**PARCEL ID:** 21-21-28-4532-00-500

**LOT SIZE:** +/- 0.16 acres (6,802 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 91

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, second by Thomas Moses; 4 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Sonya Shakespeare; 1 opposed: Juan Velez; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and elevations received April 12, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the addition shall be obtained within 6 months of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support or in opposition.

The applicant briefly discussed the reason for the request.

There was no one in attendance to speak in favor or in opposition to the request.

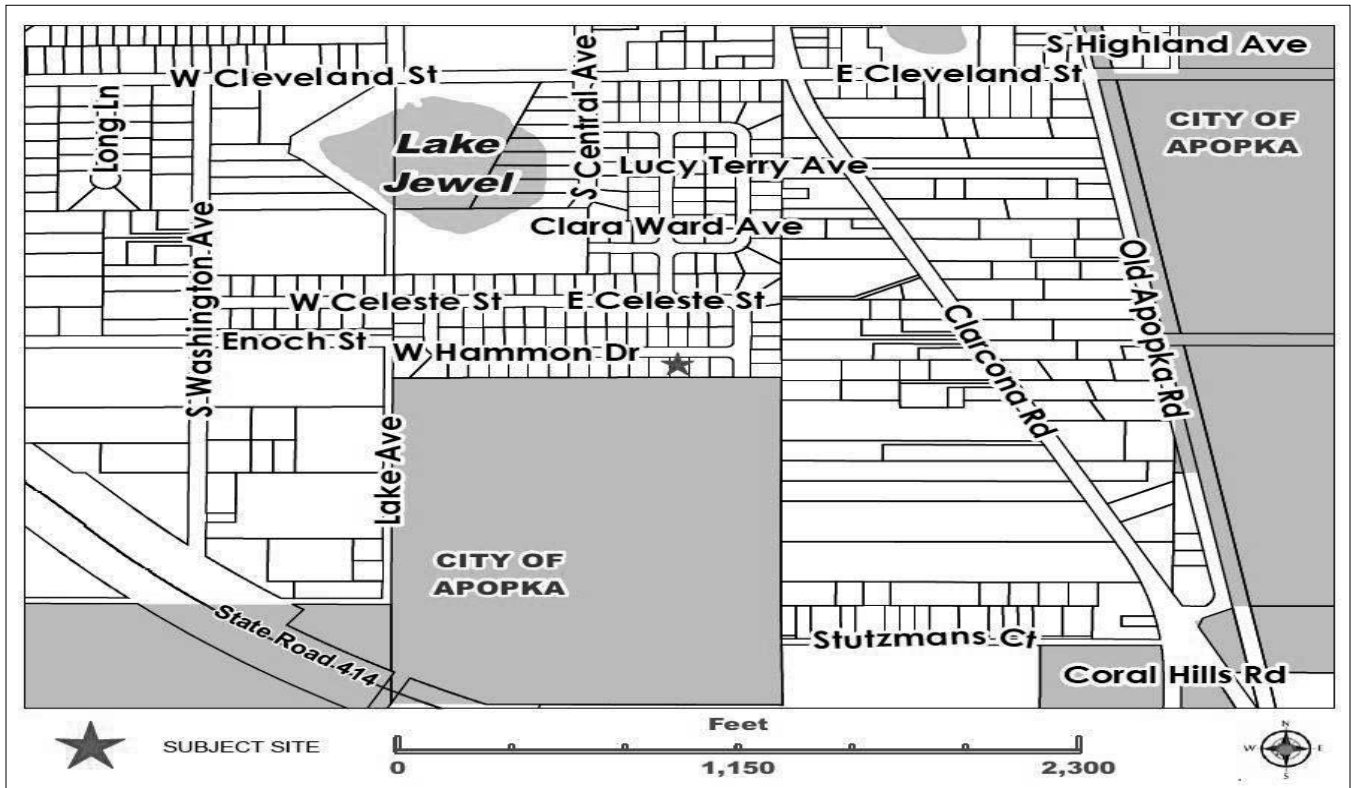
Code Enforcement briefly discussed the citation.

The BZA discussed the request, stated justification for the six (6) criteria and recommended approval of the Variance by a 4-1 vote, with two absent, subject to the four (4) conditions in the staff report.

**STAFF RECOMMENDATIONS**

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variance, staff recommends that the approval be subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1	R-1	City of Apopka	R-1	R-1
Future Land Use	LDR	LDR	City of Apopka	LDR	LDR
Current Use	Single-family residential	Single-family residential	Vacant	Single-family residential	Single-family residential

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## BACKGROUND AND ANALYSIS

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### **DESCRIPTION AND CONTEXT**

The subject property is located in the R-1, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The subject property is a 0.16 acre lot, located in the Lake Jewell Heights Unit 3 Plat, recorded in 1970, and is considered to be a conforming lot of record. It is developed with a 1,500 gross sq. ft. single-family home, constructed in 1970. The applicant purchased the property in 2016.

In 2021 the owner added a screen room addition with a structural roof to the front of the house, with a setback of 18.9 ft. without a permit. Per Sec. 38-1 of the Orange County Code, a screen room is defined as a non habitable structure consisting of solid aluminum roof panels, attached to the principal structure and open on three sides with screen mesh and 24-inch kick panels. Per Sec. 38-79 (18), it is permitted to extend up to 13 ft. into the rear yard. However, a screen room attached to the front of the residence is required to meet the same setbacks as the principal structure. The proposal is to allow the existing 13 ft. x 6 ft. covered screen room addition in front of the existing house to remain with a north front setback of 18.9 ft. in lieu of 25 ft., necessitating the need for a Variance.

A Code Enforcement citation was issued in February 2021 for construction of an addition to the house without a permit (Incident 582992). The owner applied for a permit for the addition in November of 2022 (B22024224), which is on hold pending the outcome of this BZA case.

There is an existing north front setback of 24.9 ft. to the existing residence that has received an administrative waiver. Per Sec.38-1508 (a) (b) of the Orange County Code, “the zoning manager shall have the authority to grant administrative waivers from the performance standards set forth in section 38-1501 ..., provided that no such administrative waiver shall exceed six (6) percent of the applicable requirement for the front yard...”

Staff is recommending denial of the Variance, as other options are available, including constructing an addition in a compliant location, or constructing a smaller addition, which would not require a Variance.

As of the date of this report, no comments have been received in favor or in opposition to this request.

### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	8.2 ft.
Min. Lot Width:	50 ft.	68 ft.
Min. Lot Size:	5,000 sq. ft.	6,802 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	18.9 ft. (North-Variance)
Rear:	25 ft.	41 ft. (South)
Side:	6 ft.	7.9 ft. (East) 7.8 ft. (West)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could construct an addition in a compliant location, or a smaller addition, which would not require a variance.

**Not Self-Created**

The request is self-created since the owner constructed the addition without permits, and there are alternatives to construct a code compliant addition.

**No Special Privilege Conferred**

Granting the requested Variance will confer special privilege not conferred to others under the same circumstances since the property can continue to be used for a single-family residence, and an addition could be constructed in a location that meets code.

**Deprivation of Rights**

The owner is not being deprived of the right to use the property for a single-family residence with an addition that meets code.

**Minimum Possible Variance**

The requested Variance is not the minimum possible as a smaller, code compliant addition could be built.

**Purpose and Intent**

Approval of the request would not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the surrounding neighborhood, since the screen room projects beyond the rest of the house and is clearly visible from the street, and adjacent properties.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received April 12, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the addition shall be obtained within 6 months of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Matthew Cullivan  
20 E. Hammon Drive  
Apopka, FL 32703

COVER SHEET

Owner: Matthew Cullivan

Request : SCREEN ROOM

Reason: At the time of construction, owner was unaware of the 25 foot needed for the permit from property line.

The owner is also the contractor.

Type of Construction:

Mesh screening, aluminum, framing, waterproof, plywood, underlining roof, and asphalt shingles.

Square foot : 13 x 6

Dimensions : 10 foot high, 13 foot wide, 6 foot long.

Screen room dimensions west side:

20.5 feet, code is should be 25 foot.

Screen room dimensions North side: 18.9 feet code is 25 foot.

Screen room dimension East side: 32.4 feet, this is code compliant.

Screen room on the south side: N/A

Additional information : All products used on the construction are approved by Florida codes.

Everything is billed to code. The structure has been completed a year and a half ago with zero problems.

Signature Matthew Cullivan

Print Name Matthew Cullivan



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**COVER LETTER**

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Responses to the variance criteria are as follows:

A. Special Conditions and Circumstances: The property's original structure is less than 25' from property line. variance would be needed for any size screen room built.

B. Not Self-Created: The Screen Room will not create hardship to Matthew Cullivan (owner) or any other persons or Party. The entire andition of screen room will be on the property lines of 20 E Hammon Dr.

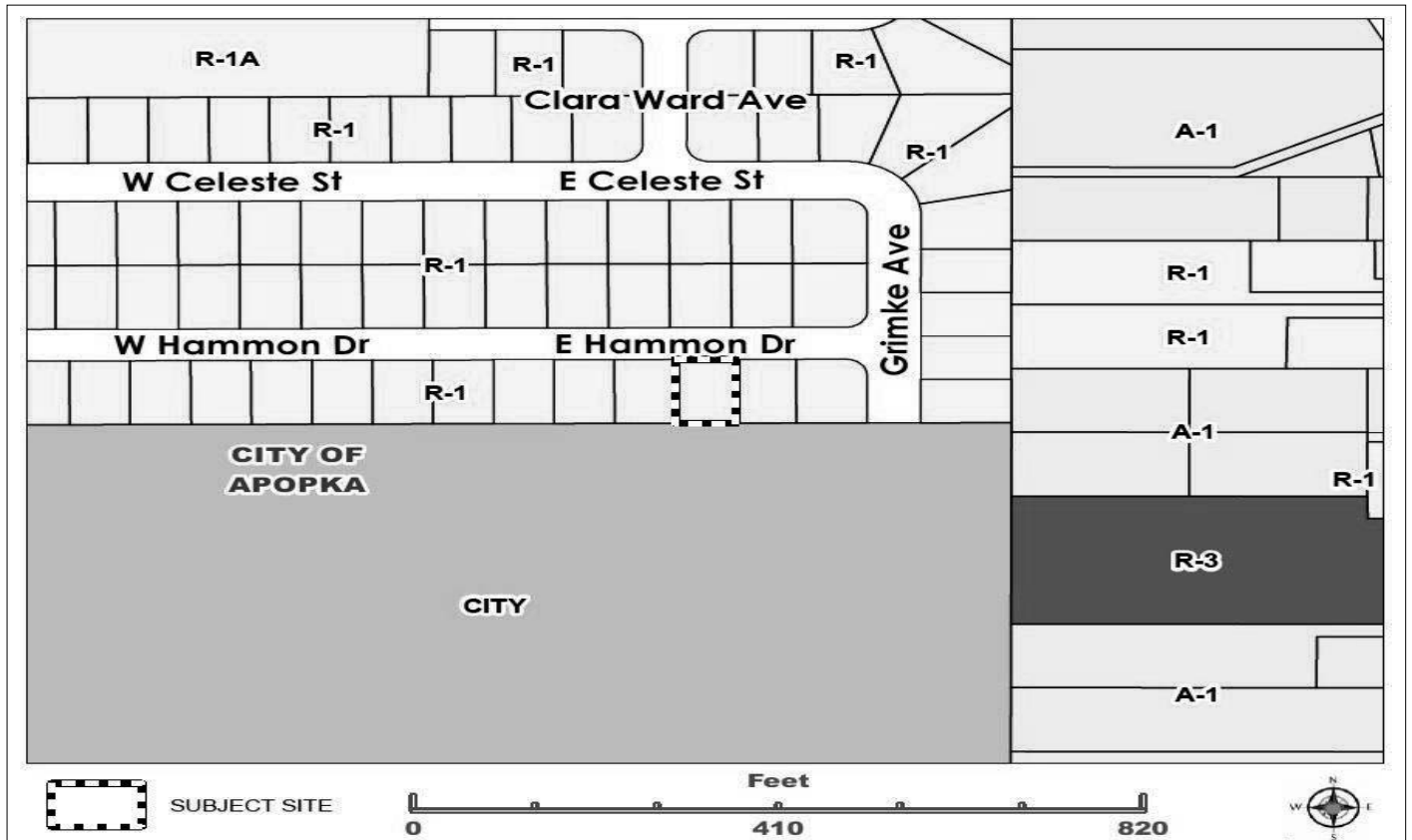
C. No Special Privileges Conferred: I certify that no special privileges to other lands. Other homes in the neighborhood have screen rooms in the same location as mine.

D. Deprivation of Rights: In this district other homes have screen rooms. I would like to enjoy the same privileges as my neighbors. I would need a variance because of the distance of the property line.

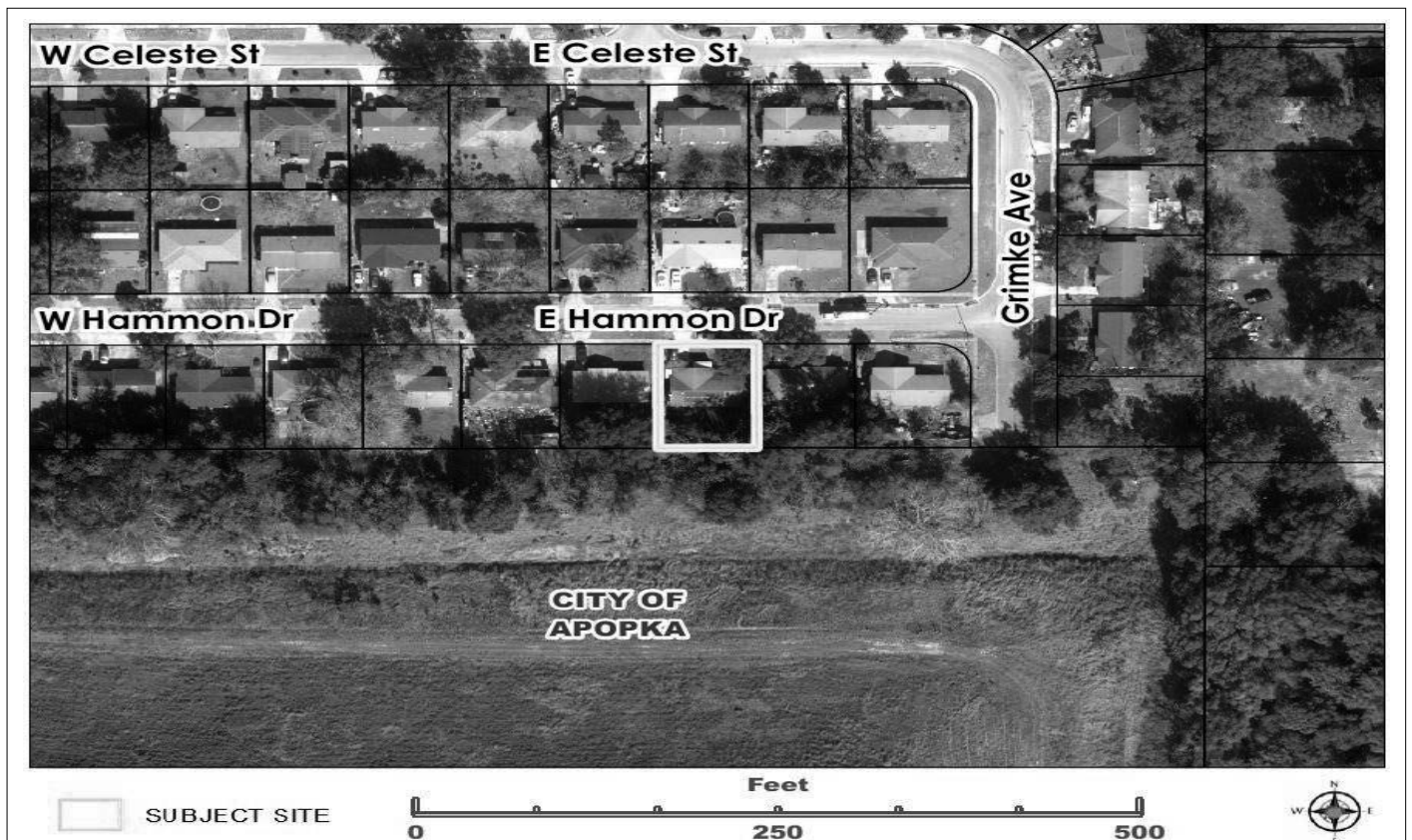
E. Minimum Possible Variance: I am requesting a total of 18.9' on the front of screen room, and 20.5' to the right side

F. Purpose and Intent: The variance will only affect the property on 20E Hammon Dr. and will serve to increase its property value. Therefore, the value of the surrounding property will either be increased or not affected in any way. I understand the purpose of zoning requirements is to avoid infringing on neighbors property line, the screen room will be constructed wholly on 20 E. Hammons Dr. property lines. and will have the same similar looks as other homes that have screen rooms in the neighborhood,

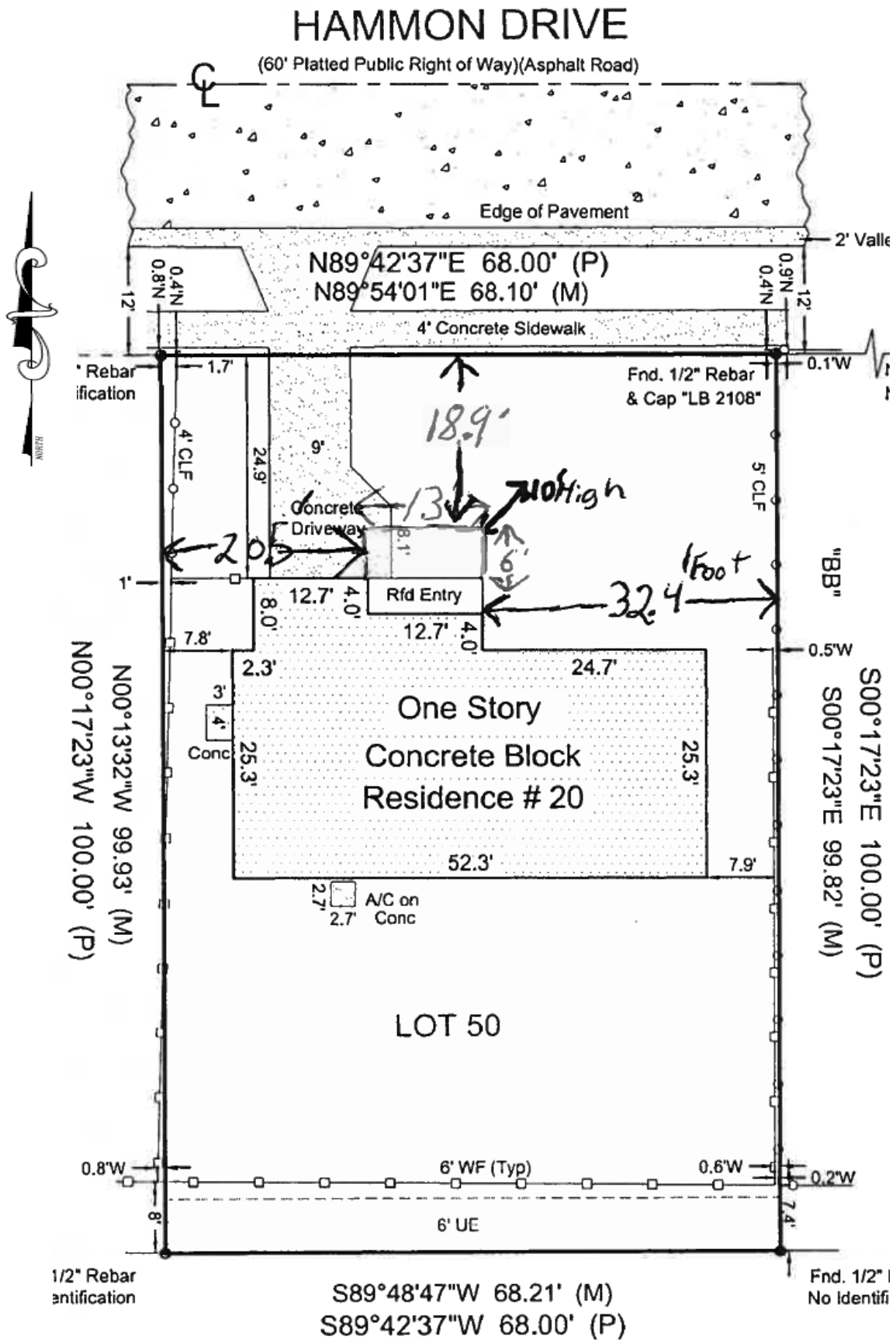
ZONING MAP



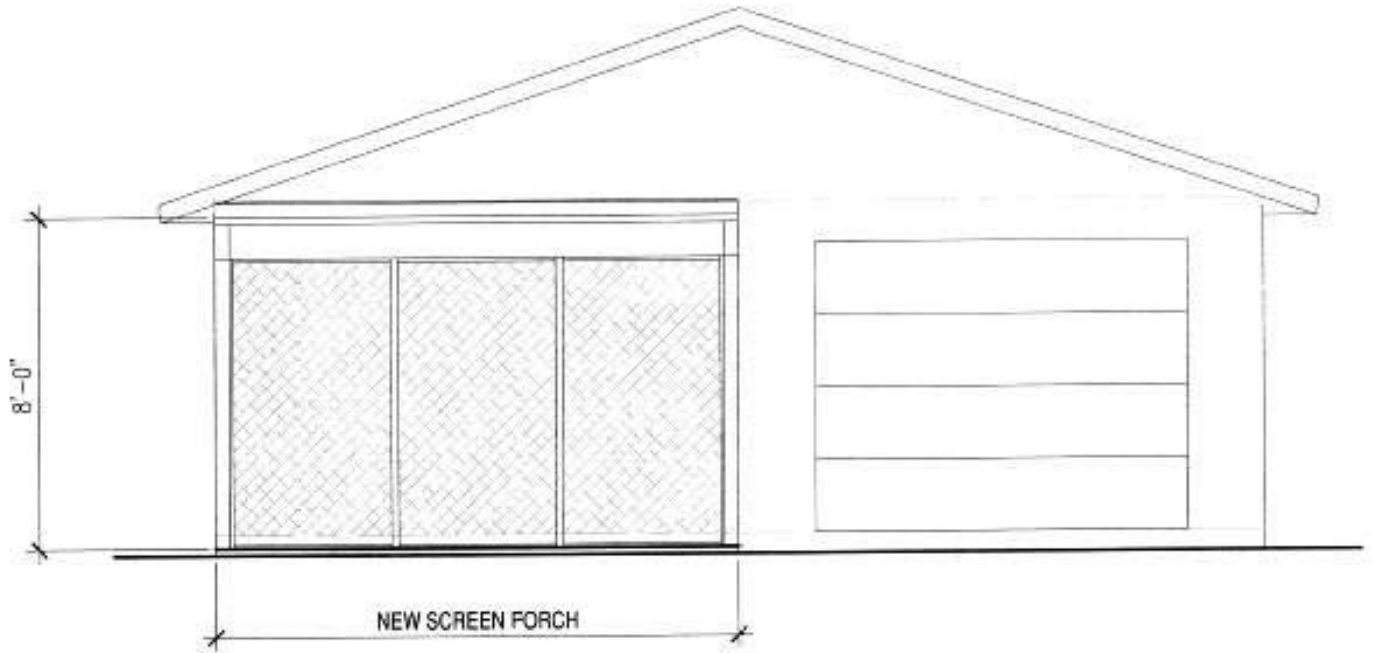
AERIAL MAP



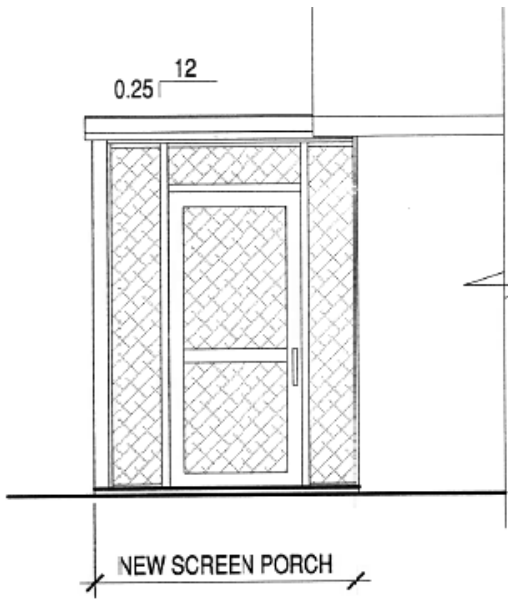
SITE PLAN



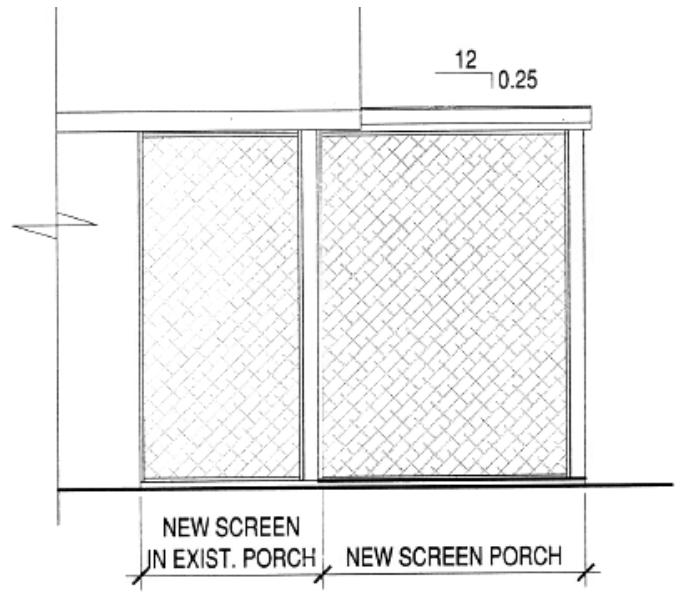
ELEVATIONS



NORTH ELEVATION

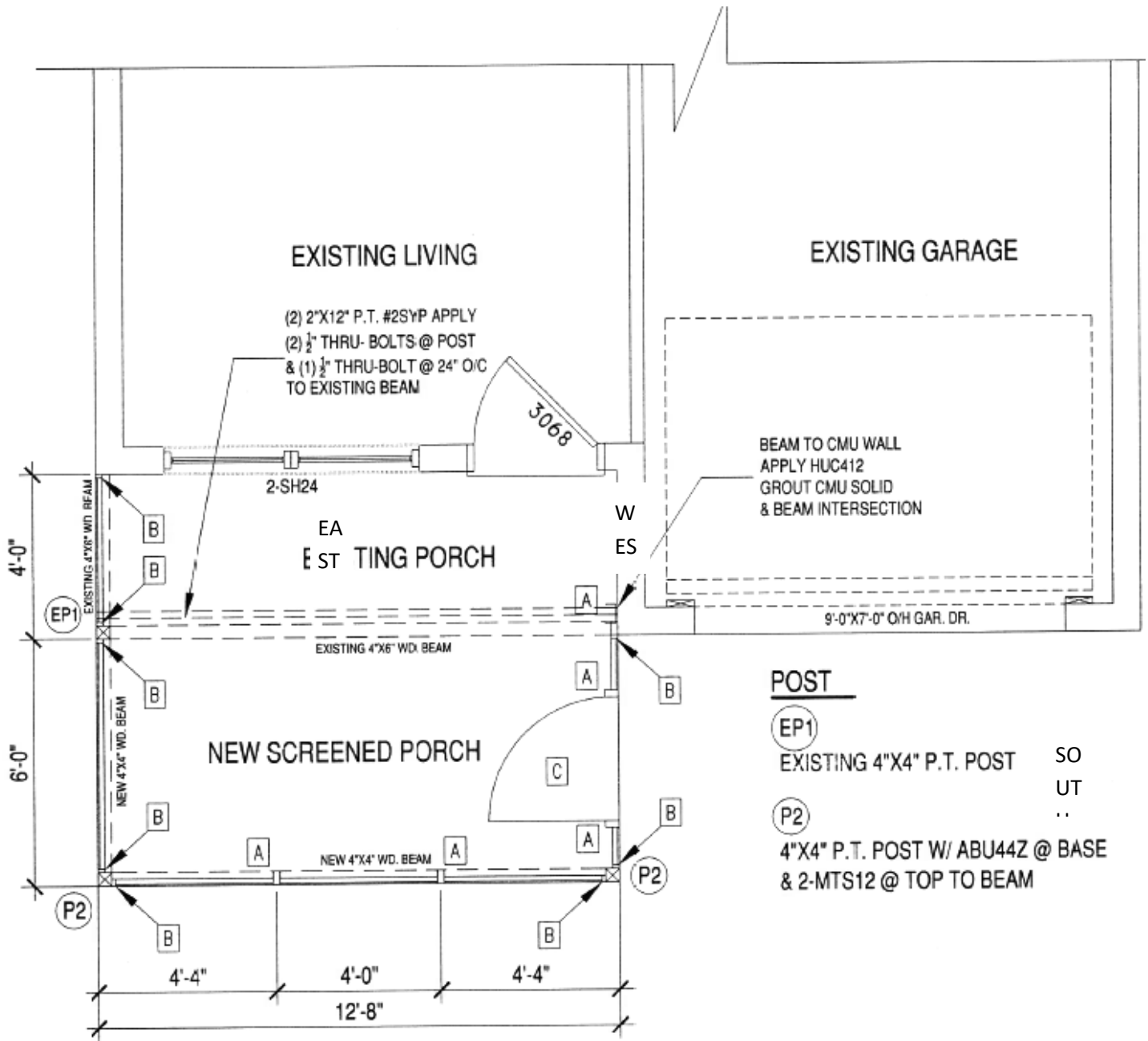


WEST ELEVATION



EAST ELEVATION

FLOOR PLAN



POST

- EP1 EXISTING 4"X4" P.T. POST SO UT
- P2 4"X4" P.T. POST W/ ABU44Z @ BASE & 2-MTS12 @ TOP TO BEAM

**SITE PHOTOS**



**Front from Hammon Dr. facing south.**



**Addition facing west**

**SITE PHOTOS**



**Addition facing east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#1**

Case #: **VA-23-05-024**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** RHONA ISGAR

**OWNER(s):** MONICA ISGAR, NICHOLAS ISGAR

**REQUEST:** Variances in the A-1 zoning district as follows:

1) To allow the conversion of an existing 448 sq. ft. garage to living area with a west side setback of 7.8 ft. in lieu of 10 ft.

2) To allow a north rear setback of 35 ft. in lieu of 50 ft. for the existing house.

**PROPERTY LOCATION:** 2317 Farmwood Circle, Gotha, FL 34734, north side of Farmwood Cir., east of Hempel Ave., north of Morton Jones Rd, south of S.R. 408.

**PARCEL ID:** 33-22-28-3100-14-400

**LOT SIZE:** +/- 1.06 acres (46,304 sq. ft.)

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 61

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received April 13, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.



**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support, and no comments were received in opposition.

The applicant chose not to speak.

There were two in attendance to speak in favor of the requests, noting the improvement of recent site conditions and that the footprint of the structure was not increasing. There was no one in attendance to speak in opposition to the requests.

The BZA discussed the Variances, noting the property's unique shape, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

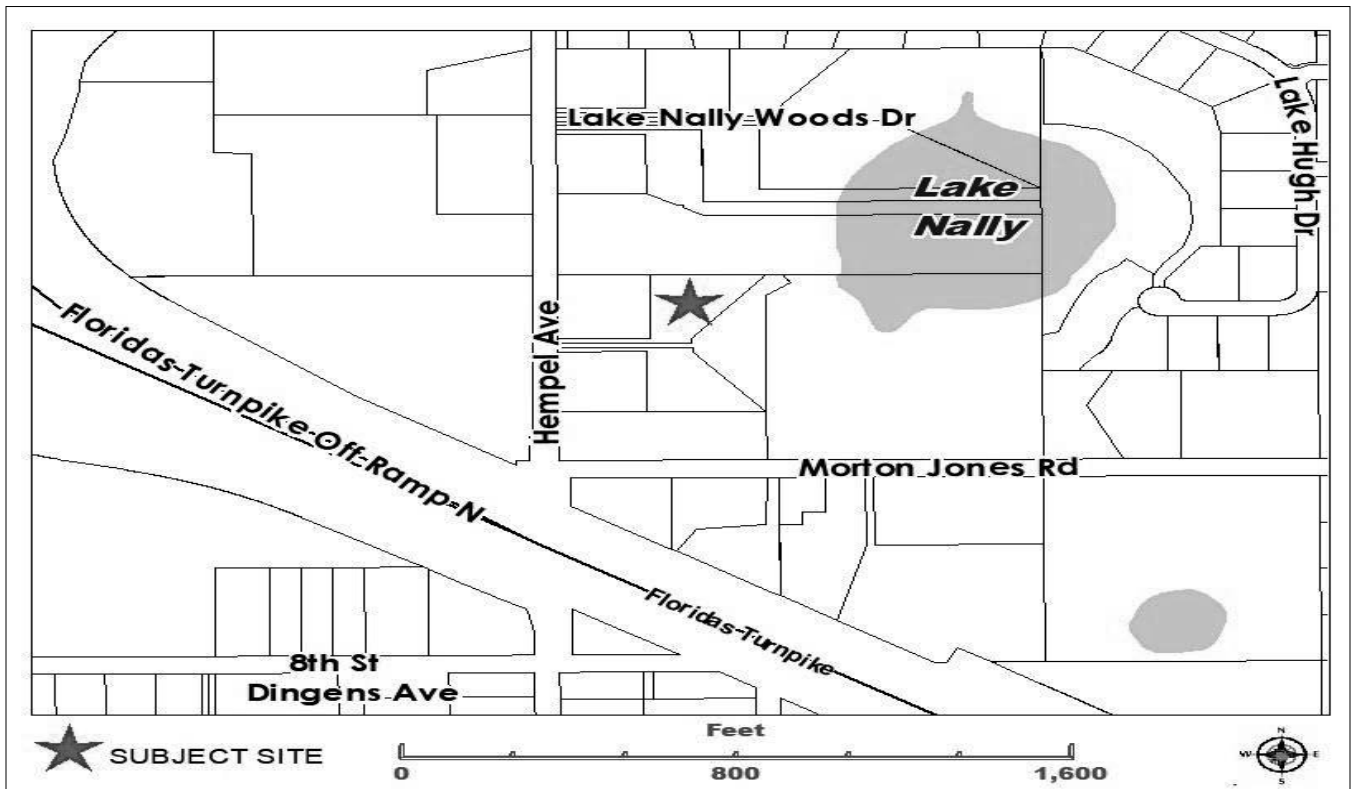
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS-1/1	RS-1/1	RS-1/1	RS-1/1	RS-1/1
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the A-1, Citrus Rural zoning district, which primarily allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The Future Land Use is RS 1/1, which is consistent with the A-1 zoning district.

The property is located in the Gotha Rural Settlement. Rural settlements are established through the Comprehensive Plan and are intended to identify areas with unique traits and characteristics which the residents of those areas wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. The Gotha Rural Settlement is identified in the Orange County Future Land Use Element as one of five Rural Settlements within the County that has maintained its historically rural character, and mandates that every effort shall be made to preserve this rural character as part of Orange County's heritage and historic preservation efforts. Rural Settlements restrict non-residential uses to those that support existing residential uses and serve the residents of the community. The Gotha Rural Settlement has no impact on this request.

The subject property is a 1.06 acre flag shaped lot, located in the Town of Gotha Plat, recorded in 1888, and is considered to be a conforming lot of record. The property is a uniquely shaped triangular lot with a 220 ft. "flagpole" access known as Farmwood Circle, leading west to Hempel Avenue. It is developed with a 5,322 gross sq. ft. single-family home and swimming pool, constructed in 1986. The applicant purchased the property in 2020.

Normally on a "flag lot" such as this, the front is considered to be the portion of the property parallel to the adjacent main road, which is Hempel Ave., which is the west property line. However, due to the permitting history, the front has consistently been defined as the south property line, and thus the west property line is considered to be the side.

A permit was issued in 1991 (B9917294), to expand the garage, showing an 11 ft. setback from the west side property line. However, it was built 7.8 ft from the west property line. The current owner applied for a permit in February 2023, (B22025780) to renovate the house, which includes converting a portion of the existing garage into living space. That permit was denied by the Zoning Division for not meeting the 10-ft minimum side setback. Thus, the owner is applying for Variance #1 to allow a 7.8 ft side setback in lieu of 10 ft. No new construction is proposed outside of the existing footprint of the house.

The house was permitted and built in 1986, with a 35 ft. north rear setback. Variance #2 is being requested to recognize this setback.

The requests are not detrimental to the neighborhood, as the side setback for the house has existed since 1991, and is not noticeable, and the rear setback for the house has existed since 1986, is not significantly discernable from neighboring properties, and is not noticeable from the street.

As of the date of this report, no comments have been received in favor or in opposition to this request.

### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	16 ft.
Min. Lot Width:	100 ft.	170 ft.
Min. Lot Size:	0.5 acres	1.06 acres

### **Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	35 ft.	132 ft. (South)
Rear:	50 ft.	35 ft. (North-Variance #2)
Side:	10 ft.	69 ft. (East) 7.8 ft. (West-Variance #1)

---

## **STAFF FINDINGS**

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### **VARIANCE CRITERIA**

#### **Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are that it is a flag lot with a unique shape, and the location of the house, constructed in 1986, with the existing north rear setback. There is no proposed construction outside of the existing footprint.

#### **Not Self-Created**

The requests are not self-created since the owners are not responsible for the configuration and location of the home in relation to the rear and side property lines.

#### **No Special Privilege Conferred**

No special privilege is being conferred, as the setbacks are existing and were not created by the owner.

#### **Deprivation of Rights**

Without the requested Variances, interior improvements would not be permitted, and the existing side and rear setbacks would remain non-conforming.

#### **Minimum Possible Variance**

The requested Variances are the minimum necessary to construct any interior improvements, and to allow the existing home to remain as constructed in 1986 and altered in 1991.

## Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the side setback for the house has existed since 1991 and is not noticeable, and the rear setback for the house has existed since 1986, is not significantly discernable from neighboring properties, and is not noticeable from the street.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received April 13, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Rhona Isgar  
488 Harvest Oak Court  
Lake Mary, FL 32746

C: Nicolas Rollins  
4158 Saddlewood Drive  
Orlando, FL 32818

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**COVER LETTER**

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Rhona B. Isgar  
488 Harvest Oak Ct.  
Lake Mary, FL 32746

Property Address: **2317 Farmwood Circle, Gotha, FL 34734**

Parcel ID: 332228310014400

To: Orange County Zoning Division  
201 Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, FL 32801

**Re: Variance Application**

Variance to allow a 448 sq. ft. living space addition to a residence with a 7.8 ft. front setback in lieu of the required 35 ft setback. The addition to the existing garage (residence) 16' X 28'. Living area of the existing residence is 3040 sq. ft. I believe this request meets the six standards for variance approval outlined below.

**1. SPECIAL CONDITIONS AND CIRCUMSTANCES**

We have recently applied for a building permit to put a bedroom and bathroom in part of the existing garage, but unfortunately have not been approved because of the setback. The existing setback is 7.8' and the required setback is 35'. The original permit from 1986 does not show the extension of the garage. We were not aware of this when the house was purchased.

**2. NOT SELF-CREATED**

We have not created any of this as it was all existing at the time we purchased the house.

**3. NO SPECIAL PRIVILEGE CONFERRED**

This is not applicable to us as it was all done before we purchased the house.

**4. DEPRIVATION OF RIGHTS**

The addition will be interior only. There is no intention to build, develop or violate any restrictions. It will not be used as other than the permitted uses.

**5. MINIMUM POSSIBLE VARIANCE**

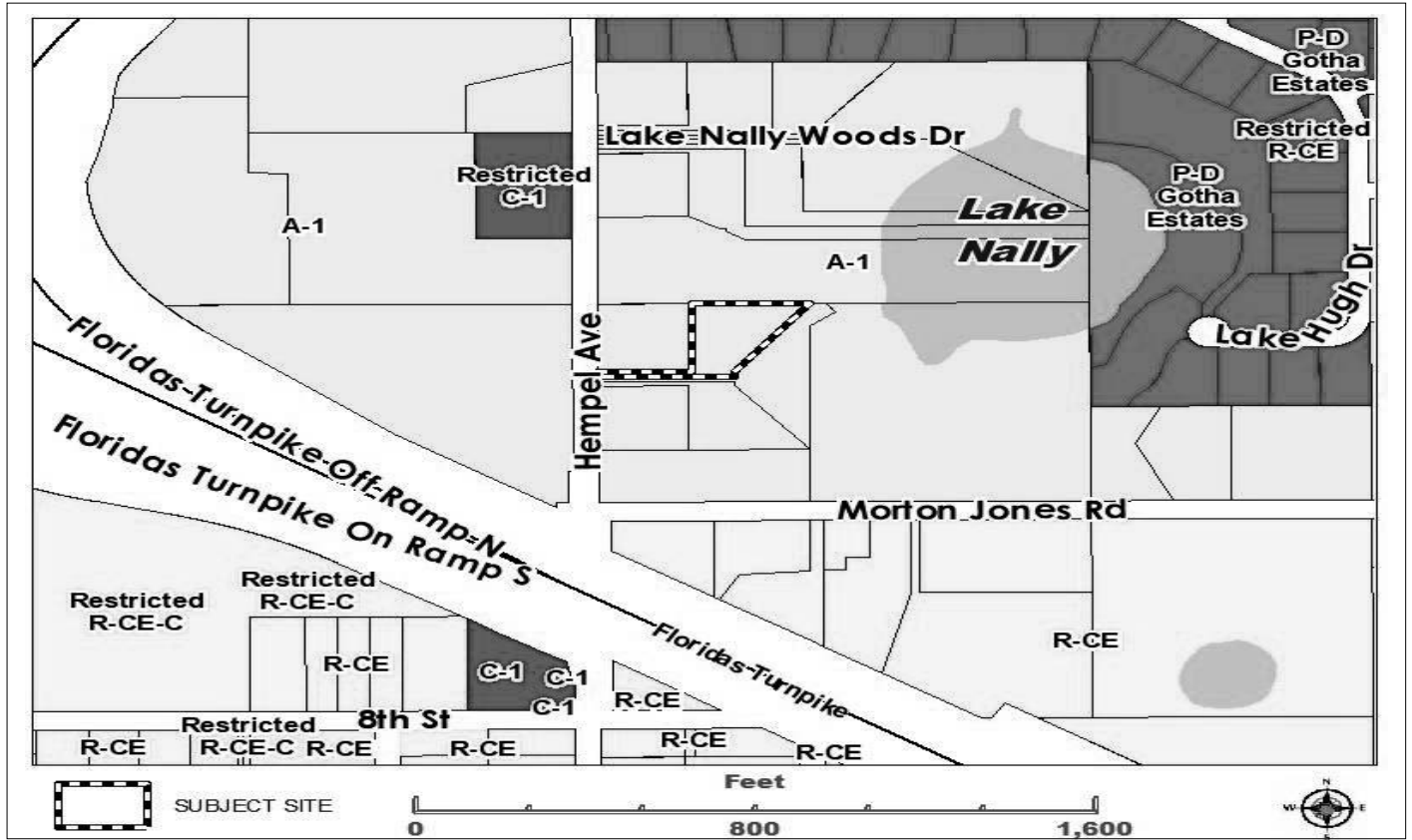
It is an existing structure.

**6. PURPOSE AND INTENT**

We are not expanding the exterior of the property. Approval of our request will not be detrimental to neighborhood or public welfare.

We are hoping this request is approved. Please see the documentation attached to this request.

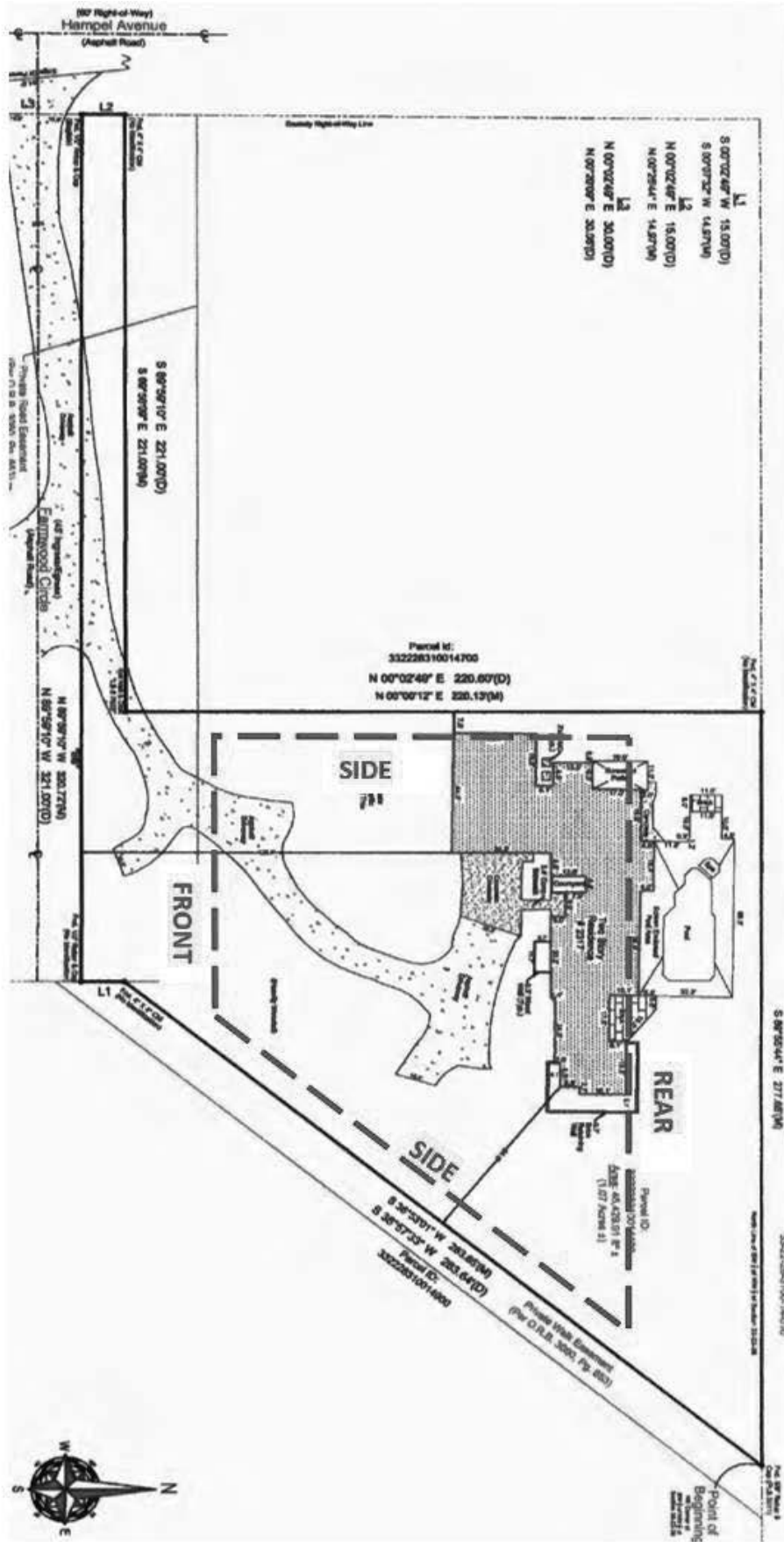
ZONING MAP



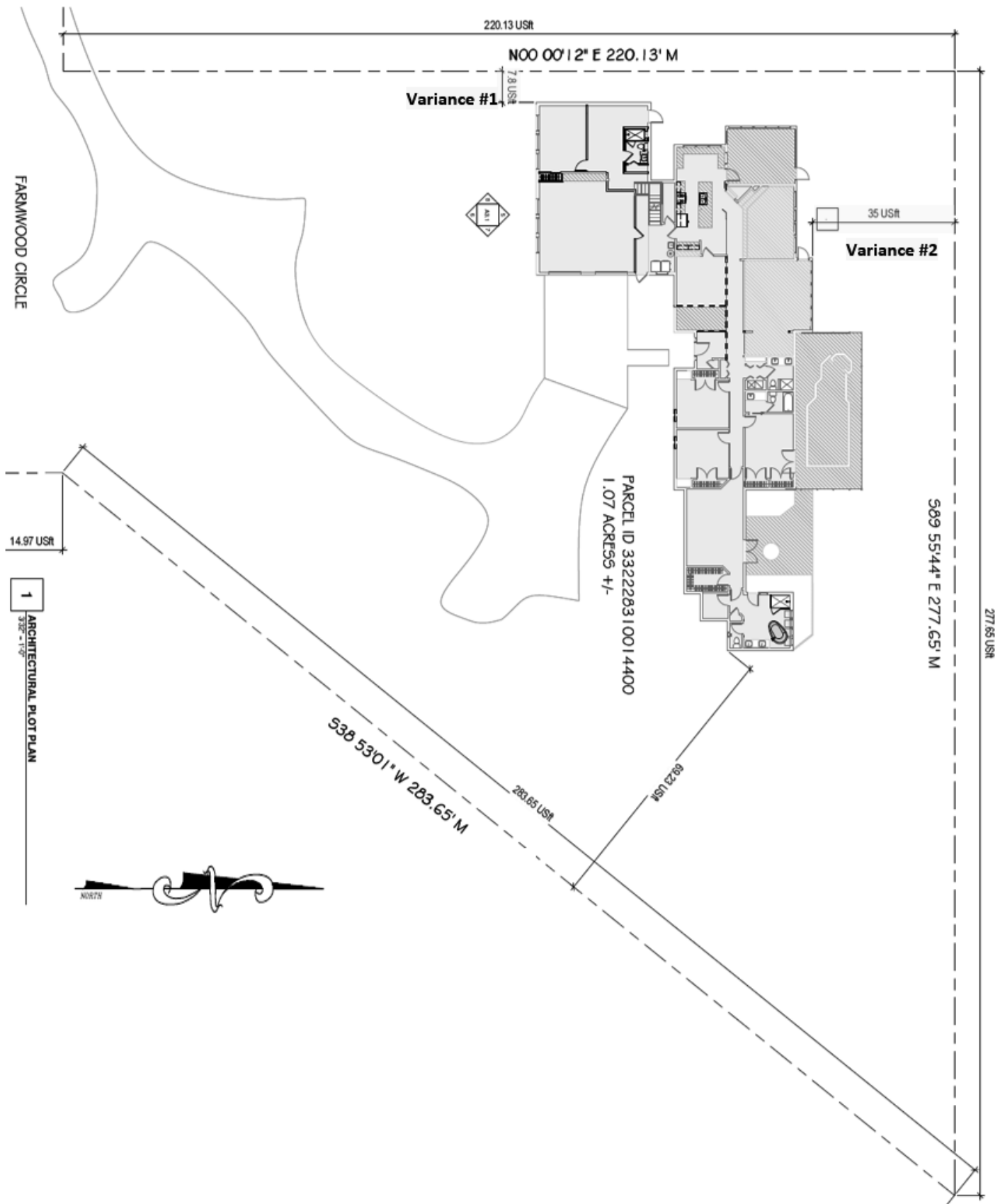
AERIAL MAP



SURVEY SHOWING ENTIRE PROPERTY



ZOOMED-IN SITE PLAN SHOWING VARIANCES



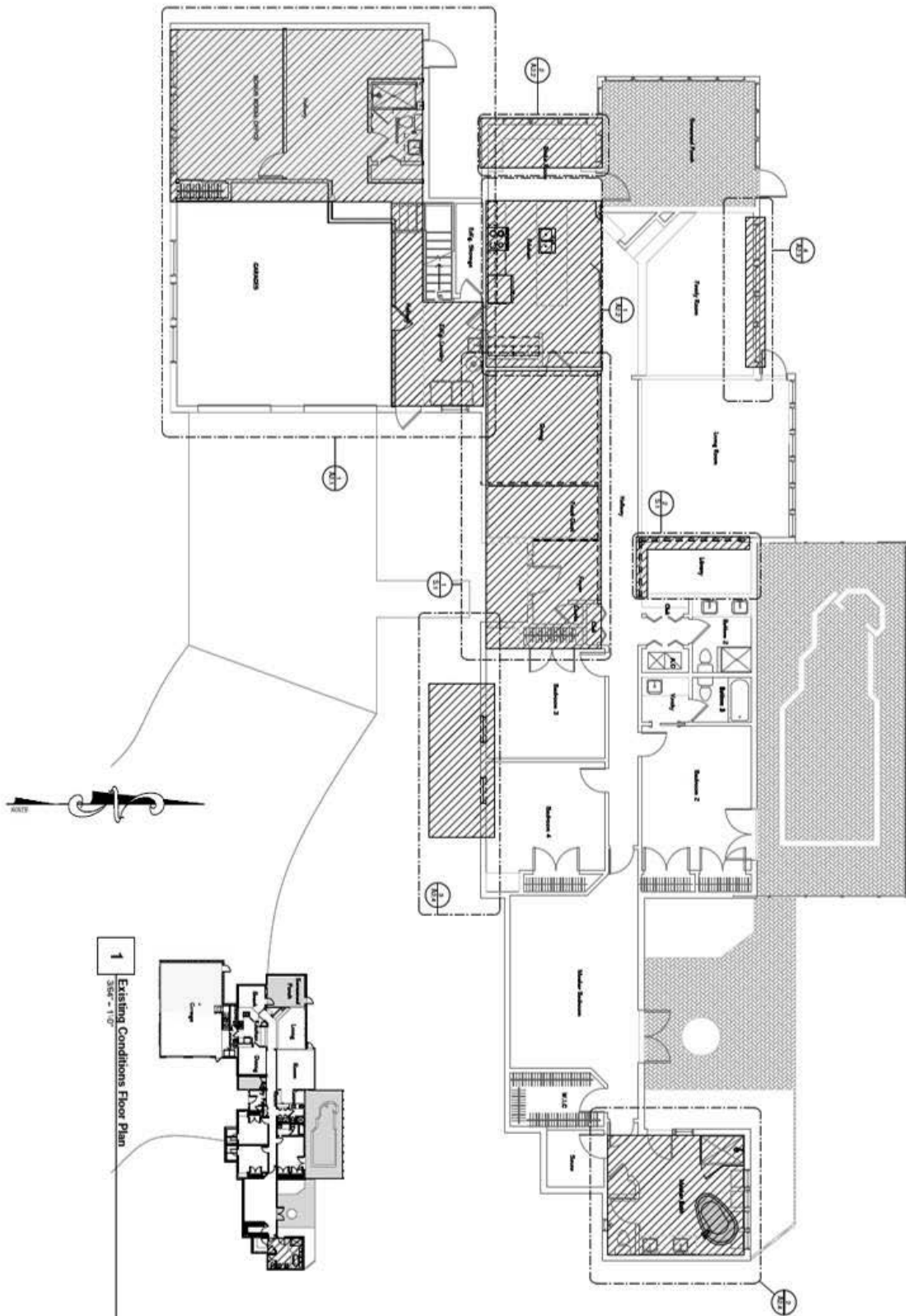
FARMWOOD CIRCLE

1 ARCHITECTURAL PLOT PLAN  
9/22/19





# FLOOR PLAN



**SITE PHOTOS**



**Front from Farmwood Cir. facing north**



**Front facing north**

**SITE PHOTOS**



**7.8 ft. setback facing north**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#1**

Case #: **VA-23-04-008**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MIKE FITZPATRICK

**OWNER(s):** WINTER IS A VERB LLC

**REQUEST:** Variance in the PD zoning district to allow a generator with a west side setback of 4 ft. in lieu of 10 ft.

**PROPERTY LOCATION:** 10224 Summer Meadow Wy., Orlando, FL 32836, south side of Summer Meadow Wy., west of Winter Garden Vineland Rd., north of Vista Blvd.

