

Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

July 2, 2020

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Carolyn Karraker (Chairperson)	1
John Drago	2
Juan Velez	3
Deborah Moskowitz (Vice Chair)	4
Wes A. Hodge	5
Charles J. Hawkins, II	6
Roberta Walton	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
David Nearing, AICP	Planner II

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
JULY 2, 2020**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
SE-20-03-013	Orlando Torah Center	1	Requests #1 and #2, Approved w/Conditions Request #3, Withdrawn	1
VA-20-07-054	Bryan Dorion	5	Approved w/Conditions	23
SE-20-07-068	Technical Health Academy (Luis Torres)	3	Approved w/Conditions	37
SE-20-08-070	Jonathan P. Huels	3	Approved w/Conditions	49

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) Mobile Home - 2 acres	850	100	35	50	10	35	<i>a</i>
A-2	SFR - 21,780 (½ acre) Mobile Home - 2 acres	850	100	35	50	10	35	<i>a</i>
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 Two dwelling units (DUs), 8,000/9,000 Three DUs, 11,250 Four or more DUs, 15,000	1,000 500/1,000 per DU 500 per DU 500 per DU	45 <i>c</i> 80/90 <i>d</i> 85 <i>j</i> 85 <i>j</i>	20 <i>h</i> 20 <i>h</i> 20 <i>h</i> 20 <i>h</i>	20 <i>h</i> 30 30 30	5 <i>h</i> 5 <i>h</i> 10 10 <i>b</i>	35 35 35 35	<i>a</i> <i>a</i> <i>a</i> <i>a</i>
R-3	One-family dwelling, 4,500 Two DUs, 8,000/ 9,000 Three dwelling units, 11,250 Four or more DUs, 15,000	1,000 500/1,000 per DU 500 per DU 500 per DU	45 <i>c</i> 80/90 <i>d</i> 85 <i>j</i> 85 <i>j</i>	20 <i>h</i> 20 <i>h</i> 20 <i>h</i> 20 <i>h</i>	20 <i>h</i> 20 <i>h</i> 30 30	5 5 <i>h</i> 10 10 <i>b</i>	35 35 35 35	<i>a</i> <i>a</i> <i>a</i> <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.)^m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)^a</i>	<i>Min. rear yard (ft.)^a</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>

7District	Min. lot area (sq. ft.) ^m	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) ^a	Min. rear yard (ft.) ^a	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 ^f	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	^a
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets ^g	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	^a

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

^a	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.
^b	Side setback is 30 feet where adjacent to single-family district.
^c	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.
^d	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"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (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.
^e	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
^f	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
^g	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
^h	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.
^j	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.
^k	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%.
^m	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: **JUL 02, 2020**

Case Planner: **Brandy Driggers**

Case #: **SE-20-03-013**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT: DEREK BRUCE

OWNER: ORLANDO TORAH CENTER, INC.

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

- 1) Special Exception to allow a 2,676 gross sq. ft. religious institution.
- 2) Variance to allow grass parking in lieu of improved parking.
- 3) Variance to allow pervious geomat drive aisles in lieu of improved drive aisles.

Note: This is the result of Code Enforcement action.

PROPERTY LOCATION: 8613 Banyan Blvd., Orlando, Florida, 32819, north side of Banyan Blvd., east of S. Apopka Vineland Blvd., south of Edge O Woods Ct., and west of Marlberry Dr.

PARCEL ID: 22-23-28-7820-05-970

LOT SIZE: 0.75 acres

NOTICE AREA: 500

NUMBER OF NOTICES: 109

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met 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, recommended **APPROVAL** of Variance request #2, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended; and, Variance request #3, was **WITHDRAWN** (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated May 13, 2020, 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 applicant shall submit construction plans through the commercial site plan review process within 180 days of final approval by Orange County, and complete the required improvements pursuant to the approved construction plans within one year after the Board of County Commissioners' approval of the special exception and variance, or else this approval shall become null and void, unless extended by the Board of County Commissioners for a limited duration for good cause shown.
5. Hours of operation shall be as follows: 1) Mondays through Fridays: 6:00 a.m. to 9:00 p.m.; 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.
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. On-street parking associated with special events 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. Noise shall be regulated by Chapter 15, Orange County Code "Environmental Control", specifically Article V "Noise Pollution." No outdoor speakers or other audio amplification shall be permitted.
8. Signage shall be in accordance with 31.5-75, Orange County Code.
9. Development shall comply with Chapter 24 (Landscaping, Buffering and Open Space) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.
10. A six-foot high vinyl fence shall be maintained along the eastern and northern property lines. Should the County remove the six-foot wall along the western property line a six-foot vinyl fence shall be installed and maintained by the property owner.
11. The grass parking spaces shall be fitted with wheel stops. The drive aisles and handicap parking spaces shall be improved with a durable all-weather surface and properly drained in accordance with Orange County Code.
12. There shall be no on-street parking, including for special events. All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