**PARCEL ID:** 18-24-28-3106-00-230

**LOT SIZE:** +/- 0.4 acres (17,837 sq. ft.)

**NOTICE AREA:** 500 ft.

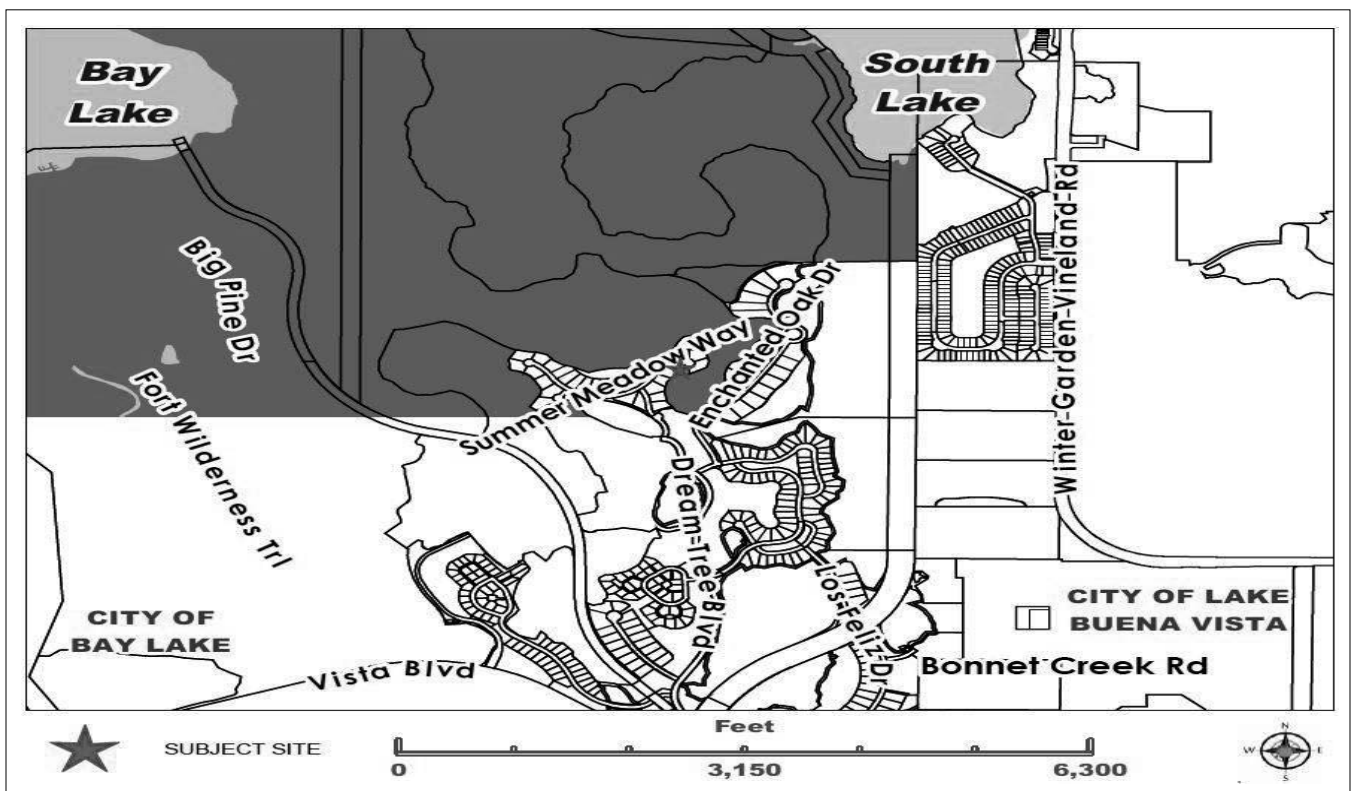
**NUMBER OF NOTICES:** 32

**CONTINUED BY THE APPLICANT TO THE JUNE 1, 2023 BZA MEETING**

## STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

## LOCATION MAP



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	North East Resort Parcel PD	North East Resort Parcel PD	City of Bay Lake	North East Resort Parcel PD	North East Resort Parcel PD
Future Land Use	PD-C/LDR/CONS	PD-C/LDR/CONS	City of Bay Lake	PD-C/LDR/CONS	PD-C/LDR/CONS
Current Use	Single-family residential	Single-family residential	City of Bay Lake	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the North East Resort Parcel PD, which allows single-family residential uses and associated accessory structures. The future land use is Planned Development- Commercial/Low Density Residential/Conservation, which is consistent with the zoning district.

The subject property is an approximately 0.4 acre lot, located in the Golden Oaks Phase 3 Plat, recorded in 2015, and is considered to be a conforming lot of record. It is developed with an 11,114 gross sq. ft. single family home and swimming pool built in 2017. The applicant purchased the property in 2022.

The applicant is proposing to install a 96.5” x 38”, 48.9” high permanent generator 4 ft. from the west side property line, adjacent to the existing house, where a 10 ft. setback is required by County Code Sec 38-79(16), requiring a Variance. The generator will operate normally at 68 decibels (Db) noise level from a distance of 23 ft. The generator will be set to self-test every week at 59 Db. Normal conversation is 60 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 68 Db, which is between the sound of conversation in a restaurant and a dishwasher, or an a/c compressor.

The applicant is proposing to install the generator on the same (west) side of the property as 2 A/C condensers, and the meter panels. The pool equipment is located on the south side of the home, and additional A/C condensers are located on the east side. The applicant has indicated that the generator must be 3 ft. from the electric service, which does not leave any other appropriate location on the property, and thus a Variance is required. The equipment is proposed to be screened from the street due to the staggered façade of the house, and by the existing extensive landscaping along the front and side of the property.

As of the date of this report, no comments have been received in favor, and 2 comments have been received in opposition to the request, including from the neighbor to the west.

**District Development Standards**

	Code Requirement	Proposed
Min. Lot Width:	70 ft.	145 ft.
Min. Lot Size:	6,000 sq. ft.	17,837 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement (PD)	Proposed
Front:	10 ft.	10.2 ft. – House (North)
Rear:	5 ft.	10.3 ft. House (South)
Side:	10 ft. generator (when adjacent to house) 5 ft. house	4 ft. Generator-(West- Variance) 10.1 ft. House (West) 7.5 ft. House-(East)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The location of the existing home with a 10.1 ft. setback from the west side property line is a special condition and circumstance, and the need to place the generator 3 ft. from the electric service leaves no other location available.

**Not Self-Created**

The applicant is not responsible for the existing configuration of the lot, and setback dimensions.

**No Special Privilege Conferred**

The existing setback of the house renders the installation of a generator difficult without a Variance since the site is constrained.

**Deprivation of Rights**

Without the requested Variance, the applicant would not be able to place a permanent generator within the side yard near existing equipment and the main panel.

**Minimum Possible Variance**

Due to the setback, the location of improvements and constrained lot, the requested Variance is the minimum possible.

**Purpose and Intent**

Approval of this request would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. The proposed generator location in the side yard is located beside existing A/C units and will be screened from adjacent properties by existing dense landscaping. Further, when in operation, the generator would emit similar noise levels as currently experienced and is screened by landscaping, and therefore would not create adverse impacts.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received March 6, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The generator shall be screened from view by landscaping (e.g. bushes or shrubs). If the existing shrubs along the front property line in front of the generator are damaged or removed, they shall be replaced by similar landscaping and adequately screen the equipment from view from the street.

C: John Fitzpatrick  
1980 Dolgner Pl., Suite 1028  
Sanford, FL 32771

Mackenzie Fuchs

10224 Summer Meadow Way

Orlando FL 32836

Orange County Zoning Division

201 S. Rosalind Ave, 1<sup>st</sup> floor

Orlando, FL 32801

Variance Request – Whole House 80 KW Generator Installation

Parcel # 18-24-28-3106-00-230

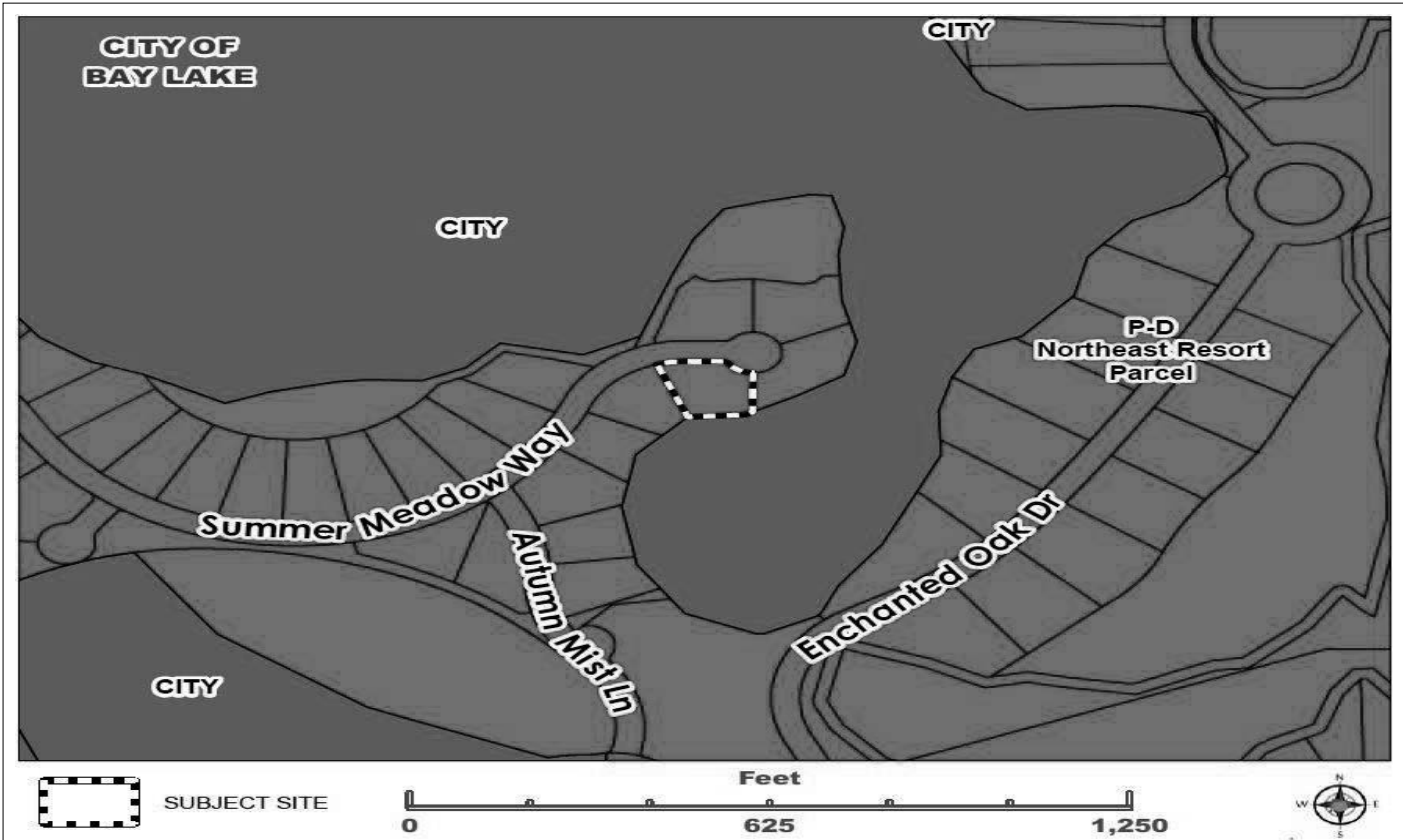
I request a zoning variance to locate a whole house 80KW generator within four feet setback from the property line vs the ten feet required by code. This location will meet the proper setback of three feet from the service area. The generator will be set on a concrete pad. The dimensions are 8'L x 3'W x 3'H.

Variance Criteria:

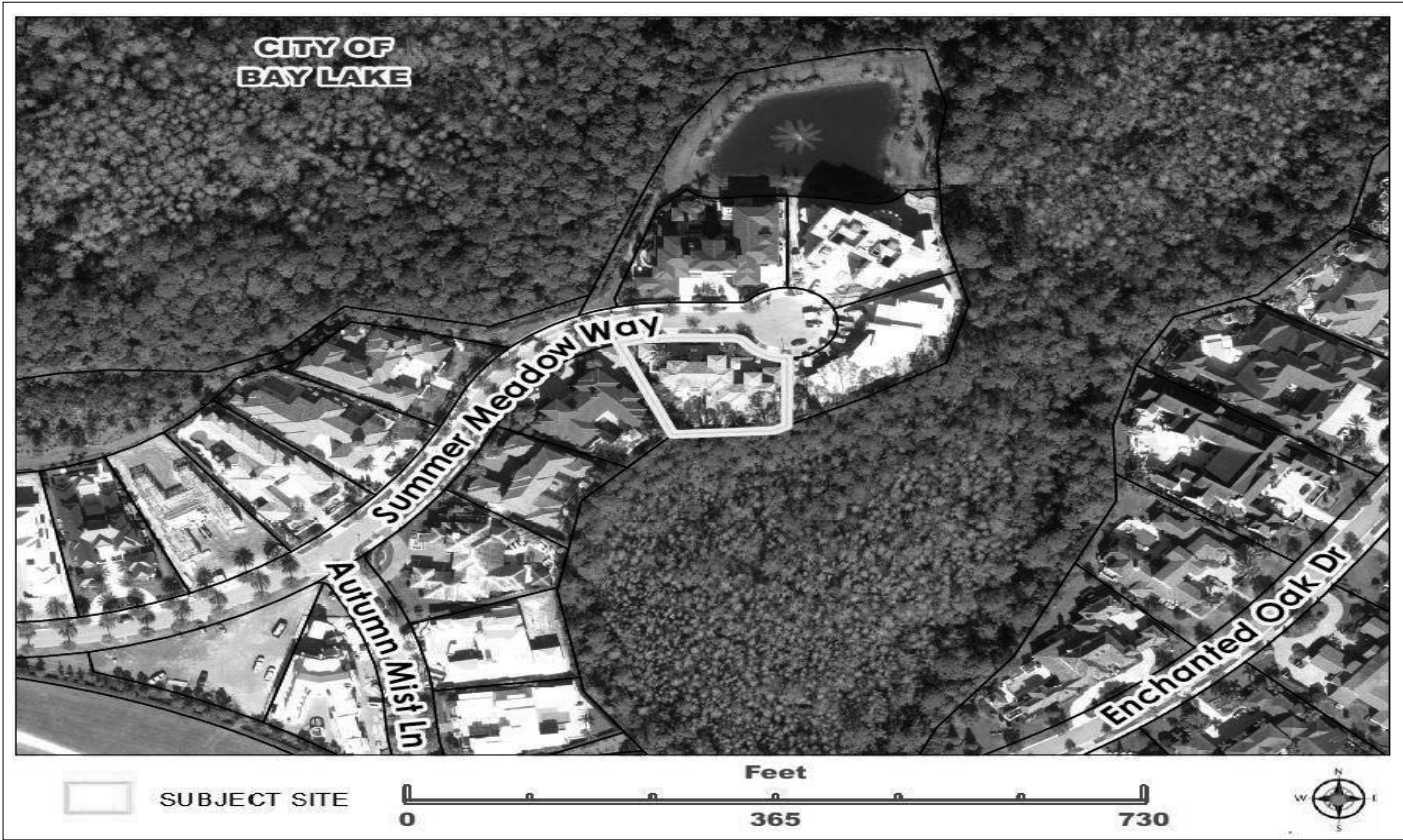
1. **Special Conditions:** If guidelines for the generator location are followed, the generator will encroach in the utility area.
2. **Not Self-Created:** The circumstances do not result from actions of the applicant. The generator needs to be located three feet from the service area.
3. **No Special Privilege Conferred:** The applicant is not aware of any special privileges conferred by the approval of the requested variant.
4. **Deprivation of Rights:** The requested variant will only affect the applicants property and has no effect or cause any undue hardship to the applicant or others.
5. **Minimum Possible Variance:** The requested variance is the minimum variance that will make possible the reasonable use of the land and location of the generator, four feet of set back from the property line.
6. **Purpose and Intent:** Approval of the zoning variance will be in harmony with the purpose and intent of the zoning regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The generator decibel level is 68db under load.



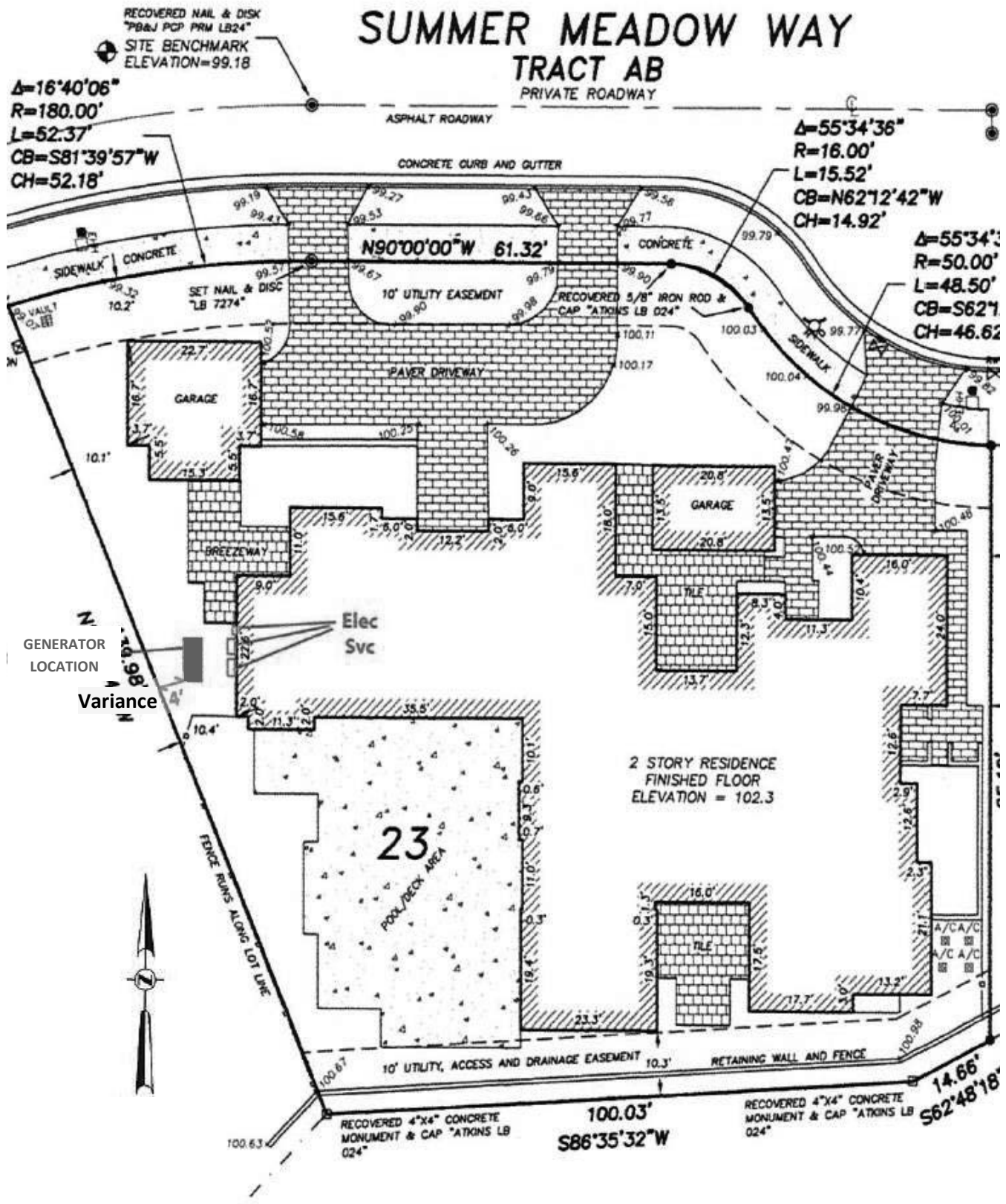
ZONING MAP



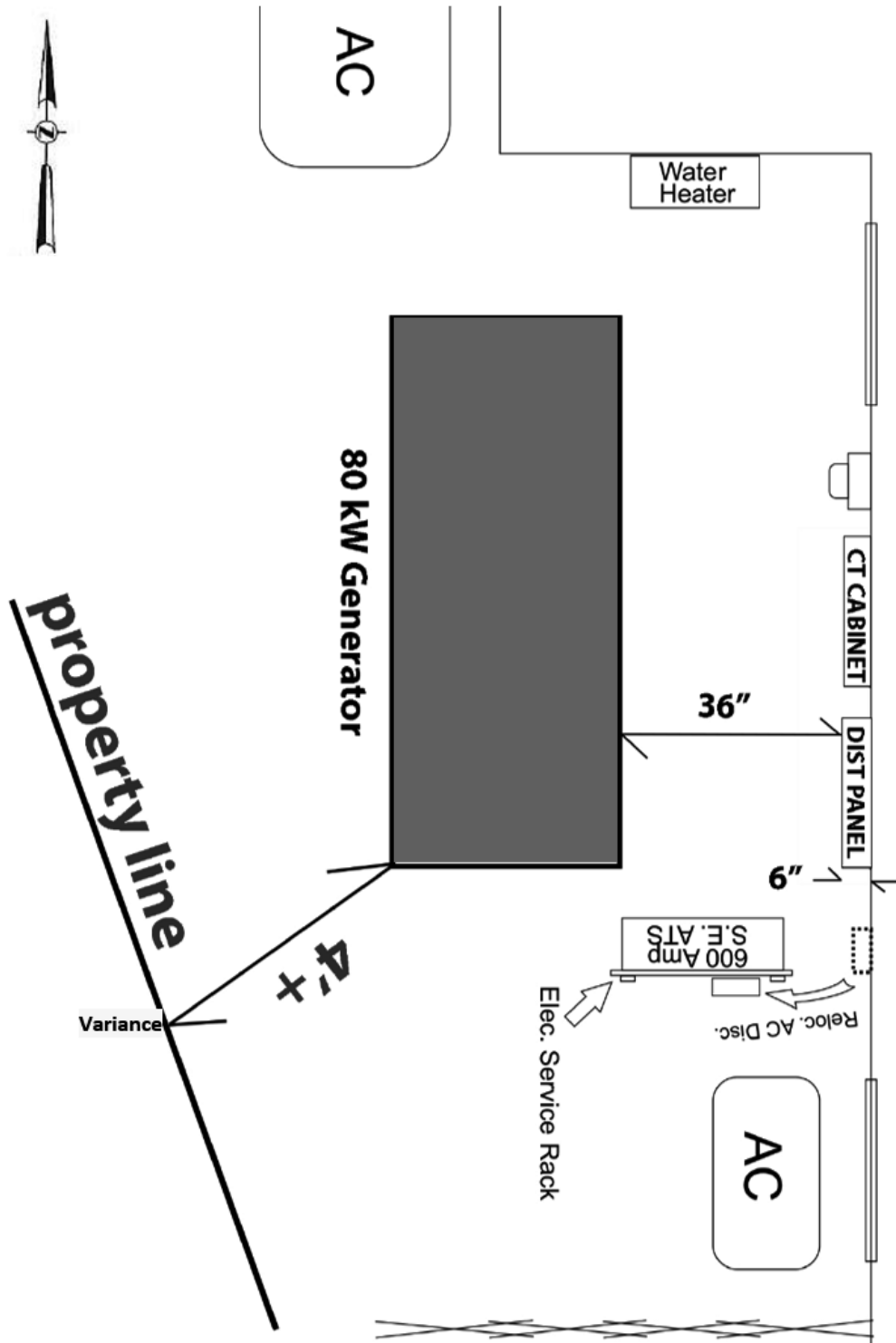
AERIAL MAP

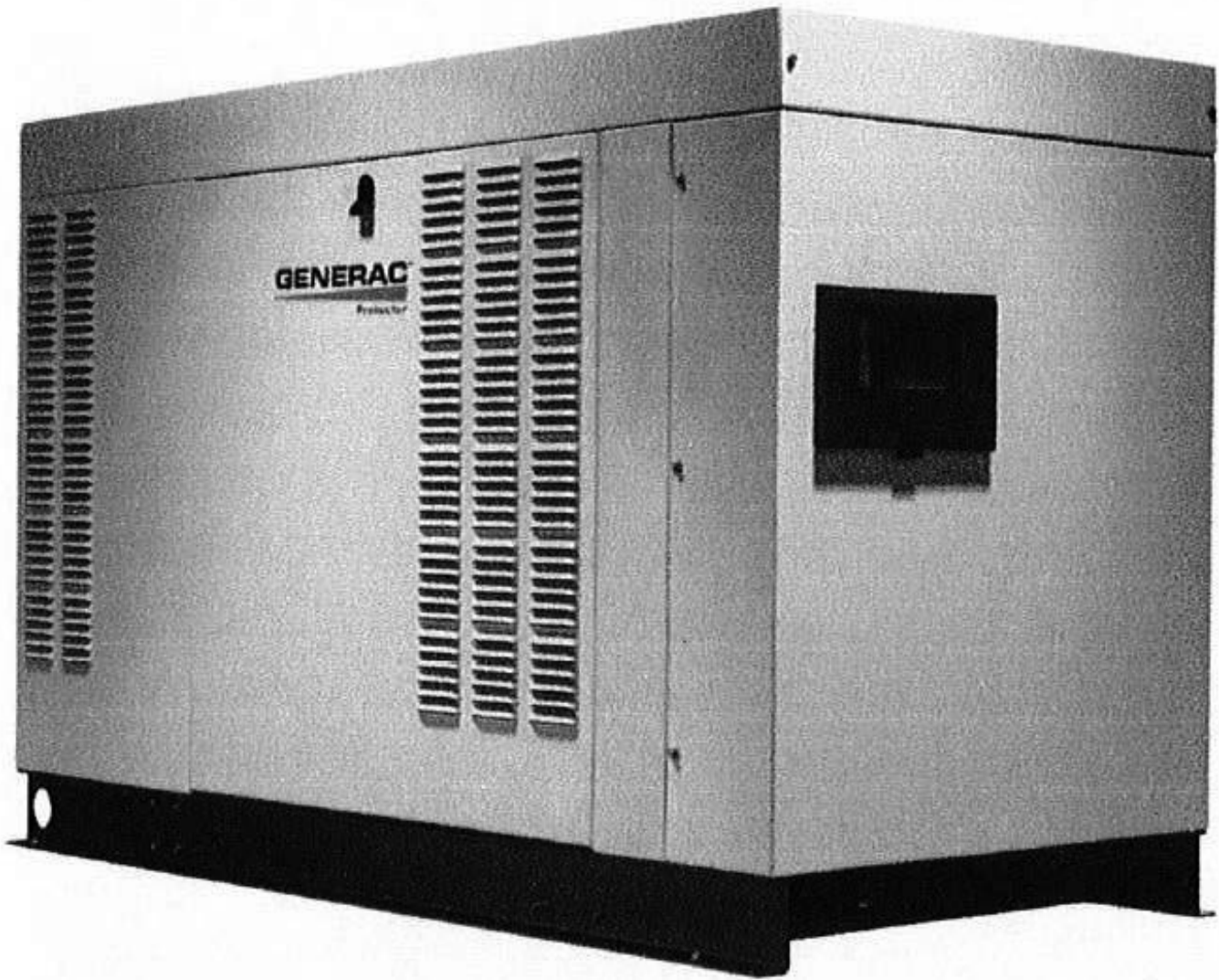


SITE PLAN



GENERATOR LOCATION DETAIL





**SITE PHOTOS**



**Front from Summer Meadow Way facing east**



**Proposed generator location facing east**

**SITE PHOTOS**



**Proposed generator location facing north**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#5**

Case #: **VA-23-05-014**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** ROBERT MURDOCK FOR PINECREST CREEK ACADEMY

**OWNER(s):** LEE ROAD SCHOOL PROPERTIES LLC

**REQUEST:** Variances in the Restricted C-2 zoning district for the installation of an Electronic Message Center (EMC) sign as follows:

1) Variance to allow an east side setback of 0 ft. in lieu of 10 ft.

2) Variance to allow a 33.53 sq. ft. ground sign in lieu of 17.98 sq. ft.

**PROPERTY LOCATION:** 1100 Lee Rd., Orlando, FL 32810, south side of Lee Rd., northeast of Edgewater Dr., west of Interstate 4.

**PARCEL ID:** 03-22-29-0000-00-072

**LOT SIZE:** +/- 4.8 acres

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 145

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and sign specifications received March 16, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support, and no comments were received in opposition.

The applicant noted the unique flag shaped property, with narrow frontage along the street in comparison with other properties in the area and stated that the requests are the minimum possible.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the requests, the visibility of the sign, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

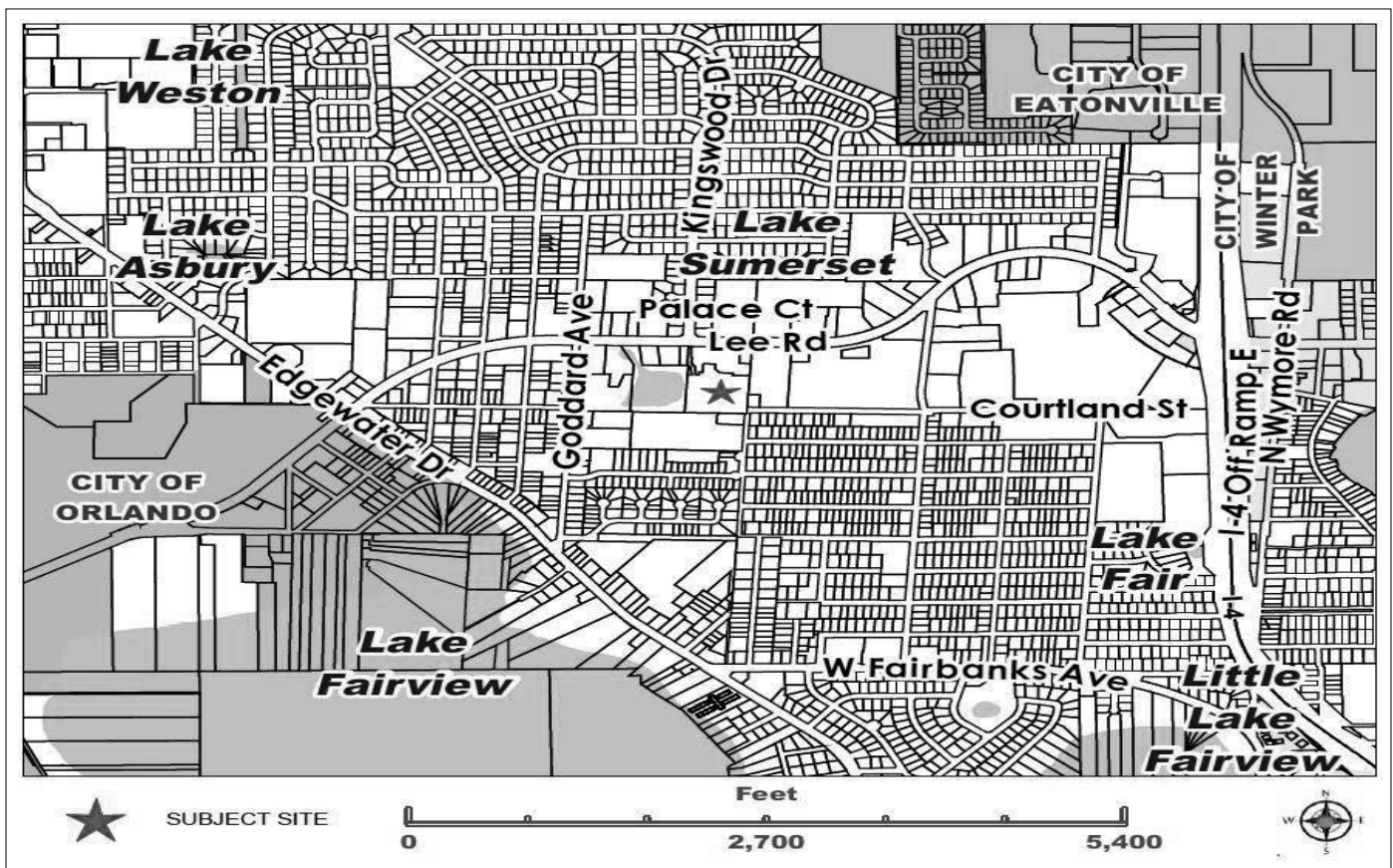
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variances, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	RSTD C-2, R-1A	RSTD C-2, R-1A	RSTD R-2	C-2, R-1A	RSTD C-2, R-1A
Future Land Use	C, LDR	C, LDR	LMDR	C, LDR	C, LDR
Current Use	School	Commercial	School, Single-family residential	Commercial, Single-family residential	Commercial, Retention

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1A and Restricted C-2 zoning districts. The southern portion is within the R-1A, Single-Family Dwelling district, which allows single-family homes and requires a minimum lot area of 7,500 sq. ft. Certain uses, such as schools, are permitted through the Special Exception process. The Future Land Use for the southern portion of the property is Low Density Residential (LDR), which is consistent with the R-1A zoning district. The northern portion is within the Restricted C-2 General Commercial District, with the restriction of C-1 uses which allows for restaurants, retail stores, offices and various other commercial businesses. The Future Land Use for the northern portion of the property is Commercial (C), which is consistent with the C-2 zoning district.

The subject property is a +/- 4.8 acre flag shaped lot with 35.96 ft. of frontage on Lee Rd., and a 290 ft. long access to the property in the rear. The lot conforms with the zoning regulations for size and width. It is developed with a 12,133 gross sq. ft. school building, constructed in 1963. The applicant purchased the property in 2015.

The school campus is located on the southern portion of the property, within the R-1A District. In November 2007, a Special Exception (SE-07-11-036) was approved on the R-1A (south) portion of the property to expand the existing school.

The request is to allow a 6.6 ft. high electronic message center ground sign with 33.53 sq. ft. of copy area, zero ft. from the east side property line. As stated, the property is flag shaped with 35.96 ft. of frontage along Lee Rd. The “flagpole” entrance is the northern portion of the property, within the Restricted C-2 District. There is currently an existing 6 ft. high directional sign with 6 sq. ft. of copy area on this part of the property, which is proposed to be replaced with an electronic message center ground sign in the same location as existing. Per Sec. 31.5-76, one 6 ft. high onsite directional sign with 6 sq. ft. of copy area with a 3 ft. setback from the right-of-way line with a zero-side setback, is allowed. However, per Code Sec. 31.5-67(g), ground signs must be set back 10 ft. from property lines. The request for a zero (0) ft. east side setback requires Variance #1. Per Code Sec. 31.5-15(a)(1), a total of 0.5 sq. ft. of copy area for ground signage may be allowed for each one (1) linear foot of right-of-way frontage. The 35.96 ft. of frontage allows for 17.98 sq. ft. of copy area, and the request is for 33.53 sq. ft. of copy area, requiring Variance #2. An electronic message center sign is not allowed for a directional sign.

The proposed sign location is appropriate since the property is very uniquely shaped with the road frontage being measured from the flagpole portion of the lot which is 35.96 ft., rather than the portion of the lot where the building is located, which is 470 ft. However, a smaller sign such as the existing directional sign, which allows for a zero (0) ft. setback, would eliminate the need for the Variances.

As of the date of this report, no comments have been received in favor or in opposition to this request.

**Development Standards**

	Code Requirement	Proposed
Max Sign Height:	15 ft.	6.6 ft.
Min. Lot Width:	100 ft.	470 ft. at building setback line.
Min. Lot Size:	8,000 sq. ft.	210,338 sq. ft.

**Sign Setbacks**

	Code Requirement	Proposed
Front:	10 ft.	11.3 ft. (North)
Rear:	10 ft.	680 ft. (South)
Side:	10 ft.	0 ft. (East Variance #1) 21 ft. (West)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the unique flag shaped lot with limited road frontage, resulting in a smaller allowance for sign size and limited area to meet the side setbacks.

**Not Self-Created**

The requests are self-created since a smaller sign could be proposed, or a directional sign could be used, as existing, which would be allowed with a zero (0) ft. setback, albeit without an EMC component.

**No Special Privilege Conferred**

Approval of the requests will not confer special privilege, as there are other properties in the area that have similar signs in similar locations but did not require Variances due to having much greater lot width/road frontages.

**Deprivation of Rights**

There is no deprivation of rights as the applicant has the ability to install smaller signage that would conform, or continue to utilize a directional sign, which would be allowed with a zero (0) ft. setback.

**Minimum Possible Variance**

The requested Variances are not the minimum, since the applicant has other alternatives to reduce the request, comply with the requirements of the sign code, or utilize a directional sign, as existing.

**Purpose and Intent**

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, as the appearance from the street would be similar to other properties in the area with signs in similar locations relative to the front setback.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and sign specifications received March 16, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Robert Murdock  
4716 Powerline Rd.  
Deerfield Beach, FL 33073

## Overview

Pinecrest Academy is requesting a variance to allow for a 14 square foot Electronic Message Center to be incorporated into a new monument sign on the property. Pinecrest Academy serves its community of families and students and requires the ability to communicate with the public using this tool. It would be used to display crucial information that is vital for the families that they serve, as well as the neighboring community. The digital marquee is part of the school's Safety and Security Procedure Plan and would be used in the event of a sudden emergency or notification in the event of a threat. It will also be used for parental outreach and reminders of teacher planning days, early release schedules and school recess announcements as well as community events.

### 1. Special Conditions and Circumstances

It has been determined that the sign meets code in regard to its size and position on this commercial zoned section of their property. Current code however only allows for an area for the message center that is equal to or not more than 25% of the proposed copy area. This would result in an Electronic Message Center that would be only 4 square feet in size. A 4 square foot message center would not offer the functionality necessary as it would not afford readability and would potentially be a hazard to the community because the copy or text would be too small to read.

### 2. Not Self-Created

These special conditions are not as a result of any actions on the part of this applicant. The applicant has not by their own conduct created the hardship which are alleged to exist.

### 3. No Special Privilege Conferred

The request for a variance will provide for the safety and well-being of the student and family population and is not intended to provide any special privilege.

### 4. Deprivation of Rights

Literal interpretation of the provisions of this code would deprive both the applicant and the community of a crucial informational and safety tool causing an unreasonable hardship. The request is not related to any financial loss issue or business competition issue. It is simply a community service.

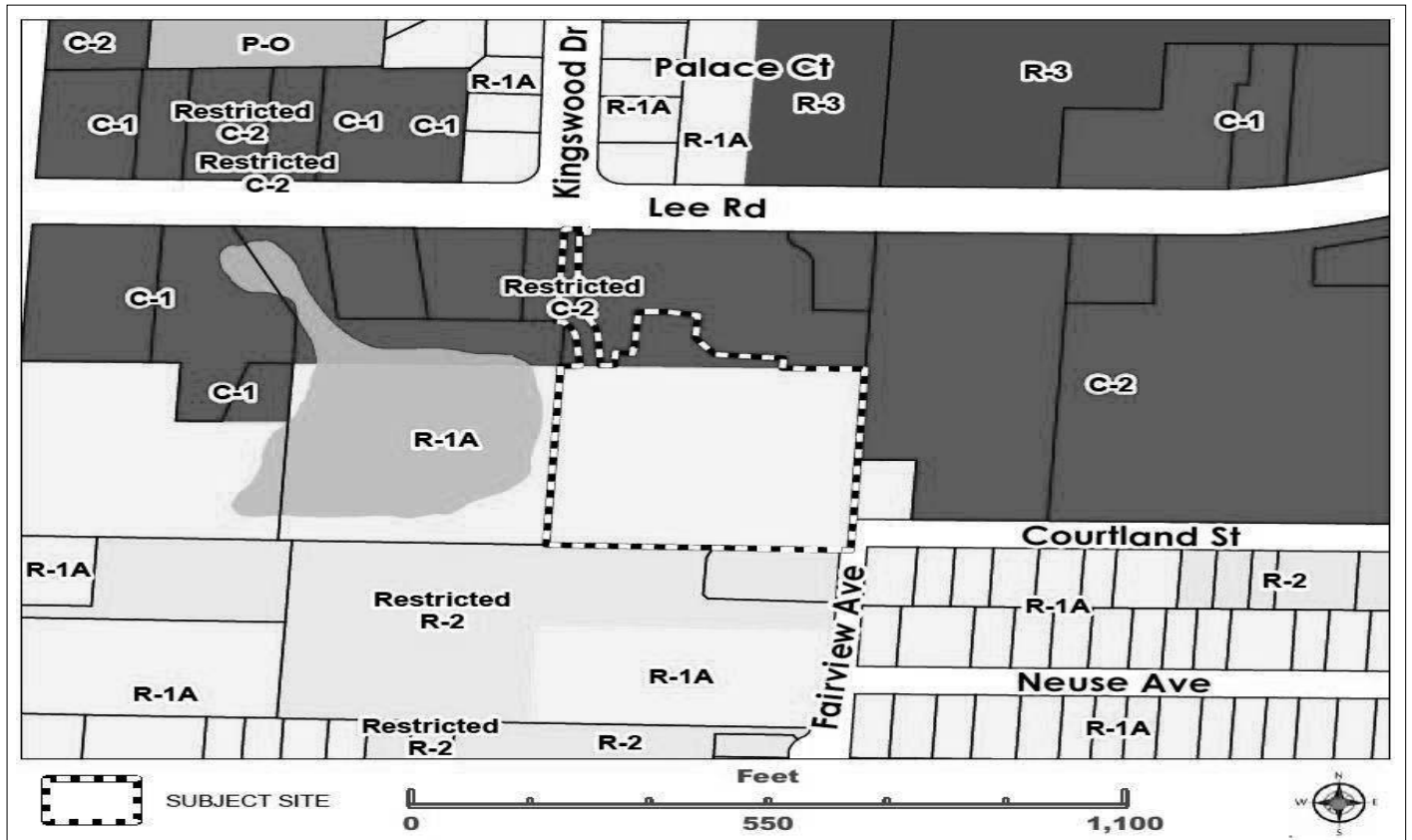
### 5. Minimum Possible Variance

Permitting the 14 sq foot Electronic Message Center in this structure is the minimum variance that will make possible the reasonable intended use of this crucial communication tool.

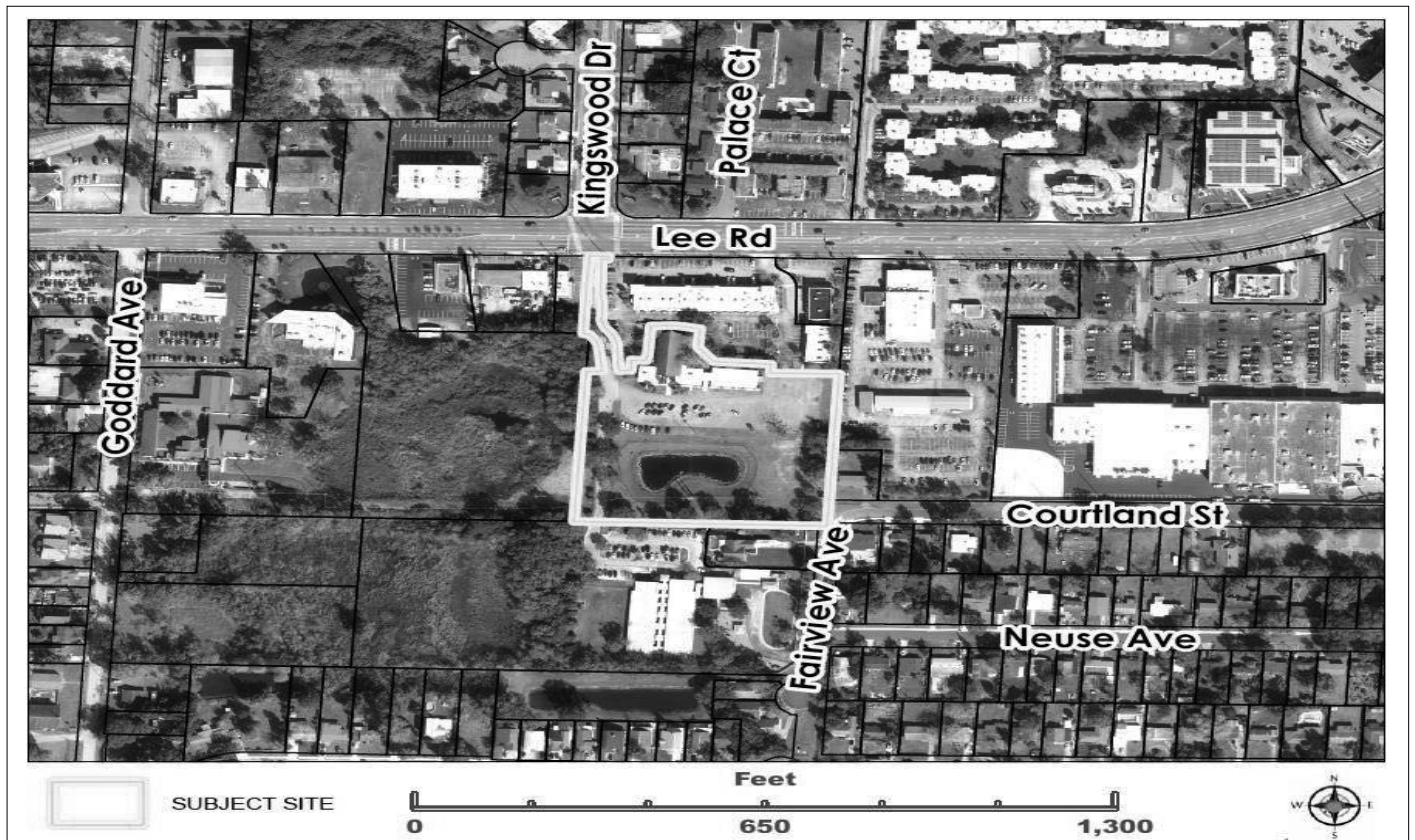
### 6. Purpose and Intent

This Electronic Message Center at this size would be used to display crucial information that is vital for the families that Pinecrest Academy serves, and would be used in the event of a sudden emergency or notification in the event of a threat. It will also be used for parental outreach and reminders of teacher planning days, early release schedules and school recess announcements as well as community events.

ZONING MAP



AERIAL MAP



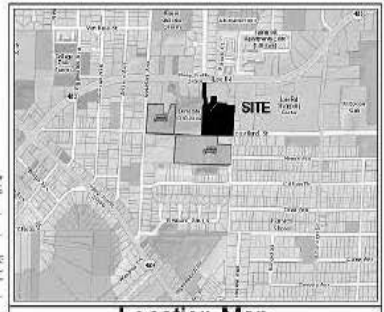
# ALTA/ACSM SURVEY

SECTION 3, TOWNSHIP 22 SOUTH, RANGE 29 EAST

Orange County, Florida

Parcel ID # 03-22-29-0000-00-072

TOTAL AREA OF PROPERTY SURVEYED = 208,789.1 SQUARE FEET = 4.8181 ACRES

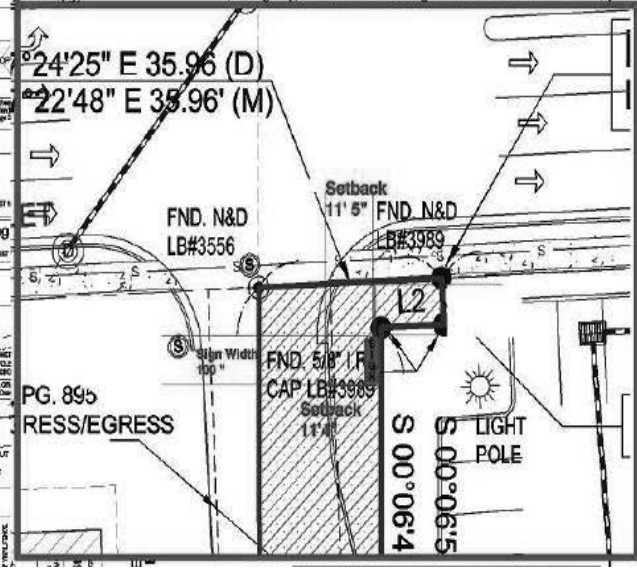
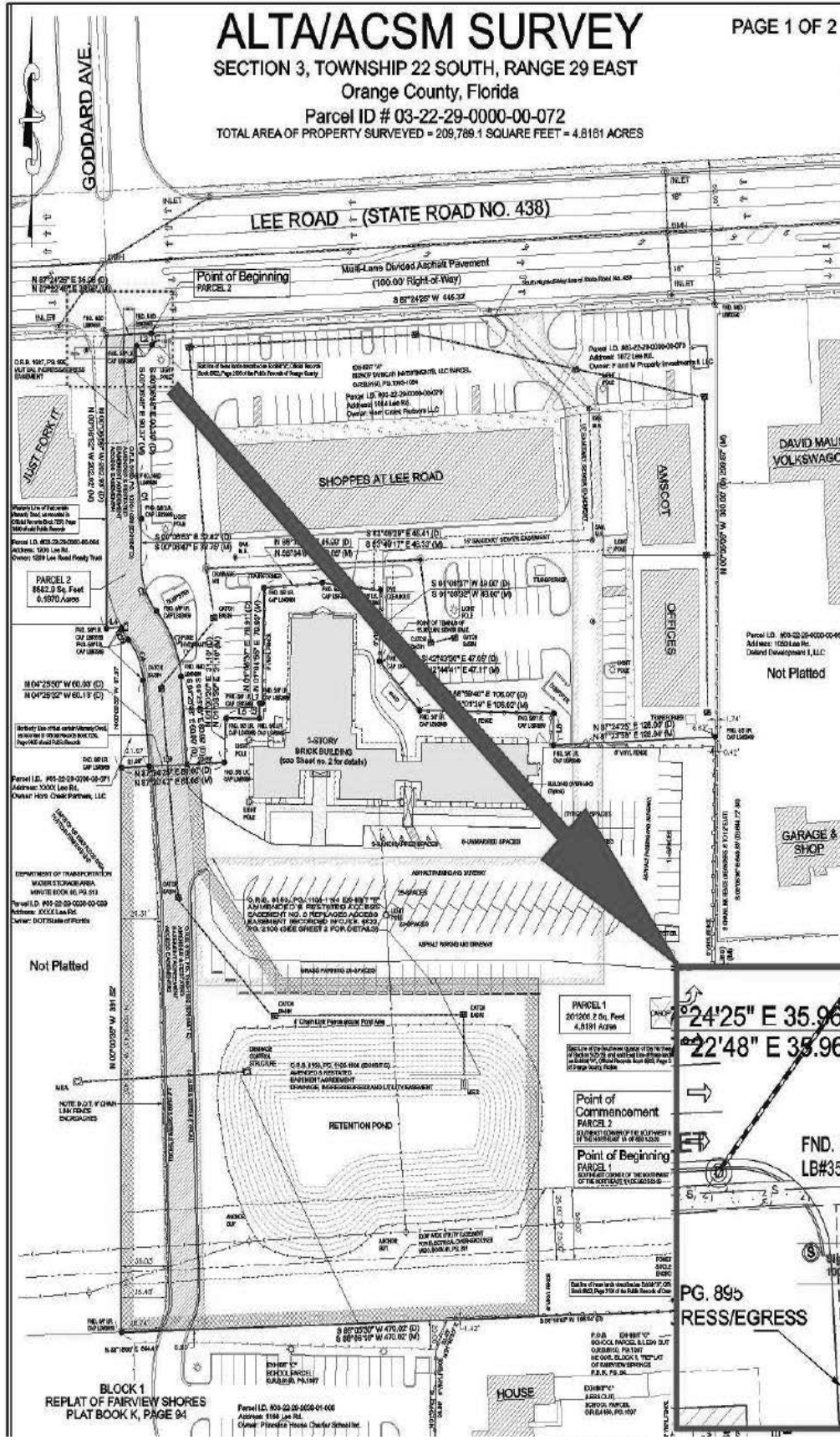


Location Map

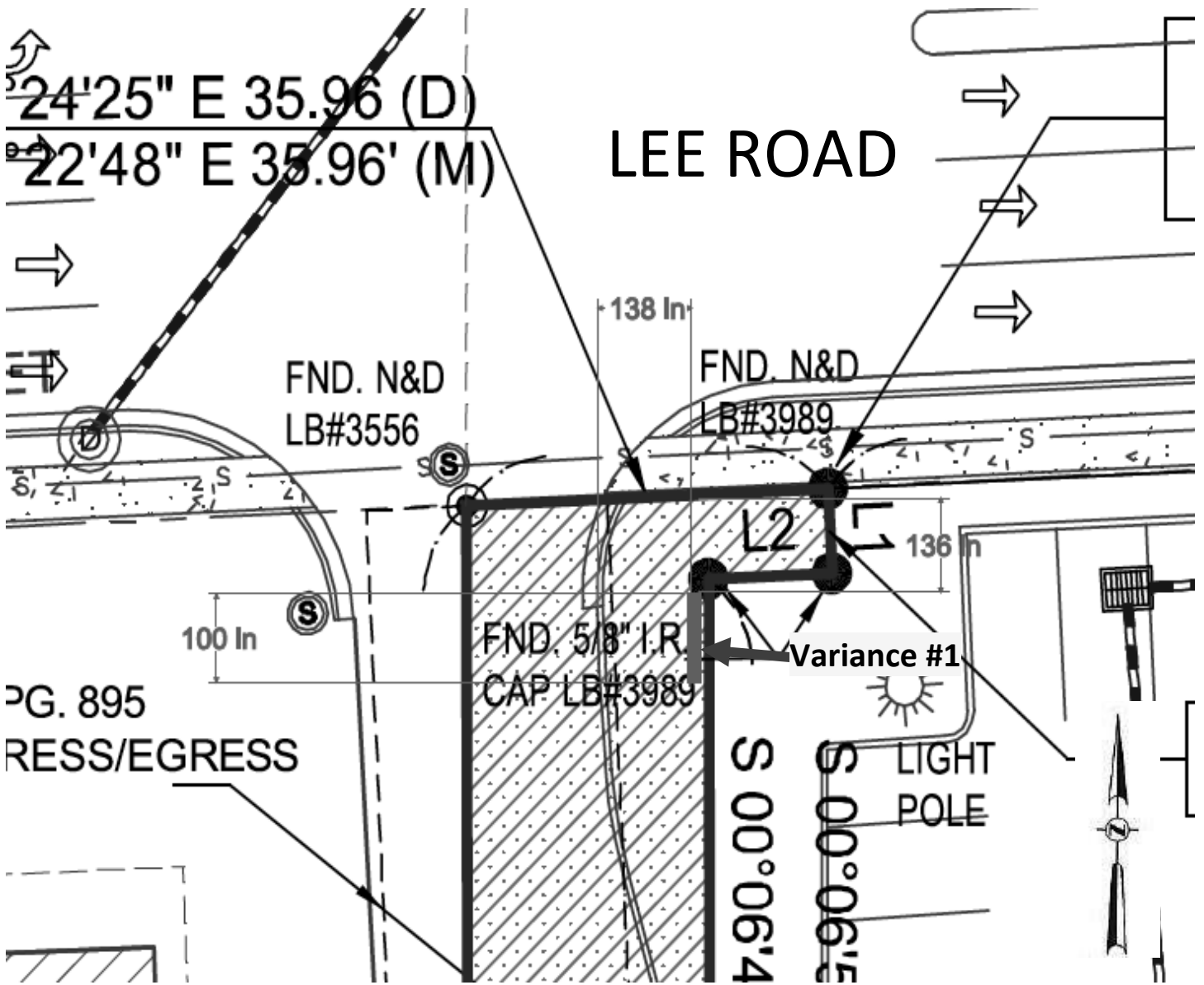
**Legal Description:**  
**PARCEL 1:**  
 A tract of land lying in Section 3, Township 22 South, Range 29 East being described as follows: begin at the Southwest corner of the Southwest Quarter of the Northeast Quarter of said Section 3; thence run South 00 degrees 05 minutes 08 seconds East, along the East line of those lands described as Exhibit 'A', Official Records Book 6622, Page 2100 of the Public Records of Orange County, Florida, 47.44 feet; thence, South 85 degrees 00 minutes 30 seconds West, along the South line of said lands, 470.02 feet; thence departing said South line, run North 00 degrees 00 minutes 35 seconds West, 591.52 feet; thence run North 87 degrees 24 minutes 25 seconds East, 81.80 feet; thence run North 01 degrees 00 minutes 20 seconds East, 91.10 feet; thence run South 88 degrees 59 minutes 40 seconds East, 26.84 feet; thence run North 01 degrees 00 minutes 20 seconds East, 10.40 feet; thence run South 88 degrees 59 minutes 40 seconds East, 2.18 feet; thence run North 01 degrees 06 minutes 37 seconds East, 79.91 feet; thence run North 85 degrees 36 minutes 58 seconds East, 45.99 feet; thence run South 83 degrees 45 minutes 29 seconds East, 48.41 feet; thence run South 91 degrees 08 minutes 37 seconds West, 49.00 feet; thence run South 42 degrees 48 minutes 30 seconds East, 47.05 feet; thence run South 89 degrees 50 minutes 40 seconds East, 106.00 feet; thence run South 01 degrees 50 minutes 20 seconds West, 22.10 feet; thence run North 87 degrees 24 minutes 25 seconds East, 128.00 feet; to the East line of said Southwest Quarter of the Northeast Quarter of said Section 3 and said East line of those lands described as Exhibit 'A'; thence, South 00 degrees 05 minutes 08 seconds East, 340.87 feet to the Point of Beginning.

Together with the following described property:  
 A tract of land being a portion of that certain Warranty Deed as recorded in Official Records Book 7253, Page 3480, Official Records Book 7253, Page 3485, Official Records Book 1887, Page 895, and Official Records Book 8622, Page 2108, Public Records of Orange County, Florida, lying in Section 3, Township 22 South, Range 29 East being described as follows:

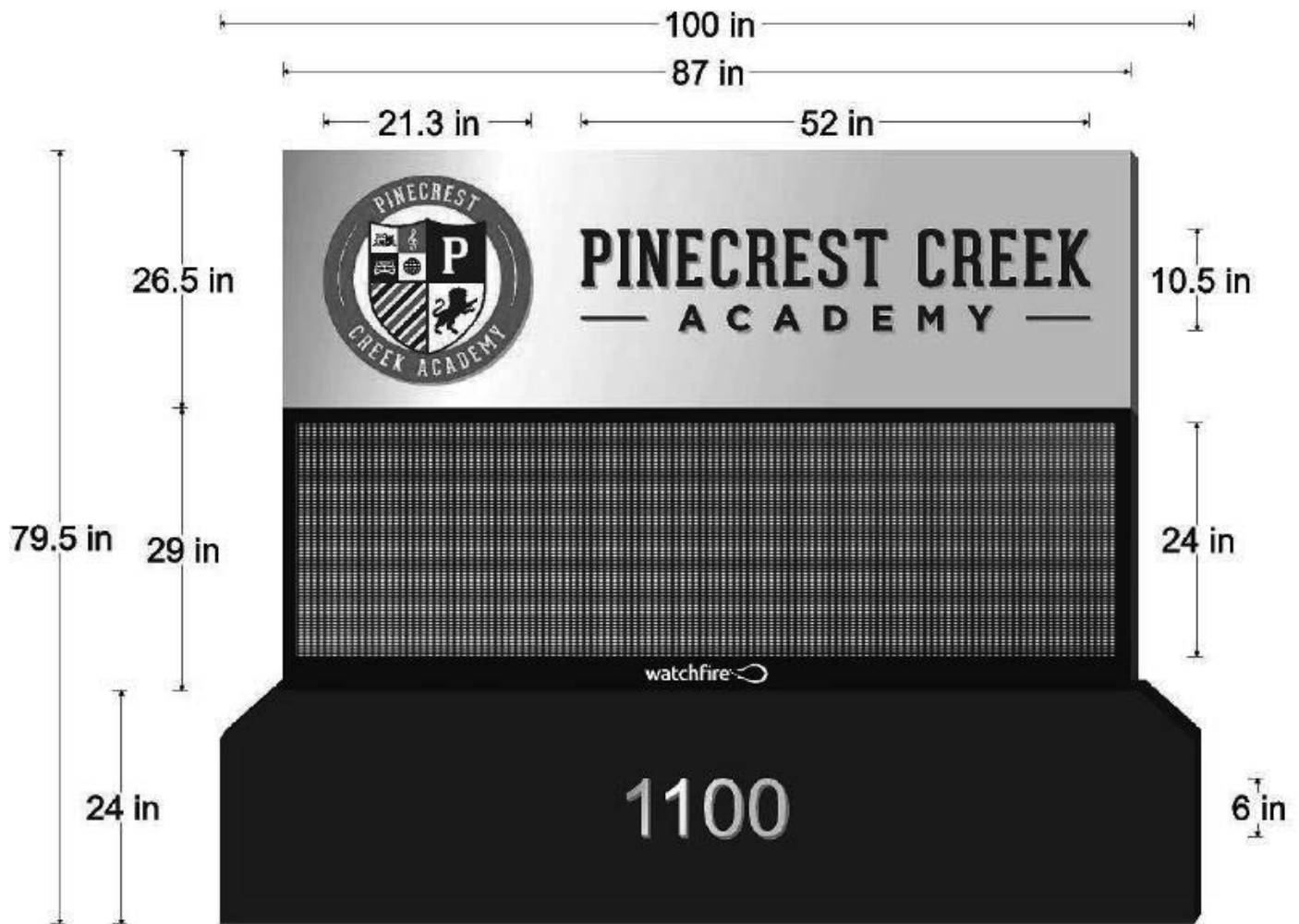
Commence at the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 3 for a point of reference, thence run North 00 degrees 05 minutes 06 seconds West, along the East line of the Southwest quarter of the Northeast quarter, a distance of 504.88 feet to the South right-of-way line of State Road No. 438 (Lee Road); thence run South 87 degrees 24 minutes 26 seconds West, along said South right-of-way line, 445.32 feet to a point lying on the East line of that certain Warranty Deed, as recorded in Official Records Book 7253, Page 3485 of said Public Records; said point being the Point of Beginning; thence departing said South right-of-way line, run South 02 degrees 59 minutes 35 seconds East, 8.00 feet; thence run South 57 degrees 24 minutes 25 seconds West, 12.29 feet; thence run South 00 degrees 05 minutes 06 seconds East, 90.39 feet to a point on a non-tangent curve concave Westwardly; thence run Southwardly, along said non-tangent curve, having a radius of 127.00 feet, a central angle of 13 degrees 20 minutes 03 seconds, an arc length of 29.59 feet, a chord length of 20.82 feet and a chord bearing of South 00 degrees 05 minutes 06 seconds East to the point of tangency; thence run South 00 degrees 05 minutes 06 seconds East, 32.32 feet to the point of curvature of a curve concave Northeastwardly; thence run Southeastwardly, along said curve, having a radius of 47.00 feet, a central angle of 41 degrees 40 minutes 35 seconds, an arc length of 34.19 feet, a chord length of 50.44 feet, and a chord bearing of South 59 degrees 57 minutes 10 seconds East to the point of reverse curvature of a curve concave Southwardly; thence run Southwardly, along said curve, having a radius of 77.00 feet, a central angle of 37 degrees 21 minutes 37 seconds, an arc length of 50.21 feet, a chord length of 49.32 feet and a chord bearing of South 23 degrees 08 minutes 30 seconds East to the point of tangency; thence run South 04 degrees 25 minutes 00 seconds



SIGN LOCATION DETAIL



SIGN ELEVATION



**Custom Monument Sign**  
**Aluminum Construction, Double Sided**  
**Top Cabinet Illuminated with White LEDs**  
**1/2" Push-Thru Acrylic Copy and Logo**  
**1/4" Flat Cut Non-Illuminated Address #**  
**EMC Unit: 10mm Pixel Pitch**  
**Viewing Area: 84"W x 24"H**  
**Overall Size of Sign: 100"W X 79.5"H**

JM



**SITE PHOTOS**



**Entrance to property and existing sign from Lee Rd. facing south**



**Existing sign facing east**

**SITE PHOTOS**



**Existing sign facing south**



**Rear part of property with school building facing east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **VA-23-05-026**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich @ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** TIMOTHY SCHUTZ

**OWNER(s):** 1451 S HAWTHORNE LLC

**REQUEST:** Variances in the R-1 zoning district for new lots as follows:

1) To allow Lot 1 with a lot width of 49.35 ft. in lieu of 50 ft.

2) To allow Lot 3 with a lot width of 49 ft. in lieu of 50 ft.

**PROPERTY LOCATION:** 1451 S. Hawthorne Ave., Apopka, FL 32703, east side of S. Hawthorne Ave., west of Clarcona Rd., north of S.R. 414, east of S.R. 451.

**PARCEL ID:** 16-21-28-0000-00-170

**LOT SIZE:** +/- 1.4 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 122

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Thomas Moses; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the lot dimensions provided on the site plan, received March 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that one (1) comment was received in support, and no comments were received in opposition.

The applicant had nothing to add to the staff presentation.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the need for the requests in order to provide an access easement to the property to the east, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

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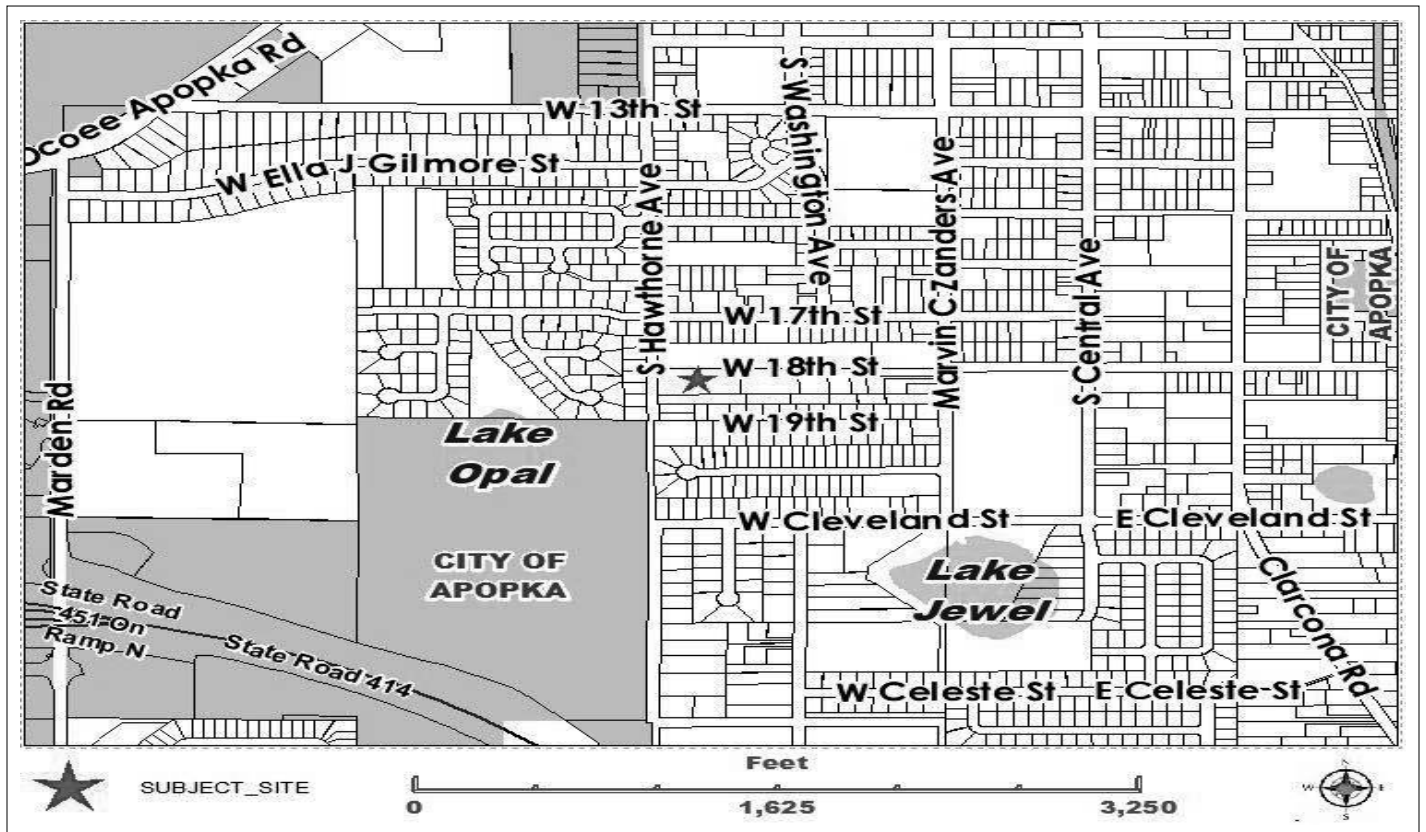
### STAFF RECOMMENDATIONS

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Approval, subject to the conditions in this report.

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### LOCATION MAP



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1	R-3	R-3	R-3	R-3
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Vacant	Religious Use	Vacant	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 5,000 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The subject property is a vacant 1.4 acre unplatted parcel that conforms with the zoning regulations for the district. The current owner purchased the property in 2021.

The subject property was rezoned (RZ-22-10-105) in October of 2022, from R-3 to R-1, to allow the property to be subdivided into 5 detached single-family residential lots, and to be consistent with the Low Density Residential Future Land Use.

A Preliminary Subdivision Plan (PSP-22-03-112) to create 5 lots was submitted on Mar 30, 2022. During the internal review, the Orange County Development Engineering Division required a 20 ft. wide fee simple access to be provided to the adjacent developed property to the east, as the proposed development would leave this property without access to S. Hawthorne Ave. In order to meet the 50 ft. minimum lot width for all lots, the applicant proposed a 20 ft. access easement, consisting of an 18 ft. tract, and a 2 ft. easement on lot 1. This proposal was rejected by Development Engineering, as they require a 20 ft. fee simple access that would not burden or encumber another lot and advised the applicant to apply for a Variance for any insufficient lot width. Thus, the applicant is applying for Variance #1 for a lot width of 49.35 ft. in lieu of 50 ft., and Variance #2 for a lot width of 49 ft. in lieu of 50 ft.

The requests are de minimis, and are thus not detrimental to the neighborhood, and will not be noticeable from neighboring properties, or from the street. This proposal will allow for the 20 ft. of fee simple access to be provided to the adjacent property to the east. As a result, staff is recommending approval.

As of the date of this report, no comments have been received in favor or in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	50 ft.*	Lot 1- 49.35 ft. (Variance #1) Lot 3- 49 ft. (Variance #2)
Min. Lot Size:	5,000 sq. ft.	Lot 1- 5,034 sq. ft. Lot 3- 6,029 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	20 ft.*	20 ft. (West)*
Rear:	20 ft.	20 ft. (East)
Side:	5 ft.	25 ft. (North and South)

\*Where the lot frontage is less than the minimum lot width required by code, the building setback distance is the minimum required by code, or the distance to the point where the lot width equals the minimum width required by the zoning district, whichever is greater. The required front setback is not as depicted on the site plan, but rather at the point where the lot meets the required 50 ft. lot width, or if the Variances are approved, the point where Lot 1 meets the width of 49.35 ft., and Lot 3 meets the lot width of 49 ft.

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is that access needs to be provided to the adjacent developed property to the east, requiring the subject property to give up 20 ft., thus reducing the developable area and requiring the variances.

**Not Self-Created**

The requests are not self-created since the owners are not responsible for the landlocked property to the east but are in need of the Variances in order to provide a permanent access to said property.

**No Special Privilege Conferred**

The Variances are being requested to accommodate the property to the east and do not grant any privilege to the applicant.

**Deprivation of Rights**

Without the requested Variances, the property could not be fully utilized while providing permanent access to the adjacent developed property to the east.

**Minimum Possible Variance**

The requested Variances are the minimum necessary to allow the proposed improvements while providing access to the adjacent property.

## Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the lot width will not be significantly discernable from neighboring properties and will not be noticeable from the street, thereby limiting any quantifiable negative impacts to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the lot dimensions provided on the site plan received March 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
- C: Timothy Schutz  
111 Suffolk Court  
Longwood, Florida 32779



TIMOTHY W. SCHUTZ, P.E.

March 7, 2023

Nick Balevich, Planner II  
Orange County Zoning Division  
201 South Rosalind Avenue, 1st Floor  
Orlando, Florida 32801

**RE: Hawthorne (AKA PSP-22-03-112) BZA Request**

Dear Nick:

We are submitting a BZA request to reduce the required width of two (2) of the five (5) proposed lots on Hawthorne PSP 22-03-112, as per our meeting with Development Engineering, Platting and Planning Departments. Due to the existence of a landlocked property behind (west) of the subject parcel, we are required to provide a 20-ft. access tract which will allow emergency access.

As a result, lot 1 width will need to be reduced from the minimum 50.00 Ft. required per R-1 zoning to 49.35 Ft. Additionally, Lot 3 width will be reduced from the minimum 50.00 Ft. required per R-1 zoning to 49.00 Ft. The two lots will still meet the minimum 5,000 SF size requirement per the R-1 Zoning District.

The request is being made because the problem is not self-created and will deprive the owner the ability to construct the number of lots normally allowed and enjoyed by someone else in this R-1 zoning district. There are no special privileges being requested. The reduction that we are seeking is the bare minimum that can be requested. This will not disturb the harmony with the surrounding neighborhood and will not be detrimental to the public welfare or injurious to the neighborhood.

Thank you very much for your help with this project. Please contact me if there are any questions.

Sincerely,

Timothy W. Schutz, P.E.  
Cc: File

111 Suffolk Court, Longwood, FL 32779  
Cell: 407.595.7314  
E-mail: [Tim.Schutz.pe@gmail.com](mailto:Tim.Schutz.pe@gmail.com)



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## COVER LETTER

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- 1. Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

The subject property is required to provide a 20-ft. wide Tract "D" for access to a landlocked property behind it to the east. for that reason we are unable to meet 50.00 ft. min. width for two of the lots.

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- 2. Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The landlocked situation of the property behind this (to the east) one was not self-created. It has existed when the subject property was purchased.

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- 3. No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

No special privilege is being requested that would not otherwise be enjoyed by this property. In fact, by providing the 20-ft. access, the lot sizes have to be reduced to accommodate the open space tract, Tract "D". However, they will still meet the minimum size in square footage.

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- 4. Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

The property would be denied the number of lots it would otherwise be able to build if the variance request is not approved.

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- 5. Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The minimum lot widths proposed on Lots #1 (49.35 Ft.) and Lot #3 (49.00 Ft.) that still allow all three rear lots (Lots #1,2 & 3) to attain the minimum lot size (5,000 SF) criteria are used. Lots #1 and #2 are the smallest, at 5,034 SF and 5,024 SF.

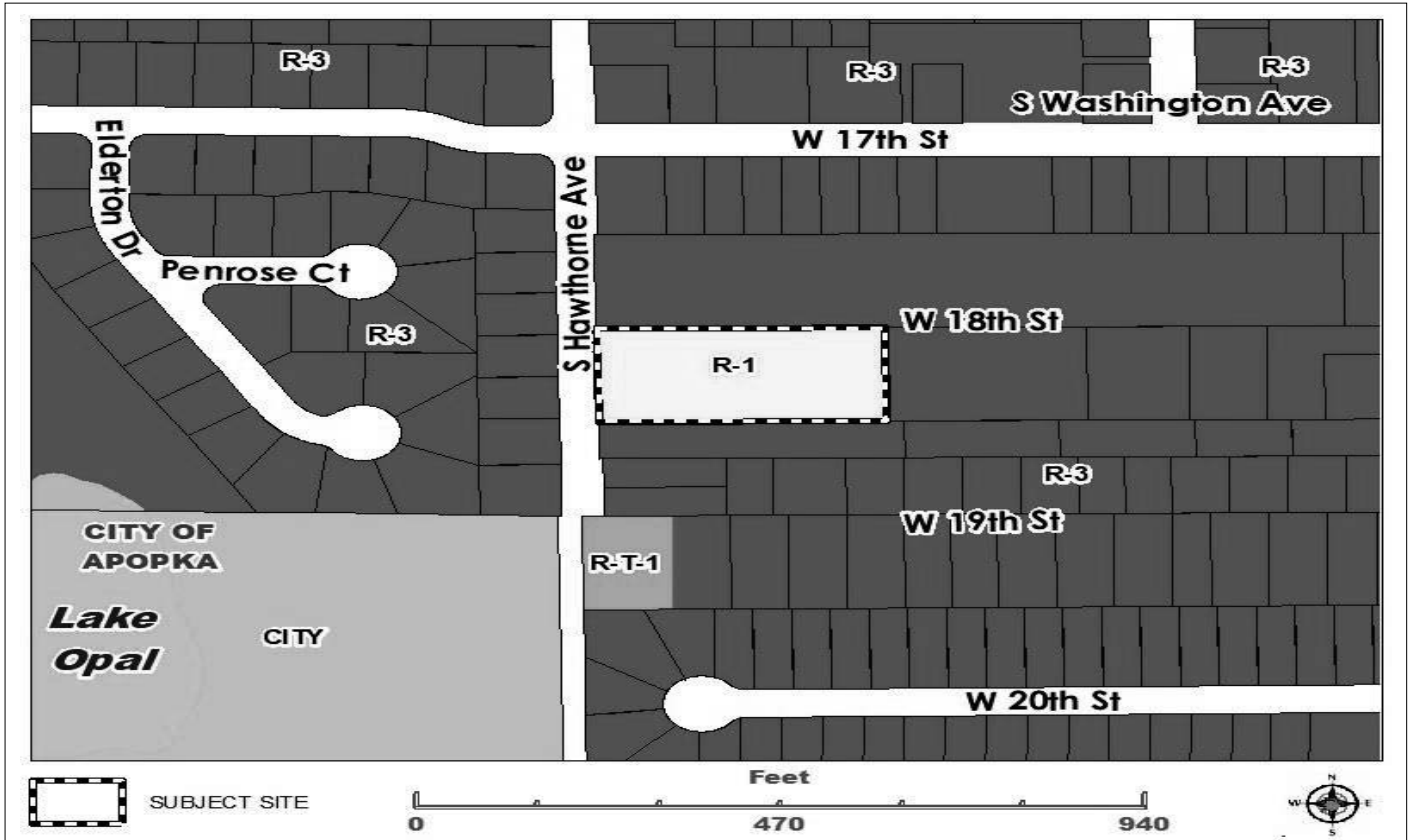
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- 6. Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The small variance requested will not even be noticeable. Lot #3 will be reduced by 12' and lot #1 will be reduced by 8".

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ZONING MAP

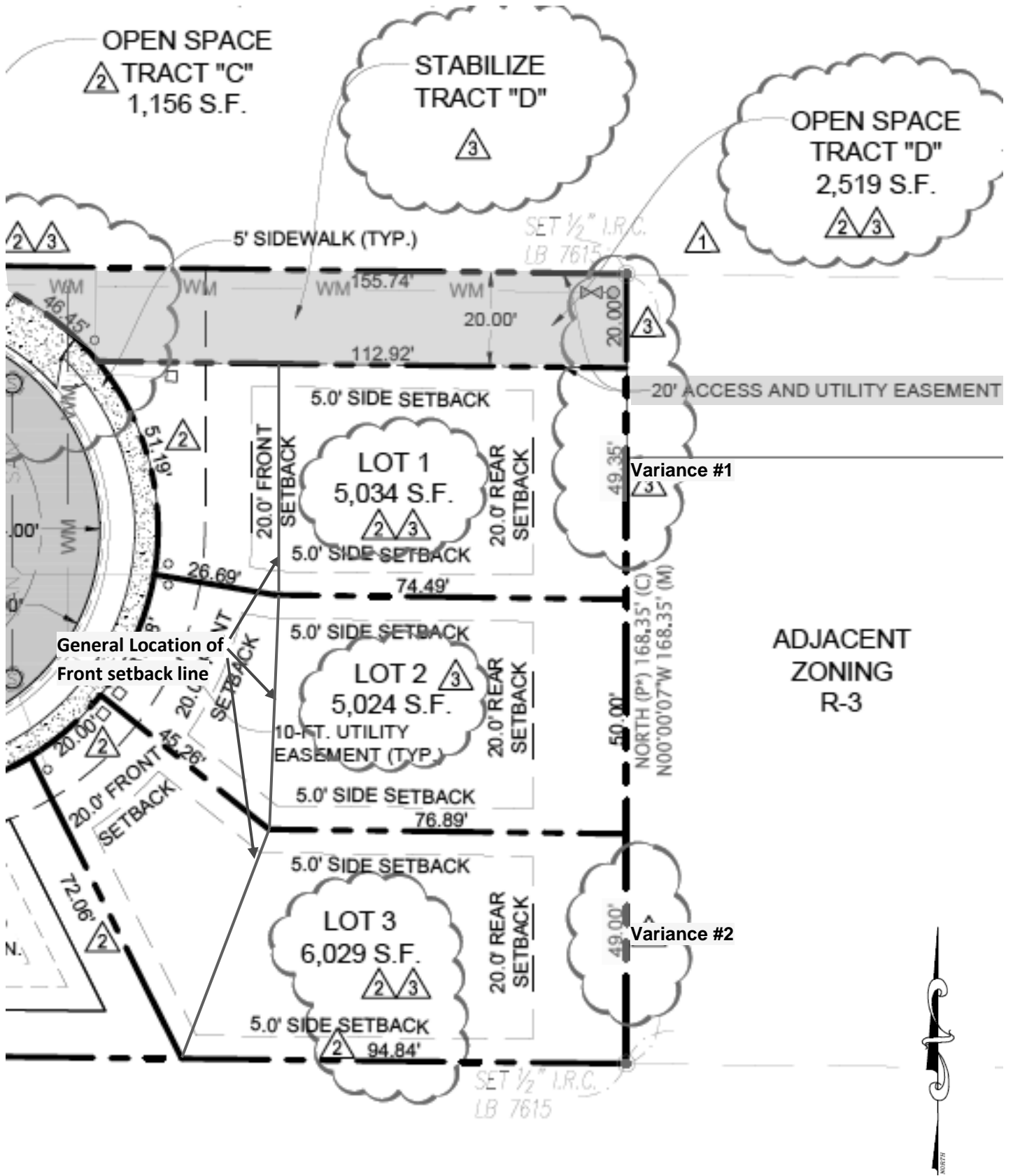


AERIAL MAP





SITE PLAN SHOWING VARIANCES



**SITE PHOTOS**



**Property from S. Hawthorne Ave. facing east**



**Existing access to rear property from S. Hawthorne Ave. facing east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **VA-23-05-019**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** EDNERT THOMAS

**OWNER(s):** DAVID FRITZ

**REQUEST:** Variances in the R-1 zoning district for the construction of a single-family residence as follows:

- 1) To allow a north side setback of 5 ft. in lieu of 6 ft.
- 2) To allow a south side setback of 5 ft. in lieu of 6 ft.

**PROPERTY LOCATION:** 3776 Glover Ln., Apopka, FL 32703, west side of Glover Ln., north of W. McCormick Rd., east of Ocoee Apopka Rd., west of S.R. 429.

**PARCEL ID:** 29-21-28-6640-26-180

**LOT SIZE:** +/- 0.06 acres (2,745 sq. ft.)

**NOTICE AREA:** 500 ft.

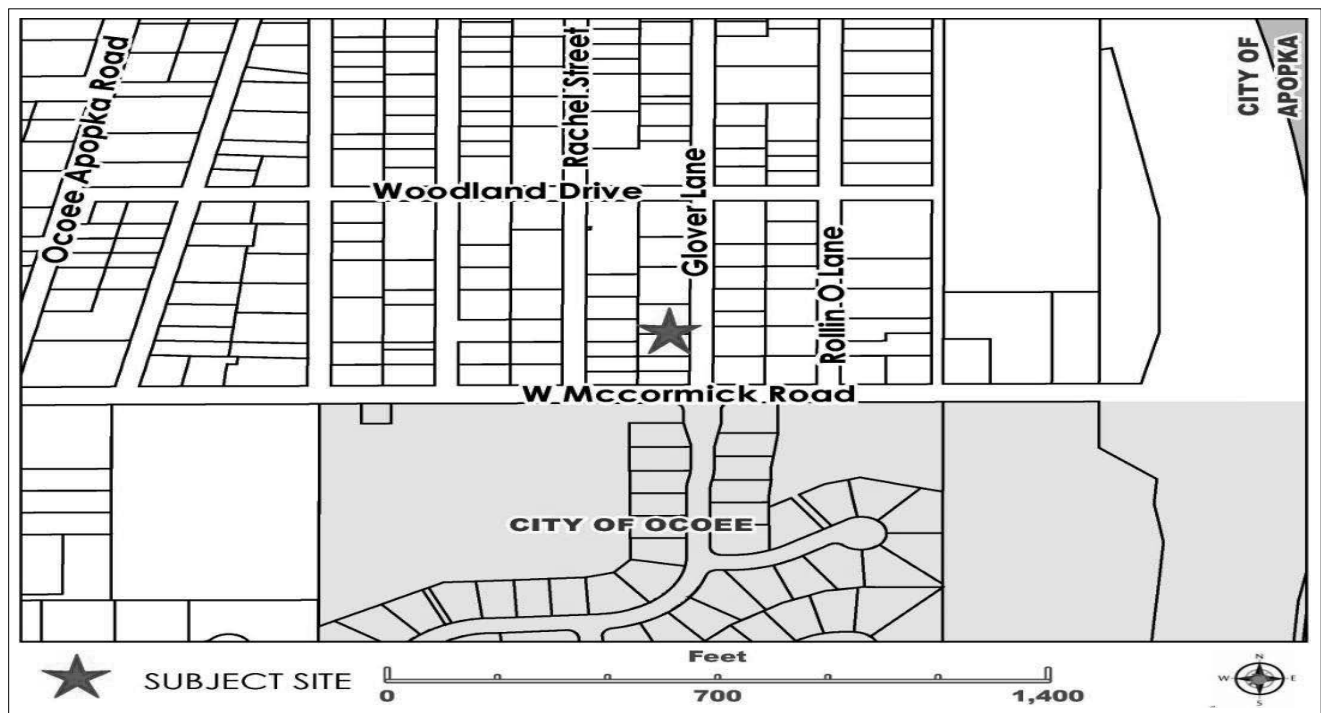
**NUMBER OF NOTICES:** 88

**CONTINUED BY THE APPLICANT**

## STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variances, staff recommends that the approval be subject to the conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1	R-1	R-1	R-1	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 5,000 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The property is located in the Paradise Heights Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as industrial uses, or commercial development, and control densities. However, they typically have little impact on the development of individual residential properties, as is the case for this request, which is not impacted by the Paradise Heights Rural Settlement.

The area surrounding the subject site consists of single-family homes. The subject property is a vacant 0.06 acre lot with the exception of a concrete pad for parking. It was platted in 1926 as Lot 18 in Block 26 of the Paradise Heights Subdivision. The current owners acquired the property in March 2022.

In January 2023, the site was granted two Variances (VA-22-09-083) to allow a lot of width of 25 ft. in lieu 50 ft. and to allow a lot area of 2,745 sq. ft. in lieu of 5,000 sq. ft. Two additional variances requested under that application, to allow a north side setback of 3 ft. in lieu of 6 ft. and to allow a south side setback of 3 ft. in lieu of 6 ft., were withdrawn at the Board of Zoning Adjustment hearing.

The current proposal is to construct a new 1,097 gross sq. ft., 25.5 ft. high two-story single-family home. The proposal meets the rear setbacks required by the R-1 zoning district. The plans submitted provide 993 sq. ft. of living area which is less than the 1,000 sq. ft. of minimum living area as required by Sec 38-1501 for the R-1 zoning district and the site plan submitted provides an 18 ft. front yard setback which does not meet the 25 ft. front setback required by the R-1 zoning district. Since Variances have not been requested for the minimum living area nor the 18 ft. front setback, at the time of permitting an additional 7 sq. ft. will be required to be added to the floor plans and the front setback will be required to be increased to 25 ft. to meet the minimum requirements. Due to the narrow width of the lot, a 5 ft. north side setback and 5 ft. south side setback is proposed in lieu of 6 ft. The surrounding properties appear to meet the lot width standards and the side setbacks standards.

The applicant obtained a Variance from the Florida Dept. of Health to allow a performance-based onsite sewage treatment and disposal system (septic tank) that is required to be set back from the adjacent property's private drinking water well by no less than 59 feet when installed.

The Development Engineering Division has also reviewed the request and has the following concerns. Orange County code Sec. 37-539 requires a minimum lot size of 1/2 acre or 21,780 sq. ft in order to have a private

potable well and individual on-site sewage disposal system (septic tank). This lot is only 0.06 of an acre or 2,745 sq. ft. therefore it would require a Variance from Orange County code to allow for a private potable well and individual onsite sewage disposal system. Development Engineering has indicated that they will not support the placement of the septic tank at the rear of the property due to the lack of adequate access to the system along one side of the structure. A minimum clearance of 8 ft. is necessary for access to the septic tank on one side of the lot. Therefore, if the septic tank is located in the rear, then at least one side of the house will be required to be setback 8 ft. otherwise the applicant would need to go to the Development Review Committee (DRC) and request Variances from Chapter 37 pertaining to the minimum lot size of 1/2 acre (or 21,780 sq. ft.) and the 8 ft. side setback.

Staff has advised the applicant to revise the plan to ensure they meet the Development Engineering and Department of Health requirements. However, the applicant has requested to move forward with the plans in this staff report.

As of the date of this report, no comments have been received in favor or in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	25.5 ft.
Min. Lot Width:	50 ft.	25 ft.*
Min. Lot Size:	5,000 sq. ft.	2,745 sq. ft.*

\*Approved per VA-22-09-083

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (East)
Rear:	25 ft.	25 ft. (West)
Side:	6 ft.	5 ft. (North – Variance #1) 5 ft. (South – Variance #2)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions and circumstance particular to the subject property because this is new construction of a single-family residence and they could revise the plans to meet the setbacks thus negating the need for the Variances.

**Not Self-Created**

The request is self-created in that it is new construction and there are alternatives to eliminate the requests.



### **No Special Privilege Conferred**

The request would confer special privilege since there are no surrounding properties with similar reduction in side yards.

### **Deprivation of Rights**

There is no deprivation of rights since there are other options to meet the required setbacks.

### **Minimum Possible Variance**

The Variances are not the minimum since the design of the house can be revised to meet code.

### **Purpose and Intent**

Approval of the requested Variances would not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. There are options available to redesign the house to meet the required side setbacks.

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## **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and elevations received February 25, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations, as amended to meet the front yard setback and the minimum living area of the zoning district. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Ednert Thomas  
2121 Hammock Moss Drive  
Orlando, FL 32820

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COVER LETTER

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February 9,2023

To whom it may concern:

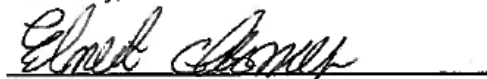
I, Ednert Thomas, as agent for Fritz David, owner of property 3776 Glover Lane, Apopka Fl 32703.

As you will see the use of this lot will be consistent with the comprehensive Policy plan as shown by architect engineer Theodore F Weppelmann. The use of this residential lot will be in harmony with the surrounding area and will be consistent with the pattern of surrounding development as proposed by the architect engineer. The Architect Engineer has proposed a structure for the site plan that would not cause a detrimental intrusion into the surrounding area as shown on the site plan. The variance request to use 5 feet side setback in lieu of 6 ft. side setback for swale consideration , only 1 foot short for side setback will not cause any prejudice to anyone as proposed by the architect engineer. The proposed structure would allow us to enjoy the same rights other neighbors enjoy in the neighborhood while respecting the zoning division. The proposed structure will have minimum possible variance due to the fact we are only requested 5 feet north and 5 feet South side setback in lieu 6 feet side setback, and allow the 25 Feet wide au lieu 50 feet wide, in the meantime, we will maintain all setbacks: 25 feet front setback, 25 feet rear setback, 28'-10" feet height and total living area 1098 square footage. We will maintain all other setbacks requested by the zoning division. In addition, this lot has been approved to be built by the zoning board. See attached approval by the zoning board dated January 24, 2023. As shown on the attached floor plan the structure will be 15 feet by 47'-8" feet. Our main goal is to develop this residential lot which has private water , electricity available and road access to the property as soon as possible.

Please find the following documents attached:

1. Signed survey of the lot
2. Signed site plan by Architecture Engineer Theodore with elevations
3. Variance requests
4. Detail of floor plan
5. Public hearing # VA-22-09-083

Sincerely,



---

Ednert Thomas

407 459-3771

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**COVER LETTER**

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1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

configuration.

The request for 5 ft. side setback in lieu of 6 ft. side setback would only allow a reasonable use of the land and no prejudice on neighboring properties.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The owner can not be responsible for existing lot configuration. As a result, the circumstances of the lots are not self created.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

The request would not confer special privilege since there are similar properties with reduction in side yards.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

If the variances request would have been denied, the owners will be deprived of the ability to build a residential home in this residential lot.

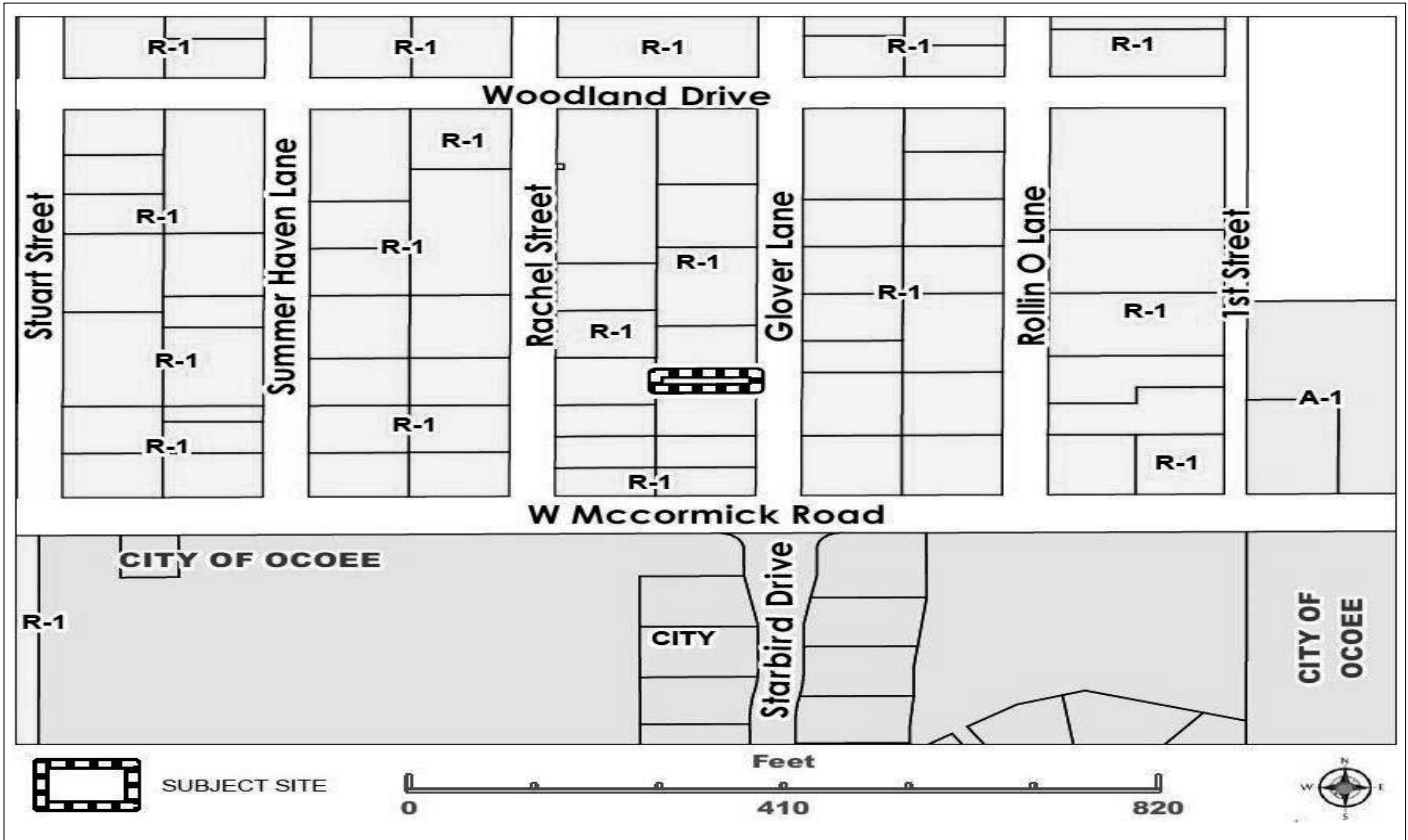
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

There will be a deprivation of rights since there no alternative to meet the required 6 ft. side setback. The staff and the zoning board would not deny the owners 5 Ft. side setback in lieu of 6ft.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The approval of these variances will be in harmony with surrounding properties.

ZONING MAP



AERIAL MAP

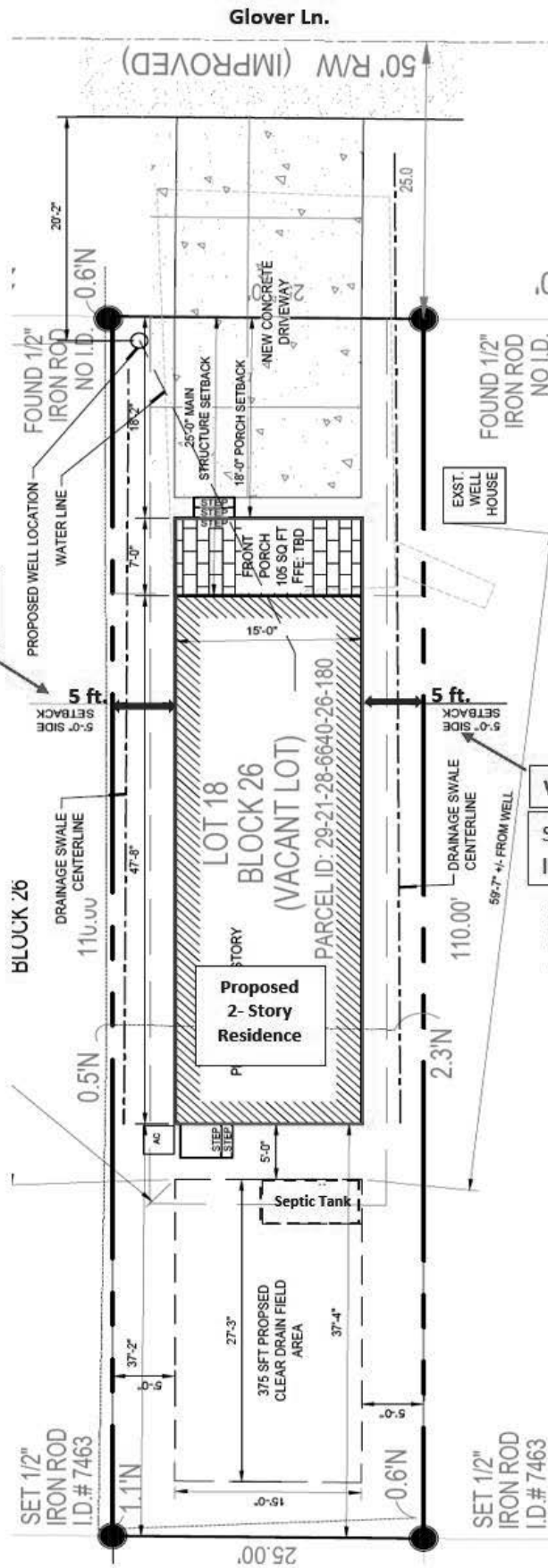


# SITE PLAN

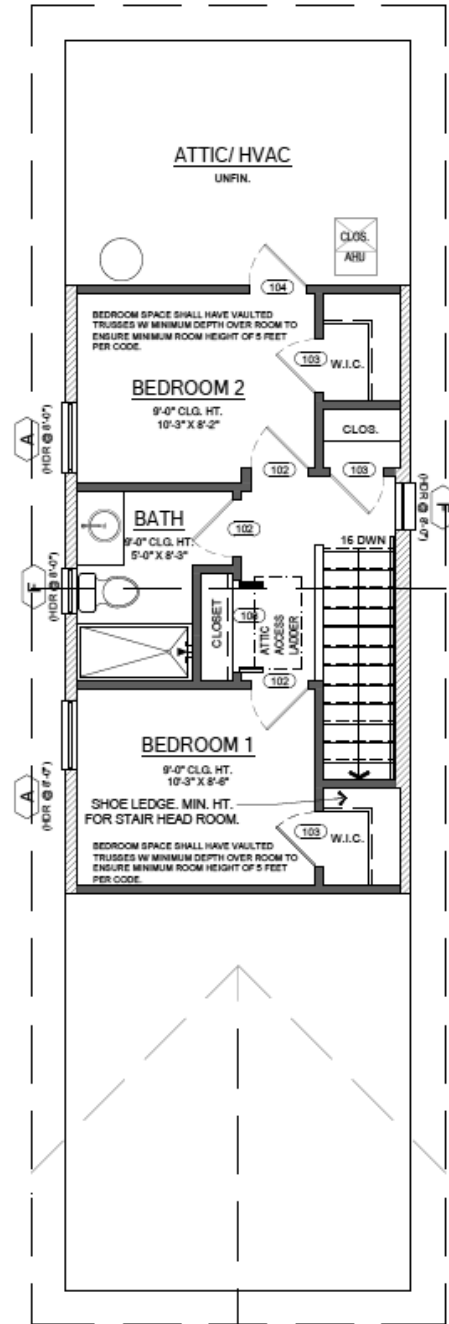
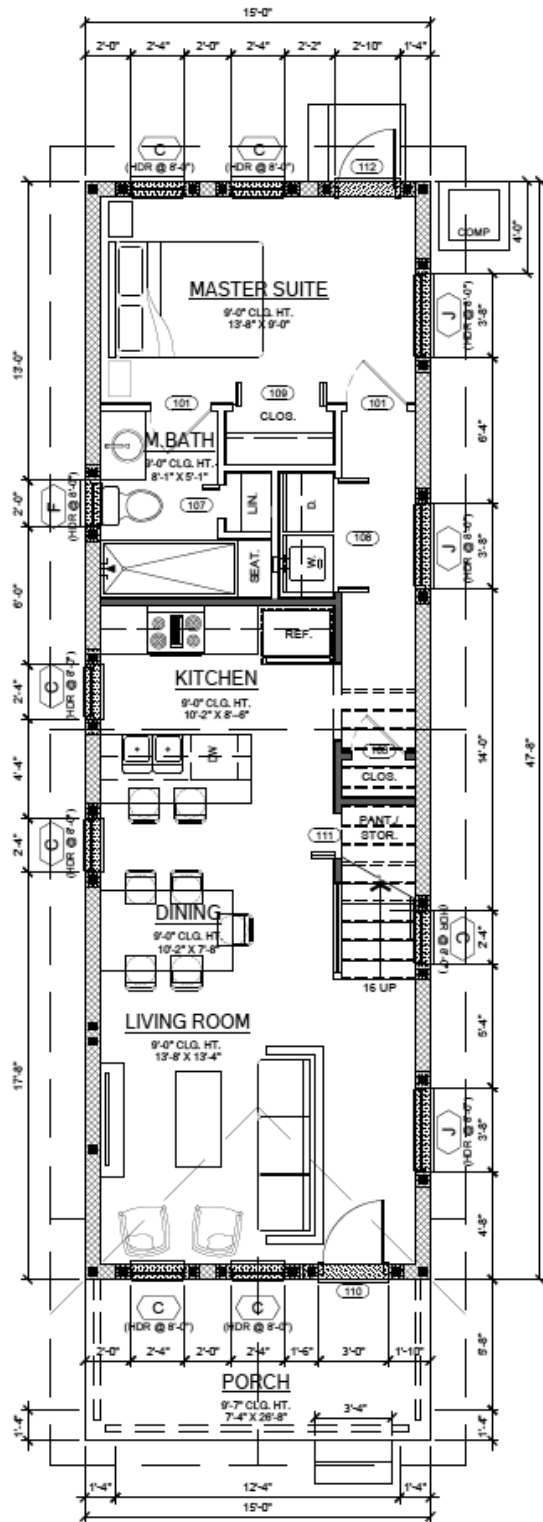


**Variance #1**  
North side setback of 5 ft. in lieu of 6 ft.

**Variance #2**  
South side setback of 5 ft. in lieu of 6 ft.



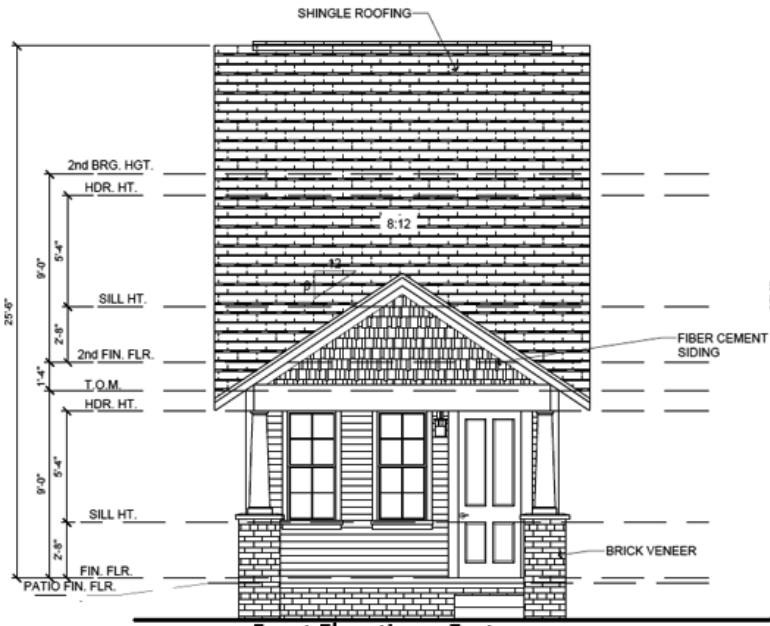
# FLOOR PLAN



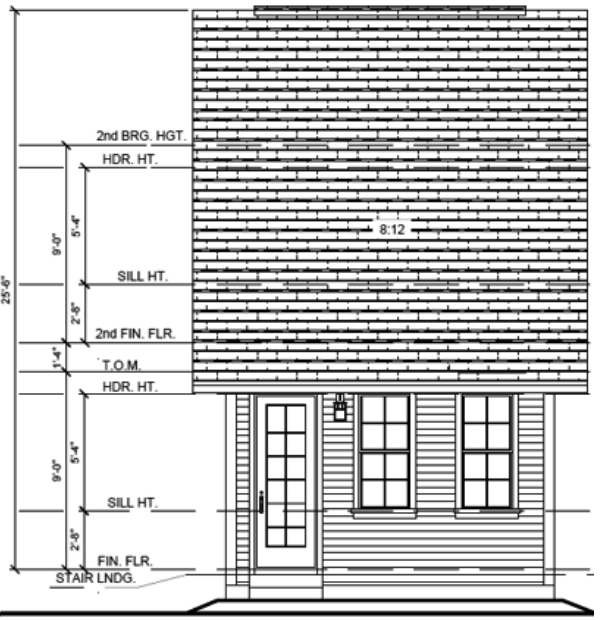
### FLOORPLAN AREAS

MAIN FLOOR	633
SECOND FLOOR	360
LIVING TOTAL	993
FRONT PORCH	104
TOTAL AREA	1097

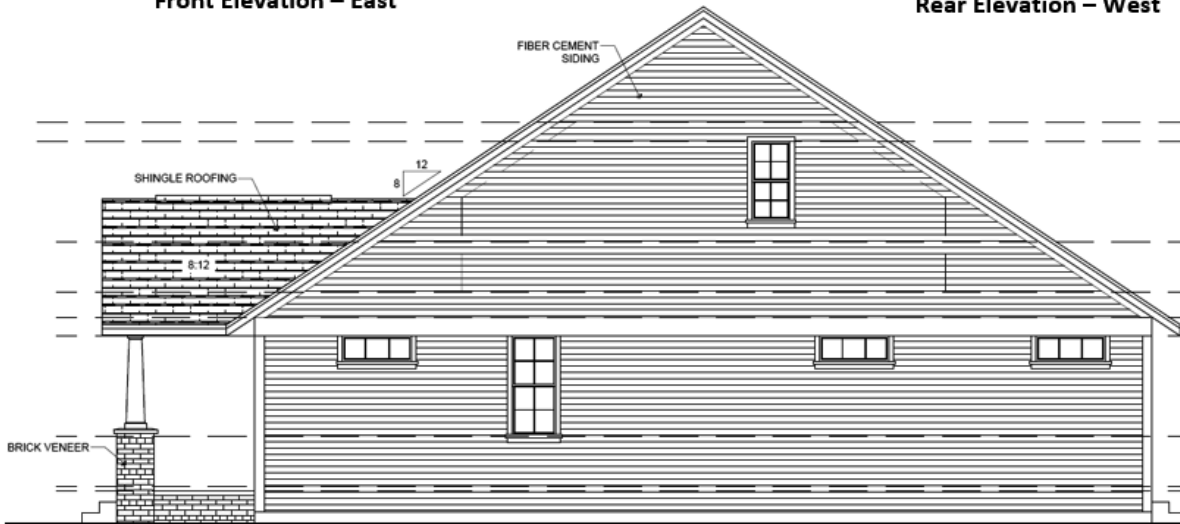
# ELEVATIONS



**Front Elevation - East**



**Rear Elevation - West**



**Right Elevation - North**



**Left Elevation - South**

**SITE PHOTOS**



**Facing west towards front of subject property**



**Rear yard, facing east towards proposed new residence**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 4, 2023**

Commission District: **#1**

Case #: **VA-23-05-023**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

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## GENERAL INFORMATION

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**APPLICANT(s):** STEPHANIE BAUMGARTNER

**OWNER(s):** SAMANTHA MEEKER, JAMES MEEKER

**REQUEST:** Variance in the PD zoning district to allow pool equipment with a west side setback of 1 ft. in lieu of 5 ft.

**PROPERTY LOCATION:** 9379 Royal Estates Blvd., Orlando, FL 32836, north side of Royal Estates Blvd., south side of Reams Rd., southwest of Winter Garden Vineland Rd., north of Vista Blvd.

**PARCEL ID:** 01-24-27-7141-01-660

**LOT SIZE:** +/- 0.16 acres (7,197 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 212

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Juan Velez; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Sonya Shakespeare; 0 opposed; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received March 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that one (1) comment was received in support of the request, and no comments were received in opposition.