SYNOPSIS: Staff presented the history of the project and described how it meets the criteria for the special exception and variance requests. It was noted that the applicant withdrew variance request #3 prior to the hearing and that the drive aisles would be improved in accordance with Orange County Code. Staff presented

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two (2) amendments to the conditions, specifically condition of approval number six (6) and number (12) to include language that prohibits on-street parking. The Board noted that they had received the public commentaries prior to the hearing, of which forty-seven (47) were in favor and nine (9) were in opposition to the request. The Code Enforcement Officer handling this case gave an overview of the violations, the Code Enforcement Board decision, the outstanding fines and what was accruing daily, the lawsuit, and the current status.

The applicant gave a PowerPoint presentation and requested that condition of approval number five (5) be amended to not limit the hours of operation on Mondays through Fridays from 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown. They requested that it be changed to Mondays through Fridays from 6:00 a.m. to 9:00 p.m. to allow for other activities throughout the day. They also requested that condition of approval number six (6) and number twelve (12) be amended to remove the prohibition on the use of outdoor amplified sound and music. The Board discussed the change in the hours of operation and were agreeable to that revision; however, they noted that the prohibition on the use of outdoor sound and music is a standard condition of approval recommended for these types of uses. The consensus was to leave the standard condition unchanged. The traffic engineer for the project was present and provided testimony on the dates and times that the site was observed for traffic. They explained that the analysis was conducted in December of 2019, prior to the COVID-19 shutdown. They found that on the Sabbath, which is the most heavily attended day, there were typically twenty (20) vehicles on site.

There were three (3) people in attendance in person that spoke on the project. Two (2) were in favor and one (1) was in opposition. There were approximately fifty (50) people in attendance virtually in favor of the request. Of those individuals, approximately thirty-four spoke, and most of them were members of the Orlando Torah Center. As it relates to the commentaries received and the speakers at the hearing, the individuals in favor cited the improvements to the existing structure and site, the community, the ability to walk to the facility, and the play area. The individuals in opposition cited the encroachment into the neighborhood, housing values, parking, and traffic.

The BZA unanimously recommended approval of the special exception and variance #2, subject to the twelve (12) conditions with the following amendments:

5. Hours of operation shall be as follows:
 - 1) **Mondays through Fridays: 6:00 a.m. to 9:00 p.m.;**
 - 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
 - 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

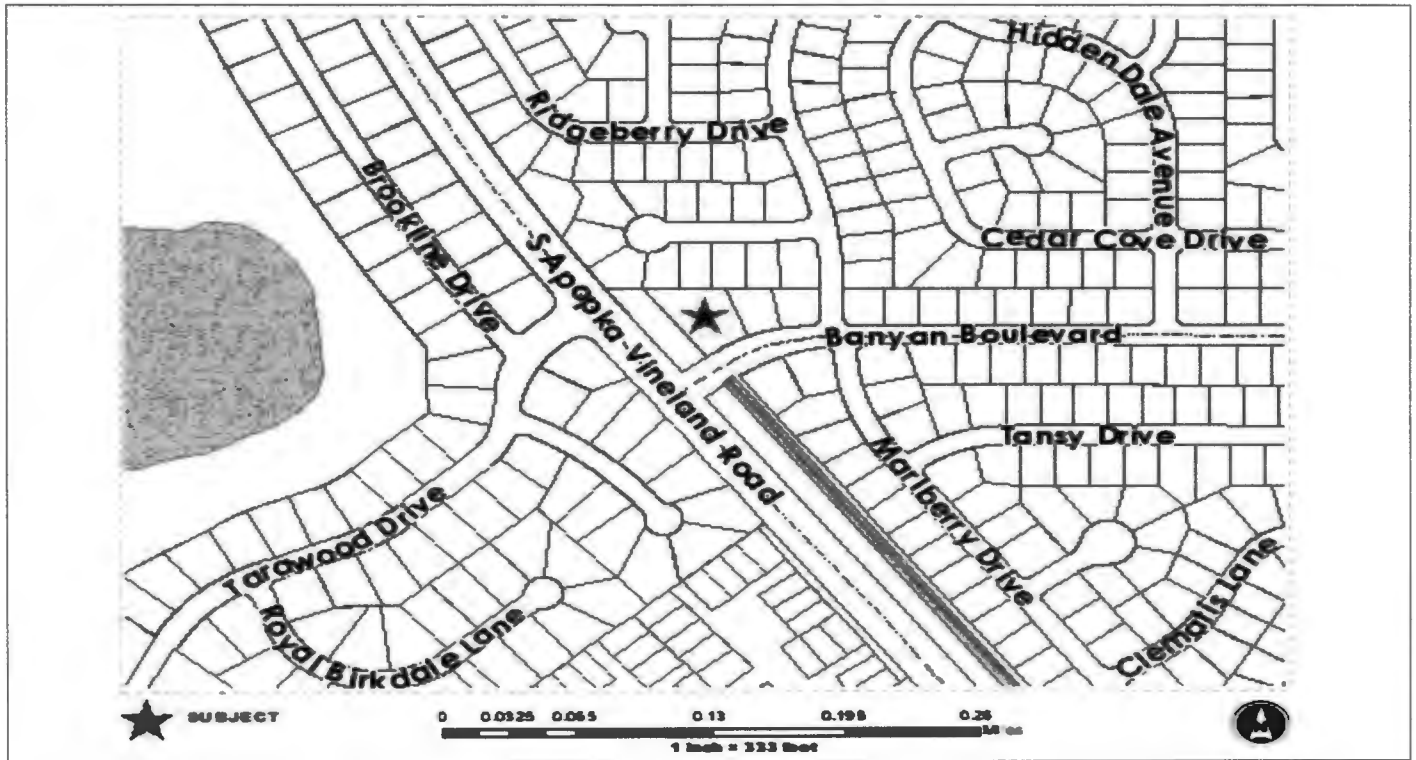
6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. **On-street parking associated with special events is prohibited.** All 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.