The applicant noted it was an oversight in the installation of the pool equipment in a different location than what was indicated on the site plan submitted for the permit.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the rationale for the request and that approval would not set a precedence, and unanimously recommended approval of the Variance by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

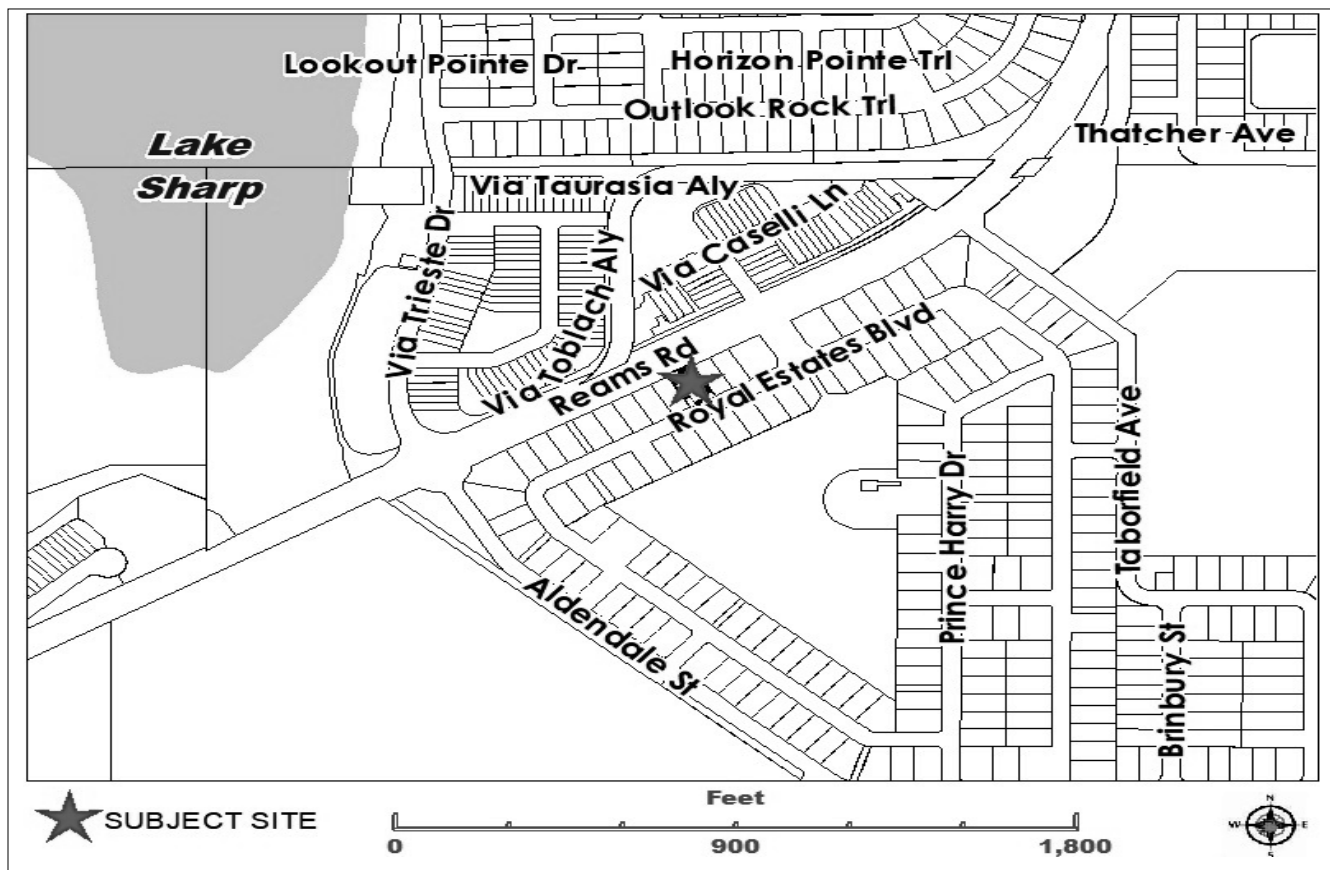
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a Variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	Royal Estates PD	Royal Estates PD	Royal Estates PD	Royal Estates PD	Royal Estates PD
Future Land Use	Village (Lakeside Village – Estate District/Estate Home District)	Village (Lakeside Village – Estate District/Estate Home District)	Village (Lakeside Village – Estate District/Estate Home District)	Village (Lakeside Village – Estate District/Estate Home District)	Village (Lakeside Village – Estate District/Estate Home District)
Current Use	Single-family residential	Townhomes	Single-family residential	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The property is zoned PD (Royal Estates Planned Development), and is further designated as the Estate Home District within the PD. The Estate Home District and approved PD allow for single-family detached residential homes and accessory uses. This subject property has a Future Land Use Map (FLUM) designation of Village (V) and is located within Horizon West Lakeside Village.

The surrounding neighborhood consists of single-family homes. The subject property is a 0.16 acre lot, platted in 2015 as Lot 166 of the Royal Legacy Estates Tract M Replat, and is a conforming lot of record. There is a 10 ft. utility easement that runs along the front of the property. The property was purchased by the current owners in 2018.

The site is developed with a 2-story, 4,314 gross sq. ft. single-family home, constructed in 2018, with an attached 3-car garage (B18000046). Additionally, an outdoor pool permit (B21006269) and a screen enclosure permit (B21021999) were issued in 2021. The screen enclosure permit has since expired as there was no final inspection. The final inspection for the pool permit failed in January 2022 as the pool equipment was installed in a different location than the approved site plan. A revision to the site plan to show the pool equipment in the new/installed location was submitted in January 2022 but it was marked deficient as the new location of the pool equipment was not in compliance with code.

The request is for the pool equipment to be allowed remain in its current location on the west side of the property, located 1 ft. from the west side property line, where 5 ft. is required. The pool equipment includes a pool pump, heat pump and filter, located in an area approximately 10 ft. by 4 feet. The Royal Estates PD does not have restrictions regarding residential pool equipment, therefore pool equipment regulations outlined in County Code Sec. 38-79(10) apply. Sec. 38-79(10)(f)(1) requires that the “swimming or wading pool, (including all appurtenances thereto), shall not be located closer than five (5) feet from any side or rear property line. However, filters and pumps located on the same side as the air conditioning unit may have a side yard setback equal to or greater than the existing air-conditioning unit.” The pool equipment is not on the same side as the air conditioning unit and is located 1 ft. from the west side property line, where 5 ft. is required, necessitating the need for the Variance. The approved and permitted plan that was submitted for the pool permit showed the pool equipment located on the same side of the house as the air conditioning unit. Had the equipment been installed according to the plan that was approved and the permit that was

issued the request for the Variance would be unnecessary. Therefore, staff is recommending denial of the Variance.

The Planning Division provided comments stating that the Planned Development Zoning District and Village Future Land Use are consistent.

As of the date of this report, a letter of no objection has been received from the owner of the property to the west of the subject property. No comments have been received in opposition to this request.

**District Development Standards**

	Code Requirement (Royal Estates PD)	Existing
Min. Lot Width:	60 ft.	60 ft.
Min. Lot Size:	7,200 sq. ft.	7,200 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	not allowed	not allowed
Rear:	5 ft.	10.5 ft. pool deck/screen enclosure (North)
Side:	5 ft.	5 ft. (East) 1 ft. pool equipment (West – Variance)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The location of the existing home with a 5 ft. setback from the east and west side property line, and the location of the of the pool and screen enclosure in the majority of the rear yard limit the area where the pool equipment could be installed on the property, however the pool equipment could have been installed on the east side of the house in compliance with the Code and the issued permit.

**Not Self-Created**

The request for the Variance is self-created and a self-imposed hardship as it results from the pool equipment not being installed on the same side of the house as the air conditioning unit consistent with the Code as indicated on the approved permit drawings.

**No Special Privilege Conferred**

Granting the Variance as requested would confer special privilege as several other properties in the area with pool equipment appear to meet required setbacks.

**Deprivation of Rights**

There is no deprivation of rights as the pool equipment could have been located on the same side of the property as the air conditioning unit, thereby eliminating the need for the Variance.

### **Minimum Possible Variance**

Due to the existing side setbacks, the location of existing improvements on the lot, and the standard separation distance between the exterior wall of the house and the edge of the pool equipment, the requested Variance is the minimum possible for the pool equipment as installed but a Variance would not be necessary if the equipment had been installed as provided on the approved site plan.

### **Purpose and Intent**

Approval of this request would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. If the pool equipment were relocated to the east side of the property where the air conditioning unit is located, it would have a similar setback of 1 ft. in lieu of 0.7 ft. Furthermore, the pool equipment is not significantly visible from any of the surrounding properties due to the landscaping in front of the equipment which screens the west side property line from the right-of way.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan received March 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Stephanie Baumgartner  
415 Gold Medal Court  
Longwood, FL 32750

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**COVER LETTER**

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Stephanie Baumgartner  
415 Gold Medal Ct  
Longwood, FL 32750  
03/07/2023

Orange County Zoning Division  
201 South Rosalind Ave, 1<sup>st</sup> floor  
Orlando, Florida 32801

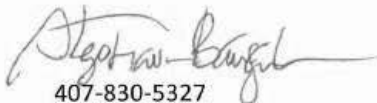
Dear  
Orange County Zoning Division:

Regarding 9379 Royal Estates Blvd, Orlando Florida 32836. The Variance Request is to allow the Homeowner's Pool Equipment to remain in the rear most area of the west side setback, approximately 57 feet back from the front building line of the home. The pool equipment consists of a pump and filtration system that rests on a pre-fabricated concrete pad which covers a ground space area measuring approximately 36 inches by 48 inches, totaling 12 square feet. The equipment at its highest point which is the filtration tank is approximately 40 inches tall. The pool pump is a standard electrical motor driven device measuring 14 inches by 22 inches. The water filtration tank is made of fiberglass and measures approximately 40 inches high and 15 inches wide. All the PVC water supply lines and electrical service lines are located below ground.

The side set back limits are 5 feet, the pool equipment and pad fit within the limits of the side setback with ample room to navigate pedestrian traffic without encroaching on the adjacent neighboring property. The distance from the exterior wall of the home and the pool equipment pad is in compliance with building standards. The necessity of the Variance would not have been required if the pool equipment was installed on the east side of the residence as provided for in the code.

The Variance request is for allowance of the pool equipment to be on the west side of the residence.

Stephanie Baumgartner

  
407-830-5327



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**COVER LETTER**

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1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

The Pool Equipment was installed on the left side of the home and not on the right side where the A/C is located. This was not discovered until after construction was completed and the Owners had already landscaped with their neighbors between their homes.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

. The equipment location is on the wrong side of the house. To move the equipment would be very difficult given that there is a concrete deck and screen in place.

There is a letter of no objection from the Neighbor attached to this application, along with photos of the area.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

It is understood that if this variance is granted that it is only for this property.

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4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

The Applicants Right of Enjoyment of their property is impacted by the restricted use of the setback on their property due to a placement of a non-permanent implement in the set back area. The Variance approval of the setback would give the Property Owner relief of the disability.

5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Requesting approval to leave the pool equipment where it is currently installed.

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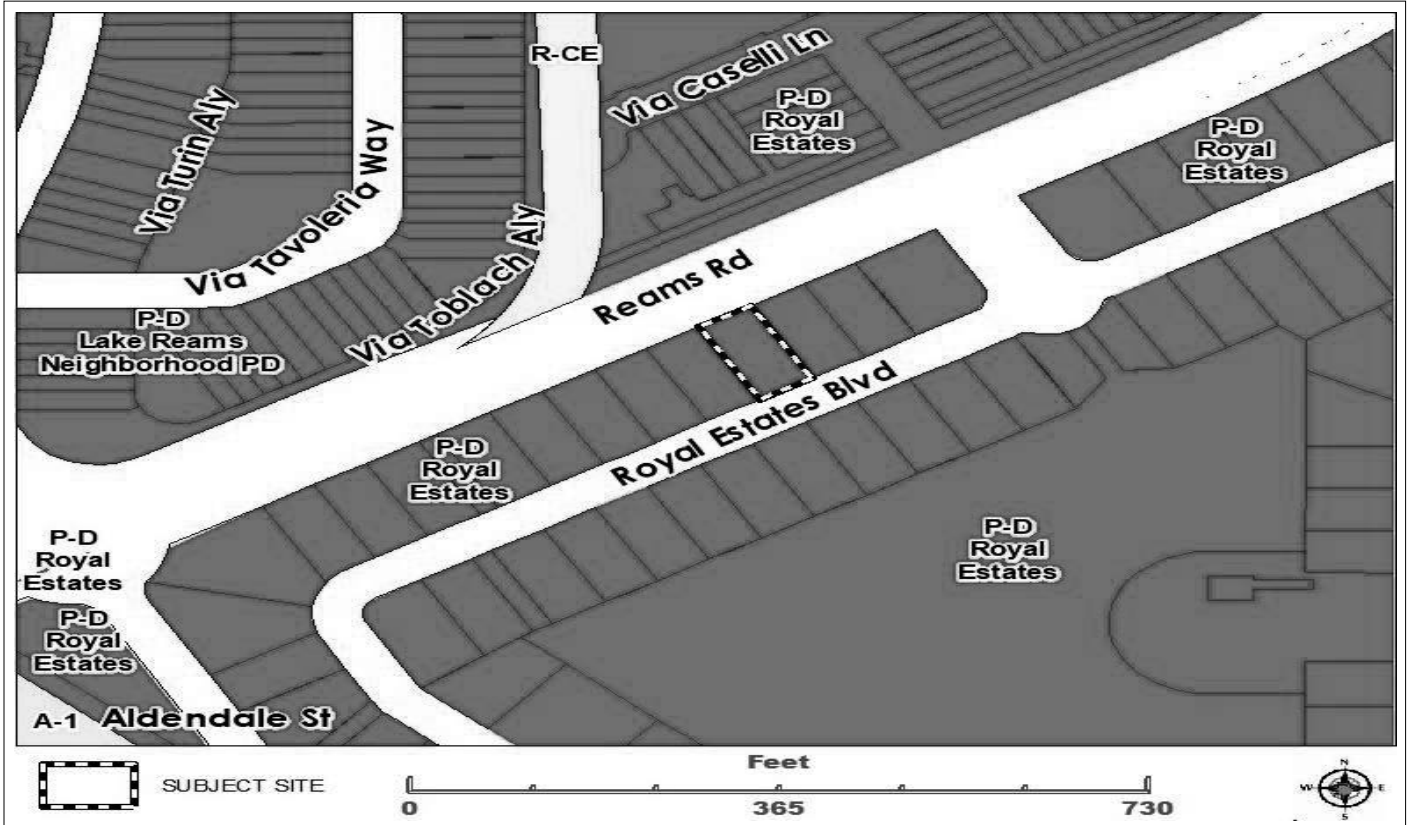
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6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Pool equipment and the neighbors pool equipment are spaced far enough apart so that there is plenty of room for access to either back yard. Pictures are included for review.



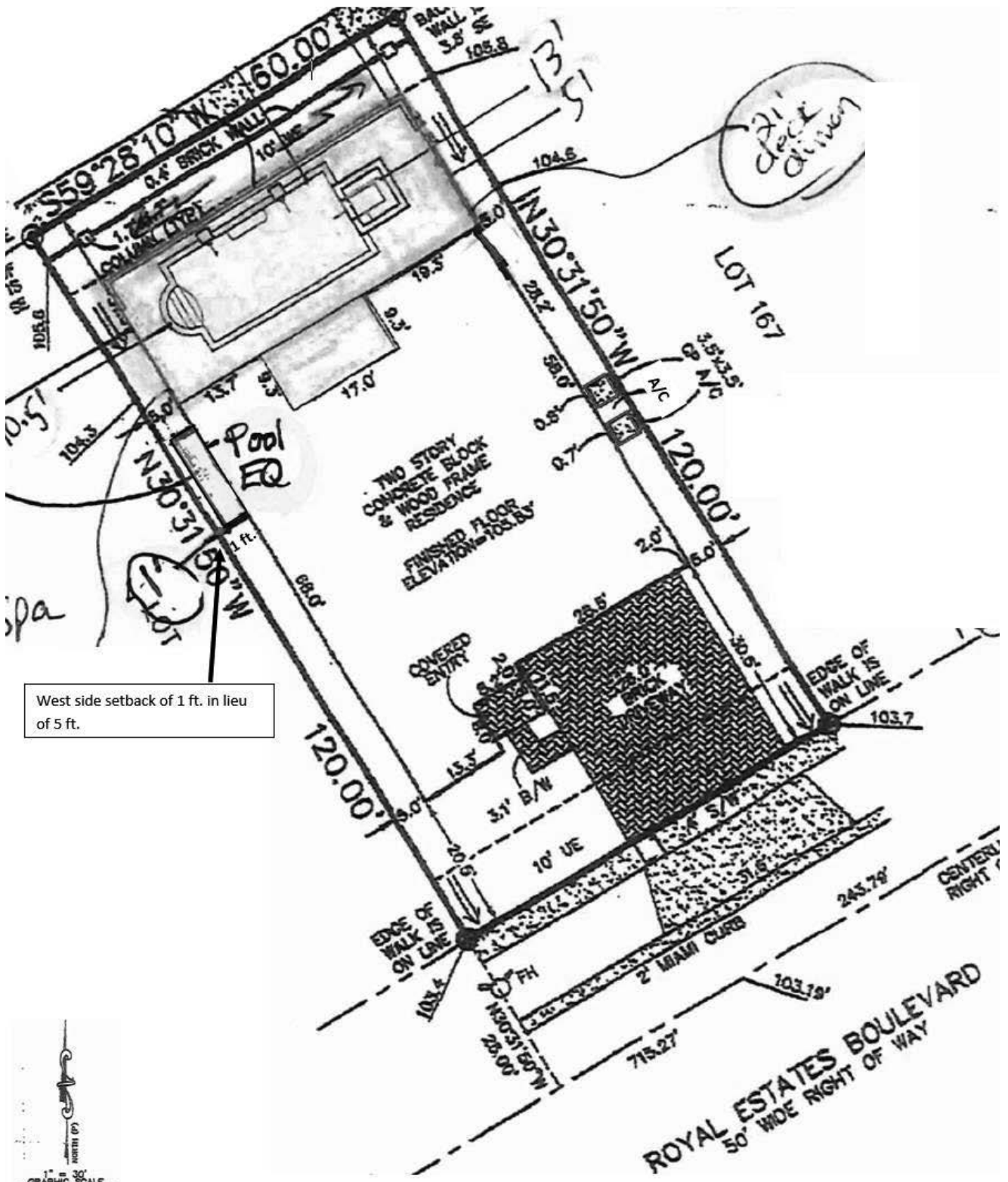
ZONING MAP



AERIAL MAP

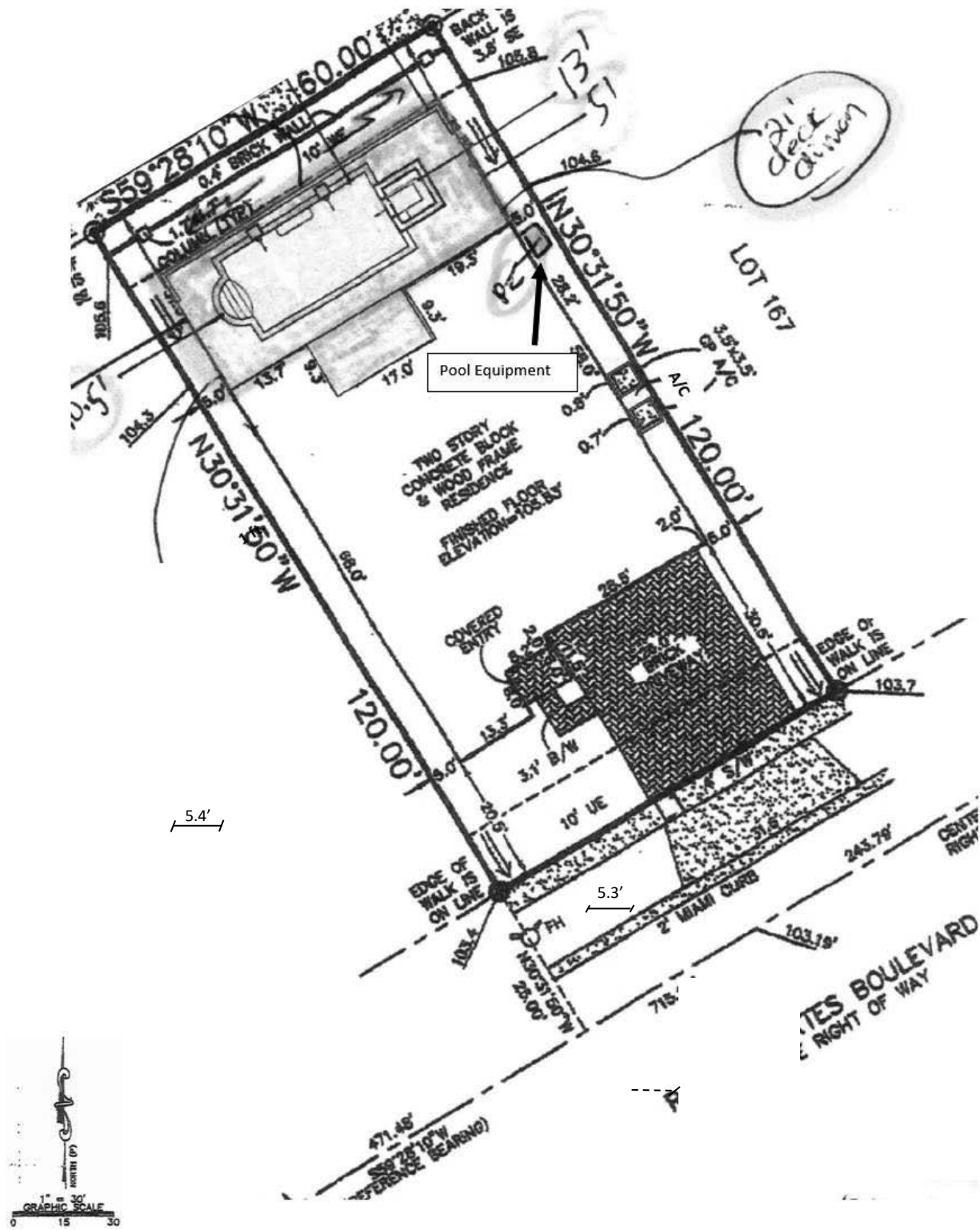


SITE PLAN



West side setback of 1 ft. in lieu of 5 ft.





**SITE PHOTOS**



**Facing north from Royal Estates Blvd. toward the front of subject property**



**West side - Existing pool equipment location, facing north**

**SITE PHOTOS**



**West side – Existing pool equipment location, facing south**



**West side – Close up of existing pool equipment, facing southeast**

**SITE PHOTOS**



**East side- Existing air conditioning unit, facing north**



**West side - Rear yard with pool/spa and screen enclosure, facing east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#3**

Case #: **VA-23-05-025**

Case Planner: **Jenale Garnett (407) 836-5955**  
**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** LACY STALLINGS

**OWNER(s):** LACY STALLINGS

**REQUEST:** Variances in the R-1 zoning district as follows:

- 1) To allow the conversion of an existing 723.6 sq. ft. detached garage to an Accessory Dwelling Unit (ADU) with a west side setback of 3.5 ft. in lieu of 6 ft.
- 2) To allow an existing 131.5 sq. ft. detached accessory structure (shed) with a rear setback of 0.3 ft. in lieu of 5 ft.
- 3) To allow an existing 131.5 sq. ft. detached accessory structure (shed) with an east side setback of 0.7 ft. in lieu of 5 ft.
- 4) To allow the existing residence to remain with a front setback of 18.4 ft. in lieu of 25 ft.

**PROPERTY LOCATION:** 1701 Melvin Ave., Orlando, FL 32806, north side of Melvin Ave., east of S. Fern Creek Ave., west of S. Bumby Ave., north of Pershing Ave., south of Lake Margaret Dr.

**PARCEL ID:** 07-23-30-2696-01-110

**LOT SIZE:** +/- 0.19 acres (8,373 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 137

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, second by Thomas Moses; 3 in favor: Thomas Moses, Juan Velez, Sonya Shakespeare; 2 opposed: Deborah Moskowitz, John Drago; 2 absent: Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received February 28, 2023, and elevations received March 22, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a

violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of the permit to convert the detached garage to an accessory dwelling unit, a permit shall be obtained for the shed, or the shed shall be removed.
5. Prior to the issuance of the permit to convert the detached garage to an accessory dwelling unit, the temporary detached accessory structure that is serving as a carport located in front of the existing garage shall be removed.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of Variances #1 and #4, and for a recommendation of denial of Variances #2 and #3. Staff noted that one (1) comment was received in favor of the application, and no comments were received in opposition.

The applicant discussed the reasons for the requests and in particular the reason for Variances #2 and #3, noting the shed was already installed when she purchased the property.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the requests, in particular the shed and its proximity only to a larger church property and recommended approval of the Variances by a 3-2 vote, with two absent, subject to the five (5) conditions in the staff report.

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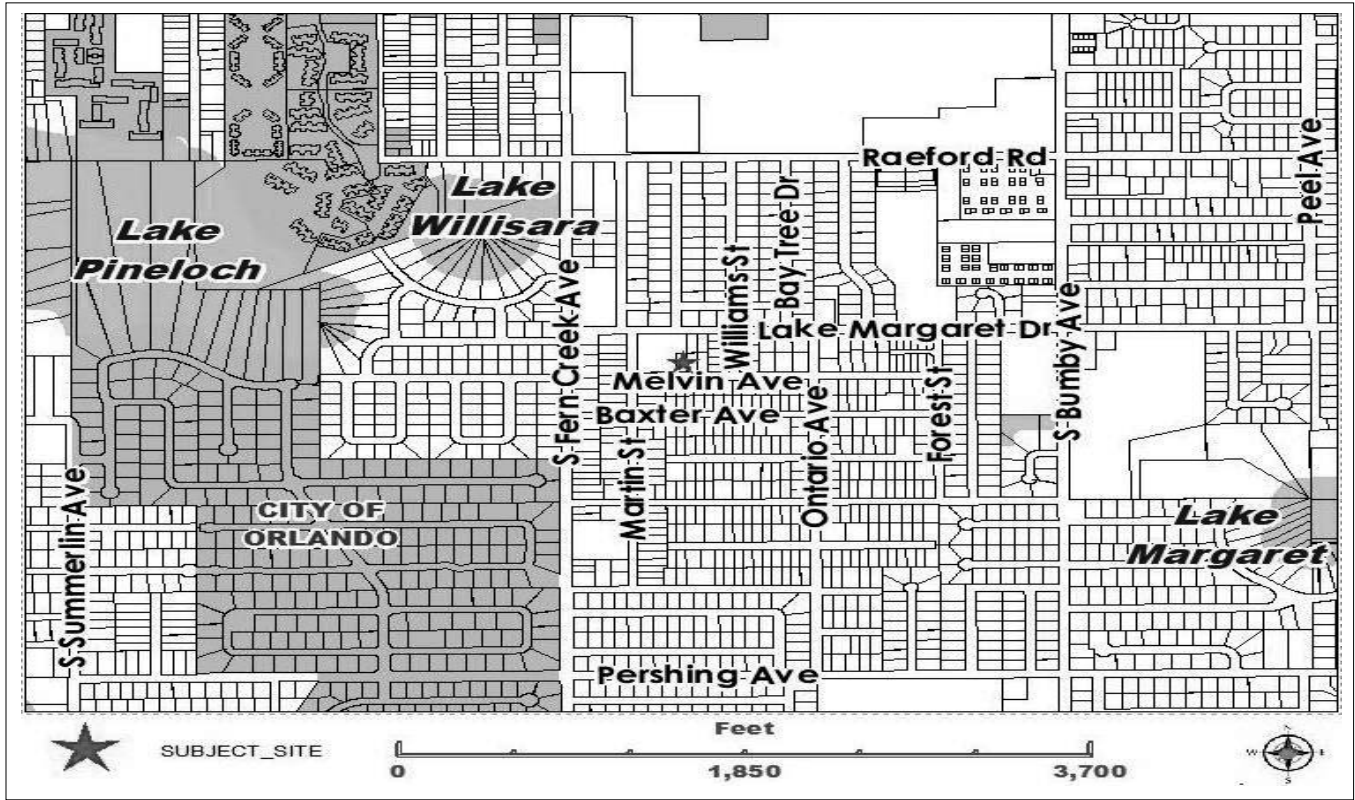
#### **STAFF RECOMMENDATIONS**

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Approval of Variances #1 and #4 subject to the conditions in this report, and denial of Variances #2 and #3. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all Variances, staff recommends that the approval be subject to the conditions in this report.



**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1	R-1	R-1	R-1	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Religious Institution	Single-family residential	Single-family residential	Religious Institution

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 5,000 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The area surrounding the subject site is comprised of single-family homes and a church to the north and west. The subject property is a +/- 0.19 acre lot, platted in 1926 as Lot 11 of the Fernway plat, and is considered to be a conforming lot of record. The property was purchased by the current owner in 2019. It is currently developed with a 2,254 gross sq. ft. one story single-family home and 723.6 sq. ft. detached garage that was constructed in 1972. There is also a 131.6 sq. ft. detached accessory structure (shed) which appears in 2016

via aerial photography and a detached accessory structure that is serving as a carport which appeared in 2023. There are no permits on record for the shed or carport.

In March 1988, a Special Exception (Case #33) was approved for the subject site to allow for ancillary uses for the adjacent church for childcare. The Southside Baptist Church was the owner of the subject property between the years 1987 and 2002.

The current proposal is to convert the existing 723.6 sq. ft. (35.3 ft. by 20.5 ft.), 13 ft. high detached garage to an Accessory Dwelling Unit (ADU) using the footprint of the existing garage, with a west side setback of 3.5 ft. in lieu of 6 ft., necessitating the request for Variance #1. Per Sec. 38-1426 (b) (3) f. 2 of Orange County Code, detached ADU's are required to meet the minimum side setback for the principal structure in the zoning district, which is 6 ft. for the R-1 zoning district. The conversion of the detached garage to an ADU will meet all other zoning requirements.

Also requested are Variances to recognize the existing non-conforming location of an unpermitted 313.5 sq. ft. (13.3 ft. by 9.9 ft.), 8 ft. tall metal shed located at the rear of the property. Per Sec. 38-1426 (a) (3) b. 2., of Orange County Code, a detached accessory structure with a height of fifteen (15) or less shall be set back a minimum of five (5) feet from any side or rear lot line. The existing metal shed has a north rear setback of 0.3 ft. and an east side setback of 0.7 ft., both of which require a 5 ft. setback, requiring Variance #2 and Variance #3. Staff recommends denial of Variances #2 and #3 since the shed can be relocated to comply with required setbacks since it is not attached to the ground and the rear yard provides sufficient space for it to be moved to a conforming location. The proposal also includes a request to recognize the existing residence, constructed in 1972, with an 18.4 ft. south front setback in lieu of 25 ft., requiring Variance #4. Staff recommends approval of Variances #1 and #4 for the existing detached garage to ADU conversion and the existing residence, respectively, as constructed in their current location for over the past 5 decades since there are no other options to comply with Code without partial demolition of the improvements.

The applicant is proposing to remove the carport located in front of the existing detached garage.

As of the date of this report, one comment has been received in favor of this request and no comments have been received in opposition to this request.

### District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	13 ft. (ADU) 8 ft. (shed)
Min. Lot Width:	50 ft.	56 ft.
Min. Lot Size:	5,000 sq. ft.	8,373 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	18.4 ft. residence (South – Variance #4) 100.4 ft. ADU (South)
Rear:	25 ft. 5 ft. (accessory dwelling unit) 5 ft. (detached accessory structure)	63.8 ft. residence (North) 26.9 ft. ADU (North) 0.3 ft. shed (North – Variance #2)
Side:	6 ft. 6 ft. (accessory dwelling unit) 5 ft. (detached accessory structure)	7.8 ft. residence (East) 3.5 ft. ADU (West – Variance #1) 0.7 ft. shed (East – Variance #3)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

**Variances #1 and #4:** The special condition and circumstance particular to the subject property is the age of the residence and the detached garage, built in 1972, which have been in the same location since construction with the existing non-conforming setbacks. Any proposed conversion of the garage to a living area would require a variance or the demolition of a portion of the structure to meet the current setback requirements.

**Variances #2 and #3:** There are no special conditions or circumstances as there are other options to shift the shed to a location that will meet code requirements.

**Not Self-Created**

**Variances #1 and #4:** The request is not self-created since the owner is not responsible for the existing location of the residence and detached garage for over 51 years.

**Variances #2 and #3:** The request is self-created due to the option available to shift the shed to a location that will meet code.

**No Special Privilege Conferred**

**Variances #1 and #4:** Due to the orientation of the residence and detached garage on the lot and the year built, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

**Variances #2 and #3:** Granting the variance as requested would confer special privilege as the rear yard provides sufficient space for the relocation of the shed to meet code requirements.

### **Deprivation of Rights**

**Variations #1 and #4:** Denial of this Variance would deprive the owner of the right to utilize and enjoy structure on the property that similar surrounding properties are allowed.

**Variations #2 and #3:** There is no deprivation of rights since a code compliant option is available to shift the shed.

### **Minimum Possible Variance**

**Variations #1 and #4:** Due to the existing setbacks and location of the improvement, the Variations are the minimum possible. Also, the proposed ADU uses the footprint of the existing garage.

**Variations #2 and #3:** The request is not the minimum possible as the rear yard provides sufficient space to relocate the shed to meet the required setbacks.

### **Purpose and Intent**

Approval of the requests will be in harmony with the purpose and intent of the Code, as the Code is primarily focused on minimizing the impact that structures have on surrounding properties. Since the request will allow the existing setbacks to remain and for the conversion of an existing structure without an expansion of its footprint that is designed to be similar and compatible with the residence, the proposed request will not be detrimental to the surrounding neighborhood. Furthermore, the shed is not significantly visible from any of the surrounding properties due to the location in the rear yard, thereby limiting any quantifiable negative impact to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received February 28, 2023, and elevations received March 22, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. Prior to the issuance of the permit to convert the detached garage to an accessory dwelling unit, a permit shall be obtained for the shed or the shed shall be removed.
  5. Prior to the issuance of the permit to convert the detached garage to an accessory dwelling unit, the temporary detached accessory structure that is serving as a carport located in front of the existing garage shall be removed.
- C: Lacy Stallings  
1701 Melvin Avenue  
Orlando, FL 32806

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## COVER LETTER

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Lacy Stallings

1701 Melvin Avenue, Orlando, Florida, 32806

February 10, 2023

Orange County Zoning Division  
201 South Rosaline Avenue, 1<sup>st</sup> Floor  
Orlando, Fl. 32806

Dear Orange County Zoning Division,

I am writing to provide detail of my request for a variance to convert my detached garage into an accessory dwelling unit, utilizing the existing footprint. My home was built in 1972, along with an attached garage (now detached). Originally the property was owned by the Southside Baptist Church, which is currently next door. I suspect the garage was not permitted at that time, as it does not reflect in county records until many years later when structures on the church property were sectioned off and sold. The property on which my garage and home were built included property to the right, which were sold during subsequent years to other individuals who built homes on the property, and the church property to the left. A fence was built to section off my residence from the church grounds, which currently sits 3.5 feet from my detached garage at the narrowest point. I bought the property as is in September of 2019. The garage sits nearly 30 feet from the rear of the property line and 27.6 feet from the property line to the east.

Additionally, a small metal shed sits in the back corner of my small back yard, which is aesthetically obvious that it's been here for quite a number of years. I use it daily to store my yard tools and mower, along with camping and beach gear. With the changing of the garage to an ADU, I will have a great need to store even more in the small shed. The shed sits three to four inches from the fence/property line. If this shed were to meet the newer standards, it would have to be torn down and then placed practically in the middle of my small backyard; both of which would be a great cost and loss for me. For these reasons, I reason this variance request meets the criteria of special conditions and circumstances.

I know the Board Director of the neighboring church, and he has provided a letter of support for this variance request.

Regarding my request for a variance, I am seeking to keep the same footprint of approximately 725 square feet, and the same height. I am interested in converting the 725 square feet into a small additional living space with a living area, sleeping area, full bathroom, and kitchen. The accessory dwelling unit would be used by family visiting for a week or longer, as an extra living space when no visitors are present, and eventually as a full-time living space for my aging mother. There will be no harm to existing trees nor plants.

The cement floor of the garage will need to be raised to ensure there is no drainage issue, and the contractor/engineer will work on the proper plans for plumbing. The existing walls of wood and exterior of hardy board are in great standing, and the rough interior will be all brought up to/built to code. I want to keep the same aesthetic of the home with a garage renovation because I love the look and feel of my home. They share the same hardy board exterior, brown shingle roofs, and paint color. As for the small shed, I aim to keep it where it is and continue to use it for personal storage and yard tools.

This letter comes from myself, Lacy Stallings, as the homeowner. Thank you for taking time to review my documentation for these variance requests.

Variance Criteria Requests

**1. Special Conditions and Circumstances**

The special condition and circumstances particular to the subject property is the age of existing detached garage and residence, built in 1972 in the same location, and the existing non-conforming setback. Any proposed conversion of the garage to the living area would require a variance or the demolition of a portion of the structure to meet the current setback requirements.

*There exists special conditions and circumstances which prohibit the property owner from being able to fully adhere to the newer criteria for Accessory Dwelling Units' (ADU) distance from property lines. The existing garage, which has been in place since the 1970s, sits 3.5 feet from the property line at the narrowest point and lines up directly with the large driveway and residential home. It would be extremely costly and unnecessarily cumbersome, especially as a single female, to completely deconstruct the perfectly good structure and move it several feet inward into the back yard. It is preferred to utilize the existing footprint of the standing structures.*

*In addition, there is an existing metal shed which appears to have been in place for many years.*

*The shed is used to store yard tools, lawn mower, and other outdoor and camping supplies, which is greatly needed by the resident. The shed sits approximately .03 inches from the property line/fence and therefore sits perfectly nestled in the corner of the yard. It would be impractical to have to tear down this structure and then move it to essentially the middle of the backyard. I would greatly appreciate being able to keep this structure that has been here for many years and when I purchased the home as is just over three years ago.*

**2. Not Self-Created**

The request is not self-created since the owner is not responsible for the existing location of the garage for over 40 years.

**3. No Special Privilege Conferred**

Due to the orientation of the detached garage and metal shed on the lot, granting the requested variance will not confer any special privilege conferred to others under the same circumstances.

**4. Deprivation of Rights**

Denial of this variance would deprive the owner of the right to utilize and enjoy the existing structure for living area and storage.

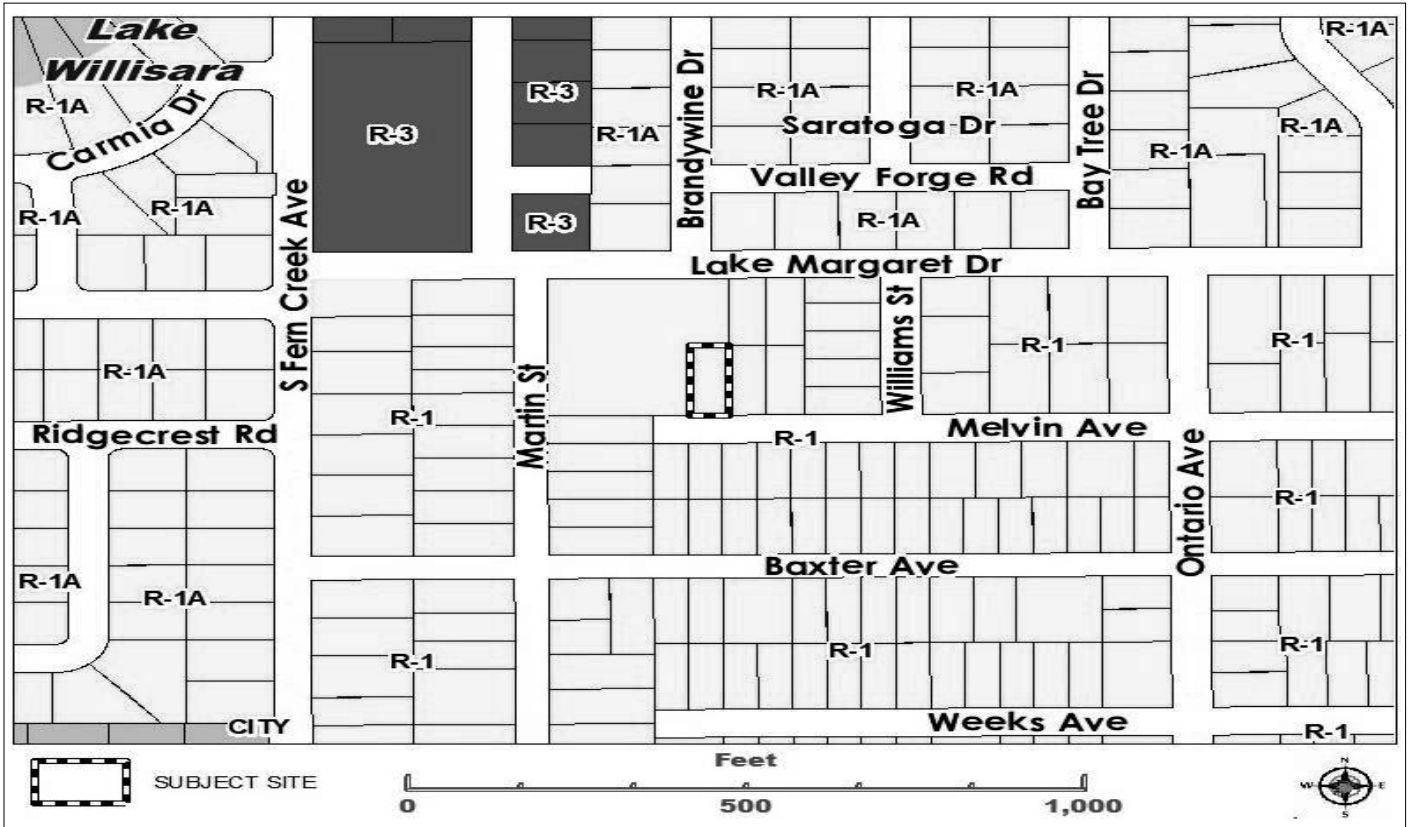
**5. Minimum Possible Variance**

Given the existing nonconforming setback, the requested variance is the minimum possible.

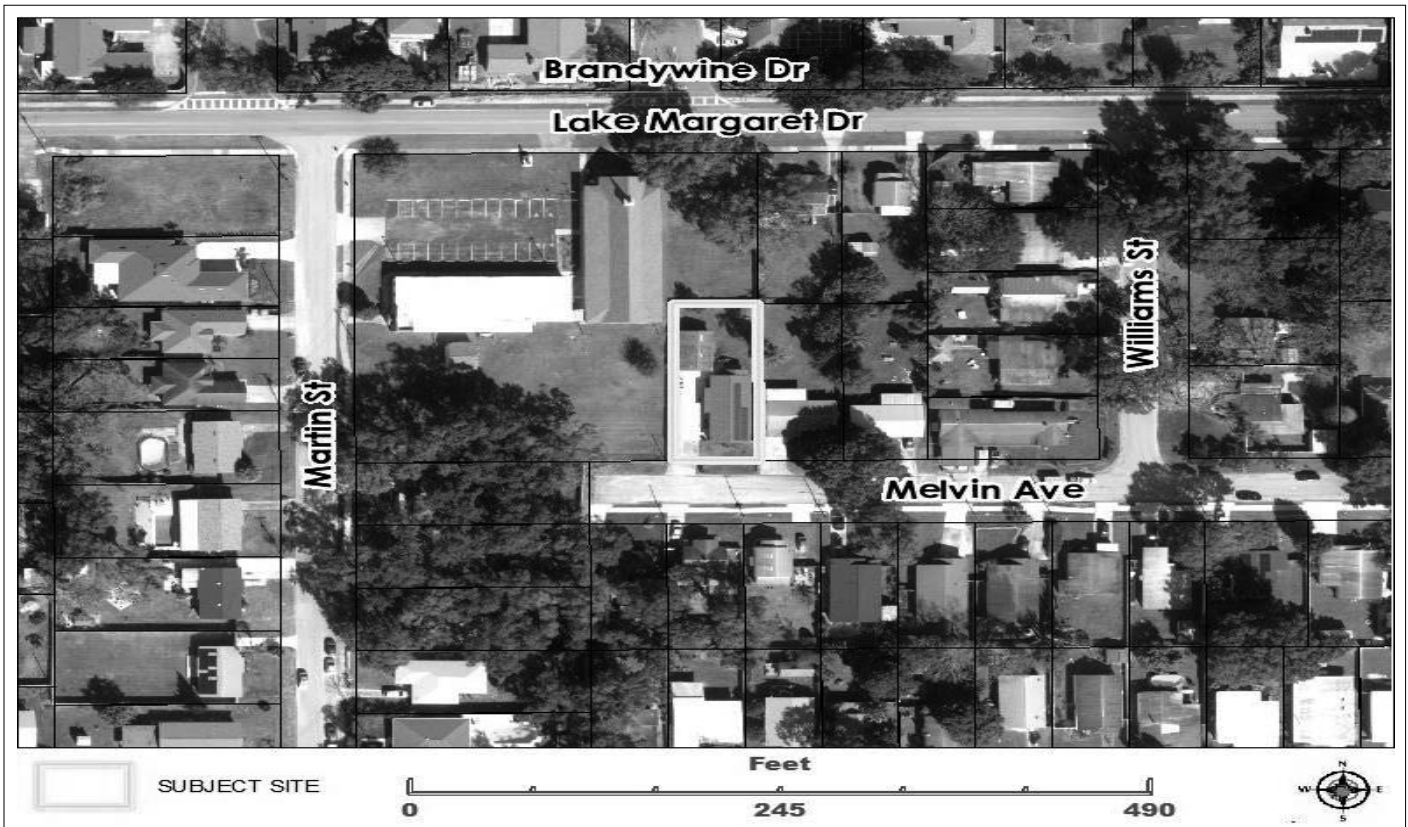
**6. Purpose and Intent**

Approval of the request will be in harmony with the purpose and intent of the Code, and the proposed request will not be detrimental to the neighborhood since the conversion as proposed would allow for the utilization of the existing detached garage and metal shed.

ZONING MAP

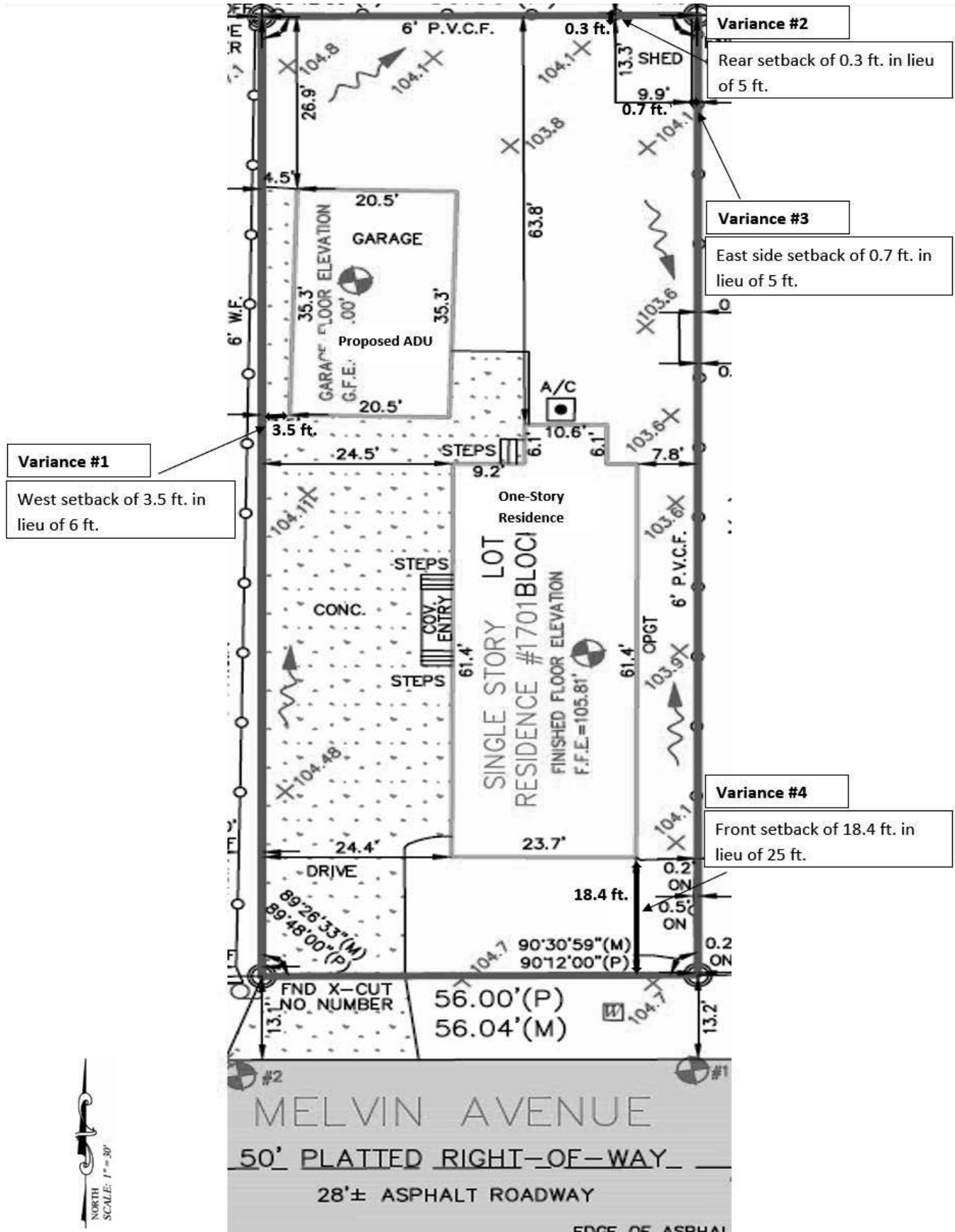


AERIAL MAP

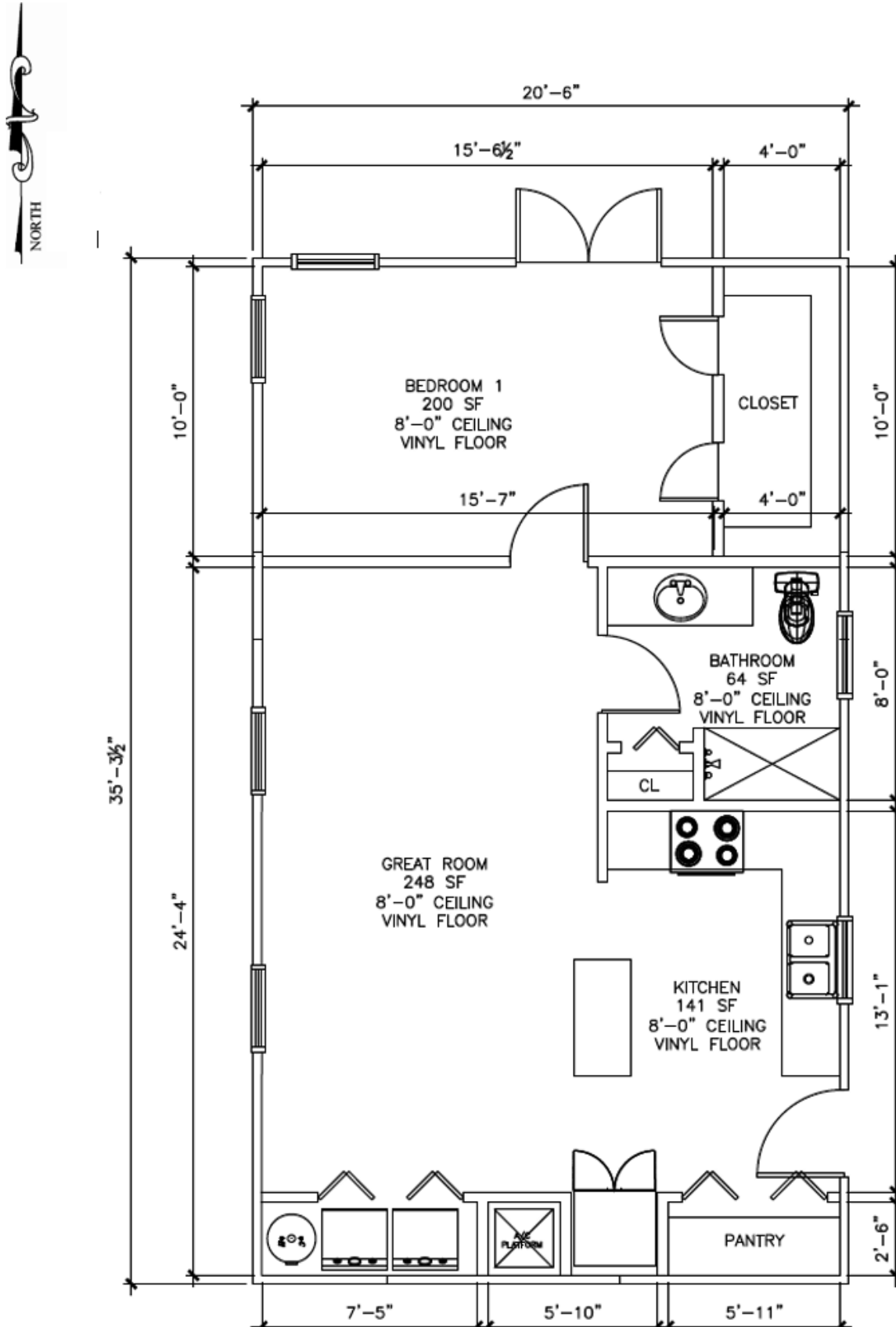




SITE PLAN

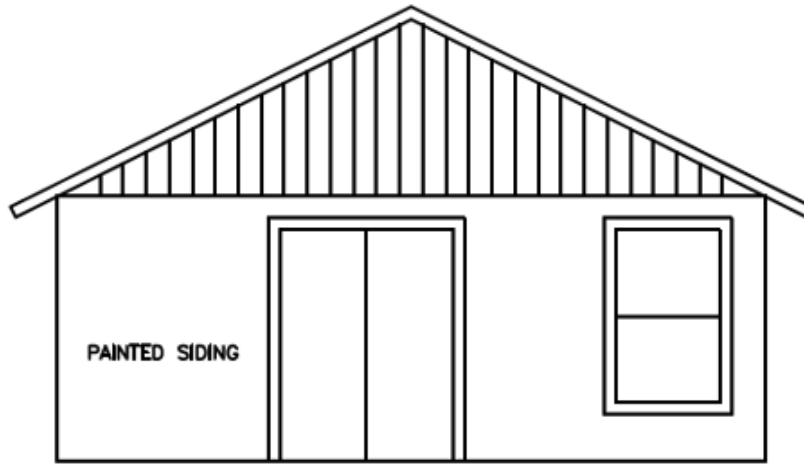


FLOOR PLAN

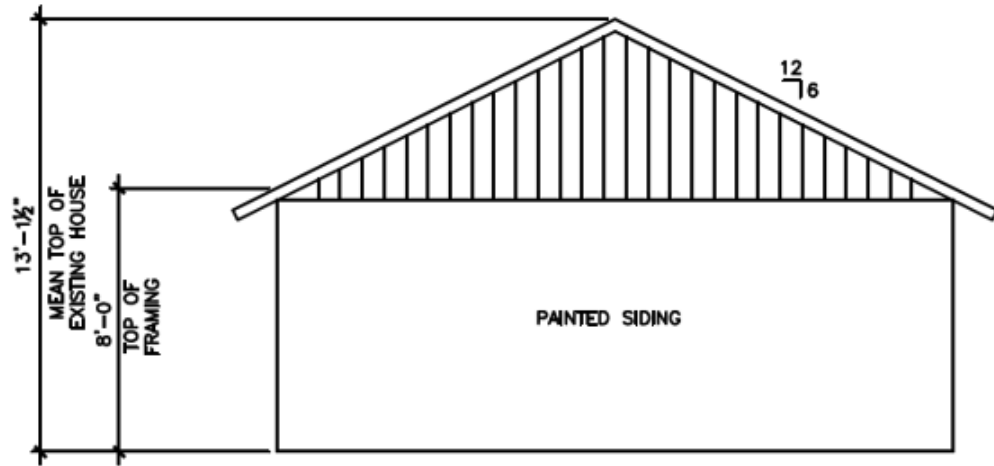


ELEVATIONS FOR ADU

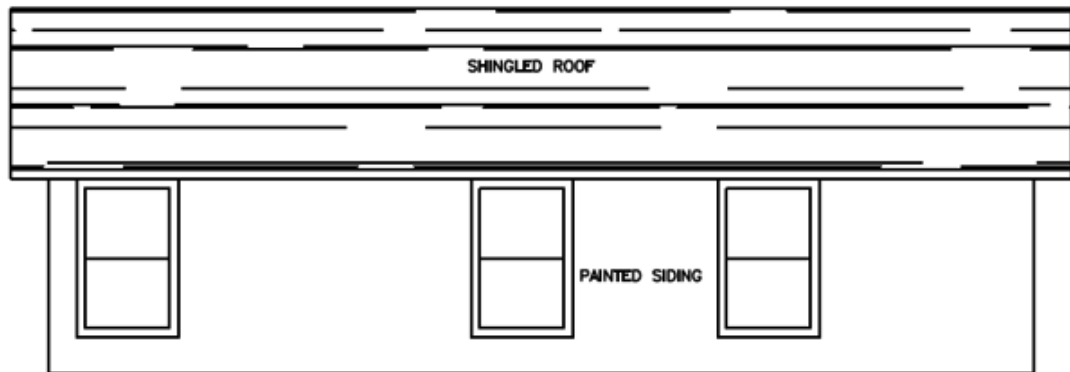
North Elevation



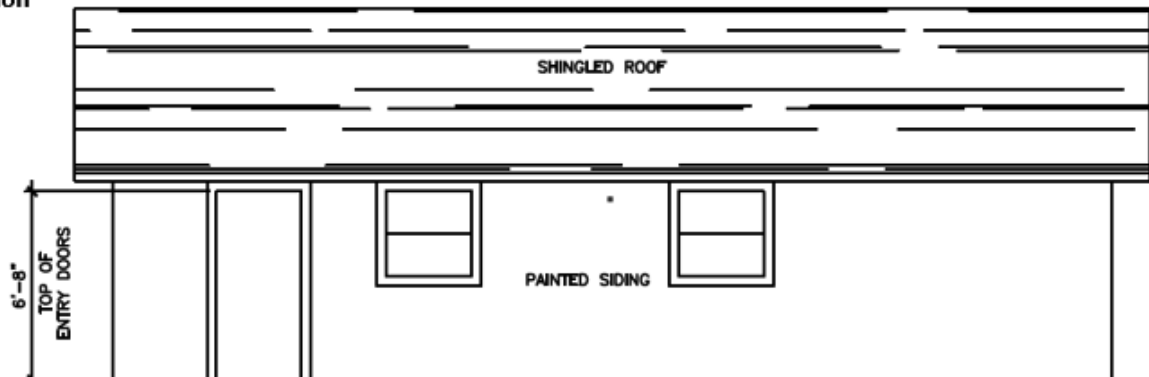
South Elevation



West Elevation



East Elevation



**SITE PHOTOS**



**Facing north from Melvin Ave. toward the front of subject property and Variance #4**



**Facing north from driveway toward the front of proposed ADU and carport**

**SITE PHOTOS**



**Facing south from existing garage toward Melvin Ave.**



**Facing north from driveway toward Variance #1**

**SITE PHOTOS**



**Rear yard, facing southwest toward the side and rear of proposed ADU**



**Rear yard, facing south toward the rear of the residence and side of proposed ADU**

SITE PHOTOS



**Rear yard, facing south toward the front of the shed (Vairance #3)**



**Rear yard, facing east toward the side of the shed (Variance #2)**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **SE-23-05-017**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** B. TODD HUDSON FOR SALEM FREE SEVENTH DAY ADVENTIST CHURCH

**OWNER(s):** SALEM FREE SEVENTH DAY ADVENTIST CHURCH

**REQUEST:** Special Exception and Variance in the ~~R-1~~\* A-1 zoning district as follows:

1) Special Exception to allow a 6,457 sq. ft. 245 seat religious institution.

2) Variance to allow unpaved parking in lieu of paved.

\*R-1 zoning district was advertised; actual zoning district is A-1.

**PROPERTY LOCATION:** 6905 Beggs Road, Orlando, FL 32810, north side of Beggs Rd., east of N. Hiawasse Rd., south of S.R. 414, north of Clarcona Ocoee Rd.

**PARCEL ID:** 25-21-28-0000-00-008

**LOT SIZE:** +/- 4.23 acres

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 275

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended to renumber the conditions (Motion by John Drago, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received April 4, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.



3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Hours of operation shall be limited to Monday thru Thursday between 9:30 a.m. and 5:30 p.m.; and Friday between 9:30 a.m. to 1:00 p.m. for church office hours, Wednesday between 6:30 p.m. and 9:00 p.m. and Saturday between 9:00 a.m. and 2:00 p.m. for church services.
5. Prior to issuance of a permit for the building of the religious institution, a permit shall be obtained for Shed #1 or the shed shall be removed.
6. Prior to the issuance of a building permit for the religious institution Shed #2 shall be removed.
7. Install one tree every 10 parking spaces in the parking lot for the religious institution as required per Sec. 24-4 (3) (d) of the Orange County code.
8. Install one tree in the landscape island at the end of each row of parking spaces as required per Sec.24-4 (3) (e) of the Orange County code.
9. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
10. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of the Special Exception and Variance. Staff noted that no comments were received in favor or in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Special Exception and the Variance by a 6-0 vote, with one absent, subject to the ten (10) conditions in the staff report, as modified to renumber Conditions #6 through #11 to Conditions #5 through #10.

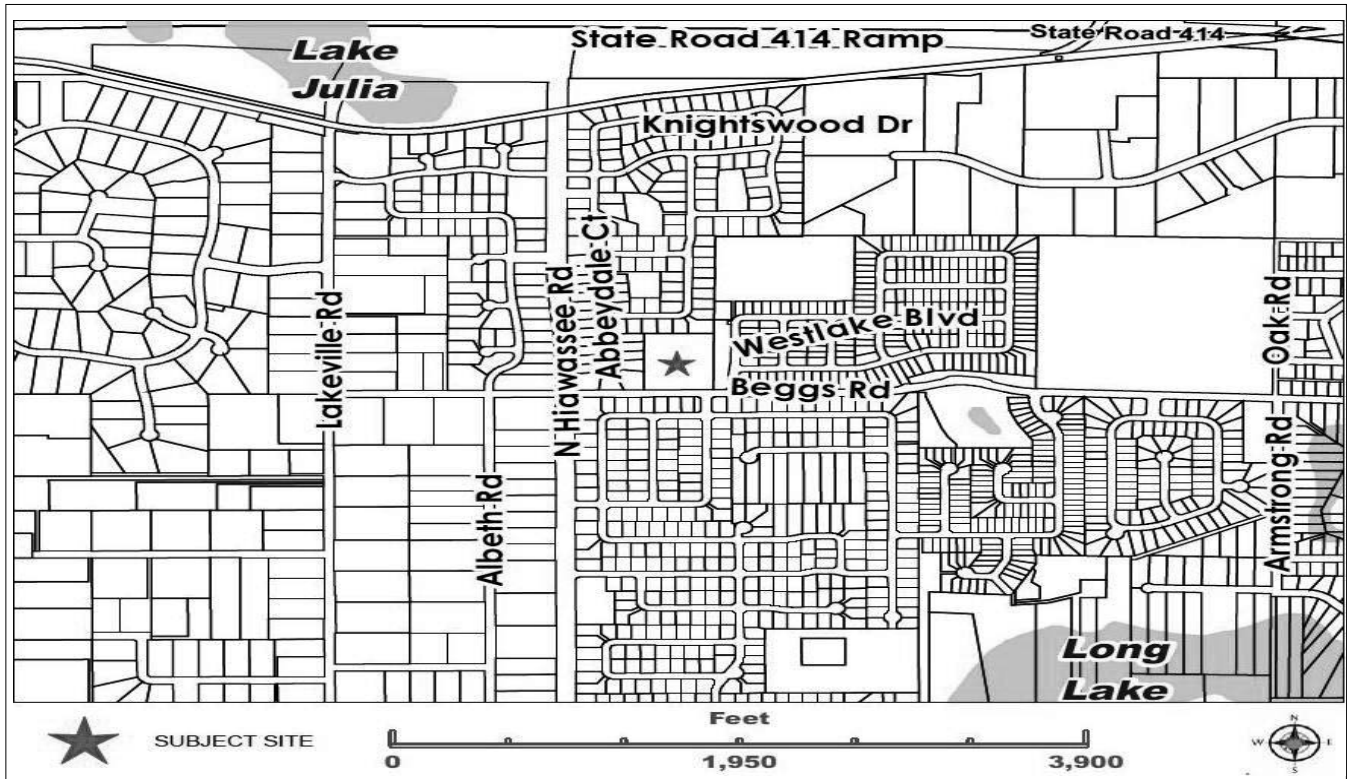
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#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	A-1	R-1A	RSTD R-1A	R-L-D	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential, Warehouse	Single-family Residential	Single-family Residential	Vacant	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-1, Citrus Rural zoning district, which primarily allows agricultural uses, nurseries, and greenhouses, as well as mobile homes and single-family homes on larger lots. Religious uses and associated ancillary buildings are permitted through the Special Exception process. The future land use is Low Density Residential (LDR), which is inconsistent with the A-1 zoning district. Per Comprehensive Plan Policy FLU8.2.5.2, a rezoning may not be required for properties with inconsistent Zoning and Future Land Use Map (FLUM) designations if 1) the proposed use is permitted only through the special exception process, and 2) the zoning district required to correct the inconsistency between the Future Land Use Map (FLUM) and zoning designation also requires a Special Exception for the same use, which applies to this property.

The area around the subject site consists of single-family residential uses. The subject property is +/- 4.23 acres in size and has an existing one-story 2,625 sq. ft. home constructed in 1951, and a 6,457 sq. ft. accessory structure built in 1973. The site also contains other unpermitted improvements such as a 120 sq. ft., 30 ft. by 4 ft. wooden shed (Shed #1) adjacent to the rear of the building, a 187.5 sq. ft., 15 ft. by 12.5 ft. metal shed (Shed #2) located on the west side of the property, and a dumpster. The year the improvements were installed

cannot be ascertained via aerials due to heavy vegetation. The property was purchased by the current owner in 2021.

The proposal is to continue to use the house as single-family residence as a parsonage and to use the existing accessory structure for a religious institution. A Special Exception is required to establish the religious institution use, although no new construction is proposed. The existing 15.7 ft. high accessory structure located in the rear of the property was previously a dog kennel/grooming business permitted in 1990 (B90006526). The owner is proposing to use the existing building as a church that will consist of a sanctuary and ancillary uses which will require interior alteration and/or a change of use permits through the Building Division.

Parking requirements for the subject property are as follows:

- Assembly place with 245 fixed seats with 4 employees (church):  
1 parking space per 3 fixed seats, plus 1 space per employee, requiring 86 spaces.
- The site plan shows a total of 87 spaces (83 unpaved regular parking spaces and 4 paved handicap spaces), which meets the parking requirements per Orange County Code Sec. 38-1476 for quantity of off-street parking for assembly places with fixed seats.

Per Sec. 38-1479 (a) of the Orange County Code, "All parking areas shall have durable all-weather surfaces for vehicle use areas, shall be properly drained, shall be designed to separate pedestrian and vehicle circulation for safety, and shall meet all accessibility requirements of the most recent editions of applicable federal and state standards as adopted. For purposes of this article, a durable, all-weather surface shall consist of an improved surface, including concrete, asphalt, stone and other permanent surfaces, but not including gravel, wood chips, mulch or other materials subject to decay." The Variance is required because the applicant is requesting to allow 83 unpaved parking spaces in lieu of parking on an improved surface. The parking area will still be required to have improved drive aisles and wheel stops for each parking space and landscaped terminal islands to prevent parking in undesignated areas. The allowance for parking on an unimproved surface will support compatibility with the continued use of the property as a single-family house and consistency with the surrounding residential uses in the area.

Other proposed site improvements include relocating the existing 120 sq. ft. Shed #1 to meet required setbacks, relocating the existing dumpster to the interior of the proposed church, and removal of the unpermitted 187.5 sq. ft. Shed #2. The applicant is proposing to preserve the cluster of existing trees along the eastern boundary of the property. The landscaping for the project will be required to meet the Type C opaque buffer, which requires that the buffer be completely opaque from the ground up to a height of at least six (6) feet and shall be a minimum of fifteen (15) feet wide. The Type C buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof which maintains a completely opaque buffer. The buffer must be three (3) feet high and fifty (50) percent opaque at planting and be capable of attaining full height and opacity within three (3) years. This buffer must also include one (1) shade tree for each forty (40) lineal feet or fraction thereof per Sec. 24-5 - Buffer yards, of Orange County Code.

The proposed hours of operation are Monday through Thursday between 9:30 a.m. and 5:30 p.m. and Friday between 9:30 a.m. to 1:00 p.m. for church office hours, Wednesday between 6:30 p.m. and 9:00 p.m. and Saturday between 9:00 a.m. and 2:00 p.m. for church services.

The Orange County Comprehensive Planning Division provided comments that there is no objection to the proposed church.

The Orange County Transportation Planning Division has reviewed the request and indicated the trip generation of the proposed project does not exceed 1% percent of the maximum volume at the adopted Level of Service on affected transportation facilities. Therefore, the project’s impact to the roadway is considered to be de minimis and they will have to submit a de minimis application for a concurrency review prior to obtaining a building permit.

A Community Meeting was held on Tuesday, April 18, 2023, to allow for community input. The meeting was attended by the District Commissioner’s Aide, County Staff, the applicant, and the owner. There were three residents in attendance from the surrounding community.

As of the date of this report, no comments have been received in favor or in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	15.7 ft. (proposed church)
Min. Lot Width:	50 ft.	75 ft.
Min. Lot Size:	1/2 acre	4.23 acres

**Building Setbacks**

	Code Requirement	Proposed
Front:	25 ft.	239.7 ft. (South)
Rear:	30 ft.	128.8 ft. (North)
Side:	7.5 ft.	212.5 ft. (East) 94.3 ft. (West)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The Comprehensive Plan allows for the consideration of certain institutional uses in residential Future Land Use designations through the Special Exception process, including religious institutions, daycares and public and private schools, as long as they are compatible and consistent with the surrounding area. Specifically, Policy FLU8.2.5.2 allows for properties with an inconsistent zoning district and future land use designation to apply for a special exception without rezoning the property if the use is only permitted through a special exception in the existing zoning district and all of the zoning districts required to bring the property into consistency.

**Similar and compatible with the surrounding area**

The existing accessory structure will be retrofitted to accommodate the proposed religious institution. Access to the site will be from Beggs Road therefore any traffic that is generated from the proposed religions institution will not encroach into the surrounding neighborhoods. Additionally, the existing cluster of trees to be preserved and required landscape buffers will shield the adjacent properties from the proposed use.

**Shall not act as a detrimental intrusion into a surrounding area**

The building in which the religious institution will be located is in the center of the property and is over almost 100 feet from the closest property line. The required 15 ft. wide landscape buffer will shield the adjacent properties from the proposed use, and as such it will not be a detrimental intrusion to the surrounding area.

**Meet the performance standards of the district**

The proposed religious institution, with the approval of the requested Variance, will meet the performance standards of the district.

**Similar in noise, vibration, dust, odor, glare, heat producing**

No activity takes place on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent single-family residences.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The proposed landscaping and onsite tree preservation will be in compliance with Section 24-5 Landscaping, Buffering, and Open Space and Article VIII. Tree Protection and Removal of Orange County Code.

**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special condition and circumstances are the rural character of the area and the continued use as a single-family residence.

**Not Self-Created**

The proposed use is only allowed through the special exception process. Additionally, the owner is continuing to use the property as a single-family residence and is keeping much of the property in its existing state through the preservation of the onsite tree canopy while meeting the site improvement requirements of the code.

**No Special Privilege Conferred**

Granting the Variance as requested will not confer special privilege as the applicant is trying to maintain the property's existing state and comply with parking requirements.

**Deprivation of Rights**

Without the requested Variance, the owner will be required to provide an improved surface for the parking area that will be infrequently used, which would create additional runoff and could negatively impact the surrounding area.

**Minimum Possible Variance**

The variance being requested is the minimum possible to allow the parking area to remain in a natural state and still meet the parking space requirement.

**Purpose and Intent**

Approval of the requested variance will be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on preserving the existing character of the area and the subject property to ensure compatibility with the adjacent neighborhoods. Allowing for grass parking will keep the site in its existing state.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received April 4, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Hours of operation shall be limited to Monday thru Thursday between 9:30 a.m. and 5:30 p.m.; and Friday between 9:30 a.m. to 1:00 p.m. for church office hours, Wednesday between 6:30 p.m. and 9:00 p.m. and Saturday between 9:00 a.m. and 2:00 p.m. for church services.
6. Prior to issuance of a permit for the building of the religious institution, a permit shall be obtained for Shed #1 or the shed shall be removed.
7. Prior to the issuance of a building permit for the religious institution Shed #2 shall be removed.
8. Install one tree every 10 parking spaces in the parking lot for the religious institution as required per Sec. 24-4 (3) (d) of the Orange County code.
9. Install one tree in the landscape island at the end of each row of parking spaces as required per Sec.24-4 (3) (e) of the Orange County code.
10. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
11. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.

C: B. Todd Hudson  
P.O. Box 677742  
Orlando, FL 32867

## HUDSON ENGINEERING ASSOCIATES, INC

An Engineering Professional Association  
P.O. Box 677742  
Orlando, Florida  
Office (407) 342 8813 ♦ 32867-7742

### Memo/Transmittal

**To:** Jenale J. Garnett, MPA, MURP| Planner I  
Orange County Zoning Division  
Planning, Environmental, and Development Services Department  
**From:** B. Todd Hudson, P.E.  
**Date:** 2-14-2023  
**Re: Special Exception: 6905 Beggs Rd for Salem Free Seventh Day Adventist Church 245 Seats**

Please accept our application for Special Exception for a Church Use with 245 seats on the property.

Proposed Church will be a complete renovation of the existing Kennel structure north of the existing home which will remain as the Church Pastor's residence. Church Services will be Wednesday evening between 6:30 pm and 9:00 PM and Saturdays 9 am to 2 pm. Church offices will be open Monday -Thursday 9:30am – 5:30pm and Fri 930am to 1pm with 3 to 4 employees. Required parking will be provided per Orange County Code with 1 space per 3 church seats using paved drive aisles and grass parking as shown on the submitted Site Plan.

Property has been used as a home built in 1951 and a dog kennel/grooming business on the property since added in 1973 called Krisdan Kennels. Since 1990's housing development now surrounds the site with residential rear yards adjacent to the west and north boundaries, an open space tract adjacent to the east boundary and Beggs Road on the South.



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**COVER LETTER**

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1. The use shall be consistent with the Comprehensive Policy Plan.

Property is within the urban service area AND IS CONSISTENT

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2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

Site was operated as a dog kennel and grooming on the property since 1980's with housing developments now surrounding it since originally constructed. Proposed Church use fits within residential areas with direct access to a collector roadway. Existing Single Family use remains as well on property. Large setbacks are existing to all boundaries of their property. Large Tree Canopy and Buffers will remain and be updated as needed to meet code.

3. The use shall not act as a detrimental intrusion into a surrounding area.

Services are Wednesday evening between 6:30pm and 9:00 PM and Saturdays 9am to 2 pm  
Church will be open Mon -Thursday (930am - 530pm), Fri 930am to 1pm for a Church office for 3 employees which is minimal use of the property

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4. The use shall meet the performance standards of the district in which the use is permitted.

performance standards are adhered to with the large existing building setbacks and buffer setbacks proposed for parking spaces proposed.

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5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

USE IS ALLOWED WITH THE DISTRICT

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6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

LANDSCAPE BUFFER WIDTHS EXCEED SECTION 24-5 AND EXISTING AND PROPOSED LANDSCAPING MEETING CODE REQUIREMENTS WILL BE PROVIDED WITH SITEWORK PERMITS

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**COVER LETTER**

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1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

Property has a former dog kennel building existing that is ideal size and location for a church conversion and renovation. Property that is also in a closed basin and recharge area.

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2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

Existing building and site are not the result of the applicant

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3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Approval of the exemption request from the requirements of section 38.1479 and to allow grass parking for the church use does not confer any special privileges. Section 38.1479 allows for this exemption to be approved by th ZM or the BZA or the BCC for the church use

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4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Church use does not substantiate the need for paved parking with only two services per week. Many church properties in Orange County enjoy this exemption already, thus it would be an undue hardship to not grant the exemption for similiar circumstances.

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5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

It is a request for exemption to section 38.1479 of the code for a listed use and therefor the minimum

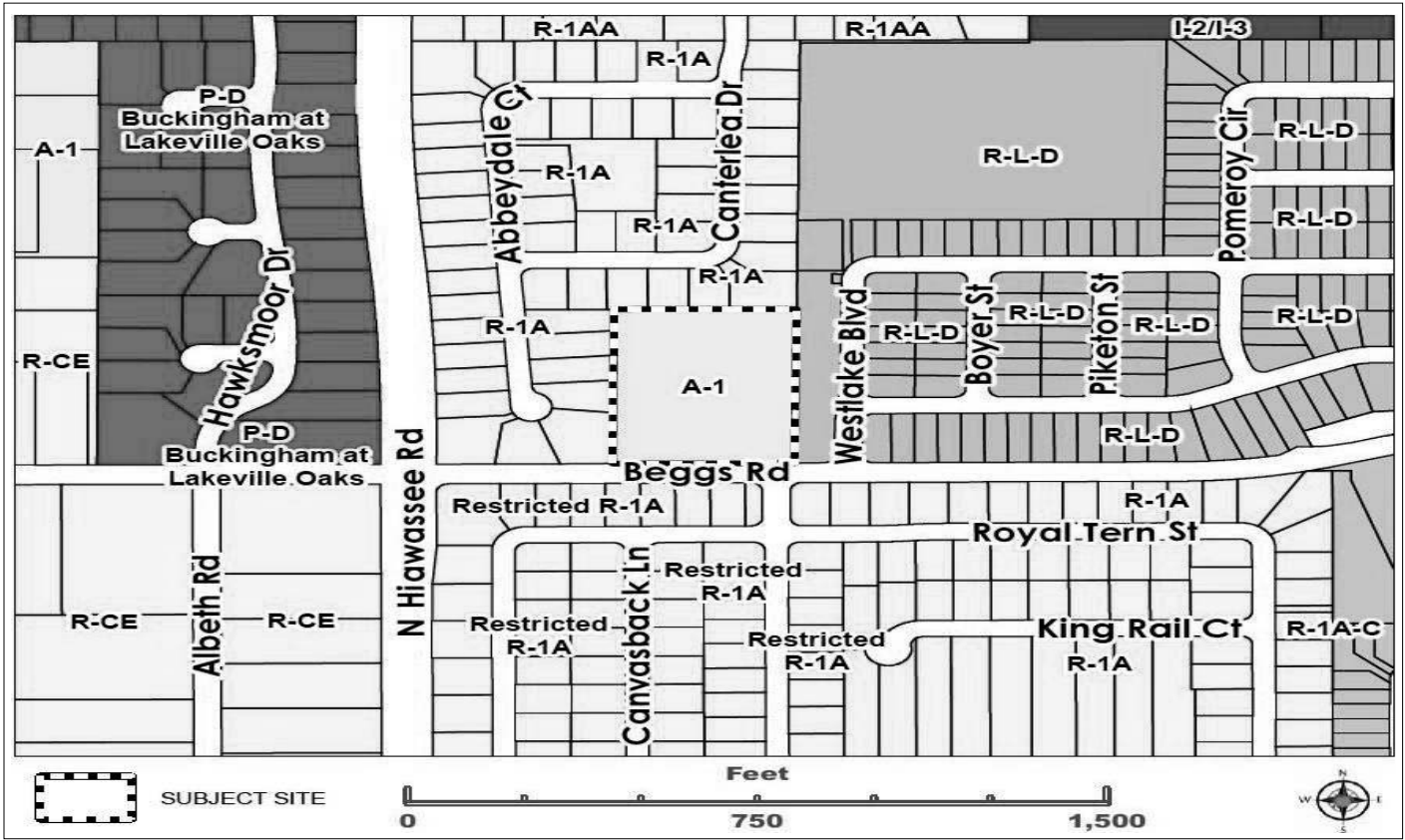
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6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

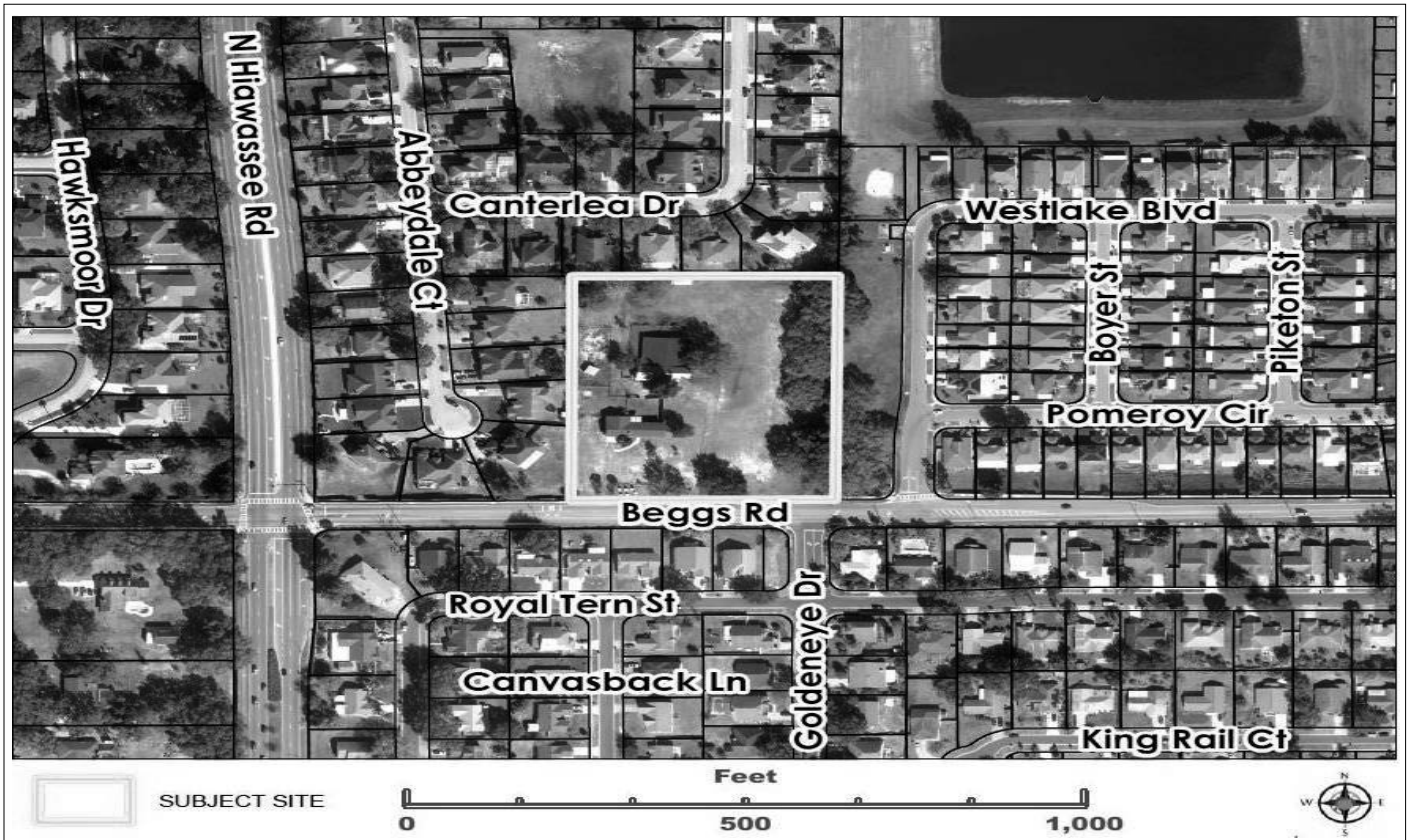
Section 38.1479 allows for this exemption based on it being one of the listed uses for the exemption Site will meet accessibility requirements causing no detriment to the public or neighborhood

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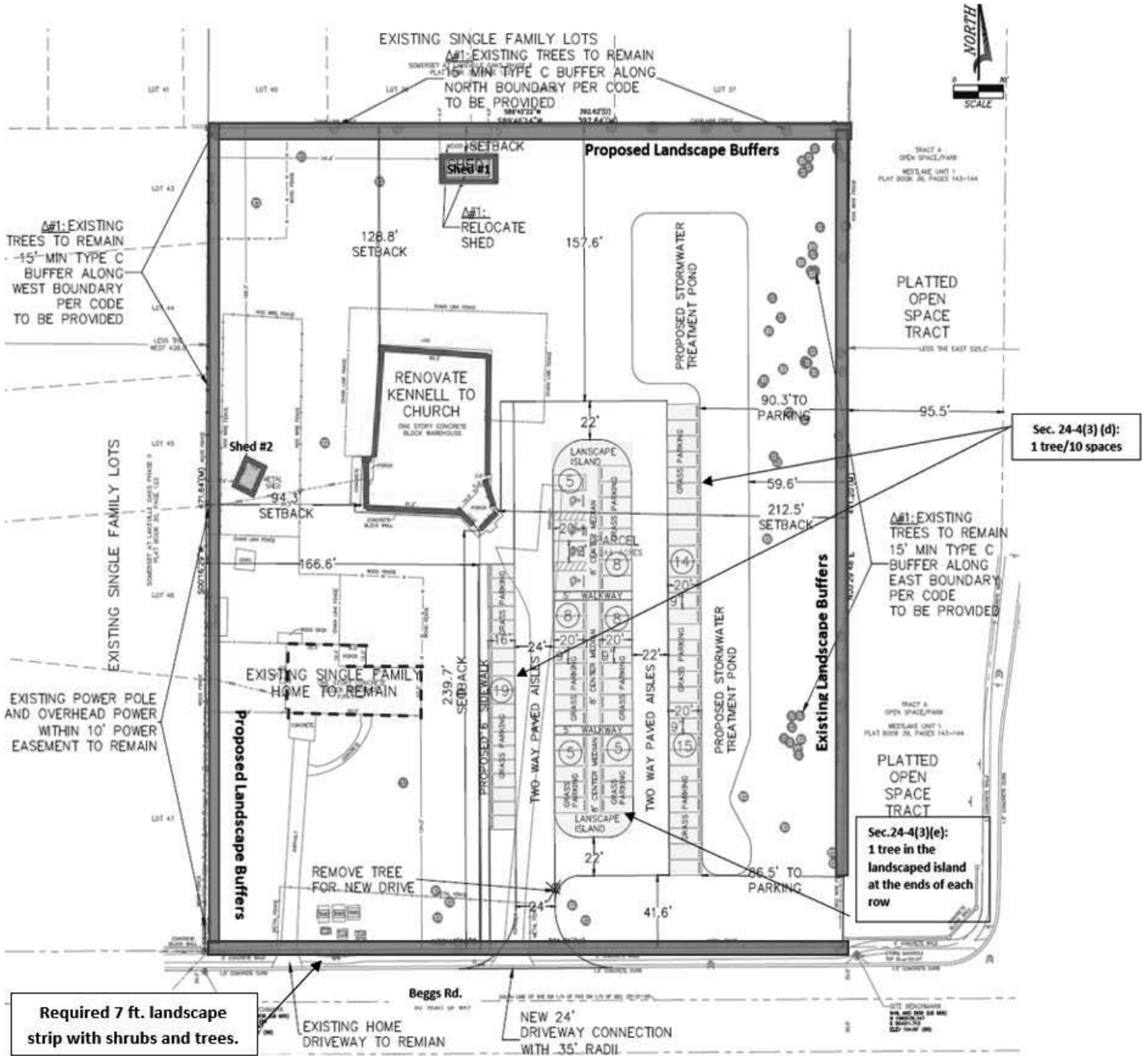
ZONING MAP



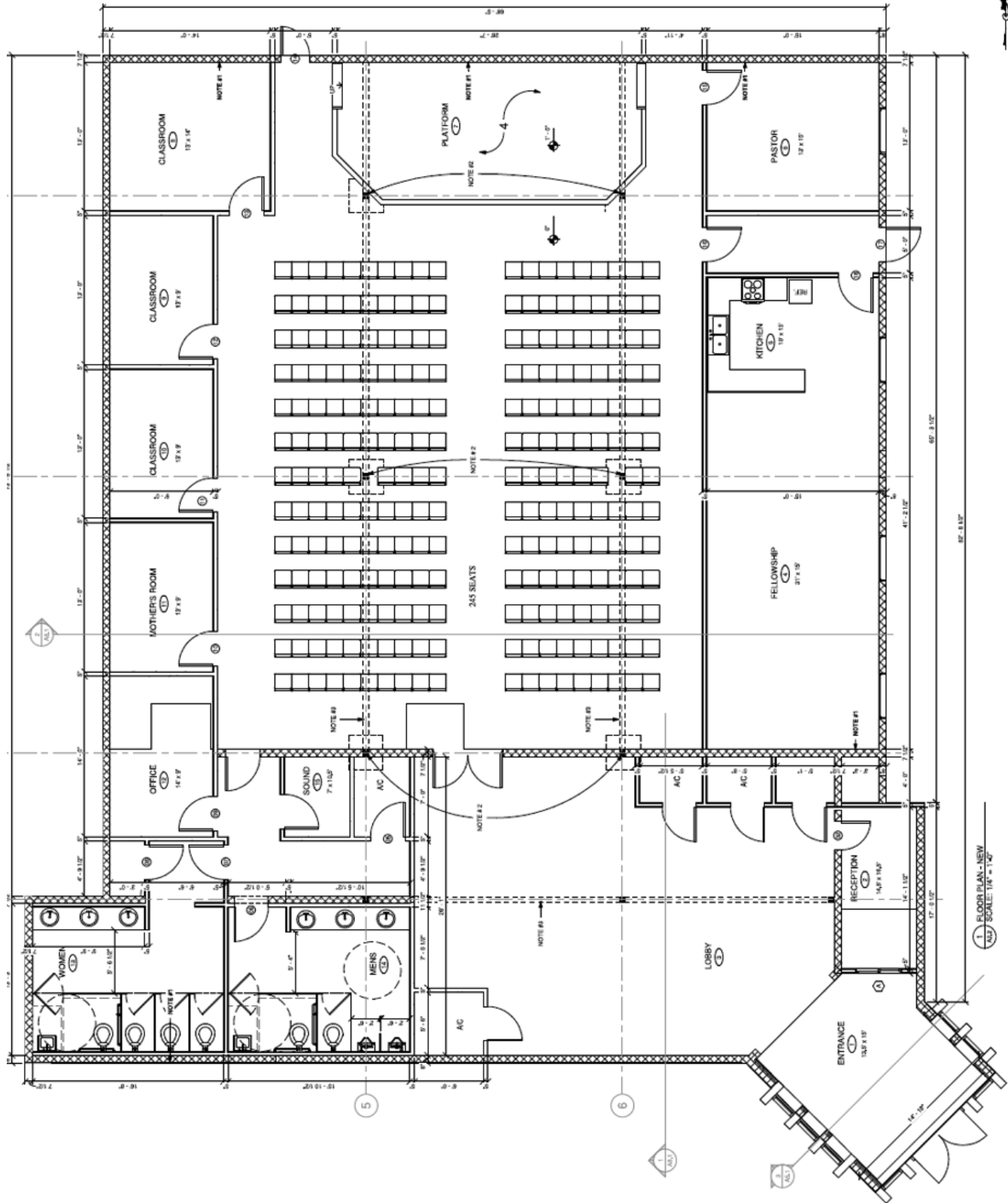
AERIAL MAP



# SITE PLAN

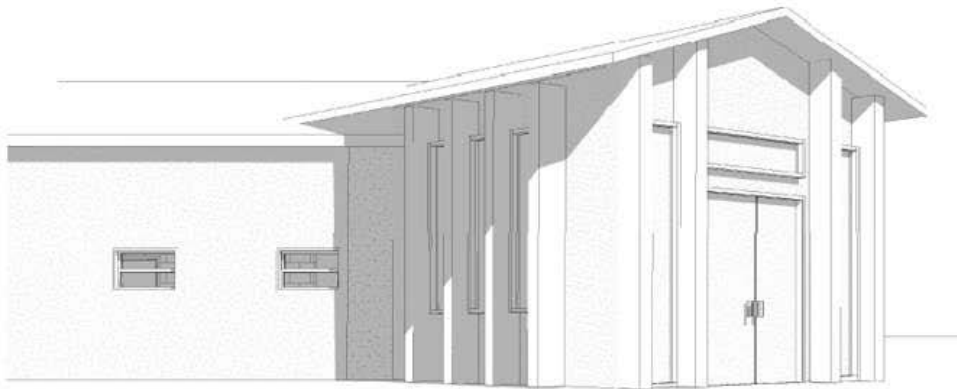


# FLOOR PLAN

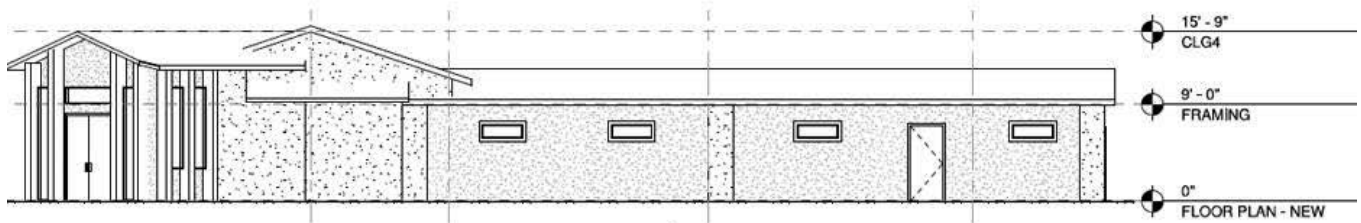


1. FLOOR PLAN - NEW  
 1/4" = 1'-0"

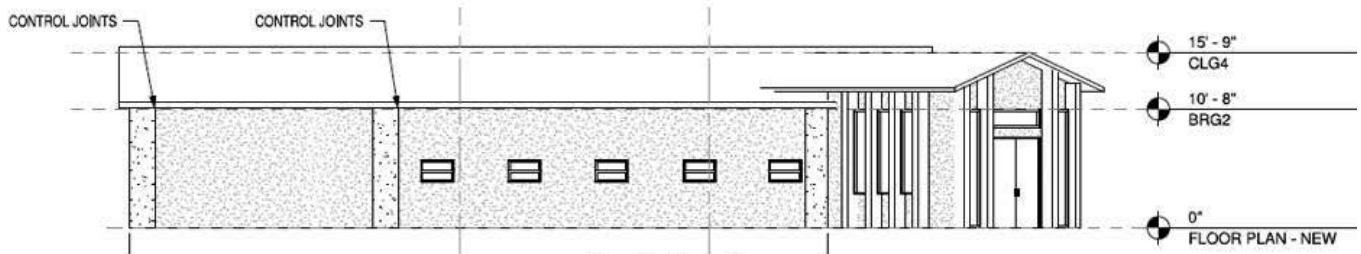
# ELEVATIONS



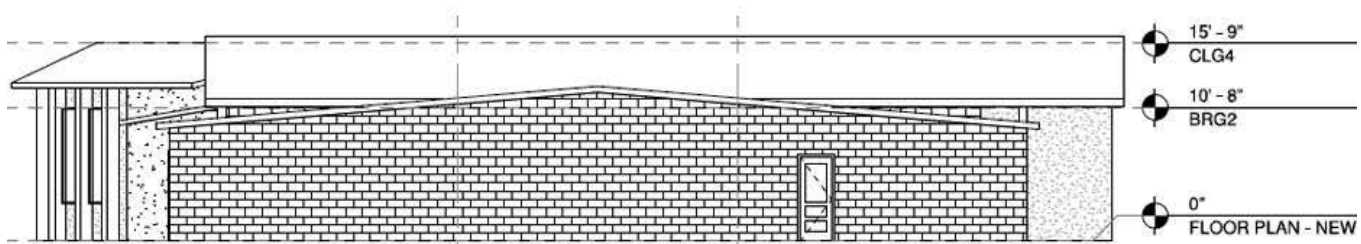
5 Perspective at front  
A1.1 SCALE:



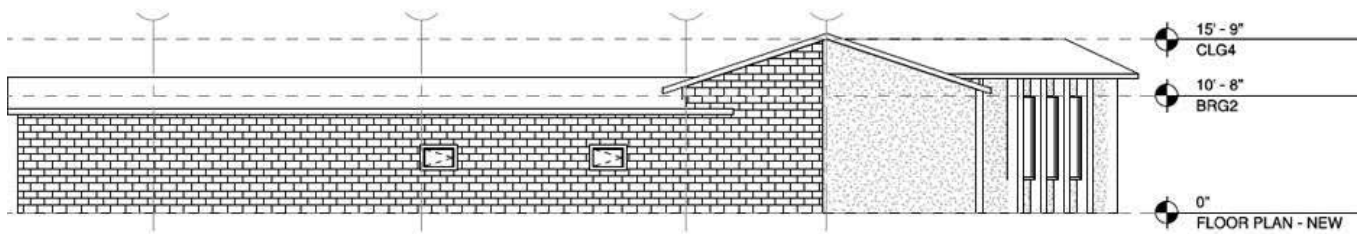
East Elevation



South Elevation



North Elevation



West Elevation

**SITE PHOTOS**



**Facing northeast from Beggs Rd. toward the front of subject property**



**Front yard facing north toward the existing residence**

**SITE PHOTOS**



**Front yard facing northwest toward the proposed church**



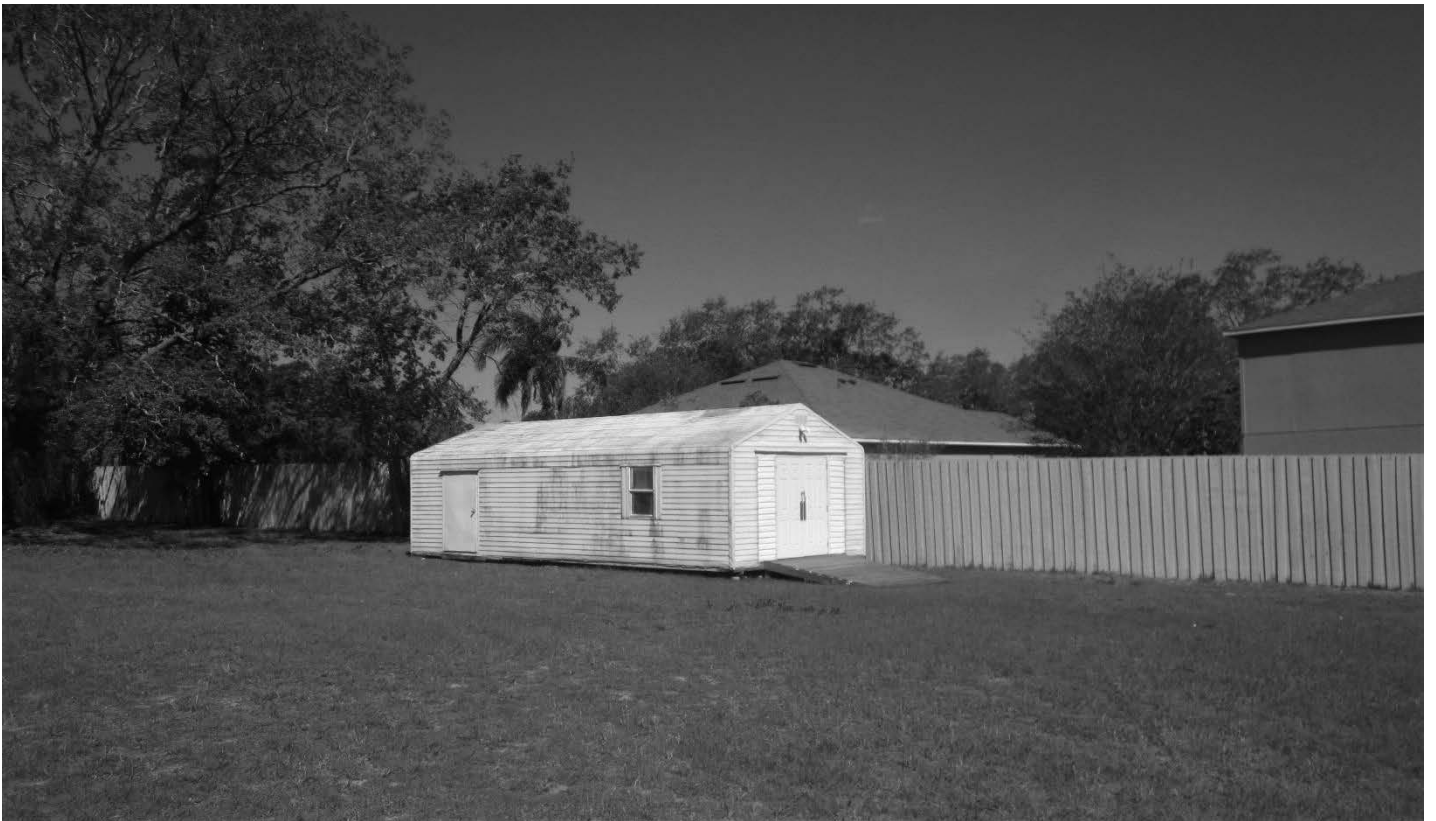
**Rear yard facing south toward the rear of proposed church**



**SITE PHOTOS**



**Rear yard facing south toward the existing metal shed**



**Rear yard facing north toward the existing wooden shed**

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**SITE PHOTOS**

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**Rear yard facing southeast toward the existing 15 ft. wide landscape strip**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#1**

Case #: **SE-23-02-173**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** ELIEZER FILIPOV AND SIDNEI FARIA FOR CHRISTIAN CONGREGATION IN THE UNITED STATES

**OWNER(s):** LB PLUS LLC

**REQUEST:** Special Exception and Variance in the R-1AA zoning district as follows:

1) Special Exception to allow for the construction of an 8,121 sq. ft. religious institution with 270 seats.

2) Variance to allow a maximum building height of 46.8 ft. in lieu of 35 ft.

**PROPERTY LOCATION:** 4606 & 4536 S. Hiawassee Rd., Orlando, FL 32835, west side of S. Hiawassee Rd., north of Conroy Windermere Rd., east of Dr. Philips Blvd., southwest of Florida Turnpike, west of Turkey Lake Rd.

**PARCEL ID:** 11-23-28-0000-00-030

11-23-28-0000-00-031

**LOT SIZE:** +/- 1.7 acres

**NOTICE AREA:** 800 ft.

**NUMBER OF NOTICES:** 312

**DECISION:** Recommended **DENIAL** of the Special Exception request in that the Board finds it does not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest; and, **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Thomas Moses, second by John Drago; 5 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Roberta Walton Johnson, Sonya Shakespeare; Juan Velez opposed; 1 absent: Joel Morales.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, the landscape plan and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval for the Special Exception, and the recommendation for denial for the Variance due to incompatibility with the height of other structures in the area. Staff noted that no comments were received in favor of request, and three (3) comments were received in opposition to the request.

The applicant discussed the requests and in particular noted the need for the height Variance for the functionality of the offices on the second floor. The applicant also stated that the hours of operation will be at times when traffic in the area will be off-peak.

There was no one in attendance to speak in favor of the request and there were eight (8) in attendance to speak in opposition to the request, raising concerns about traffic and compatibility with the surrounding area.

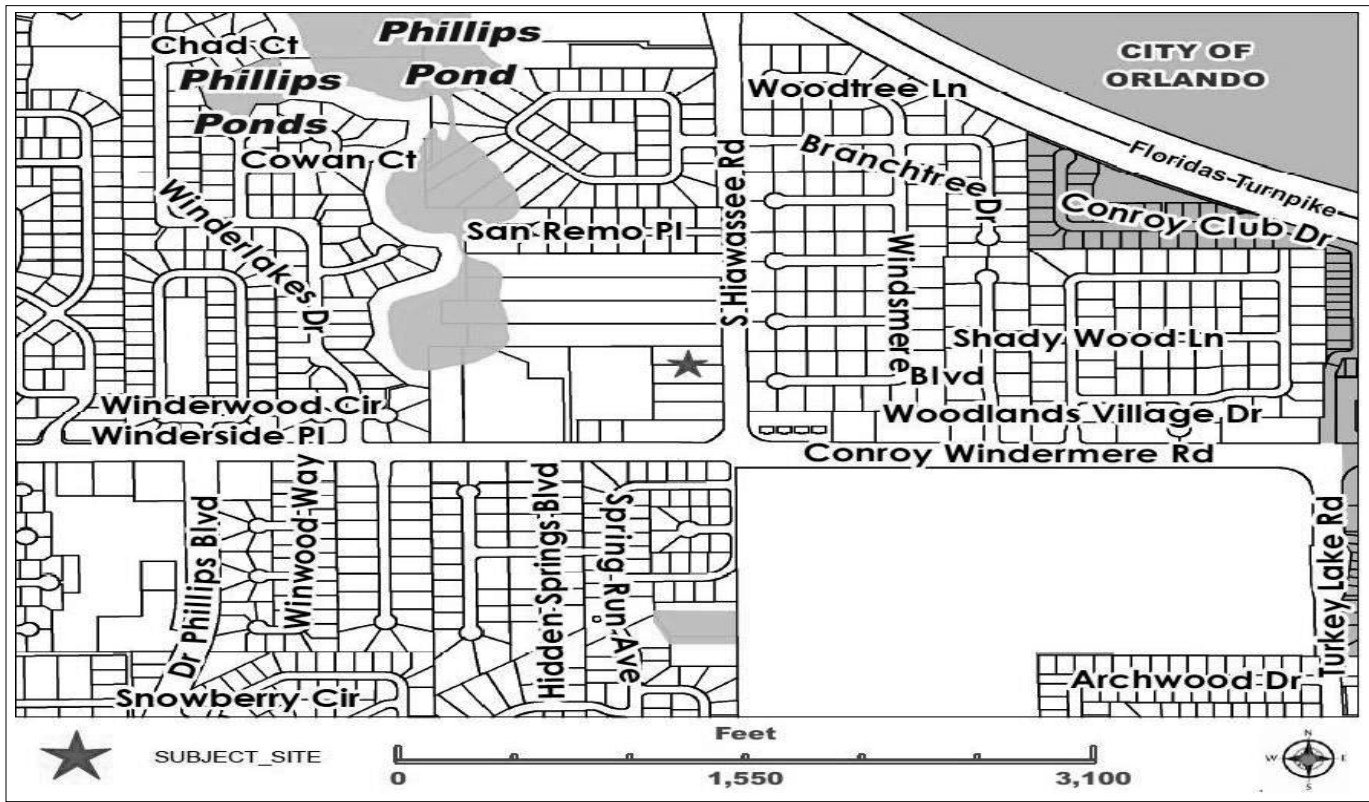
Transportation Division staff discussed the vehicle trips generated by the project.

The BZA discussed the intrusiveness of the project into the surrounding area, the small size of the site compared with, and recommended denial of the Special Exception and the Variance by a 5 - 1 vote, with one absent.

**STAFF RECOMMENDATIONS**

Approval of the Special Exception, subject to the conditions in this report, and denial of the Variance. However, if the BZA should find that the applicant has satisfied the criteria for the granting of the Special Exception and the Variance, staff recommends that the approval be subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1AA	R-CE	R-1AA	R-1AA	R-CE
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Vacant	Orange County BCC Retention	Vacant	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is zoned R-1AA, Single Family Dwelling district, which allows single family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater. Certain non-residential uses,

such as daycares and religious institutions are permitted through the Special Exception process. The future land use is Low Density Residential (LDR), which is consistent with the R-1AA zoning district.

The subject site is comprised of 2 vacant unplatted parcels, totaling approximately 1.7 acres in size, and conform to the minimum lot requirements of the zoning district. The area around the subject site consists of single-family homes and vacant parcels to the immediate north and south.

The applicant is requesting a Special Exception to build a two-story 8,121 sq. ft. religious institution. The religious institution will include a sanctuary with 270 seats, ancillary offices, and a kitchen. The applicant has stated that no special events, such as festivals, picnics, fundraisers, or weddings, will be held at the religious institution. The proposed building will be constructed to meet all required code provisions with the exception of height. The Variance request is to construct the two-story building with a height of 46.8 ft. in lieu of 35 ft., which does not meet building height standards per Sec. 38-1501 in Orange County Code. Since this is new construction, the building could be designed with a height that would be code compliant, thereby eliminating the need for the Variance request. Furthermore, there appear to be no similar requests for Variances for a height which exceeds the 35 ft. code requirement in the surrounding area.

Vehicular access to the site will be provided from S. Hiawassee Road to the east via a right in and right out turn, because there is a divided roadway with a median that would prohibit a left hand turn onto S. Hiawassee Rd.

The landscaping for the project will be required to meet the Type C opaque buffer which requires that the buffer be completely opaque from the ground up to a height of at least six (6) feet and shall be a minimum of fifteen (15) feet wide. The Type C buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof which maintains a completely opaque buffer. The buffer must be three (3) feet high and fifty (50) percent opaque at planting and be capable of attaining full height and opacity within three (3) years. This buffer must also include one (1) shade tree for each forty (40) lineal feet or fraction thereof per Sec. 24-5 - Buffer yards, of Orange County Code.

Parking requirements for the subject property are as follows:

- Assembly place with 270 fixed seats and 1 employee (religious institution):
- Parking space per each 3 fixed seats, plus 1 space per employee, requiring 91 spaces.
- The site plan shows a total of 97 paved parking spaces (93 regular spaces and 4 handicap spaces), which meets the parking requirements per Orange County Code Sec. 38-1476 for the quantity of off-street parking for assembly places with fixed seats. All of the parking spaces will be paved.

The proposed hours of operation are Tuesday and Saturday between 8:00 p.m. to 9:30 p.m., and Sunday between 10:00 a.m. to 11:30 a.m. for worship services and music rehearsals.

The Orange County Transportation Planning Division has reviewed the request and indicated the trip generation of the proposed project does not exceed 1% percent of the maximum volume at the adopted Level of Service on affected transportation facilities. Therefore, the project's impact to the roadway is considered to be de minimis and they will have to submit a de minimis application for a concurrency review prior to obtaining a building permit.

The Orange County Environmental Protection Division indicated there are no wetlands.

A Community Meeting was held on Wednesday, April 19, 2023, to allow for community input. The meeting was attended by the District Commissioner’s Aides, County Staff, the applicant, and the owner. There were twenty-five residents in attendance from the surrounding community. Most of the residents in attendance were not in favor of the project citing concerns with traffic, hours of operation, lighting, outdoor events, loitering, trash, and debris.

As of the date of this report, no comments have been received in favor of this request and four comments have been received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	46.8 ft. (Variance)
Min. Lot Width:	85 ft.	240 ft.
Min. Lot Size:	10,000 sq. ft.	1.7 acres

**Building Setbacks**

	Code Requirement	Proposed
Front:	25 ft. (building setback from lot line)	70 ft. (East)
Rear:	30 ft.	144 ft. (West)
Side:	7.5 ft.	84.2 ft. (North) 85.6 ft. (South)
Major Street:	60 ft. building (from street centerline) 55 ft. parking area (from street centerline)	119.7 ft. (East) 83.7 ft. (South)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The Comprehensive Plan allows for the consideration of certain institutional uses in residential Future Land Use designations through the Special Exception process, including religious institutions, daycares and public and private schools, as long as they are compatible and consistent with the surrounding area.

**Similar and compatible with the surrounding area**

The proposed religious building will be adequately screened with onsite preservation of existing tree canopy and new landscaping within the required buffer areas. Moreover, the proposed religious building will not negatively impact the surrounding area since it will be over 300 feet from the closest single-family homes to the east and west of the property.

**Shall not act as a detrimental intrusion into a surrounding area**

The proposed building will be located at the center of the property and is over 300 feet from the nearest single-family homes to the east and over 400 ft. to the west of the property, therefore it will not be a detrimental intrusion to the surrounding area.

**Meet the performance standards of the district**

The proposed site improvements, with the exception of the requested Variance, will meet the performance standards of the district.

**Similar in noise, vibration, dust, odor, glare, heat producing**

No activity takes place on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent single-family residences.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The proposed landscaping and onsite tree preservation will be in compliance with Section 24-5 Landscaping, Buffering, and Open Space and Article VIII. Tree Protection and Removal of Orange County Code.

**VARIANCE CRITERIA****Special Conditions and Circumstances**

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could reduce the height of the building to meet code.

**Not Self-Created**

The request is self-created in that it is new construction and there are alternatives to build a code compliant religious institution.

**No Special Privilege Conferred**

Granting the Variance as requested will confer special privilege since the height of the religious institution could be designed to meet code. Furthermore, there appear to be no similar requests for Variances for a height which exceeds the 35 ft. code requirement in the surrounding area.

**Deprivation of Rights**

There is no deprivation of rights since there are other options to meet the building standards for height requirements in the code for the religious institution.

**Minimum Possible Variance**

The request is not the minimum since the design of the religious institution and height can be reduced to meet code.