12. There shall be no on-street parking, including for special events. All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

STAFF RECOMMENDATIONS

Approval of the Special Exception and Variance #2, subject to the conditions in this report. The request for Variance #3 has been withdrawn.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-Family Residence	Single-Family Residence	Single-Family Residence	Single-Family Residence	Orange County Retention Pond

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single Family Dwelling district, which allows single family homes, as well as religious institutions through the special exception process, on lots a minimum of 7,500 sq. ft. or greater.

The subject property is located on Lot 597 of the Sand Lake Hills Section Six plat, which was platted in 1979, and consists of 0.75 acres of land. The site is currently developed with a 2,676 gross sq. ft. single-family residence that was constructed in 1980 according to the Orange County Property Appraiser's records.

The applicant originally requested a special exception and two variances in order to use the existing structure as a residence and a religious institution. The applicant has since removed his request for Variance #3 and will improve the drive aisles to meet County standards.

The property was cited in August of 2018 by Code Enforcement for operating a religious institution in a single-family residential area without a special exception, contrary to Chapter 38 of the Orange County Code. In October of 2018, a hearing was held before the Code Enforcement Board, and the owner was found to be in violation of Chapter 38. A special exception application for the religious institution was not filed and the property continued to be used as a religious institution; therefore, fines started accruing. Subsequently, after a significant amount of time passed and the special exception application had still not been filed, the Mayor authorized the County Attorney's Office to file a lawsuit seeking injunctive and other appropriate relief. The lawsuit is still pending, but it does not affect the BZA's ability to make a recommendation on the special exception and variance requests to the Board of County Commissioners.

The site is located at the entrance to the Sand Lake Hills subdivision, just off of S. Apopka Vineland Road. Its location allows vehicular access to the facility without further encroaching into the residential area. However, there is a planted median located directly in front of the facility that the vehicular traffic does need to maneuver around in order to access the site from S. Apopka Vineland Road.

Based on the information provided by the applicant in its cover letter, the Orlando Torah Center is an Orthodox Jewish Congregation, which adheres to the strict rules of Sabbath observance. The Orlando Torah Center claims that the facility will be used for Jewish religious activities on a daily basis for a limited time each day, and more extensively on the Sabbath. They have acknowledged that while the Sabbath is the day that is most heavily used for religious purposes, it is the day on where there is the least amount of vehicular traffic because Jews who

worship at this home do not drive on the Sabbath. The applicant has indicated that there are 38 member families (five of which are single-parent families or singles). Per correspondence with the applicant and the photographs of the facility that were provided with the application, the prayer room has approximately 60 non-fixed seats, many of which are unused aside from special holidays. The applicant has specified that the number of participants during prayers generally averages around 15 to 20 individuals with around 10 more on the Sabbath, which extends from sundown on Friday to sundown on Saturday. After prayer services on Saturday mornings, families gather at the home to socialize for about an hour. Approximately 100 people, which includes adults and children of all ages, attend these post-prayer service gatherings.