**Purpose and Intent**

Approval of the requested variance will not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed will not be compatible with the religious institutions in the surrounding area that appear to meet code.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received December 1, 2022, as modified to meet the 35 ft. height requirement, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. Prior to the issuance of a building permit, the property owner shall combine parcels 11-23-28-0000-00-030 and 11-23-28-0000-00-031.
  5. Hours of operation shall be limited to Tuesday and Saturday between 8:00 pm to 9:30 pm, and Sunday between 10:00 am to 11:30 am for worship services and rehearsals.
  6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
  7. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.
- C: Eliezer Filipov, Sidnei Faria  
445 N. Forsyth Rd.  
Orlando, FL 32807





November 30, 2022

**COVER LETTER**

Per our recent rezone from R-CE to R-1AA – Public Hearing # RZ-22-05-037 request, recommended approval on May 19, 2022 by BCC, we are proposing a new 2-story, 8,121 square foot church building on the western side of South Hiwassee Road between Conroy Windermere Road and San Remo Place in the jurisdiction of Orange County, in Orlando, Florida. The new building shall have a footprint of 101 feet by 70 feet and shall be 46'-10" in height. The existing project site is currently vacant and undeveloped.

The new church shall have a total of 270 seats and a total of 93 parking spaces including 4 accessible spaces. There will be no full or part time employees in the church during hours when there are not worship services. Church members shall voluntarily provide regular maintenance and upkeep of the proposed building interior and exterior. Worship services shall be held weekly on Tuesdays and Saturdays at 8:00 PM and Sundays at 10:00 AM. Once a month a music rehearsal shall be held in the church for members of the congregation's orchestra. All services and rehearsals usually last for approximately 90 minutes.

In addition to the worship area, the first floor of the new church building shall have auxiliary areas for restrooms, janitorial supply storage, clergy offices, safe storage areas for monetary donations, storage areas for hymn books and bibles, and an elevator. The second floor of the new church building shall have auxiliary areas for administration meetings, audio/video equipment for language translation, restroom, areas for children services, and a kitchen and small cafeteria for use during small functions.

Due to the customs and beliefs of the members of the congregation, major public occasions such as festivals, picnics, fund raisers, funerals, or weddings shall not be held in the church building or outside on the church grounds.

**Christian Congregation in the United States**  
445 North Forsyth Road  
Orlando, Florida - 32807

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## COVER LETTER

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The Christian Congregation in the United States is rapidly growing in the City of Orlando and this new building is needed for an increasing number of local members. After extended research and evaluation by the church's administration and their realty agents, this site was chosen over all others evaluated as it is the most convenient location for all local members who would otherwise have to commute to other congregations located over an hour away. Since the site is currently zoned R-CE we are seeking a Special Exception Request from the Zoning Division to rezone to R-1AA since the following applies:

- Such an exception would make the proposed use consistent with the Comprehensive Policy Plan
- The proposed use shall be similar and compatible with the surrounding areas as churches are consistent with patterns of surrounding residential developments.
- The proposed use shall not act as a detrimental intrusion into the surrounding neighborhoods since it will comply with the surrounding neighborhood in terms of scale, as well as the exterior façade requirements of the County
- The proposed use shall meet the performance standards of the district in which the use is being requested since it shall comply with all the minimum building and pavement setback and height requirements.
- The proposed use shall be similar in noise, vibration, dust, odor, glare, heat producing, and other characteristics that are associated with the majority of uses currently permitted in the surrounding zoning district.
- The proposed site plan indicates landscape buffer yards in conformance with Section 24-5 of the Orange County Code with yard types tracking the district in which the proposed use would be permitted.

We are seeking relief from a 35 foot maximum height requirement for a new church building at 4506 South Hiawassee Road in Orlando, Florida. The proposed building height will be 46'-10". Please see the enclosed building elevation drawings. The site is not located on a lake front, water front, or natural canal.

- Special Conditions and Circumstances: Due to the minimum code requirements for parking, septic system, and stormwater retention, the entire building program requirements cannot be met on the first floor of the proposed church. A 2<sup>nd</sup> floor is required for these elements causing the proposed height of the building to exceed the minimum required height of 35 feet. Adding the 2<sup>nd</sup> floor program elements to the first floor would cause the total parking spaces required to be less than code and create a hardship on the church.
- Not Self-Created: Since existing zoning requirements are causing the hardship to exist, they are not created by the applicant.

**Christian Congregation in the United States**  
445 North Forsyth Road  
Orlando, Florida - 32807

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**COVER LETTER**

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- No Special Privilege Conferred: Since the variance is being requested for only the applicant's parcel and no other adjacent parcels are owned by the applicant within the surrounding zone, the variance shall not confer on the applicant any special privilege denied by the zoning code to other lands, building, or structures in the same zoning district.
- Deprivation of Rights: The height restrictions imposed by the zoning code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship.
- Minimum Possible Variance: 46'-10" is the minimum required that would make possible the reasonable land and future building structure. The applicant owns no additional adjacent land that could be acquired to meet the building program requirements and also meet the minimum parking requirements based on the total number of seats.
- Purpose and Intent: Since the other minimum building setback, pavement setback, landscape screening, and lighting requirements shall be within Code requirements, the requested variance shall not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Please do not hesitate to contact us with any other questions.

Sincerely,

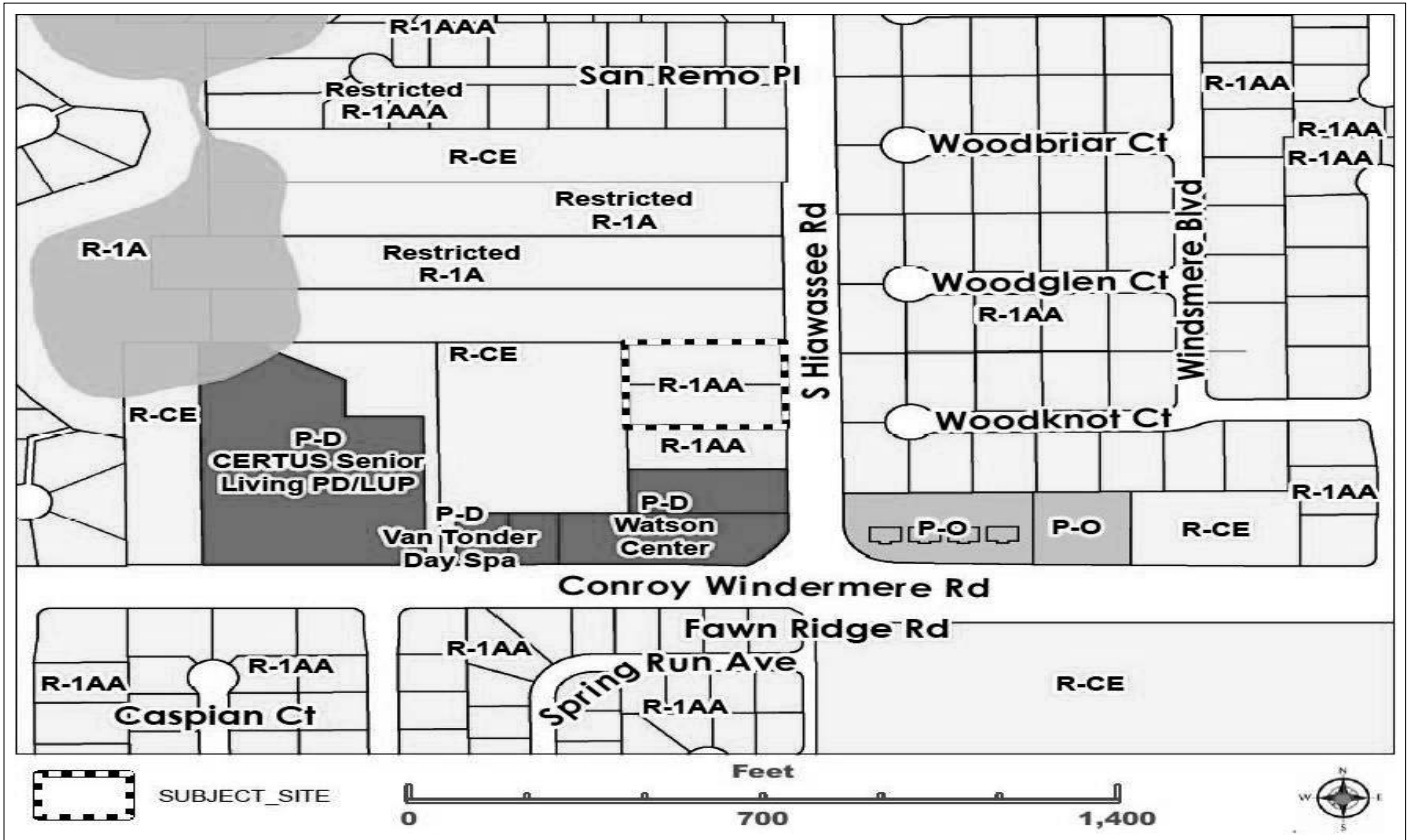


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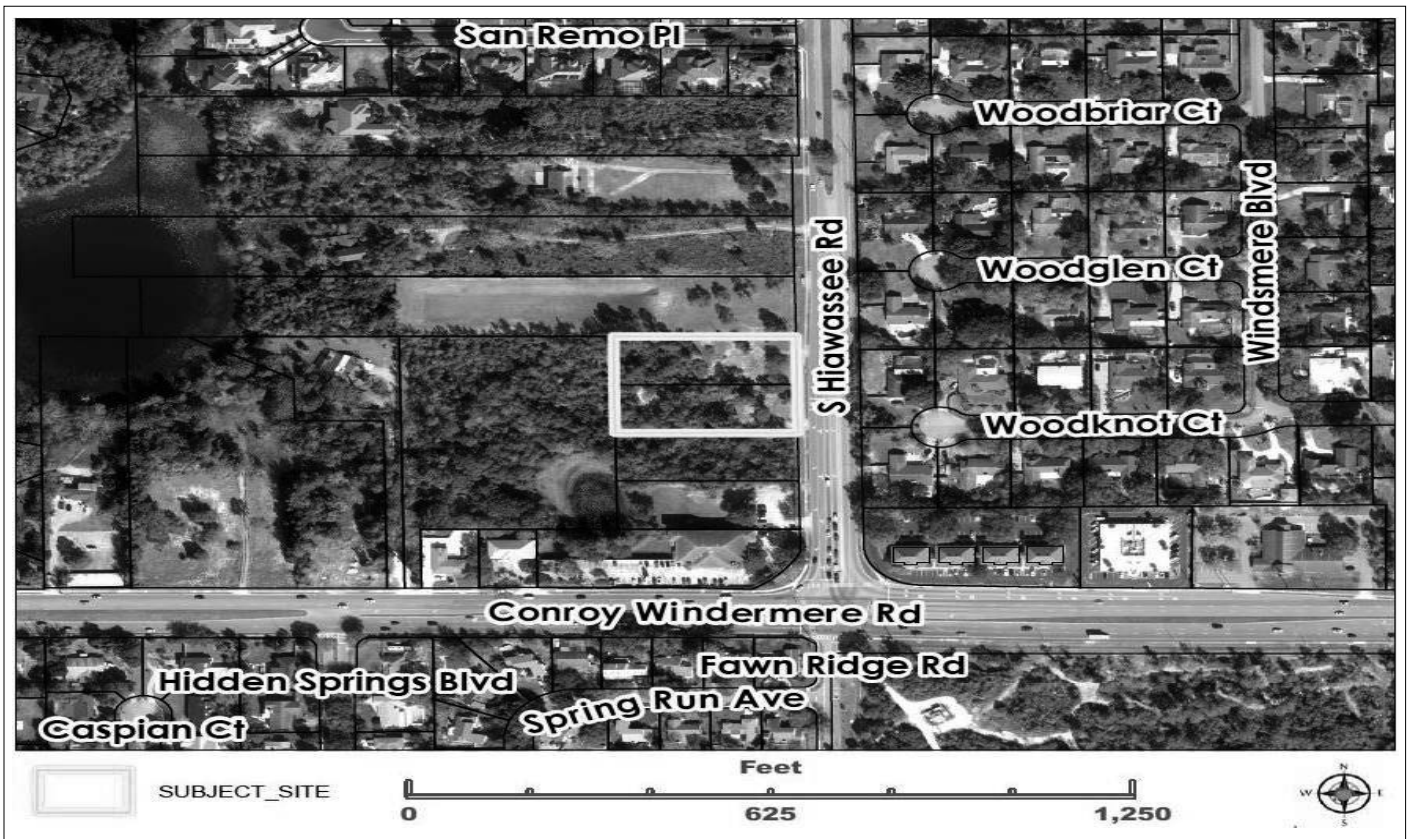
Eliezer Filipov  
President

**Christian Congregation in the United States**  
445 North Forsyth Road  
Orlando, Florida - 32807

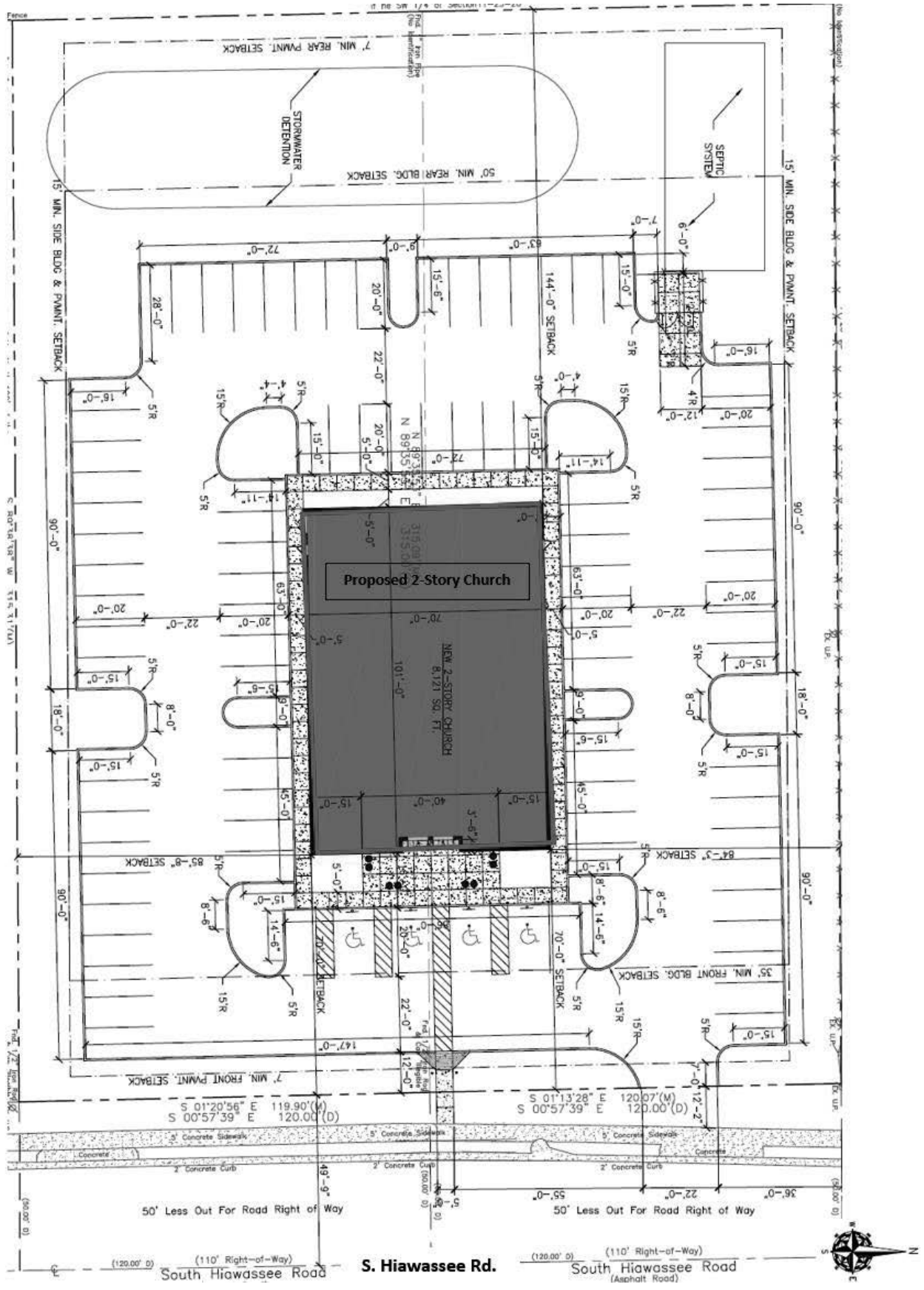
ZONING MAP



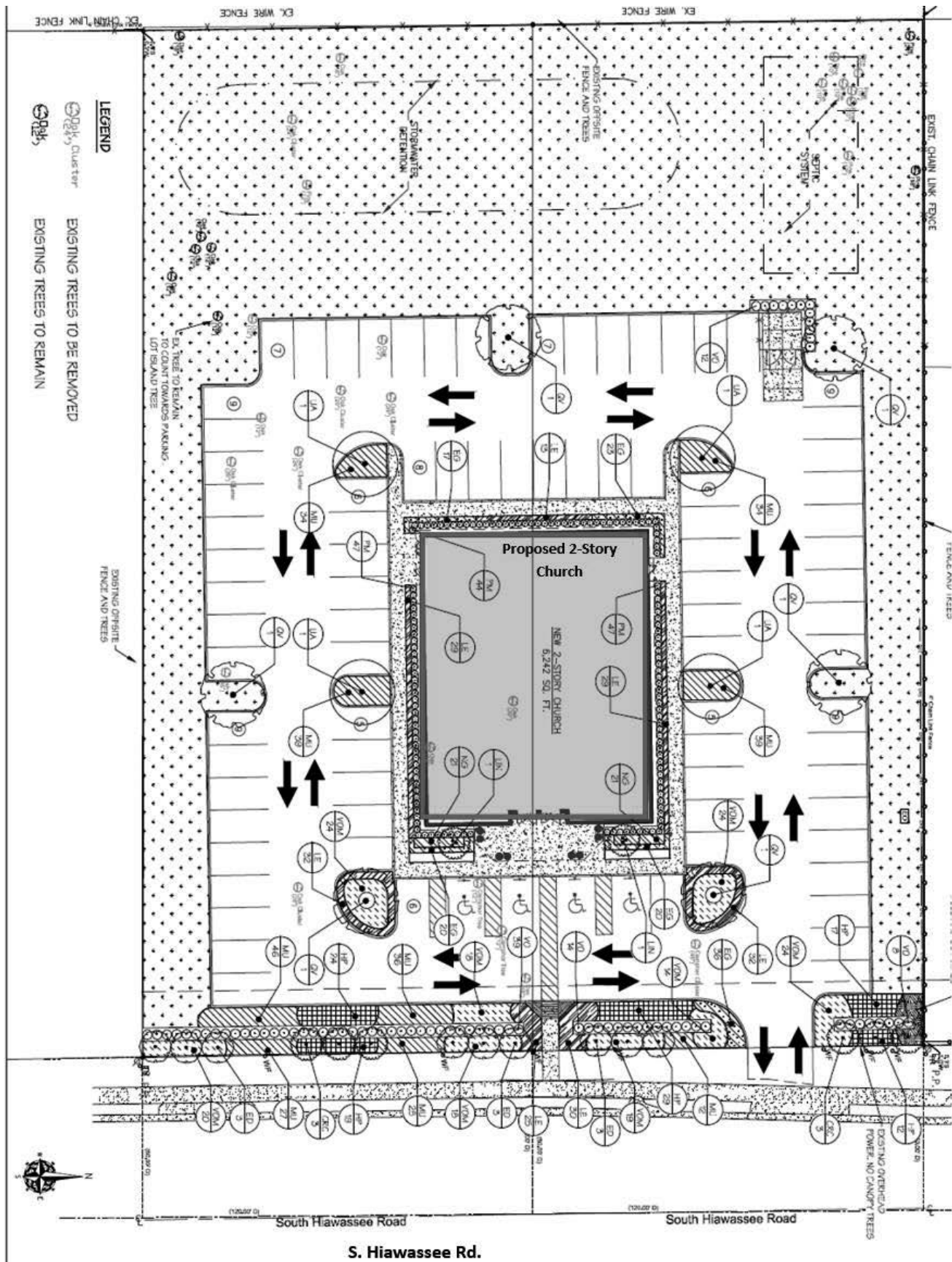
AERIAL MAP



# SITE PLAN

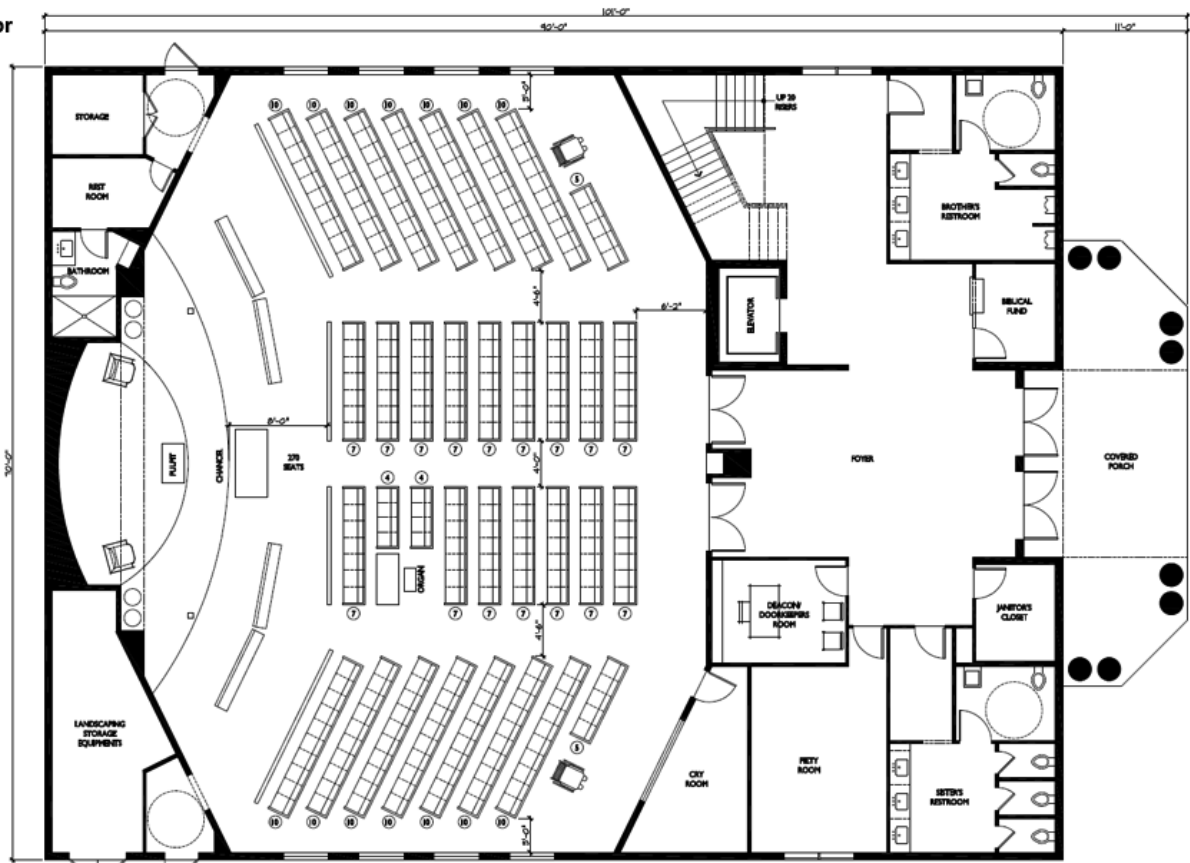


# LANDSCAPE PLAN

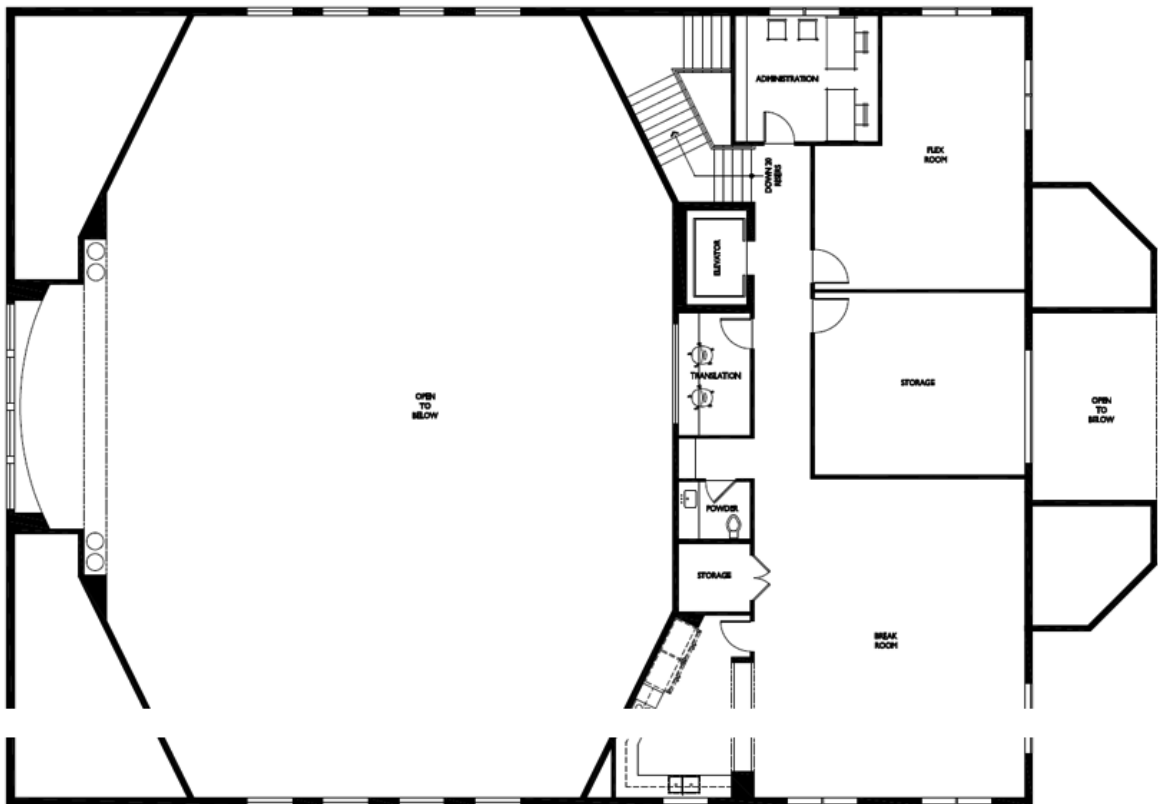


# FLOOR PLAN

## First Floor

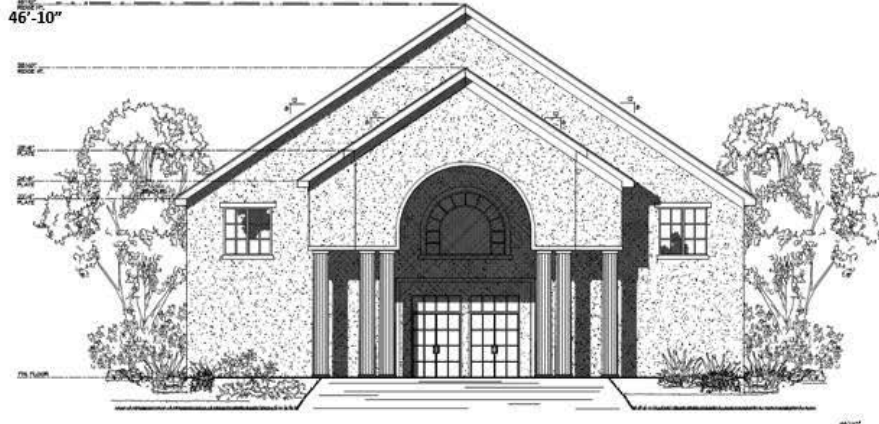


## Second Floor

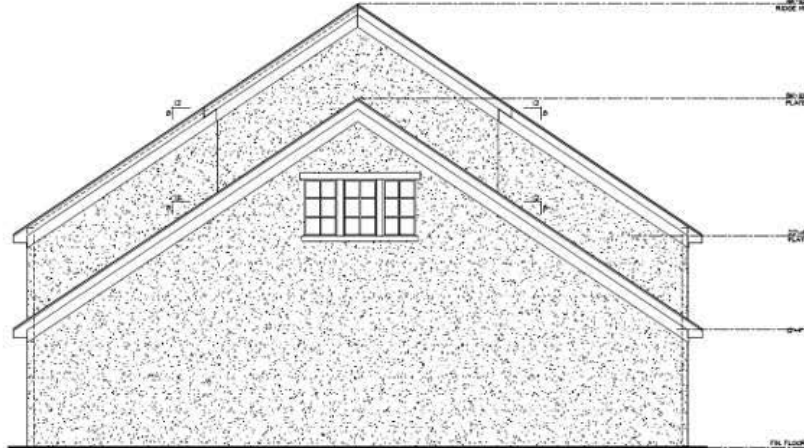


# ELEVATIONS

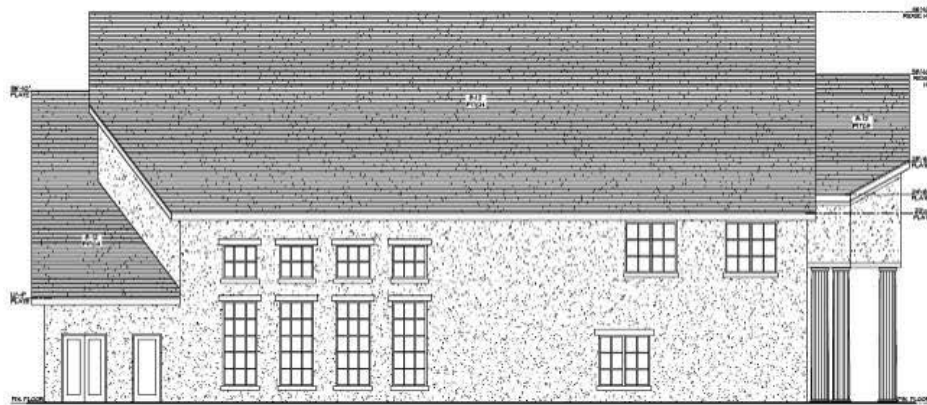
Front Elevation - East



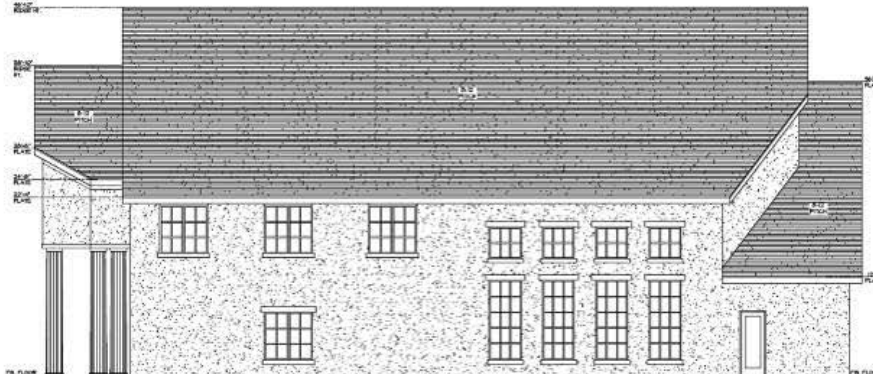
Rear Elevation - West



Right Elevation - South



Left Elevation - North





**SITE PHOTOS**



**Facing west from S Hiwassee Rd. toward the front of subject property**



**Facing west from S. Hiwassee Rd. toward the front of subject property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#2**

Case #: **SE-23-05-022**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** RODERICK ZAK FOR REJOICE IN THE LORD MINISTRIES

**OWNER(s):** REJOICE IN THE LORD MINISTRIES INC

**REQUEST:** Special Exception in the A-1 zoning district to allow 2 modular buildings for an existing religious institution.

**PROPERTY LOCATION:** 8053 Gilliam Rd., Apopka, FL 32703, north side of Gilliam Rd., east of Clarcona Rd. (S.R. 435), north of Clarcona Ocoee Rd., south of S.R. 414, west of N. Hiwassee Rd.

**PARCEL ID:** 27-21-28-0000-00-053

**LOT SIZE:** +/- 9.8 acres

**NOTICE AREA:** 900 ft.

**NUMBER OF NOTICES:** 64

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by John Drago, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received March 2, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the modular buildings and the shipping container within 180 days or they shall be removed.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, the landscape plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in favor of the request, and two (2) comments were received in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Special Exception by a 6-0 vote, with one absent, subject to the four (4) conditions in the staff report.

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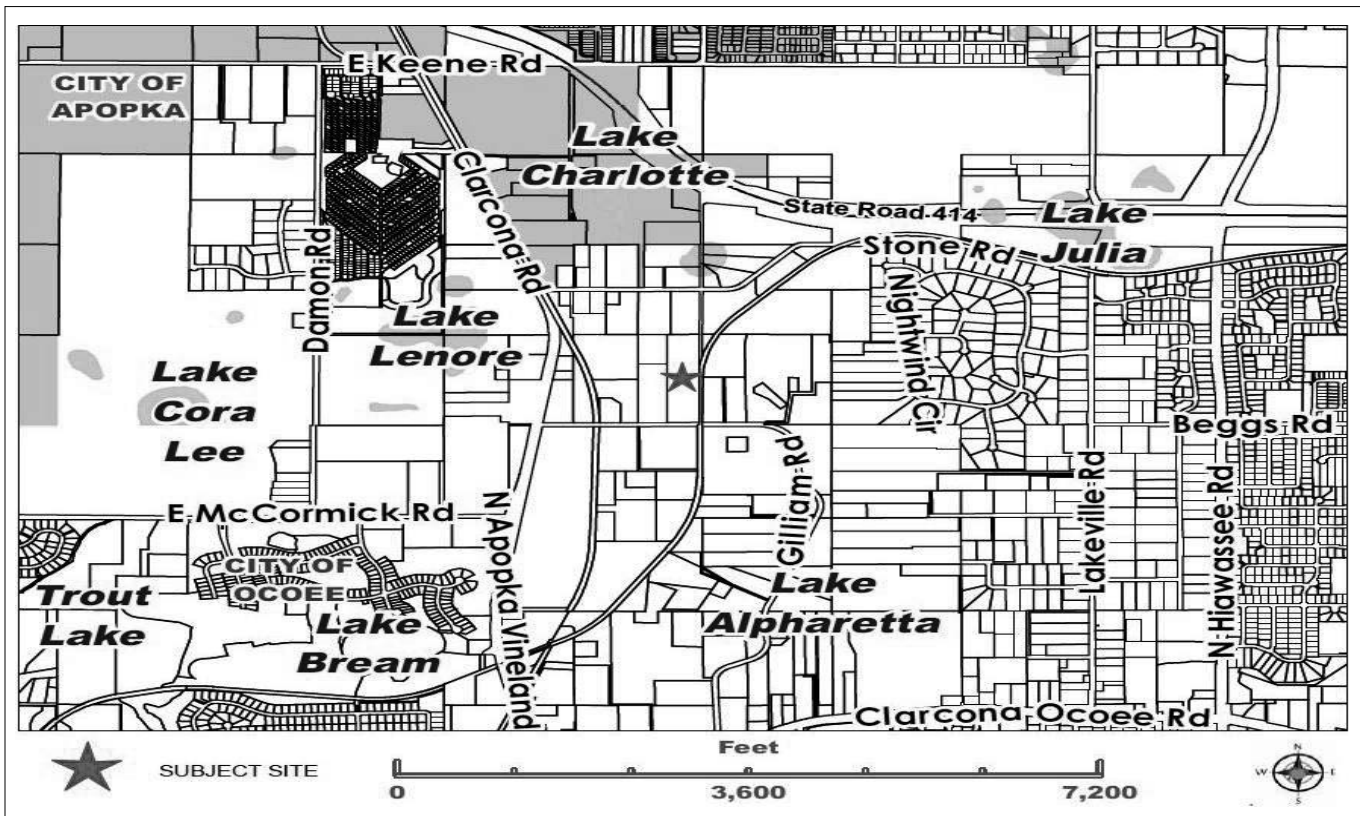
### STAFF RECOMMENDATIONS

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Approval, subject to the conditions in this report.

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### LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS-1/5 Clarcona Rural Settlement	RS-1/5 Clarcona Rural Settlement	RS-1/5 Clarcona Rural Settlement	RS-1/5 Clarcona Rural Settlement	RS-1/5 Clarcona Rural Settlement
Current Use	Religious Institution	Single-family residence	Single-family residence	Railroad/ Single-family residence	Single-family residence

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the A-1, Citrus Rural district, which primarily allows agricultural uses, nurseries, and greenhouses, as well as mobile homes and single-family homes on larger lots. Religious uses and associated ancillary buildings are permitted through the Special Exception process. The Future Land Use is Rural Settlement 1/5 (RS-1/5), which is consistent with the A-1 zoning district.

The subject property is located in the Clarcona Rural Settlement. Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those areas wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density it has no impact on single-family development.

The subject property is a 9.8 acre parcel that conforms to the minimum lot requirements of the zoning district. The site contains 22,954 sq. ft. of gross floor area consisting of a sanctuary and auditorium constructed in 2008 (B07904721). The site also contains an unpermitted shipping container that appears to have been installed after January 2022 via aerial imagery. The surrounding area is comprised of single-family residences and the subject site abuts a railroad to the immediate east of the property. The current owner purchased the property in 2006.

The applicant is requesting a Special Exception to allow two modular buildings that were installed without permits. Modular A is 867.8 sq. ft. (38.9 ft. by 22.3 ft. and 12.9 ft. in height) and Modular B is 637.4 sq. ft. (30.5 ft. by 20.9 ft. and 12.9 ft. in height). The modular buildings will be used for Sunday school classes for the exiting religious institution.

There is no proposed change to the number of seats in the sanctuary which currently contains 1,400 fixed seats. Based on the existing number of seats and number of employees, the use requires 471 parking spaces per Sec. 38-1476. - Quantity of off-street parking, of the Orange County Code. The number of seats was calculated using the code requirement of 1 parking space per 3 fixed seats for religious institutions for a total of 467 required spaces, and 1 parking space per employee for a total of 4 required parking spaces. A total of 478 parking spaces are provided onsite which meets the code requirements.

The hours of operation for the campus operations are not proposed to change: the typical hours for the church offices are Monday through Thursday, 9:30 a.m. to 2:30 p.m. and Sunday from 8:00 a.m. to 1:00 p.m., with the regular services scheduled at 10:00 a.m. and 11:30 a.m.

The Comprehensive Planning staff reviewed the request and determined that the proposal is consistent with the policies contained within the Comprehensive Plan and that the proposed modular Sunday school buildings intended to be used for church service are considered an ancillary use to the existing church.

The County Transportation Planning Division provided comments that the proposed project does not exceed 5 p.m. peak hours trips. Therefore, the project’s impact to the roadway is considered to be de minimis and they will have to submit a de minimis application for a concurrency review prior to obtaining a building permit.

A Community Meeting was held on Monday, April 24, 2023, to allow for community input. The meeting was attended by the District Commissioner’s Aide, County Staff, the applicant, and the applicant team. There were fifteen residents in attendance from the surrounding community. The residents in attendance were in favor of the request.

At the date of the writing of this report, no comments have been received in favor of the request and one comment has been received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	12.9 ft. (Modular A) 12.9 ft. (Modular B)
Min. Lot Width:	100 ft.	329.7 ft.
Min. Lot Size:	0.5 acre	9.8 acres

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	35 ft.	532.7 ft. (South – Modular A) 601.6 ft. (South – Modular B)
Rear:	50 ft.	792.2 ft. (North – Modular A) 668.7 ft. (North – Modular B)
Side:	10 ft.	91 ft. (East – Modular A) 91 ft. (East – Modular B)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The Comprehensive Plan allows for the consideration of certain institutional uses in residential Future Land Use designations through the Special Exception process, including religious institutions, ancillary uses and buildings as long as they are compatible and consistent with the surrounding area. Religious institutions are required to obtain a Special Exception when they are located within a Rural Settlement.

**Similar and compatible with the surrounding area**

The proposed buildings will be ancillary to the existing religious use, and will not negatively impact the surrounding area since the closest building will be over 150 feet from the closest single-family residence. The new buildings will be integrated into the existing religious institution's campus which contains existing landscaping and buffers.

**Shall not act as a detrimental intrusion into a surrounding area**

The new buildings will be located on the east side of the property and the closest one is over 150 feet from the nearest adjacent property line therefore it will not be a detrimental intrusion to the surrounding area.

**Meet the performance standards of the district**

The proposed use will meet the performance standards of the district.

**Similar in noise, vibration, dust, odor, glare, heat generation**

The applicant has not proposed any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to other uses allowed in the Zoning district.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The proposal will be located entirely within an existing campus on a developed site and no additional buffer yards are required. Further, as required by Sec 24-4 of the Landscape Code, the site is required to meet the Type C, opaque buffer which requires that the buffer be completely opaque from the ground up to a height of at least six (6) feet and shall be a minimum of fifteen (15) feet wide. The Type C buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof which maintains a completely opaque buffer. The buffer must be three (3) feet high and fifty (50) percent opaque at planting and be capable of attaining full height and opacity within three (3) years. This buffer must also include one (1) shade tree for each forty (40) lineal feet or fraction thereof per Sec. 24-5 - Buffer yards, of Orange County Code.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received March 2, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the modular buildings and the shipping container within 180 days or they shall be removed.

C: Roderick Zak  
8216 Chatham Pointe Court  
Orlando, FL 32835

C: HousePlans Design Group, LLC (John Poleon)  
4801 Rolling Oak Drive  
Orlando, FL 32818



**Houseplans Design Group LLC.**  
4801 Rolling Oak Dr.  
Orlando, Florida 32818  
Mobile: 321-695-6653  
email: [hdg1llc@gmail.com](mailto:hdg1llc@gmail.com)

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February 16, 2023

Orange County Zoning Division  
Board of Zoning Adjustment  
201 S. Rosalind Avenue  
Orlando, Florida 32801

**Re: Special Exception**  
**Rejoice in the Lord Ministries, Inc.**  
**8053 Gilliam Rd Apopka, FL 32703**

This application has been prepared by John Poleon of HousePlans Design Group LLC., Designer, on behalf of Rejoice in The Lord Ministries, Inc.

Rejoice in the Lord Ministries church is a vibrant, God-centered ministry located in the heart of Central Florida. Founded on March 21st, 2004. Rejoice Church's first service was held at the Plaza Theatre in downtown Orlando and was blessed to receive 475 charter partners. The founders, Pastor Roderick and Sis. Vanessa Zak was joined by five families in providing generous resources to enable the launch. For the first five years, Rejoice held its services there, meeting regularly for meaningful worship services, inspiring bible studies, and transformative outreach projects that helped foster spiritual enrichment among our growing congregation.

Since its founding 19 years ago, Rejoice in the Lord Ministries has grown to become an inspirational light in Central Florida (Apopka, FL) with 2500 members. In 2009, a large undertaking was accomplished when we erected a 1100-seat auditorium on the Rejoice grounds. This remarkable structure is used to host an array of events as well as our own Sunday services. In addition to this larger space, we also built a smaller auditorium that seats 200 specifically for the children's ministry.

- We have 4 full time staff.
- We have 2500 members and numerous volunteers, never over 10 during hours of operation, most serve during Sunday services.
- Hours of operation, Monday thru Thursday, staff present (4 persons) from 9:30 AM - 2:30 PM
- Evening events when scheduled are from 6:30 PM - 8:00 PM
- Sundays the facility is occupied from 8:00 AM – 1:00 PM

The church purchased 2 portable buildings on 10/11/2022 via auction from Orange County Public Schools. The church was given 30 days to relocate the portables. AJS Building Moving & Leveling, Inc. completed the relocation and installation on 12/07/2022. The dimensions are 20'-11" x 30'-6" (615 sf and Hight 11'-2") and a 22'-4" x 38'-11" (854 sf and Hight 11'-4") They are located on our 9.48-acre church campus located at 8053 Gilliam Rd Apopka, Florida 32703. Please note that the building has not been occupied or attached to power. There will be a separate submission to the building department for those approvals.

The church states that the usage will be "to support breakout sessions from the primary educational meeting spaces to allow smaller groups to be facilitated. The smaller group will be both adults or youth. The breakout sessions will take place during our regular meeting times on Sundays (10:00 AM) and Wednesday evenings. This usage will not increase previously established occupancy numbers, it will



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## COVER LETTER

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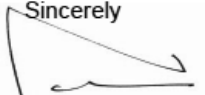
allow us to lower the occupancy of areas designated for during service bible studies. This space will not be used for a daily school or daycare. The covid 19 reality has created a desire for us to decrease the exiting occupancy numbers in spaces designated for during service breakouts to facilitate Christian education environments, these 2 modular buildings will assist us in achieving that goal.

The modular building shall conform to Orange County Zoning setbacks, Building Code, ADA, and Landscape requirements.

Orange County Quantity of Off-Street Parking Sec 38-1476 requires 1 parking space for each fixed seat provided for patrons and 1 for each employee. The existing church building have seating for 1,400, which requires 466 parking spaces. There are currently 478 existing designated parking spaces of which 7 are designated handicapped accessible spaces.

Thank you for your consideration.

Sincerely



John Poleon, GISP - Vice President  
Hdg1llc@gmail.com

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**COVER LETTER**

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1. The use shall be consistent with the Comprehensive Policy Plan.

*Rejoice in the Lord Ministries is an existing church on 9.48-acres . In 2009 the erected a 1100-seat auditorium located in Central Florida (Apopka, Fl.) This Special Exception is two Modular buildings -Building "A"- 22'-4"x 38'-11" (854 S.F), Building "B" - 20'-11" x 30'-6" (615 S.F.)*

*The buildings are consistent with the Comprehensive Plan, and will be used to support breakout sessions from the primary educational meeting spaces to allow smaller groups to be facilitated.*

2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

*The proposed modulars is an expansion of the current use which has been in operation for over 24 years and will maintain remain compatible to its surrounding area.*

3. The use shall not act as a detrimental intrusion into a surrounding area.

*The proposed modulars are on the church 9.48 acres which are buffered with trees from the adjacent residential properties.*

4. The use shall meet the performance standards of the district in which the use is permitted.

*The proposed modulars meets the performance standards of the A2 zoning district.*

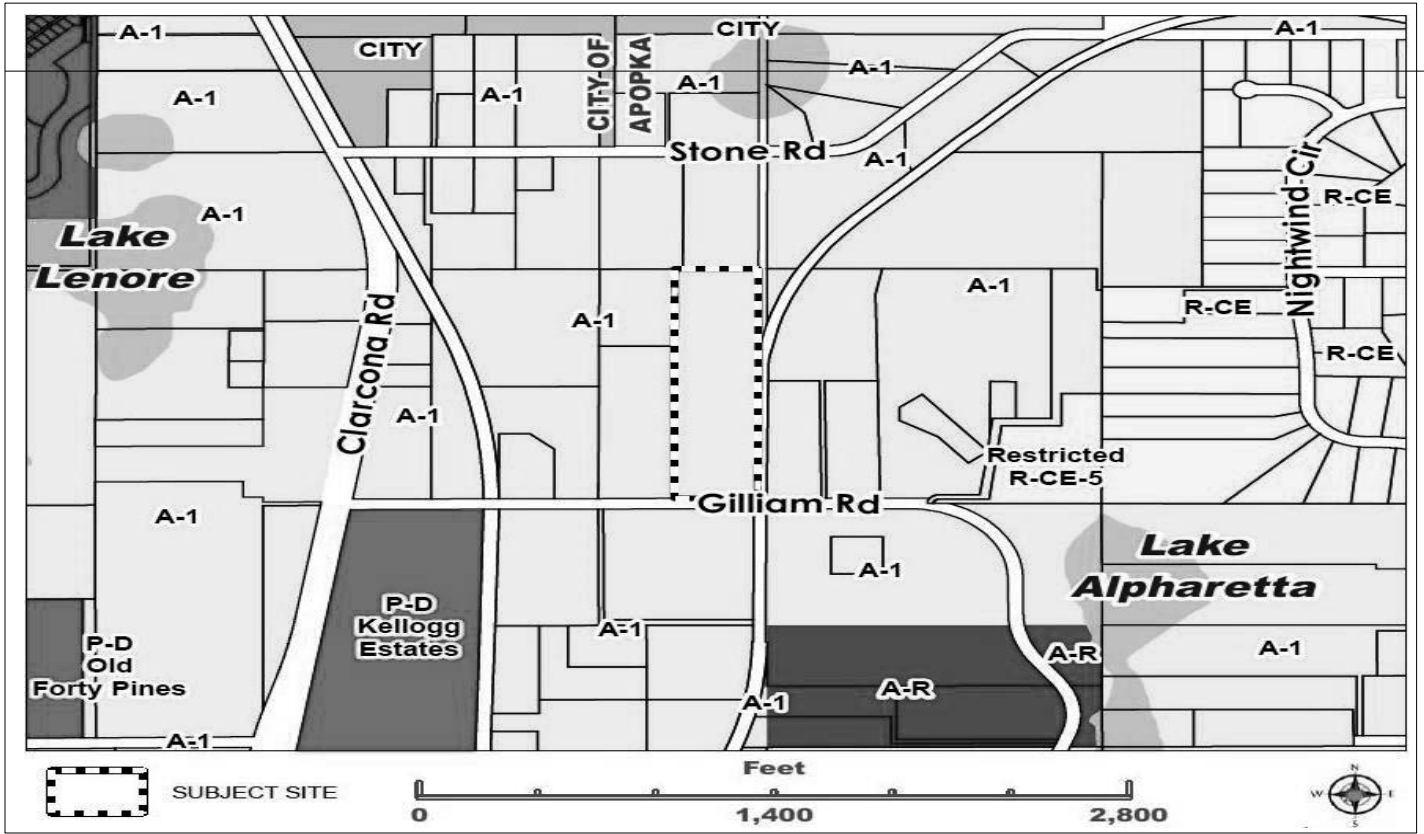
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

*The proposed modulars will not increase the noise, dust, odor, glare or heat producing characteristics. The site is currently a church which uses is currently permitted in this zoning district. No additional lighting is proposed.*

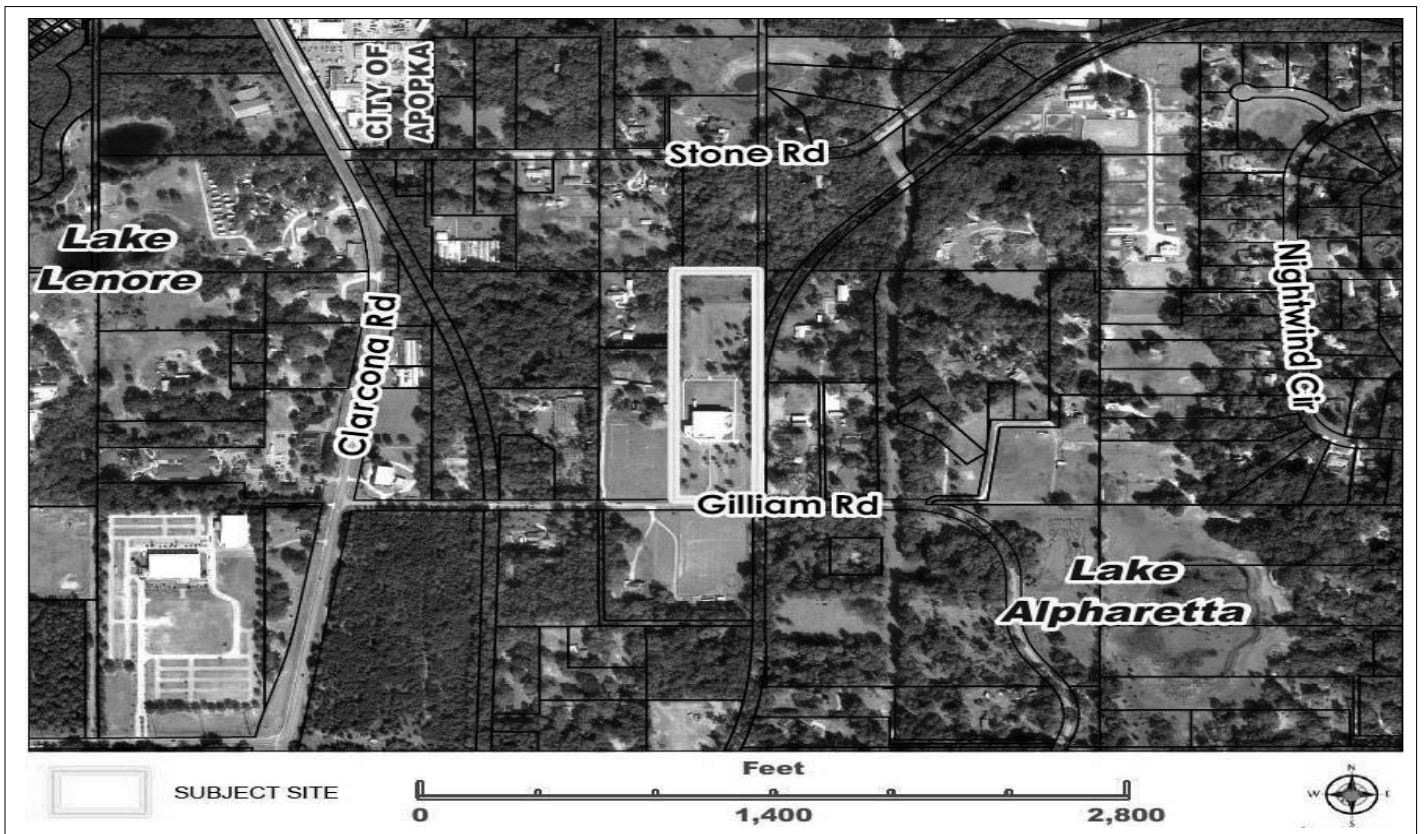
6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

*The proposed modulars are on the church 9.48 acres which are buffered with trees from the adjacent residential properties. All existing tree buffering will remain undisturbed.*

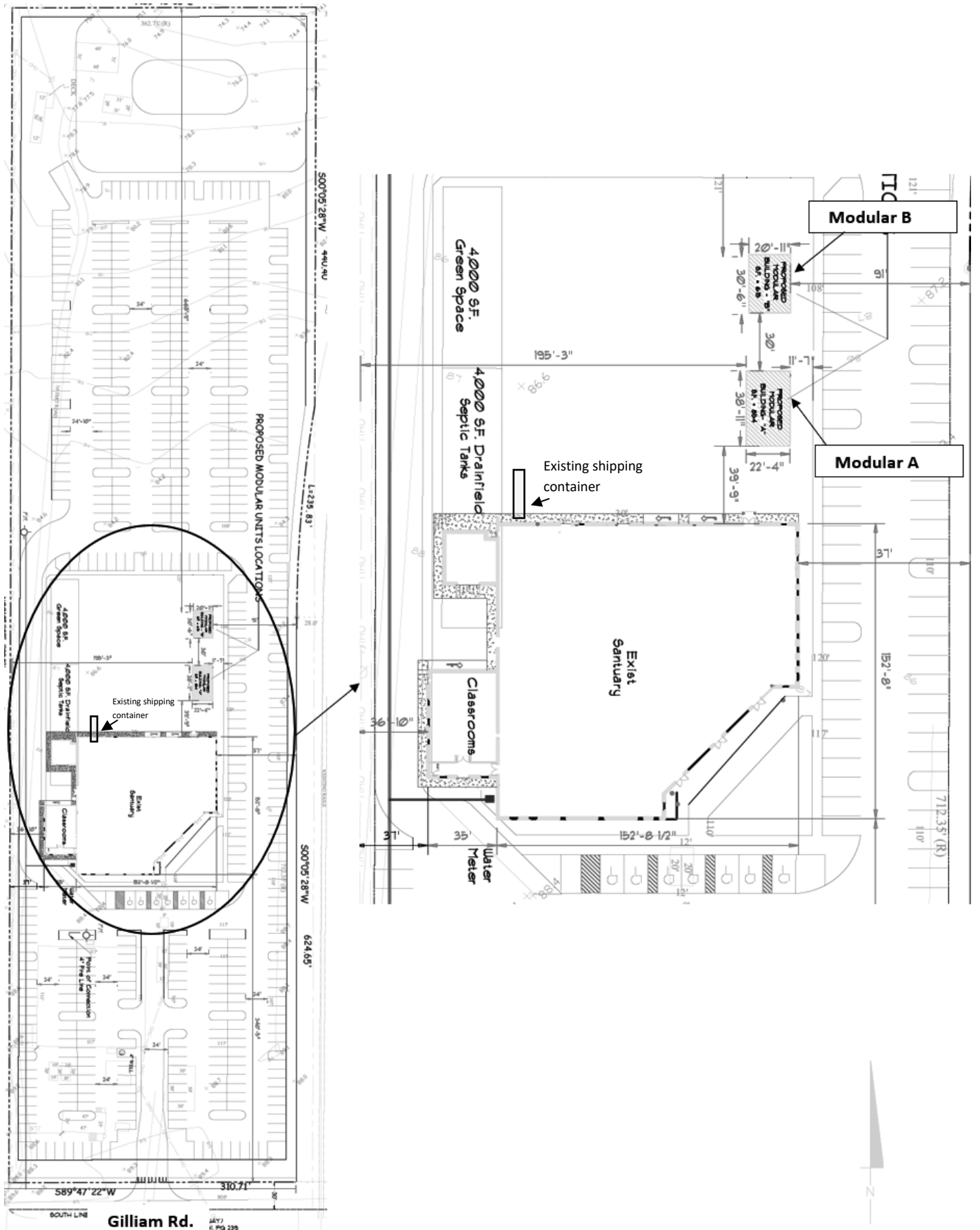
ZONING MAP



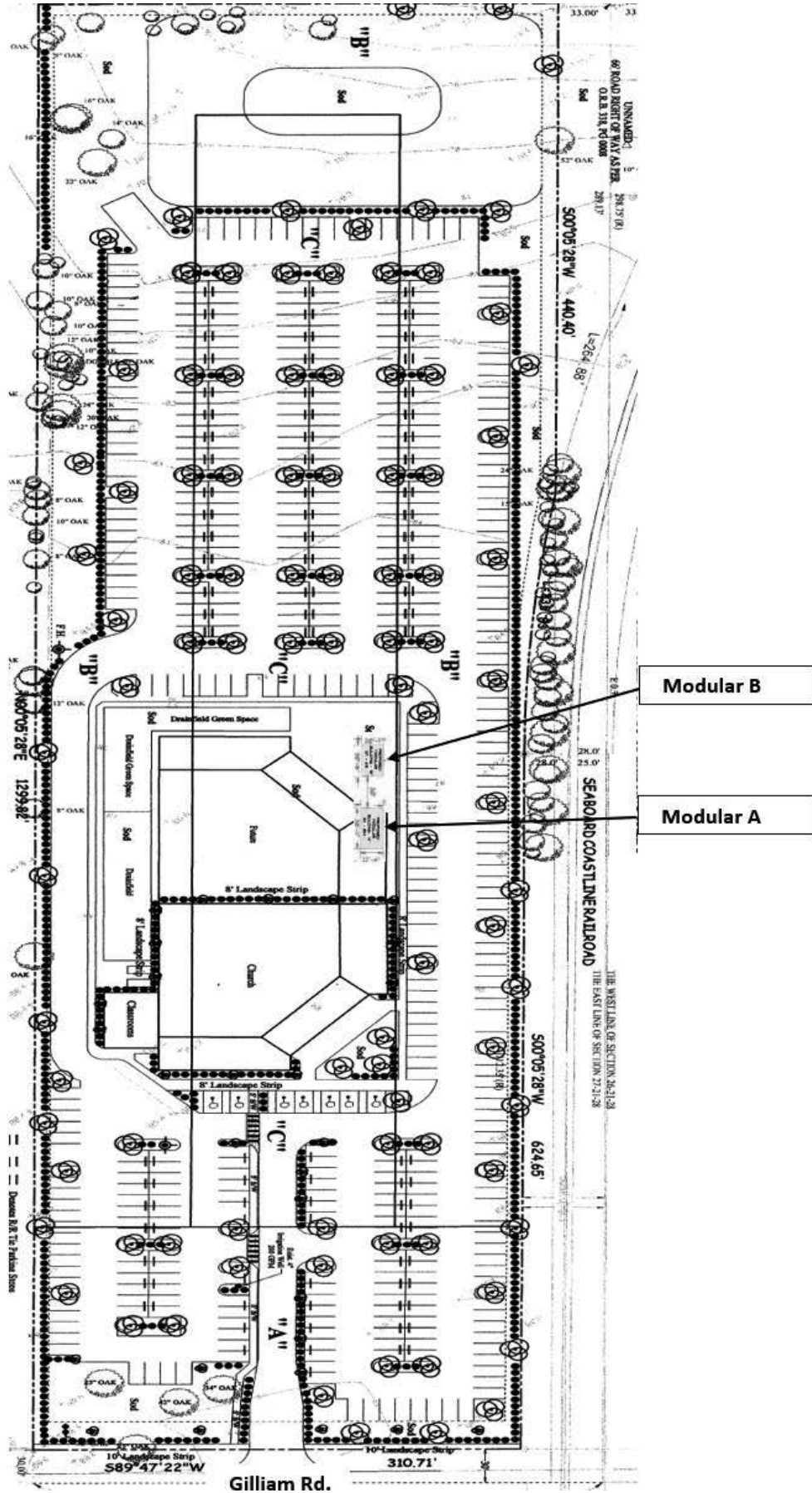
AERIAL MAP



**SITE PLAN**

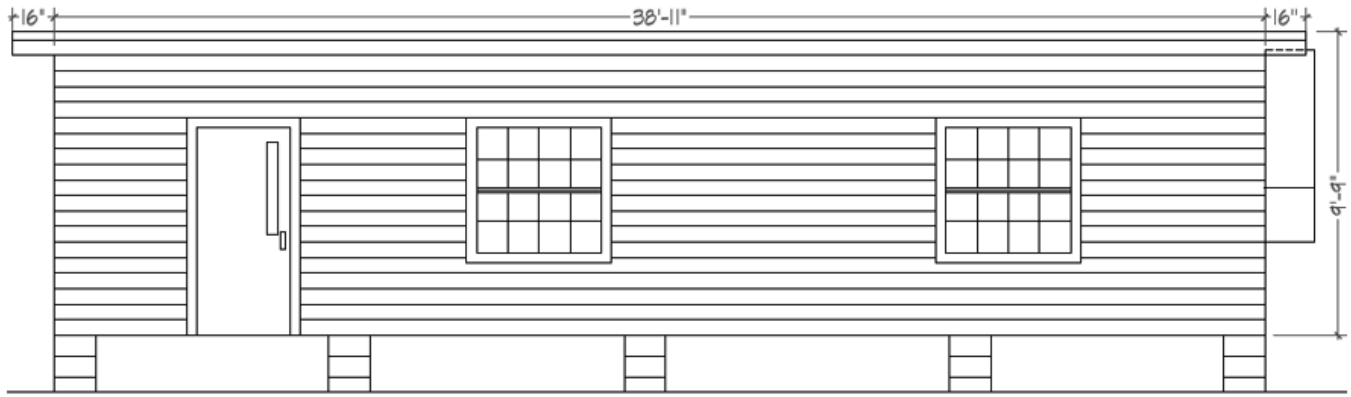


# LANDSCAPE PLAN

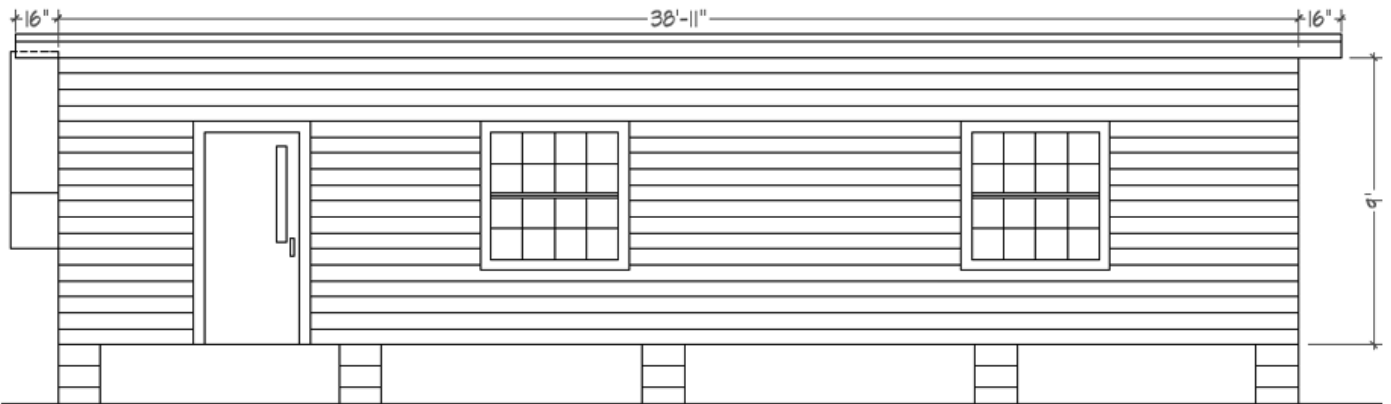


# ELEVATIONS FOR MODULAR A

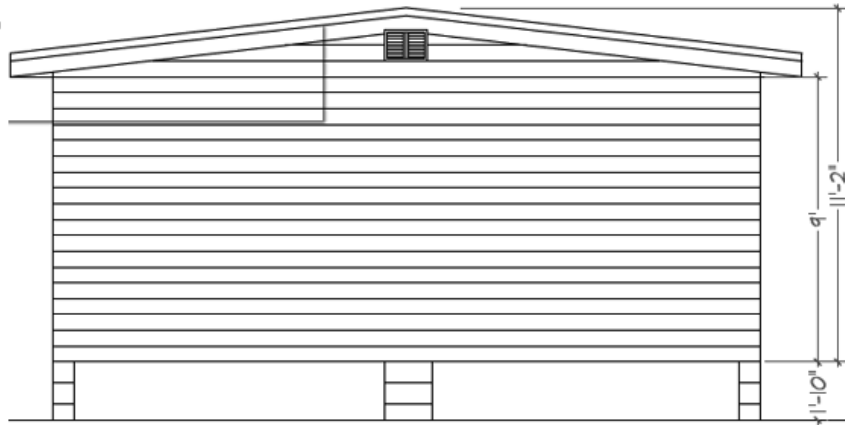
**Front Elevation - East**



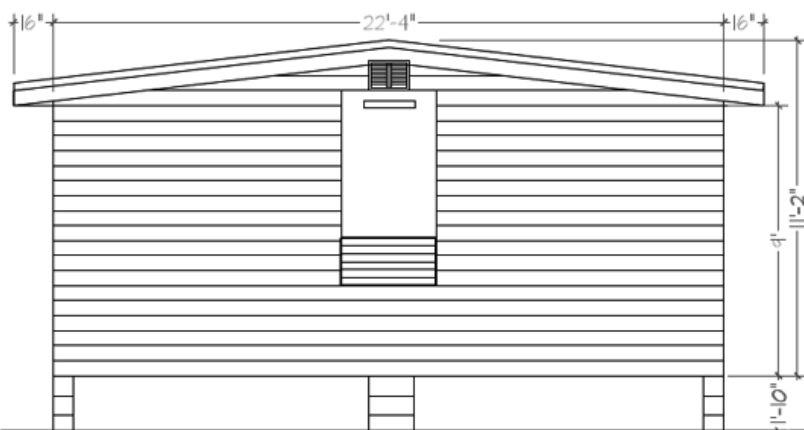
**Rear Elevation - West**



**Right Elevation - North**

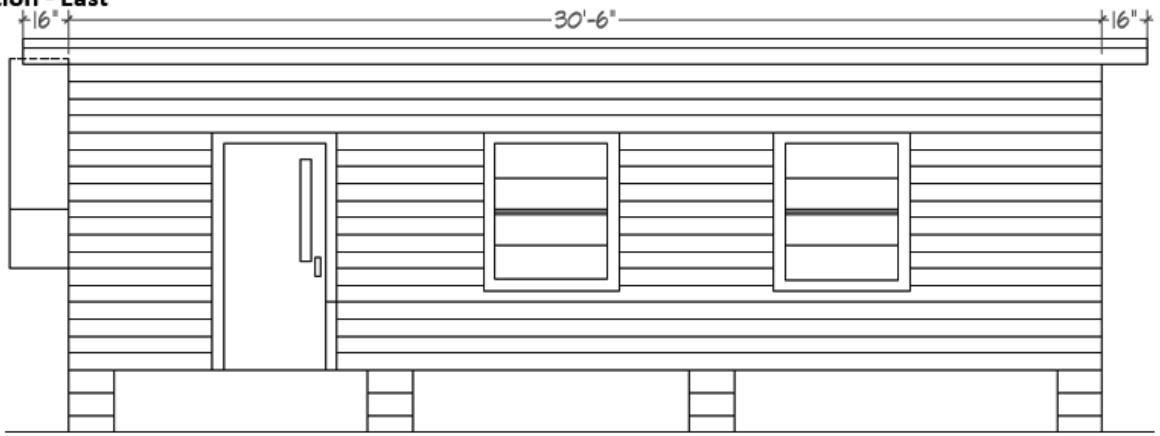


**Left Elevation - South**

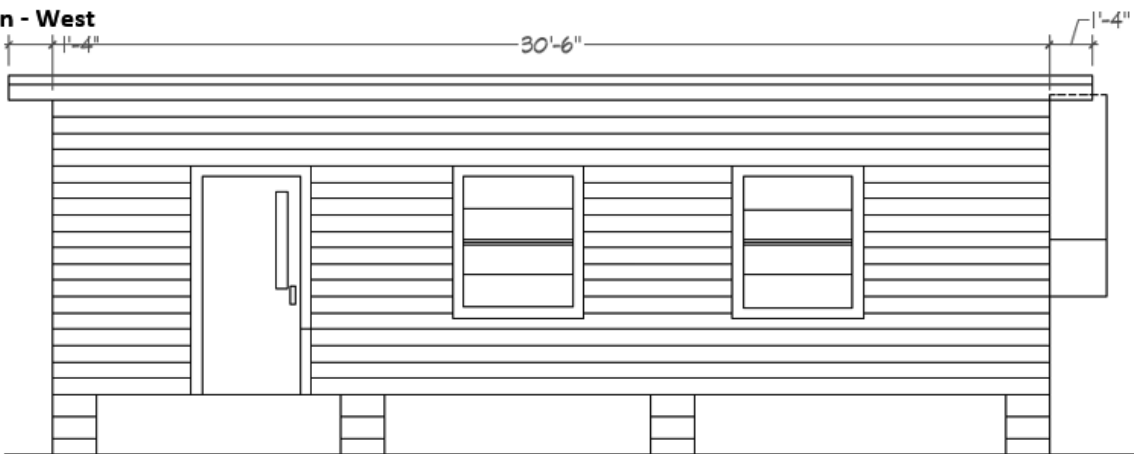


# ELEVATIONS FOR MODULAR B

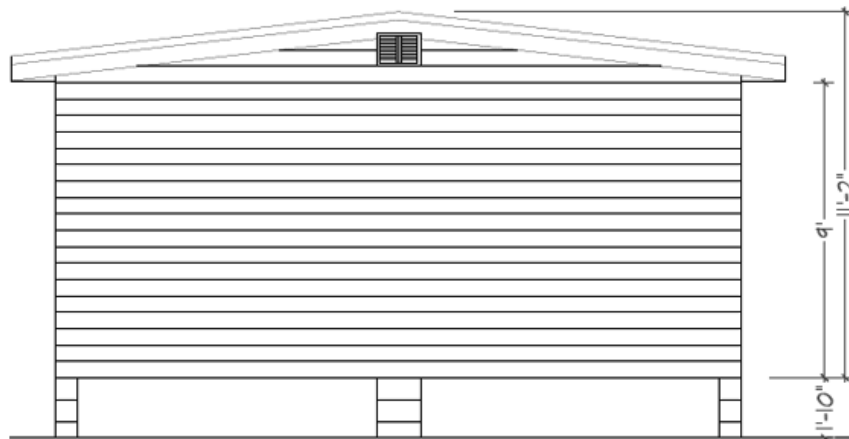
Front Elevation - East



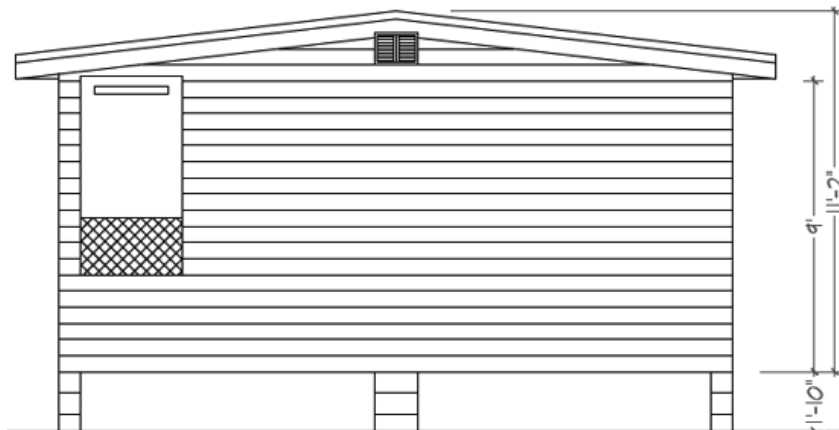
Rear Elevation - West



Right Elevation - North



Left Elevation - South



**SITE PHOTOS**



**Facing north from Gilliam Rd. towards front of subject property**



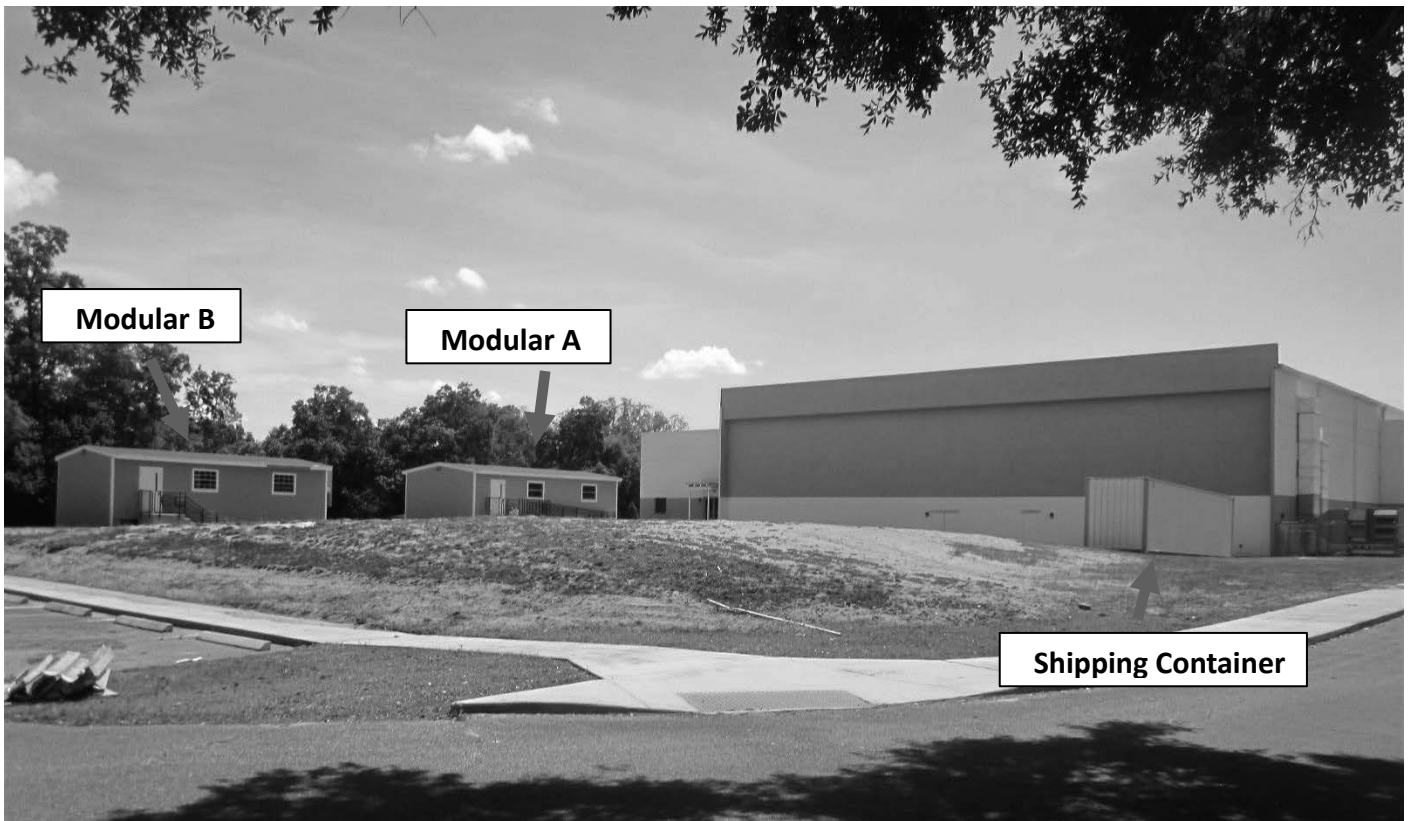
**Front parking area facing north toward the front of existing church and railroad**



**SITE PHOTOS**



**Side parking area facing toward the modular buildings**



**Rear parking area facing southeast toward the modular buildings, existing church, and shipping container**

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**SITE PHOTOS**

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**Rear parking area facing southwest toward the rear of property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#3**

Case #: **SE-23-02-160**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** SAMUEL CORT SR. FOR SOUTH ORLANDO CHRISTIAN ACADEMY

**OWNER(s):** SOUTH ORLANDO CHRISTIAN ACADEMY INC

**REQUEST:** Amendment to a Special Exception in the C-1 and P-O zoning districts to construct a new 11,660 sq. ft. gymnasium for an existing private school.

**PROPERTY LOCATION:** 5815 Makoma Dr., Orlando, FL 32839, East side of Makoma Dr., north side of W. Oak Ridge Rd., west side of Tomoka Dr., east of S. Orange Blossom Trl.

**PARCEL ID:** 22-23-29-2792-08-100

**LOT SIZE:** +/- 1.73 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 95

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by Juan Velez, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan received November 23, 2022 and the elevations received March 30, 2023, as modified by these conditions of approval, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Metal eyebrow awnings shall be incorporated over all faux window systems.

5. Spandrel glass shall be utilized within all of the faux window systems, and they shall be re-configured from the current horizontal proportions to vertical proportions and shall be logically spaced across each of the street facing facades. The window proportions should be the same across each of the facades.
6. Projected surrounding trim shall be provided around each of the faux window systems and each door.
7. Enhanced landscaping shall be provided along the entire length of the street frontages adjacent to the proposed building along W. Oak Ridge Rd., Tomoka Dr., Makoma Dr. within the 7 ft. required landscape strip. This enhanced landscaping shall consist of understory trees planted 15 ft. on center, supplemented with a continuous row of shrubs/ hedges planted 30 inches on center within the landscape strip.
8. Enhanced foundation landscaping shall be provided along the south side of the proposed building. This enhanced landscaping shall consist of shade trees planted 25 ft. on center, supplemented with a continuous row of shrubs/ hedges planted 30 inches on center within the foundation landscaping.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, the landscape plan and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in favor of the request, and one (1) comment was received in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

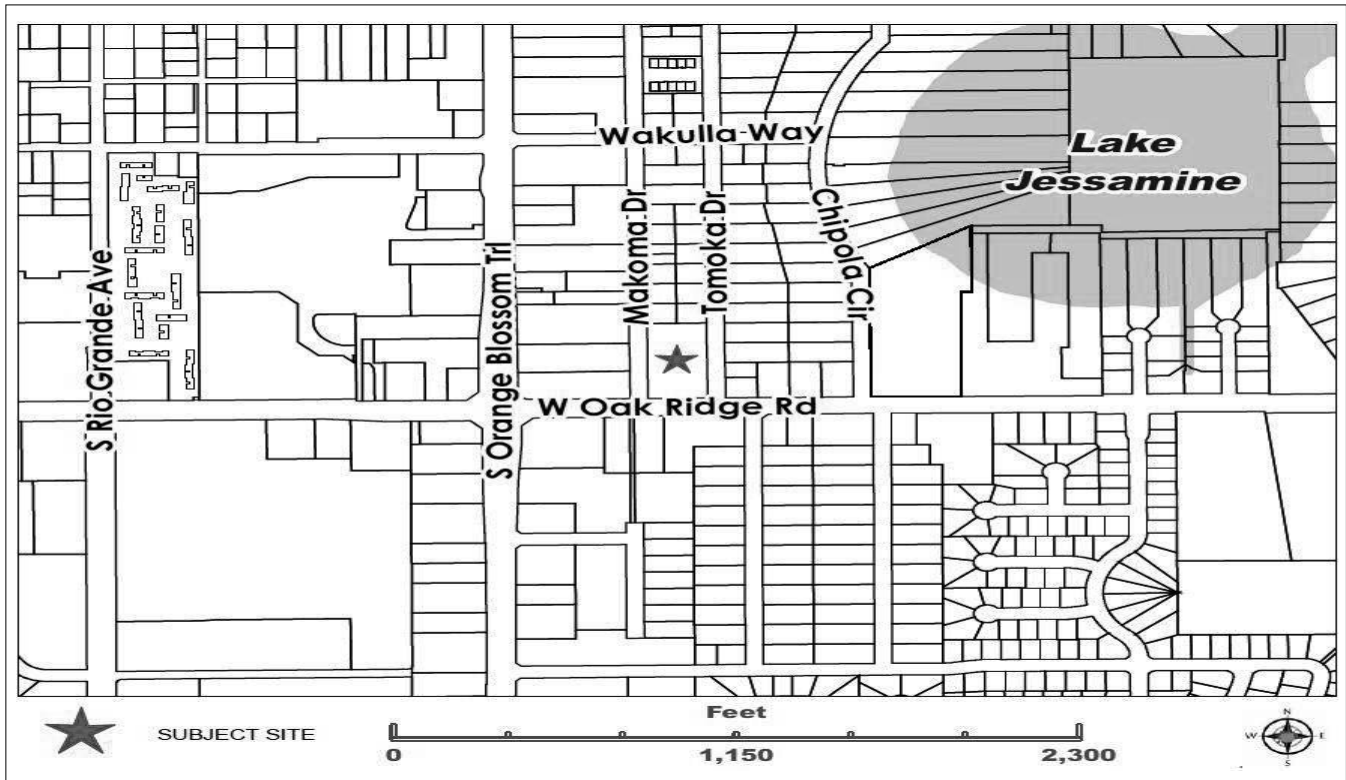
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request, stated its compatibility with the commercial development in the area, the lack of traffic impacts and unanimously recommended approval of the amendment to the Special Exception by a 6-0 vote, with one absent, subject to the eight (8) conditions in the staff report.

**STAFF RECOMMENDATIONS**

Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	C-1, P-O	R-1A	C-1, R-3	P-O, R-1A	C-1, C-2
Future Land Use	C, O	LMDR	C, LDR	O	C
Current Use	K-12 school	Single-family residential	Religious Institution, Daycare	Offices, Single-family residential	Retail

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the C-1 and P-O zoning districts. The southern portion is within the C-1, Retail Commercial District, which allows for restaurants, retail stores, offices and various other commercial businesses. The Future Land Use in the southern portion of the property is Commercial (C), which is consistent with the C-1 zoning district. The northern portion is within the P-O, Professional Office district, which allows for office uses. The Future Land Use in the northern portion of the property is Office (O), which is consistent with the P-O zoning district. Certain uses, such as schools in the P-O zoning district, are permitted through the Special Exception process.

The subject property is a +/- 1.73 acre lot, platted in 1949 as Lots 10 thru 13 in Block H of the Florida Shores plat and then aggregated in 2002 (LS #2002-163), and is considered to be a conforming lot of record. The lot

is located on W. Oak Ridge Road between Makoma Drive and Tomoka Drive. The frontage is considered W. Oak Ridge Road due to the right-of-way having the heaviest flow of traffic. Both Makoma Drive and Tomoka Drive are considered side street yards. The site is currently being used as a K-12 school and is developed with 3 one-story concrete block stucco buildings and 2 modular metal structures containing offices, classrooms, cafeteria, and storage totaling 10,739 sq. ft. of gross floor area. The property was purchased by the current owner in 2002.

In October 2015, a Special Exception (SE-15-10-088) was approved in the C-1 and P-O zoning districts to construct a new 2,200 sq. ft. addition to an existing school and to increase the enrollment from 250 students to 295 students. The school appears to have been established in 1991, with permit records beginning in 1994 (B94902015) for improvements to the existing school.

The proposal is an amendment to the Special Exception to allow the construction of a 11,660 sq. ft., 32.6 ft. high steel metal gymnasium building located on the C-1 portion of the property to provide a physical education class and activities for the students. The proposed location for the gymnasium currently contains a basketball court and the remainder is vacant, with 9 Oak trees, all of which will be replaced by the gym. Other proposed site improvements include 9 additional parking spaces of which 1 space is handicap parking, surrounding the gymnasium, foundation landscaping, and additional landscaping with a 7 ft. wide landscape strip along the adjacent W. Oak Ridge Road, Makoma Drive, and Tomoka Drive frontage as required per Sec. 24-4 (1) (a). The use of the property and number of students in attendance will remain the same; therefore, no additional parking is required. A permit (B22902674) has been submitted for preparation of the site for a gymnasium is on hold pending the outcome of this request.

The parking requirements for the overall campus are as follows:

- School: 20 classrooms, @ 4 parking spaces per classroom, requiring 80 spaces.
- High school students: 42 students, @ 1 parking space per 3 students, requiring 14 spaces.
- Existing joint use off-street parking agreement with the religious institution to the immediate south of the subject property, which offers an additional 61 paved parking spaces, when needed and operates on Saturday and Sunday.

The total parking spaces required for the entire campus is 94 parking spaces. The existing and proposed campus parking area contains 30 paved parking spaces and 3 handicap spaces for a total of 33 spaces, and 61 off-site parking spaces for a total of 94 spaces, thus meeting the parking code requirement.

The hours of operation for all the campus operations are not proposed to change, and are Monday through Friday between 6:00 a.m. through 4:00 p.m.

The proposed elevations show a stacked stone veneer along the corners and the base of the building with the remainder of the metal building to be stuccoed and a combination of vertical and horizontal metal mullions placed over the stucco, with canvas canopies over the doors. Given the high visibility of this structure on three streets within the neighborhood, zoning and planning staff have worked with the applicant to revise the elevations to provide a more consistent pattern and depth along the facades to further break up the significant size and scale of the building. With the additional modifications, as required through the conditions of approval, staff is recommending approval.

The elevations provided also show a significant amount of signage painted onto the building, however signage details have not been provided. Any proposed signage will have to meet the regulations of the sign code and

will be permitted separately; however, it is likely that the proposed signage as shown will need to be significantly reduced or eliminated in order to meet code.

Comprehensive Planning provided comments that the gymnasium building to be used in conjunction with the existing private school is consistent with FLU Policy 8.1.1.

The Orange County Transportation Planning Division has reviewed the request and indicated no additional trips will be created with the addition of a gymnasium to an existing private school. This use is considered ancillary to school.

A Community Meeting was held on Tuesday, January 31, 2023, to allow for community input. The meeting was attended by the District Commissioner, her Aide, County Staff, the applicant, and owner. There were no residents in attendance from the surrounding community.

As of the date of this report, no comments have been received in favor or in opposition to this request.

### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	33.7 ft.
Min. Lot Width:	125 ft. (major street)	504 ft.
Min. Lot Size:	12,000 sq. ft.	1.73 acres

### **Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front (W. Oak Ridge Rd.):	55 ft. (major street)	55 ft. (South)
Rear:	15 ft.	242.2 ft. (North)
Side Street:	15 ft.	16 ft. (East – Tomoka Rd.) 78 ft. (West – Makoma Rd.)

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## **STAFF FINDINGS**

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### **SPECIAL EXCEPTION CRITERIA**

#### **Consistent with the Comprehensive Plan**

The provision of a gymnasium as conditioned through the Special Exception process is consistent with the Comprehensive Plan, since it is provided as a benefit to the educational facility.

#### **Similar and compatible with the surrounding area**

With the proposed modifications to the elevations and additional landscaping, as conditioned in this staff report, to lessen the impact of the size and scale of the building, the proposal will be compatible with other existing structures and uses on the private school campus and the surrounding area.

**Shall not act as a detrimental intrusion into a surrounding area**

With the proposed modifications to the elevations and additional landscaping, as conditioned in this staff report, the proposed gymnasium will not negatively impact the surrounding area. It will be located within an existing building complex, and the number of students will continue to be limited to 295.

**Meet the performance standards of the district**

The proposed improvements will meet the performance standards of the district.

**Similar in noise, vibration, dust, odor, glare, heat producing**

There are no proposed activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing the educational campus to the surrounding area in that no additional students are proposed and all of the activities will be indoors.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The north property line has an existing buffer and requires no additional landscaping. A 7 ft. wide landscape strip is proposed consistent with code along the adjacent rights-of-way which are W. Oak Ridge Road, Makoma Drive, and Tomoka Drive. Foundation landscaping is also required per code. A requirement for additional trees and shrubs have been added as conditions of approval to further screen the building.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received November 23, 2022 and the elevations received March 30, 2023, as modified by these conditions of approval, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. Metal eyebrow awnings shall be incorporated over all faux window systems.
  5. Spandrel glass shall be utilized within all of the faux window systems, and they shall be re-configured from the current horizontal proportions to vertical proportions and shall be logically spaced across each of the street facing facades. The window proportions should be the same across each of the facades.
  6. Projected surrounding trim shall be provided around each of the faux window systems and each door.
  7. Enhanced landscaping shall be provided along the entire length of the street frontages adjacent to the proposed building along W. Oak Ridge Rd., Tomoka Dr., Makoma Dr. within the 7 ft. required landscape strip. This enhanced landscaping shall consist of understory trees planted 15 ft. on center, supplemented with a continuous row of shrubs/ hedges planted 30 inches on center within the landscape strip.
  8. Enhanced foundation landscaping shall be provided along the south side of the proposed building. This enhanced landscaping shall consist of shade trees planted 25 ft. on center, supplemented with a continuous row of shrubs/ hedges planted 30 inches on center within the foundation landscaping.
- C: Samuel Cort Sr.  
487 E. Altamonte Drive  
Altamonte Springs, FL 32701
- C: South Orlando Christian Academy Inc.  
5815 Makoma Drive  
Orlando, FL 32839

COVER LETTER

Project Services Group, LLC  
478 E Altamonte Dr.  
Suite 108-709  
Altamonte Springs, Fl. 32701

11-7-2022

Dear Sir/Madame:

Re: Special Exceptions required for Permit B22902674

We are transmitting the following information regarding the construction of the proposed gymnasium for South Orlando Christian Academy:

- The main building of South Orlando Christian Academy is located at 5815 Makoma Dr. The building is used for offices, classrooms, bathrooms and has a kitchenette for catered meals.
- The hours of operation are from 6am to 4pm, Monday through Friday.
- There are twenty-eight staff members and no volunteers.
- The main purpose of the gymnasium is to provide physical education for the students.
- The school's outdoor formal events are held at the S.D.A. Church across the street at Oakridge. (We do have a joint parking agreement with the church.)
- Devotions are held in each classroom via the PA system.
- With respect to the use of the gymnasium, each physical education class is scheduled at various times. The area where the Gym will be located is the present location for all physical education activities. The proposed location for the gymnasium will be safe during inclement weather.
- Drawing #C04, Site Plan, indicates the location and uses of all buildings. They are as follows: One story building, F.F.E.=100.10 is used for offices, classrooms, bathrooms, and a kitchenette for catered meals.
- One story building F.F.E.=99.70, is used for cafeteria and classrooms,
- One story building F.F.E.=102.47 and F.F.E. 102.49 are both used as classrooms. This last building F.F.E =101.20, is the proposed gymnasium located at 5807 Makoma Dr. This address was assigned per the Zoning department which is responsible for all new addresses.

Contractor Name: Samuel F. Cort

Signature: [Handwritten Signature]

Notary Public, State of Florida, County of seminole

The foregoing instrument was acknowledged before me

on 11/8/2022 by Samuel Cort

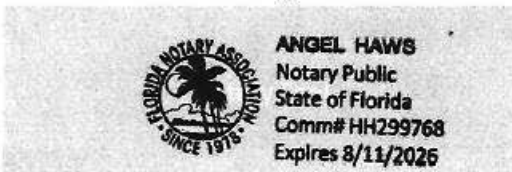
by means of  physical presence or  online notarization,

who is personally known to me or has produced Florida driver license

as identification.

Notary Name: Angel Haws

Notary Signature: [Handwritten Signature]



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**COVER LETTER**

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1. The use shall be consistent with the Comprehensive Policy Plan.

The use meets all special exceptions as outlined on submitted plans. le site plan showing the necessary landscaping and buffers.

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2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

In response to the plan examiners comments we have revised the drawings to meet all building codes and standards.

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3. The use shall not act as a detrimental intrusion into a surrounding area.

The Gymnasium will be consistent with the overall goals of the Academy and community. The gyms intended use is for physical education and it will enhance the growth of students and the community.

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4. The use shall meet the performance standards of the district in which the use is permitted.

The school has been in existence for 32 years and is a pillar of excellence in the community.

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5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

The Gymnasium's intended use is for physical education. Current outdoor activities would now be in doors, therefore minimizing noise.

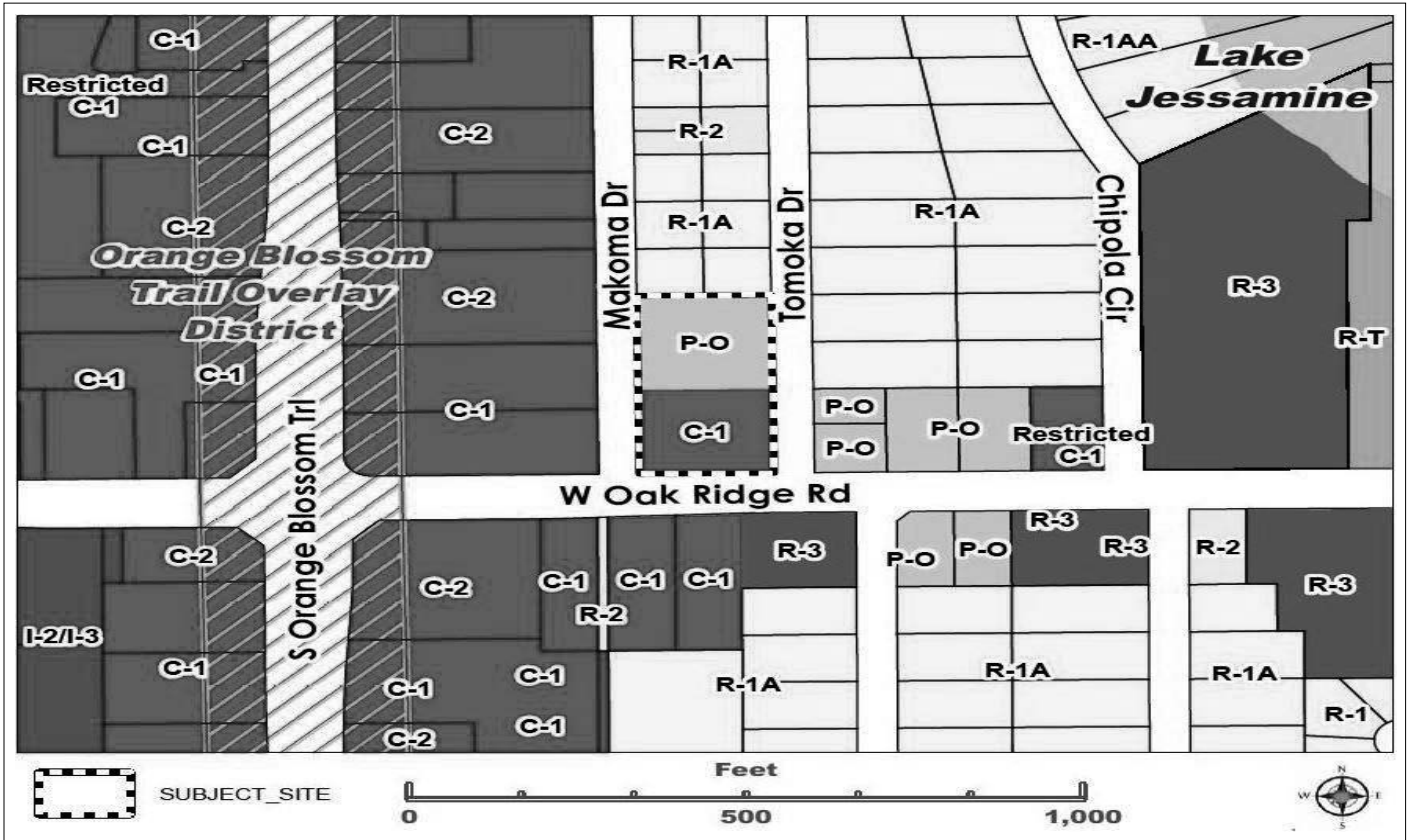
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6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In response to the landscape plans examiners comments we have revised the drawings to meet all landscape codes and requirements.

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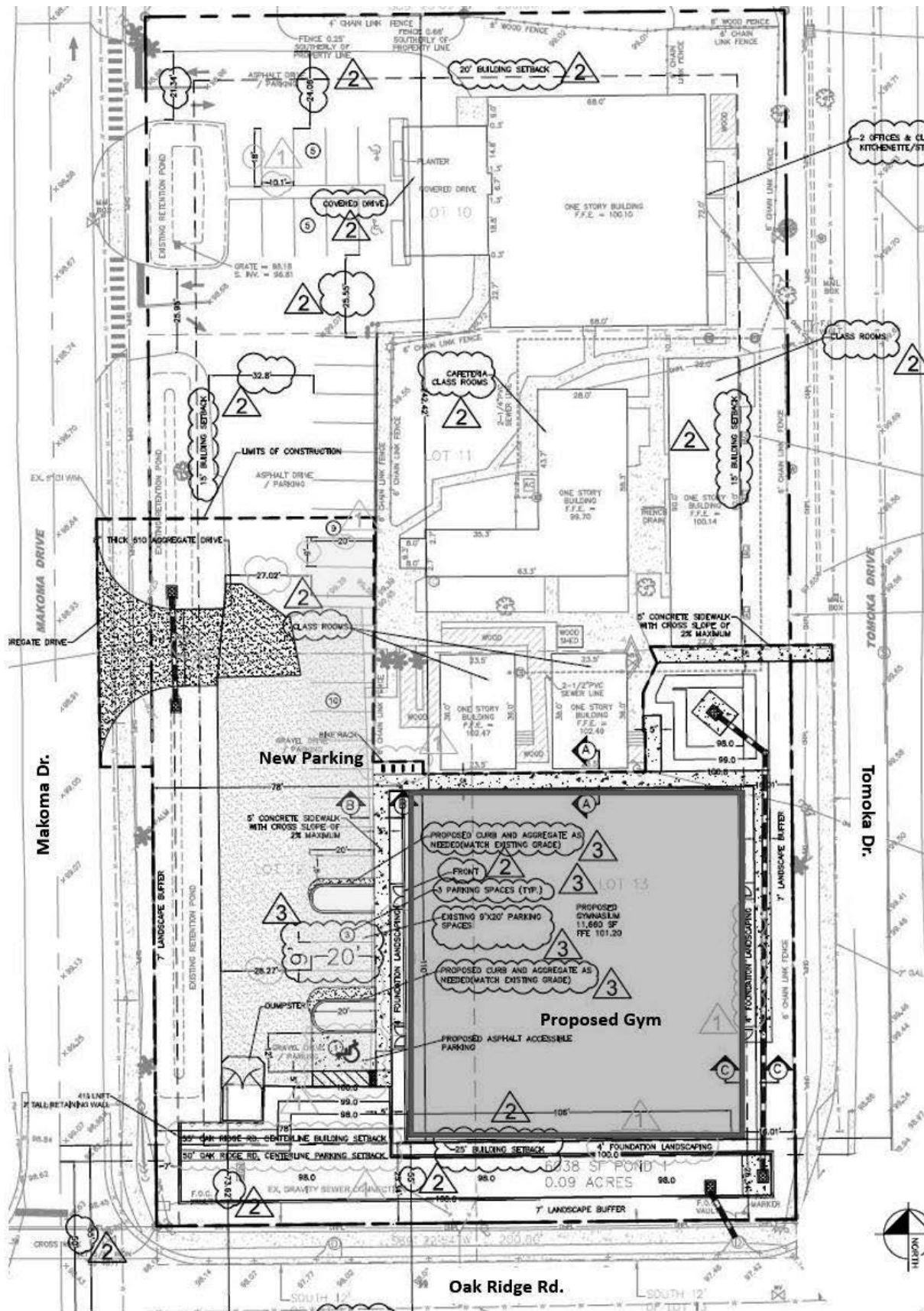
ZONING MAP



AERIAL MAP



# SITE PLAN AND TREE REMOVAL PLAN

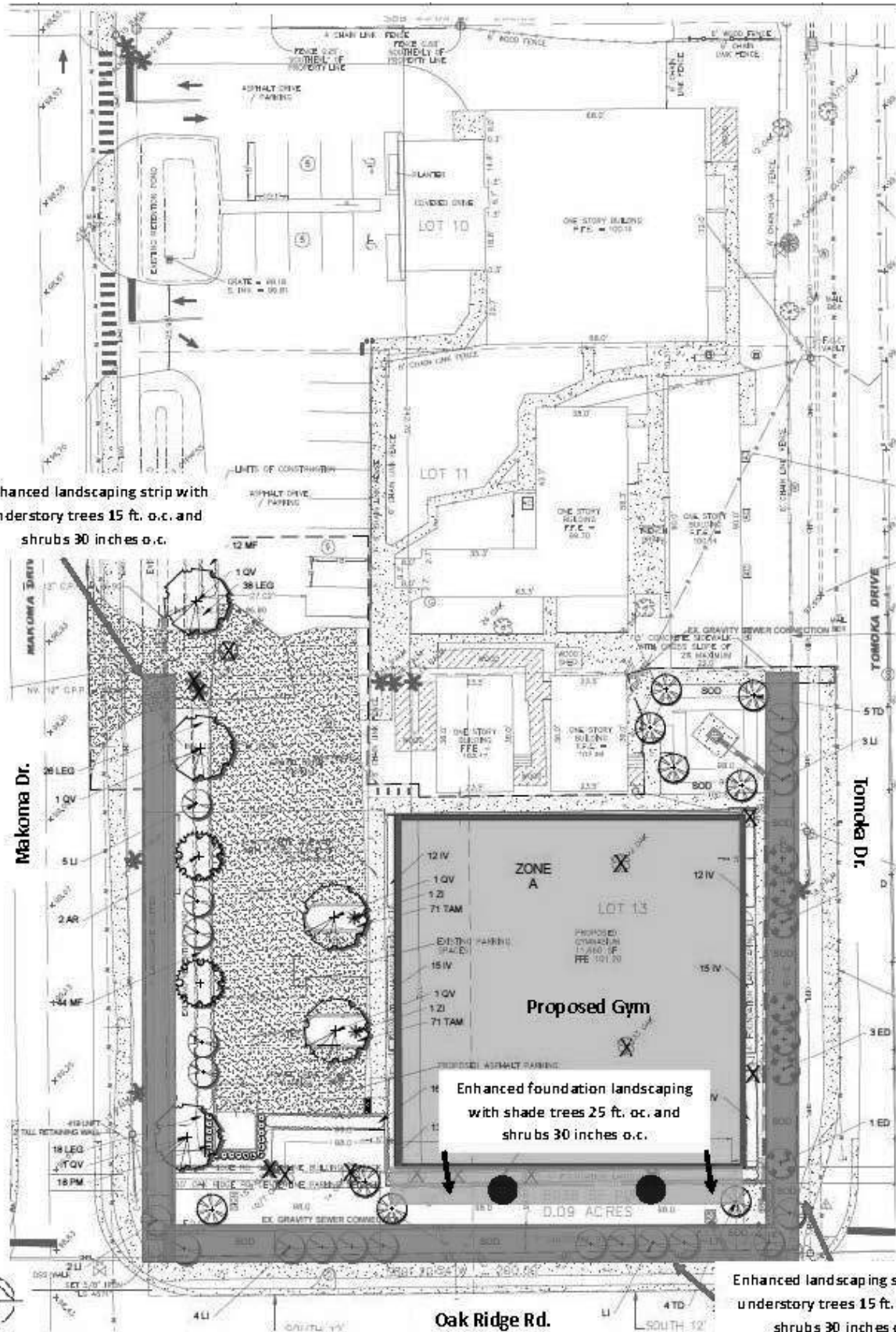


LANDSCAPE PLAN

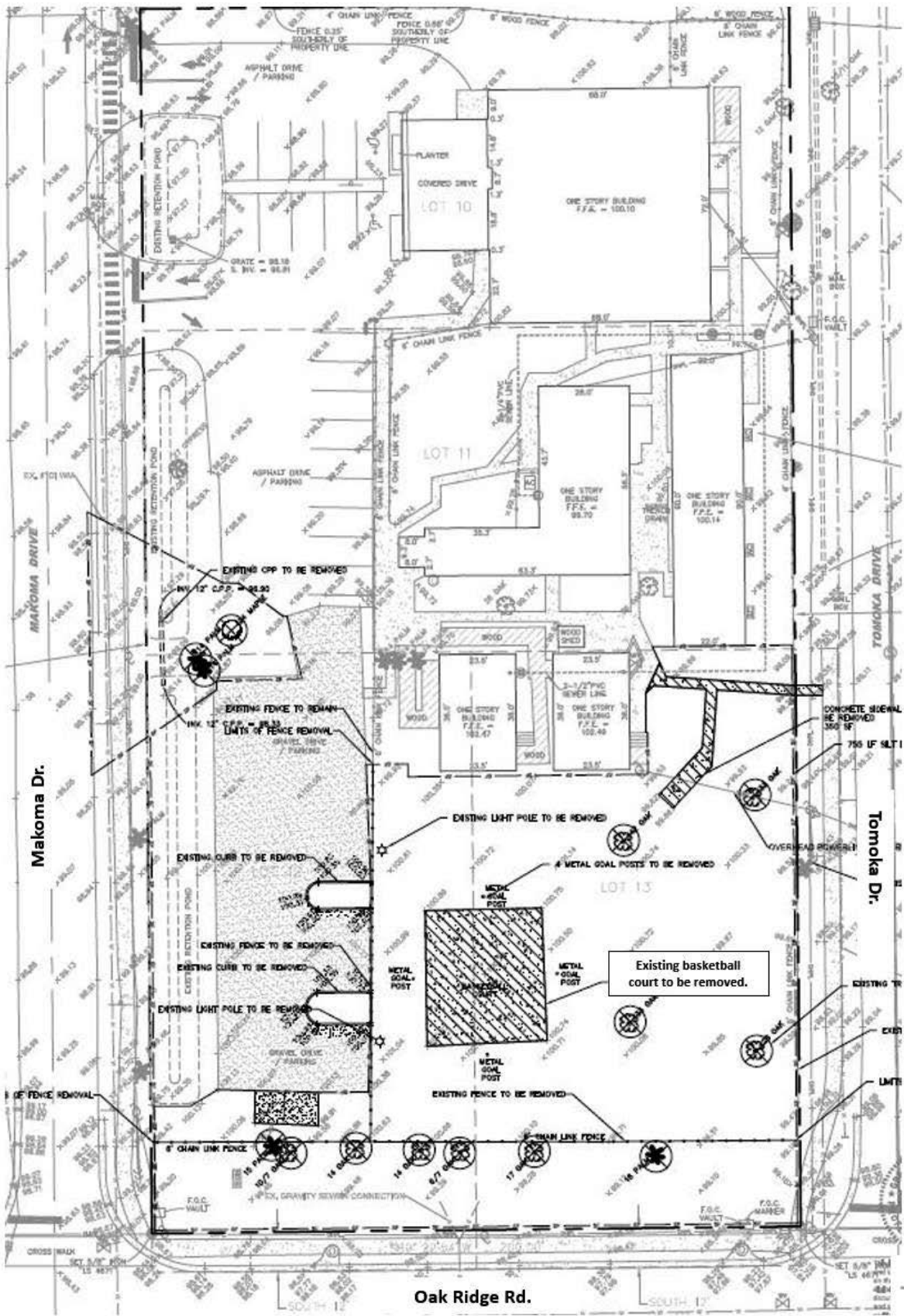
Enhanced landscaping strip with understory trees 15 ft. o.c. and shrubs 30 inches o.c.

Oak Ridge Rd.

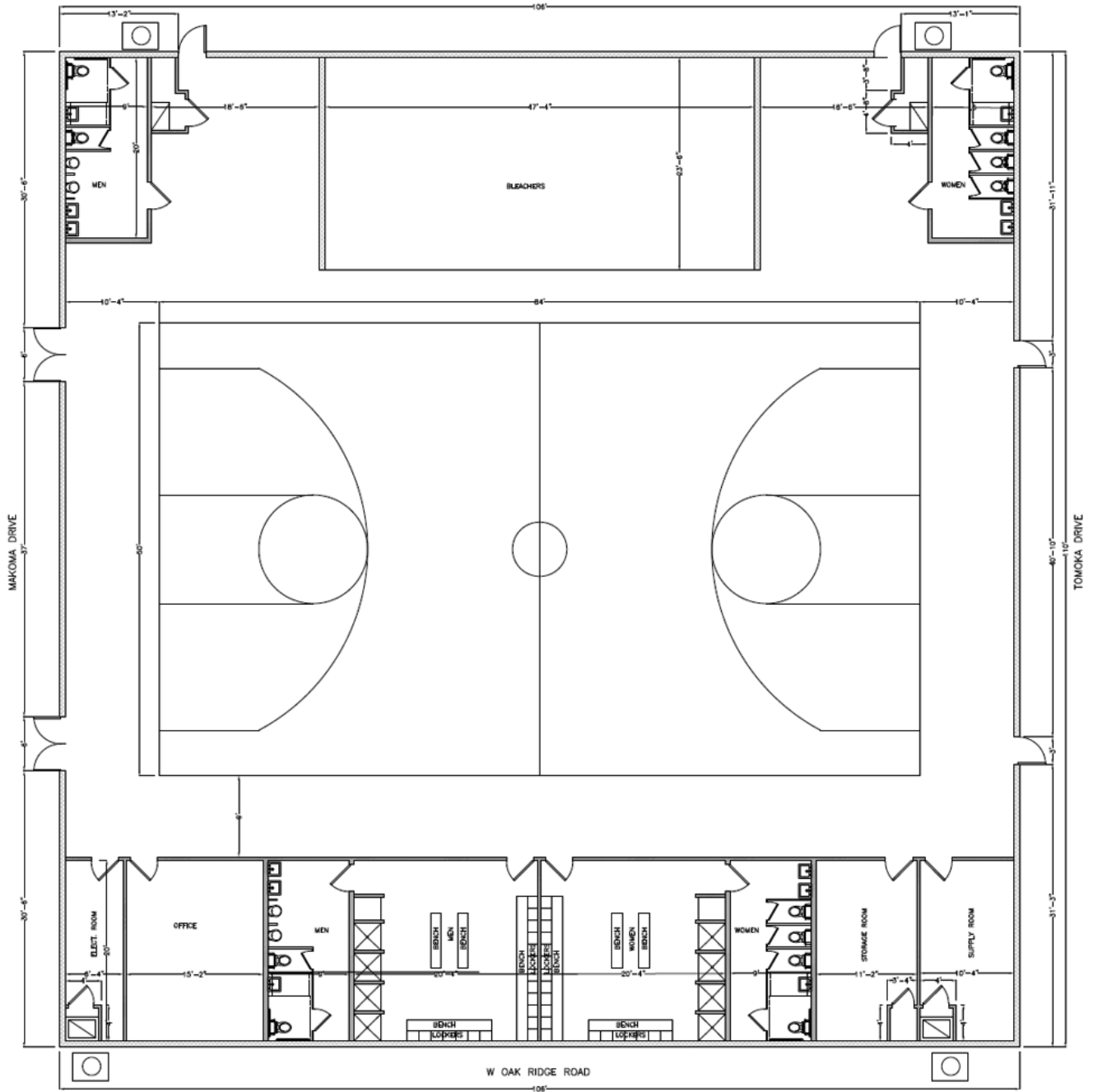
Enhanced landscaping strip with understory trees 15 ft. o.c. and shrubs 30 inches o.c.



EXISTING SURVEY AND DEMO PLAN

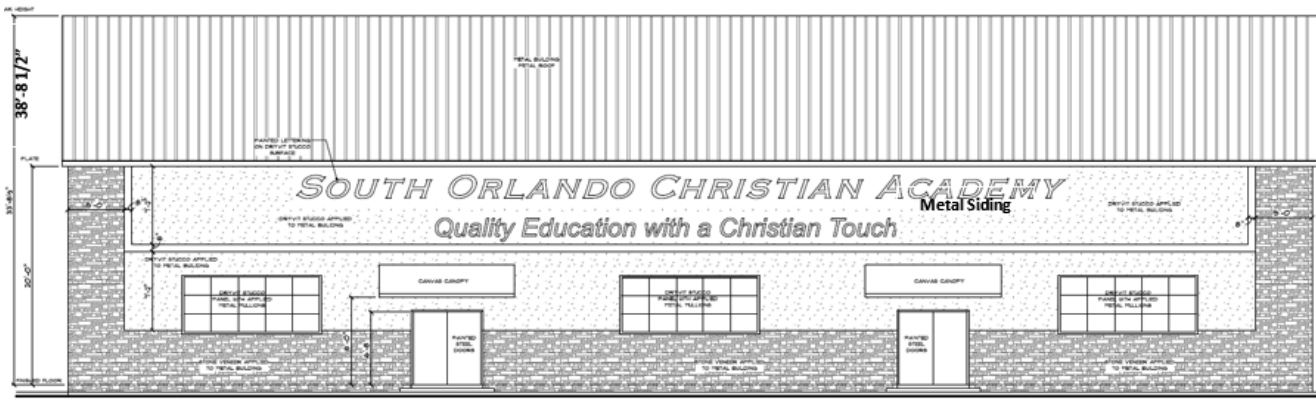


# FLOOR PLAN

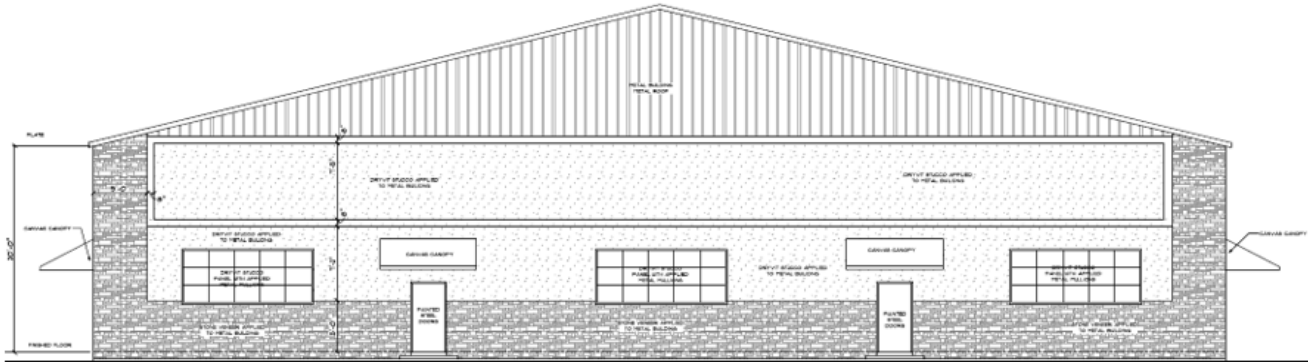




PROPOSED ELEVATIONS

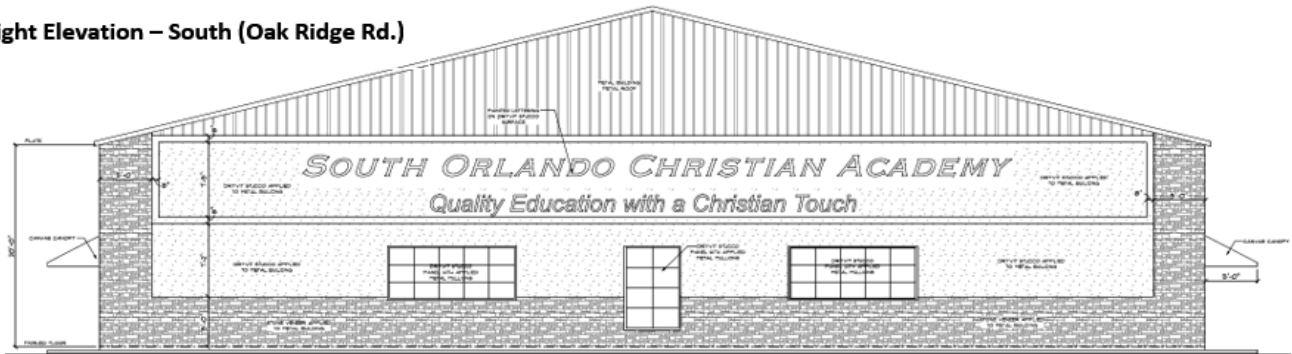


Front Elevation - West (Makoma Dr.)

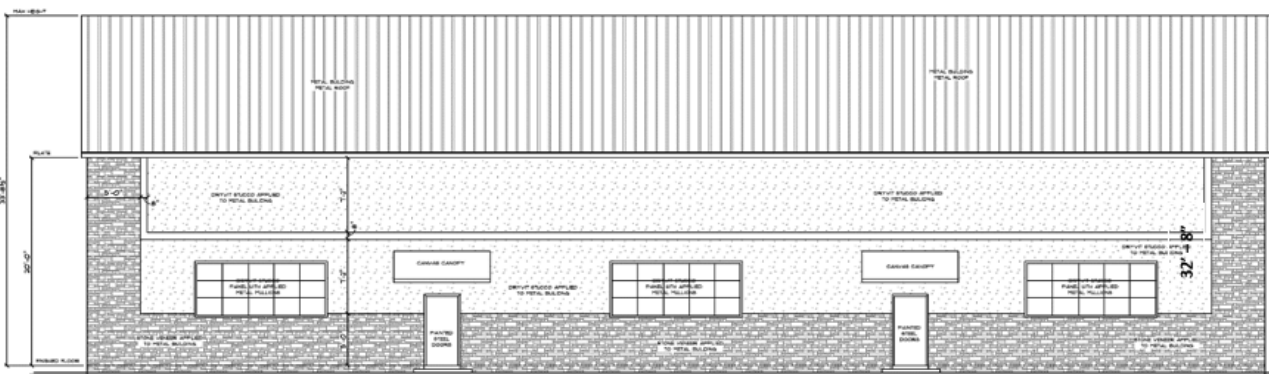


Rear Elevation - North

Right Elevation - South (Oak Ridge Rd.)



Left Elevation - East (Tomoka Dr.)

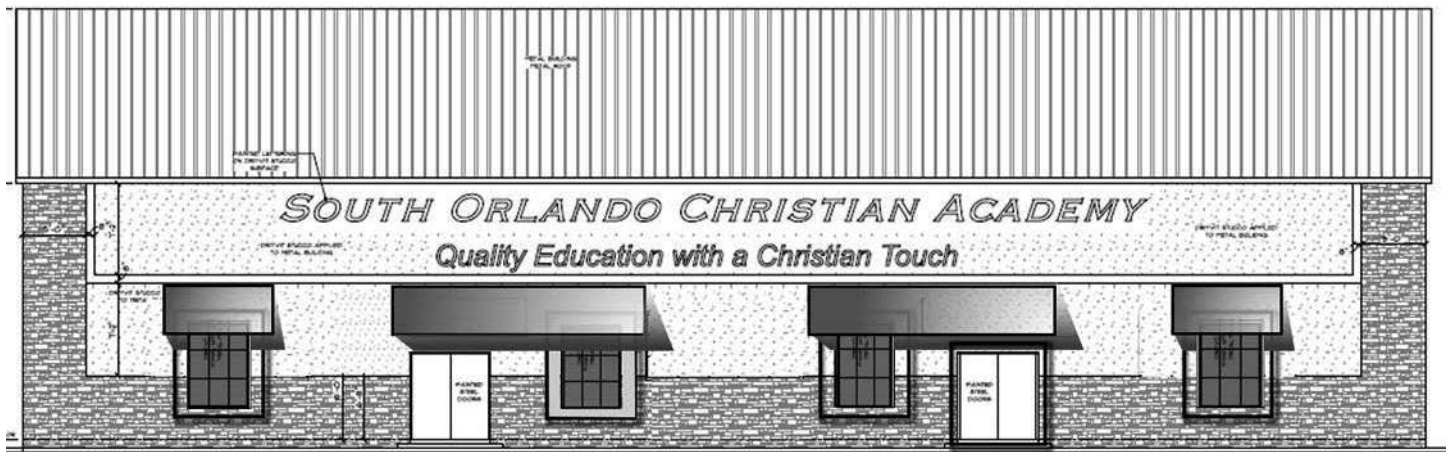


\*\*Signage shown on elevations has not been approved. Any signage is required to be permitted and meet the requirements of code.

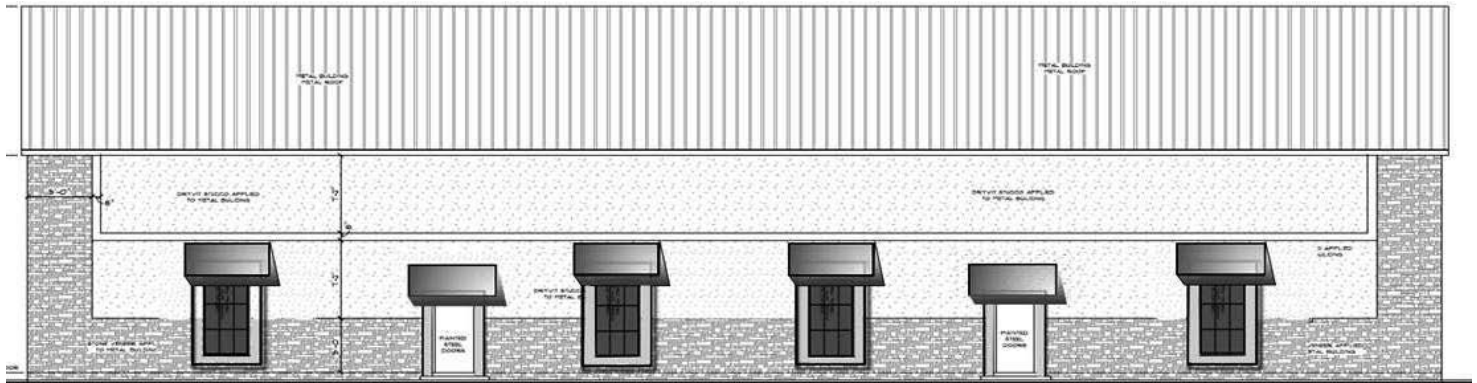
SKETCH DEPICTING CONDITIONS OF APPROVAL FOR REVISED ELEVATIONS



RIGHT ELEVATION: OAK RIDGE ROAD



FRONT ELEVATION: MAKOMA DRIVE



SIDE ELEVATION: TOMOKA DRIVE  
SCALE: 1/4" = 1'-0"

\*\*Signage shown on elevations has not been approved. Any signage is required to be permitted and meet the requirements of code.

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**SITE PHOTOS**

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**Facing northeast from corner of W. Oak Ridge Rd. and Makoma Dr. towards property**



**Facing north from corner of W. Oak Ridge Rd. and Tomoka Dr. towards side of property**

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**SITE PHOTOS**

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**Facing east from Makoma Dr. towards school buildings**



**Facing east from Makoma Dr. towards front of primary building**

**SITE PHOTOS**



**Parking area, facing south towards proposed parking spaces**



SITE PHOTOS



Rear playground area, facing southwest towards the proposed gymnasium



Rear playground area, facing northwest towards proposed tree removal and modular structures

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 04, 2023**

Commission District: **#5**

Case #: **SE-23-02-152**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

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## GENERAL INFORMATION

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**APPLICANT(s):** JUAN SANTA FOR COMMERCIAL KENNEL

**OWNER(s):** JUAN SANTA

**REQUEST:** Special Exception and Variance in the A-2 zoning district as follows:

1) Special Exception to allow a commercial kennel.

2) Variance to allow 9 parking spaces in lieu of 19 spaces.

**PROPERTY LOCATION:** 15077 Lake Pickett Road, Orlando, FL 32820, north side of Lake Pickett Rd., northwest of S. Tanner Rd., west of Chuluota Rd.

**PARCEL ID:** 07-22-32-0000-00-009

**LOT SIZE:** +/- 4 acres

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 23

**DECISION:** Recommended **DENIAL** of the Special Exception request in that the Board finds it does not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest; and, **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Deborah Moskowitz, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Joel Morales).

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, the landscape plan and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval for the Special Exception, and for a recommendation for approval of a lesser Variance. Staff noted that no comments were received in favor of the request, and 622 comments were received in opposition to the request.

The applicant discussed the request through an extensive Power Point presentation, describing the aspects of the operation and the reasons that the proposal is considered a commercial kennel and not a retail establishment. The applicant also noted the minimal parking demands for the use since the operation utilizes an appointment-based system.

There was no one in attendance to speak in favor of the request and there were 92 who spoke in opposition to the request, raising concerns that the facility is not equipped with enough employees to attend to the needs of the large number of proposed dogs and that the commercial kennel use is not compatible with the surrounding

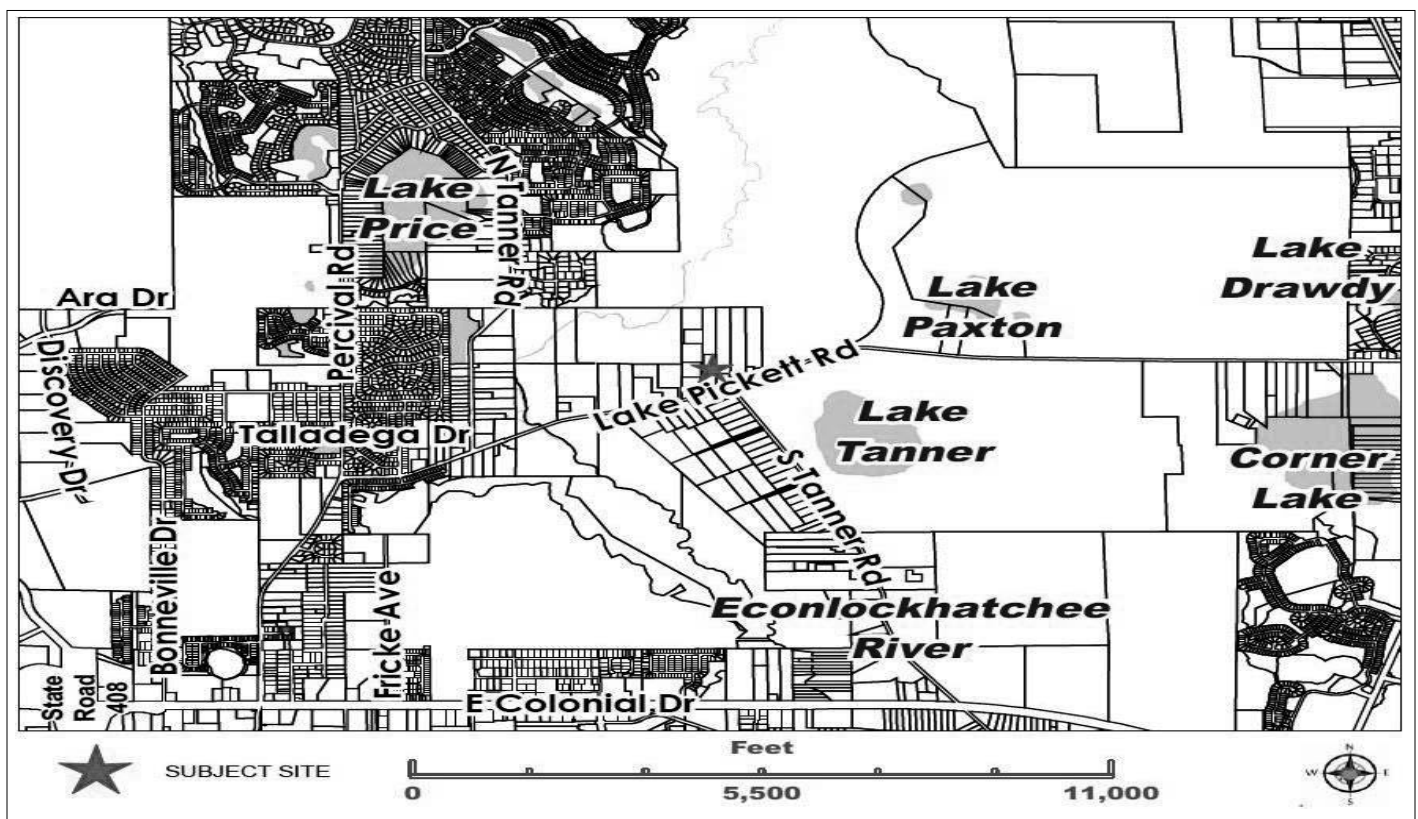
rural area, and discussed environmental concerns from the noise of the barking dogs and the volume of waste produced by the dogs.

The BZA discussed the negative impacts of the requests to the surrounding area, including environmental and noise concerns, discussed the retail of sale of dogs, determined that the requests are intrusive and detrimental to the surrounding area, and recommended denial of the Special Exception and the Variance by a 6-0 vote, with one absent.

### STAFF RECOMMENDATIONS

Approval of the Special Exception, subject to the conditions in this report, and recommendation of a lesser Variance of 12 parking spaces. However, if the BZA should find that the applicant has satisfied the criteria for the granting of the Special Exception and the Variance, staff recommends that the approval be subject to the conditions in this report.

### LOCATION MAP



### SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Single-family residential	Single-family residential	Single-family residential	Agricultural grazing, Single-family residential	Agricultural grazing, Single-family residential



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## BACKGROUND AND ANALYSIS

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### DESCRIPTION AND CONTEXT

The subject property is located in the A-2 Farmland Rural district, which allows agricultural uses, mobile homes, and single-family homes on larger lots. Certain uses, such as commercial kennels, are permitted through the Special Exception process. The future land use is Rural/Agricultural (R), which is consistent with the A-2 zoning district.

The area around the subject site consists of single-family homes and agricultural uses, such as grazing pastures. The subject property is a +/- 4 acre lot that was created by a lot split in October 2003 (LS #2003-180). It is developed with a 1-story 4,079 gross sq. ft. single-family residence constructed in 1968, a pool that appears via aerial imagery to have been installed 1987, and an 864 sq. ft. detached 2-car garage (B04004819) built in 2004. The site also contains existing unpermitted improvements such as a 448 sq. ft., 14 ft. high shed (Shed #1) that appears via aerial imagery in 1978, and a 98 sq. ft. shed (Shed #2) that appears via aerial imagery in 2000. The current owner purchased the property in October 2022.

Previous approvals include a Special Exception (Case #24) approved in January 2000 for a Family Lot Provision. A Family Lot Provision is the primary residence of an immediate family member of the fee simple parcel owner, which immediate family member must be living at the time of the building permit for such dwelling unit(s) is issued. Furthermore, the parcel is legally created according to zoning division records as of May 21, 1991, and the applicant was the official owner of record as of the date of the adoption of the County's comprehensive plan in July 1991. Currently, the provision is no longer in effect.

Proposed is the construction of a 4,800 sq. ft., 24.5 ft. high metal building which will be used for a commercial kennel located at the rear of the property. It will contain foam insulation for soundproofing, an adjacent 975 sq. ft. outdoor dog run and the use of Shed #1 to be used in conjunction with the operation. No changes to the existing single-family residence are proposed. The operation will be limited to a maximum of 100 dogs, with 4 employees at a maximum of 1 employee per shift. The kennel building will consist of a main kennel room with 44 dog runs and indoor playground, nursery room with 10 dog runs, puppy room with 5 dog runs, a grooming room, and a reception area and storage. The outdoor dog run will allow a maximum of 25 dogs at any given time. A maximum of 1 family will be allowed to visit the site at a time, by appointment only, and will rarely enter the proposed kennel. All proposed structures and existing buildings to remain will meet setback requirements for the A-2 district and the existing unpermitted Shed #2 will be removed prior to obtaining permits for site improvements.

Vehicular access to the site will be provided from Lake Pickett Rd. The proposed landscaping plan for the proposal includes the provision of 10 Live Oaks trees abutting the east and west property lines, shrubs surrounding the proposed kennel and outdoor run, and a 7 ft. wide landscape strip proposed to serve as a buffer between the parking spaces and adjacent property located to the east. All existing trees on the site will also remain to serve as landscape screening, which will meet Landscape Code requirements.

Per Section 38-1476 of the Orange County Code, the parking requirement for the development is 1 space for each 300 sq. ft. of office, animal shelter and run area. With 5,775 sq. ft. of kennel building area, 19 parking spaces are required. Proposed for the commercial kennel operations is the provision of 9 parking spaces in a parking area adjacent to the existing single-family residence, in lieu of the 19 required parking spaces, requiring a Variance. Although the cover letter indicates a requested provision of 8 parking spaces, the applicant has since updated the request to provide 9 parking spaces. Staff recommends, the approval of a

lesser Variance of 12 parking spaces in lieu of 19 spaces since the Orange County Transportation Division has reviewed the request and noted that 12 parking spaces would be sufficient to meet parking demand for the use with the provision of a parking ratio of 1 space for each 400 sq. ft. of total building area for this type of facility.

The Orange County Comprehensive Planning Division has no concerns regarding the request and stated that the FLU Policy 6.1.1, the Future Land Use correlation for the Rural Service Area (RSA) considers the A-2 zoning classification consistent with the Rural / Agricultural (R) Future Land Use designation.

The Orange County Environmental Protection has reviewed the request and stated that the sound proofing measures implemented as described in the cover letter and the restrictions pertaining to the outdoor dog run appears sufficient to comply with the Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182, which pertains to maximum permissible sound levels.

The proposed hours of operation are Monday through Saturday between 10:00 a.m. and 6:00 p.m. for general use and between 7:00 a.m. to 6:00 p.m., daily, for employee shifts. Further, dogs are required to be kept indoors between 9:00 p.m. and 8:00 a.m., daily.

As of the date of this report, one comment has been received in favor of this request and 4 comments have been received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	24.5 ft. (kennel) 14 ft. (Shed #1)
Min. Lot Width:	100 ft.	214 ft.
Min. Lot Size:	1/2 acre	4 acres

**Building Setbacks**

	Code Requirement	Proposed
Front:	35 ft.	344 ft. (South – kennel)
Rear:	50 ft.	450.5 ft. (North – kennel) 672.8 ft. (North – Shed #1)
Side:	10 ft.	75.1 ft. (East – kennel) 131.4 ft. (East – Shed #1) 73.7 ft. (West – kennel) 33.6 ft. (West – Shed #1)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The provision of a commercial kennel as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

The commercial kennel use is compatible with adjacent properties in the area, which include agriculture grazing pastures, since the operations are located over 300 ft. from the nearest residence. Further, the restriction of a maximum of 25 dogs outside will minimize the noise impacts.

**Shall not act as a detrimental intrusion into a surrounding area**

The commercial kennel use as proposed will not act as a detrimental intrusion into the surrounding area, and will not negatively impact the surrounding area since the operation of the facility is predominantly located in the rear of the existing home and abutting the vacant portion of the adjacent properties to the north, east, and west. Further, there is a substantial distance from the kennel to the closest residence and the restriction of a maximum of 25 dogs outside will minimize the noise impacts.

**Meet the performance standards of the district**

The proposal for the commercial kennel, with the approval of a lesser Variance, will meet the performance standards of the district.

**Similar in noise, vibration, dust, odor, glare, heat producing**

There are no proposed activities on the property that would generate vibration, dust, odor, glare, or heat that is not similar to the other uses allowed within the Zoning district. Furthermore, the noise and sound will be minimized by the proposed sound proofing measures for the indoor operations and by the limitation of the number of dogs outside within the dog run area at any given time.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The proposed landscaping and the trees to be preserved is in compliance with Section 24-5 of Orange County Code.

**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special condition and circumstance is the proposed operations where clients can only come by appointment. A lesser Variance of 12 parking spaces as recommended by County Transportation Planning to meet actual parking demand would minimize impacts.

**Not Self-Created**

The request as modified to a lesser Variance of 12 parking spaces is not self-created as it is a viable alternative to meet actual parking demand.

**No Special Privilege Conferred**

Granting of the lesser Variance of 12 parking spaces would not confer special privilege since it would minimize the impact to the surrounding area, while meeting the parking demand recommended by County Transportation Planning.

**Deprivation of Rights**

Without the lesser Variance of 12 parking spaces, the applicant would be providing an unnecessary number of spaces.

**Minimum Possible Variance**

The lesser Variance as modified to 12 parking spaces is the minimum possible due to it meeting the actual parking demand, which was concluded by the County Transportation Planning.

**Purpose and Intent**

Approval of the lesser Variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area since the number of parking spaces as modified to a lesser Variance of 12 parking spaces will meet the parking demand for the specific use.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received February 28, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the kennel shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. A permit for Shed #1 and Shed #2 shall be obtained prior to the issuance of the permit for the kennel or the sheds shall be removed.
6. Hours of operation for the commercial kennel shall be Monday through Saturday between 10:00 a.m. to 6:00 p.m. and between 7:00 a.m. to 6:00 p.m., daily, for employees.
7. All dogs shall be kept indoors between the hours of 9:00 p.m. and 8:00 a.m., daily, and a maximum of 25 dogs may be kept in the outdoor run at any given time.
8. The noise and sound emanating from the kennel shall be subject to the requirements of Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182.
9. The number of dogs for the commercial kennel shall not exceed 100.
10. The exterior walls of the kennel building shall have steel thermal insulated panels on all sides except at the front entrance.

C: Juan Santa  
1940 Conway Gardens Rd.  
Orlando, FL 32896

### Cover Letter

**Application for special exception:** Commercial kennel in a A2 zone.

**SIC Group:** Agricultural production (livestock)

**Address:** 15077 Lake Pickett Rd. Orlando, FL 32820

**Property Owner:** Juan David Valencia

**Project Owner:** Juan David Valencia

### Description of the project:

**Current Use:** Empty land, pasture

**Proposed Use:** Commercial dog kennel

**Purpose of the request:**

**size:** 4800 SQFT

**height:** 24'6"

**Number of buildings:** 1

**number of clients:** 1 family (3 people on average) at the time

**Animals:** Small breed Dogs, **maximum capacity** 100 dogs

**Employees:** 3-4 employees in different shifts, 1 employee per shift

**Parking Spaces:** 1 Handicapped 1 regular parking spots

**Days open to the public:** 6 days a week, Sundays off

**Hours of operation:** 10am to 6pm By appointment only

**Provided services:** Dog Breeding

**Proposed outdoor activities:** There will be an outdoor run for the dogs to play outside for limited time during the day

### **Narrative:**

#### **The project:**

To establish a state-of-the-art commercial kennel in a 4+ acres single dwelling property in an Agricultural zoned lot surrounded by large pastures, farms, apart country homes and livestock. The property has a bungalow with a pool (60'x60 area including the pool, 2854 sqft. of livable space, 14' height), detached garage (36'x24', 864 sqft., 14' height) and a shed (32'x14', 448 sqft., 14' height); these structures are sitting on at a quarter of the lot size in the south end.

The proposed building will be at the north end of the lot. The space for this structure is currently vacant land covered with grass. The proposed kennel building is 4800 square feet indoor area complemented by a 975 square feet outdoor playground. Inside, the main kennel room is 3120 square feet with 44 dog runs (8' x 3') and 1250 square feet indoor playground. Additionally, there will be a nursery room with 10 dog runs (8' x 3'), a puppy room with 5 runs (8' x 3') and a grooming room. There is also a reception area and a storage room.

The building will be made of steel, insulated, soundproof and climate controlled for hot and cold seasons. The outdoor run will have a soundproof fence along with natural sound barriers.

#### **Our Kennel:**

We started breeding dogs in 2006, and built a clientele based on our reputation and word of mouth. Many of our dogs participate in dog shows. We specialize in the following small size, hypoallergenic non shedding family friendly breeds: Yorkshire Terriers (4-7 pounds fully grown), Toy Poodle (6-8 lbs fully grown), Maltese (5-7 lbs fully grown), Shih Tzu (8-12 lbs fully grown), Pomeranian (4-6 lbs fully grown), Miniature Dachshund Long haired and short haired (7-10 lbs fully grown), Cocker Spaniel (15-20 lbs fully grown). We also have 6 golden retrievers. There are on average 6-8 females and 1 male for each breed except for the Maltese that we have 14 females and the yorkies with 12 females.

On average we keep about 80 dogs at any given time, but we are building our facility to host up to 100 dogs at any given time. All our dogs have grown together so they are all used to each other and behave like a real pack; As a matter of fact, our run divisions are made of bars just to make sure the dogs remain in a confined area when they are not under supervision but can still see all each other; except for the runs in the nursing room which require solid walls for obvious reasons. Opposite to traditional dog runs with solid walls. This makes the kennel environment less stressful for our dogs.

**Our Operation:**

Within our operation, we rarely allow people into our kennel, but our customers are welcome to visit us by appointment only. Usually, our customers learn about us from word of mouth, dog shows or social media, they are placed on a waiting list, and we contact them once a puppy with their desired characteristics becomes available. We do not allow walk-in visits and our hours of operations for customers are limited and subject to our availability; we only allow one family at a specific time slot. Most of the time, we are playing, training, bathing, grooming, and raising our dogs. We do not allow third party's dogs to come into our kennel.

To run our business, we will hire 4 employees. We will make sure there is always a kennel technician at the kennel from 7 am to 6 pm, 7 days a week. There will also be a full-time dog groomer and a dog handler on site. The dogs spend the night inside the run, 2 dogs per run for small breeds and 1 dog per run in the case of the golden retriever; they spend most of the day in the indoor playgrounds and at least 30 minutes in the outdoor playground; always under the supervision of the kennel technician. At nighttime, they go back to a run.

**We care about our Neighborhood:**

To mitigate any noise hazard that we could cause in our neighborhood, the building will be totally soundproofed with spray foam insulation. On average, a dog's bark reaches between 80-90 decibels and a kennel could reach up to 120 decibels. By using spray foam insulation and installing sound absorbing panels inside the building, we will be able to cut the decibels by more than a half. Besides that, the building setbacks are at least 73 feet on the north, west and east property lines. This means that the noise impact measured at the edge of the property will be no more than 20 decibels which is considered quiet; this information is calculated using a distance attenuation calculator



at the following website: <https://www.omnicalculator.com/physics/distance-attenuation>.

The impact from the noise in the outdoor run will be mitigated by the installation of soundproof fence and natural barrier made of plants with broadleaf evergreen hedges and allowing a limited number of dogs to be in the outside run at the same time. Also, the closest dwelling is at least 250 feet from the proposed building location.

In terms of odors, the impact will be reduced by using a septic tank that will be built exclusively for the kennel. The building will also have a dedicated air circulation system along with the cooling and heating systems.

**Lastly:**

The agricultural surroundings of the lot is ideal for a kennel and the proposed building location relative to the neighboring dwellings guarantee there will not be any detrimental impact to the community.

## Cover Letter

### **Application for Parking Variance for proposed Commercial Kennel.**

**SIC Group:** Agricultural production (livestock)

**Address:** 15077 Lake Pickett Rd. Orlando, Fl 32820

**Parcel Id:** 322207000000009

**Property Owner:** Juan David Valencia

**Project Owner:** Juan David Valencia

The proposed use of the Property is a commercial kennel facility (the "Project"). The Project proposes a 4800 square foot building and a 975 square foot outdoor play area. Literal interpretation of article XI. Section 38-1476 – Quantity of off-street parking suggests 19 parking spaces would be required for this commercial kennel.

This request is for a variance to allow eight (8) parking spaces in lieu of the required nineteen (19) parking spaces. The specific use proposed by the Project requires substantially less parking than required under Code given that the Project will be appointment based only and the principal use of the property will continue to be Agricultural residential.

Section 30-43(3) of Orange County Code details the specific criteria that must be met for all variance requests. In this case, all the criteria have been met, as discussed below.

#### **1) Special Conditions and circumstances.**

The Property is an Agricultural Residential zoned lot and to build a commercial kennel on it as an allowed use, article XI. Section 38-1476 – Quantity of off-street parking must be enforced. Based on the Code, kennels and veterinary clinics should have 1 space for each 300 feet of office, animal shelter and run area. The proposed building will have an area of 5775 SF. all in, which would require 19 parking spaces; this request is for a variance to allow 8 parking spaces in lieu of the 19. The nature of the kennel business, which would be appointment-only based with limited service offered does not require as many parking spaces. Additionally, the property's primary use will continue to be agricultural residential. A substantial number of parking spaces would be unnecessary.

**2) Not Self-Created.**

The principal use of the Property is agricultural residential and the applicability of article XI. Section 38-1476 is part of the classification of the proposed kennel as a commercial activity.

**3) No Special Privilege Conferred.**

Approval of the requested variance will not confer on the Owner any special privilege. Several studies conducted for similar projects concluded that a large number of spaces is not required for pet grooming/boarding/daycare facilities, with many recommendations for 1.3 spaces per 1000 SF at comparable commercial facilities, in line with the parking ratio proposed by the requested variance of 1.38 spaces per 1000 SF.

**4) Deprivation of Rights.**

Denial of the requested variance would deprive the Owner of rights commonly enjoyed by other property owners near the Property and would work unnecessary and undue hardship on the Owner. The cost of building an unnecessary number of parking spaces will result on an enormous impact on the environment, large waste of money for the Owner as well as a deprivation of value of the property. The landscaping of the Owner's residence would turn from a nice native green woody front yard into huge concrete slab.

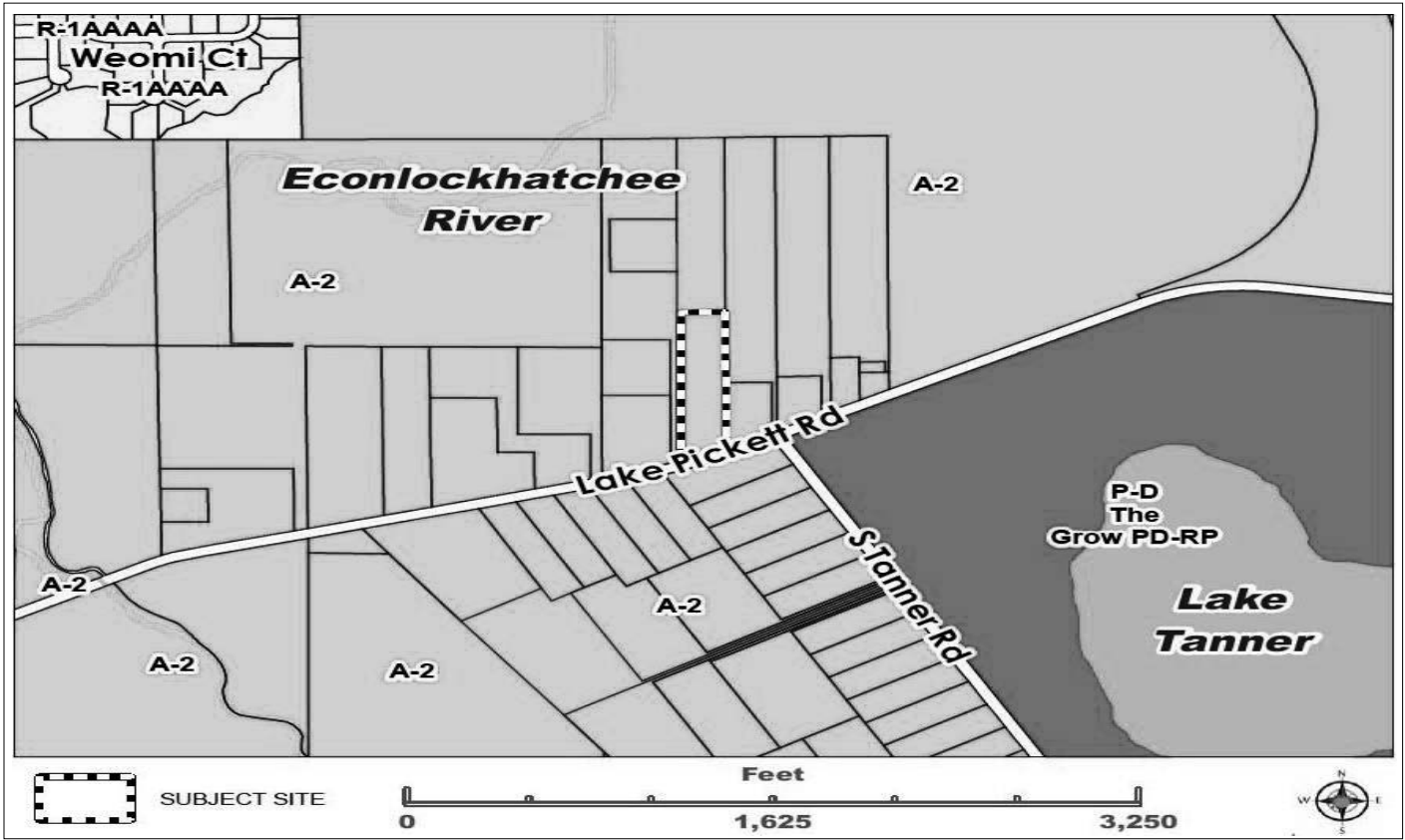
**5) Minimum Possible Variance.**

The proposed variance is the minimum variance that will allow the Property to be developed. The area of the Property on which the parking spaces may be developed will have the least impact on the environment. No native tree will be replaced by concrete.

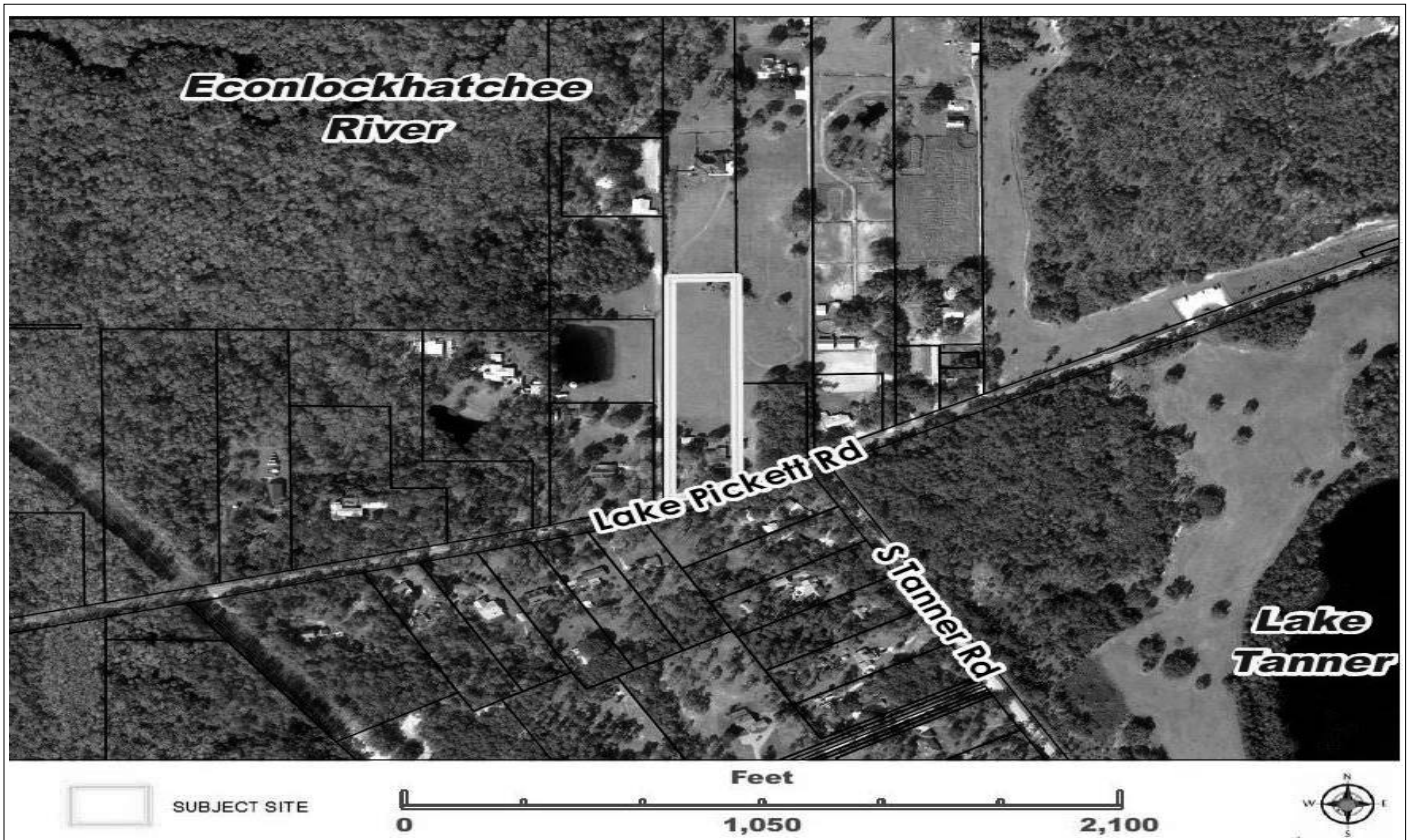
**6) Purpose and Intent.**

The approval of the requested variance will be in harmony with the purpose and intent of the Orange County Code. Applying Article XI. Section 34-1476 in an agricultural zoned property would result in the unnecessary removal of trees. As outline in Chapter 15, Article III of Code, "the general removal of trees should be appropriately controlled and where possible, existing trees should be preserved on-site as property is developed." Approval of the requested variance will allow the applicant to preserve existing trees where possible. Accordingly, the requested variance will be in harmony with the purpose and intent of the Code.

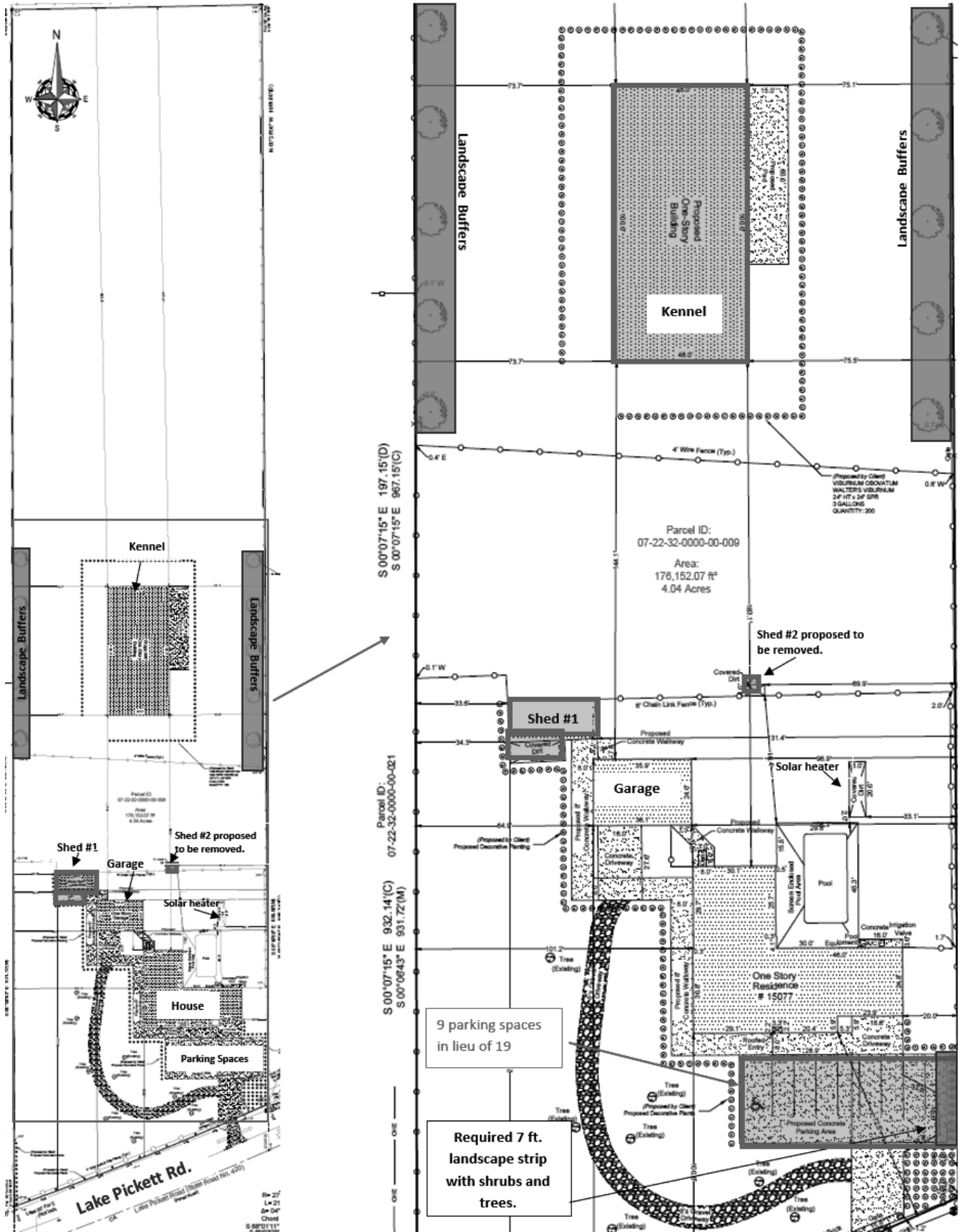
ZONING MAP



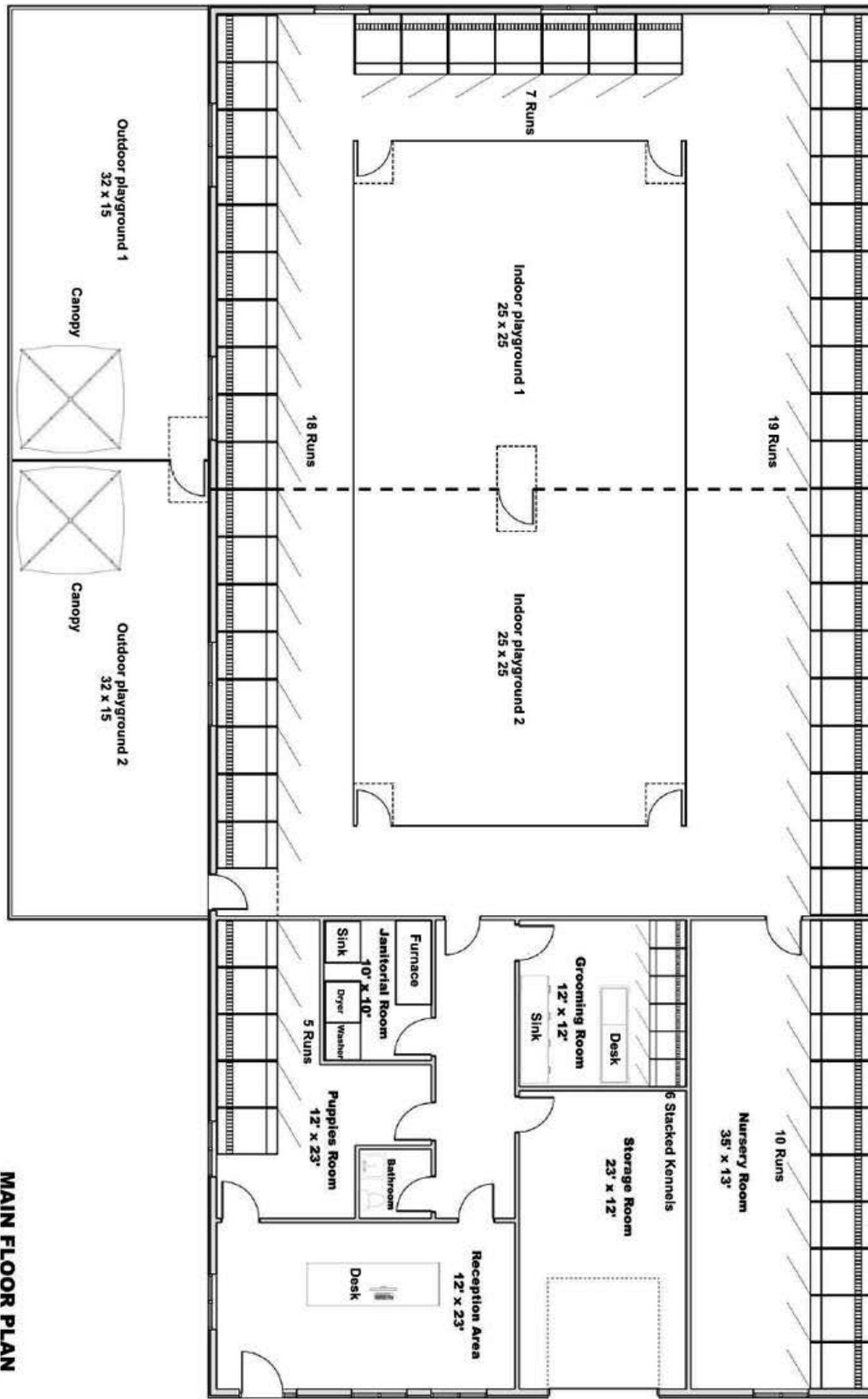
AERIAL MAP



# SITE PLAN



# FLOOR PLAN

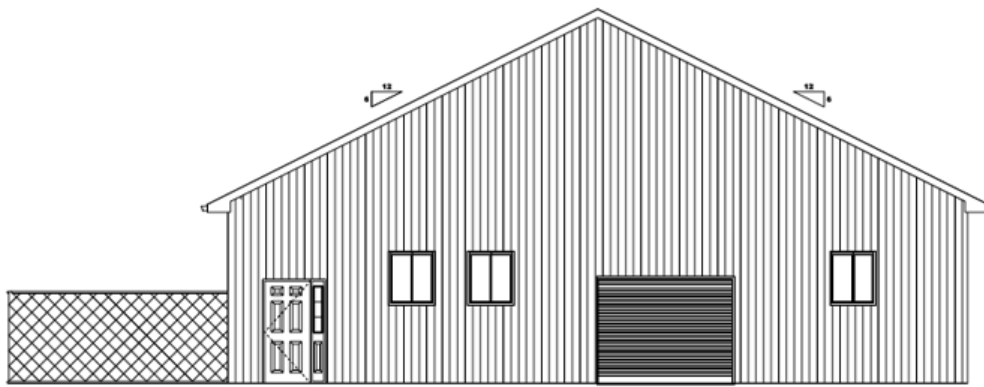


The outdoor dog run is proposed to be relocated on the East side of the building as reflected in the Site Plan.

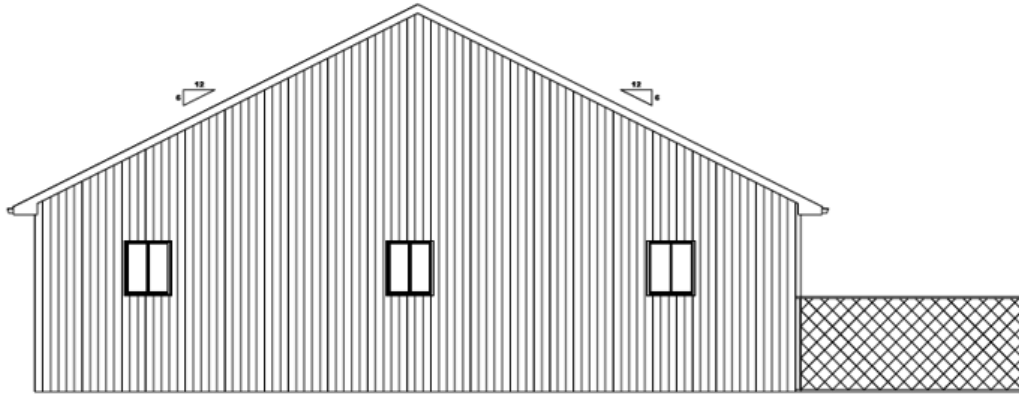
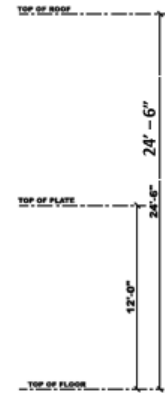


**MAIN FLOOR PLAN**

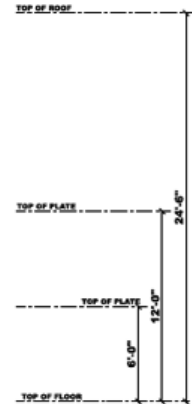
# ELEVATIONS



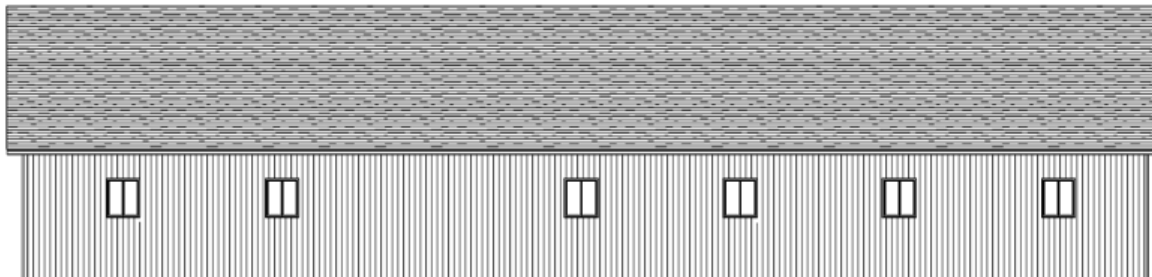
Front Elevation – South



Rear Elevation – North

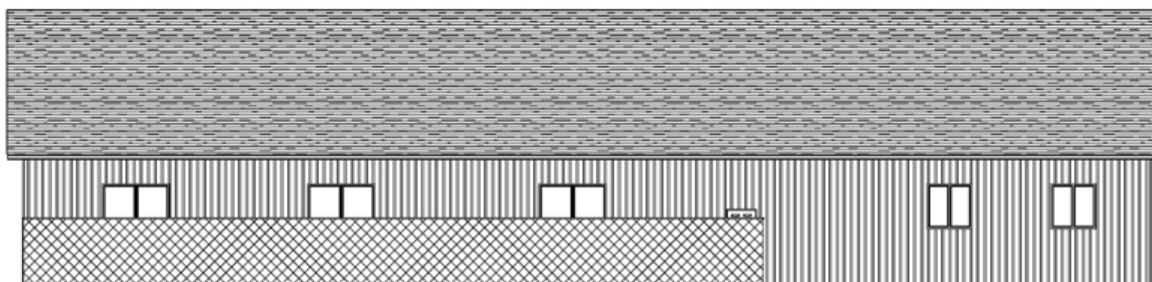


Right Elevation – East



The outdoor dog run is proposed to be relocated on the East side of the building as reflected in the Site Plan.

Left Elevation – West



**SITE PHOTOS**



**Facing north from Lake Pickett Rd. towards front of subject property and proposed parking area**



**Front yard, facing northeast towards proposed parking location**



**SITE PHOTOS**



**Side yard, facing north towards existing Shed #1**



**Rear yard, facing south towards proposed kennel location**

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**SITE PHOTOS**

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**Rear yard, facing south towards proposed landscape buffer locations**



**BOARD OF ZONING ADJUSTMENT**  
**201 S. Rosalind Ave**  
**Orlando, FL 32801**