As indicated by the applicant, the proposed religious institution does not contain fixed seats, but proposes to host between 75 and 100 patrons on the most heavily frequented day. Based on the number of patrons, the project is required to provide thirty-five (35) parking spaces, which was calculated using the Code requirement of one parking space per three patrons for a total of one hundred (100) patrons and one parking space per employee for one employee. The applicant is proposing a total of total of thirty-five (35) grass parking spaces with wheel stops and two paved handicap parking spaces. Since the applicant is proposing to provide parking on an unimproved surface, they have requested a variance from Section 38-1479 of the Code to allow grass parking. However, they intend to improve the drive aisles with a pervious geomat that will include an overlay of #57 stone to meet the County standard for an improved durable all-weather surface.

There is a thirty (30) foot wide drainage easement located on the western boundary of the site, which is owned by the County, where the applicant is proposing to place the grass parking. The Public Works Department has issued a statement of no objection to the applicant using the existing utility easement for parking, contingent upon the parking area remaining unimproved. If the variance is not approved, the applicant will be required to submit a site plan that shows the required improved parking outside of the easement area. The drive aisles are located outside of this utility easement; therefore, the required improved surface for the drive aisles is not impacted by the easement. There is also a ten (10) foot wide utility easement on the northern boundary of the site and a five (5) foot wide utility easement on the eastern boundary of the site where the parking will not encroach. The required landscape buffers will be located within or partially within the easements on the site, but landscaping is permitted. The required buffer for this type of use is the "Type C" landscape buffer, which must be fifteen (15) feet wide and completely opaque from the ground up to a height of at least six (6) feet. The "Type C" buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof, which results in a completely opaque buffer. It must be at least three (3) feet high and fifty (50) percent opaque at planting and capable of attaining full height and opacity within three (3) years. The project is also being conditioned to require that the existing six (6) foot high vinyl fence be maintained along the eastern and northern property lines. Additionally, if the masonry wall along the western property line is removed, a six (6) foot high vinyl fence shall be erected. Vinyl or wood fencing does not count toward the required opaque landscape buffer. The applicant will not be permitted to erect any structures within the easements.

The proposed hours of operation, which is a condition of approval that was recommended by the applicant, are as follows:

- 1) Mondays through Fridays: 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown;
- 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
- 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

The applicant has provided eleven (11) letters of no objection to the request. Staff has received two pieces of correspondence in objection to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft. 10 in.
Min. Lot Width:	75 ft.	98.36 ft.
Min. Lot Size:	7,500 sq. ft.	32,828 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	28.68 ft.
Rear:	30 ft.	101 ft.
Side:	7.5 ft.	56.13 ft. (West)/18.72 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan allows certain institutional uses, which are consistent with residential Future Land Use designations through the Special Exception process. These include religious institutions, daycares, and public and private schools.

Similar and compatible with the surrounding area

The use will be similar and compatible with the surrounding area, and consistent with the pattern of the surrounding development. There are no changes being proposed to the exterior of existing single-family home and the parking for the facility will be located to the side and rear of the existing structure and screened from view by a six-foot vinyl fence.

Shall not act as a detrimental intrusion into a surrounding area

The proposed religious use, including vehicular circulation, will not negatively impact the surrounding area. The site is located at the entrance to the subdivision, which will allow patrons to enter and exit the religious institution without encroaching into the subdivision, with the exception of the need to do a U-turn around the median to enter the site.

Meet the performance standards of the district

If Variance #2 is granted to allow grass parking 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 activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing single-family residential use.

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

The site will be adequately screened from adjacent residential uses since the applicant is required to provide a "Type C" buffer in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition is the use of the site as a religious institution, where parking is used intermittently. The intent of the Code can be met by allowing grass parking.

No Special Privilege Conferred

It is common for religious institutions to provide grass parking since these parking spaces are utilized significantly less than daily commercial uses. A special privilege will not be conferred.

Deprivation of Rights

Without the variance, the applicant would be required to improve the parking area with a durable all-weather surface, and would require the redesign of the parking outside of the easement. This would result in an increased impervious surface area and increased drainage demands in a residential neighborhood. Allowing for grass parking with improved drive aisles would not deprive the applicant of rights commonly enjoyed by others for similar uses.

Minimum Possible Variance

The granting of a variance for grass parking would allow for the minimum possible variance needed to meet the applicant's needs. The drive aisles will be improved with a durable all-weather surface, including a pervious geomat with a #57 stone overlay in lieu of completely paving them, to reduce the impervious surface and runoff, yet still provide an improved surface to meet Code.

Purpose and Intent

Section 38-1479 contemplates the allowance of parking on unimproved surfaces for religious institutions via approval by the Zoning Manager or the Board of Zoning Adjustment (BZA). The granting of the variance to allow grass parking would be in harmony with the purpose and intent of this section of the Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated May 13, 2020, 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 applicant shall submit construction plans through the commercial site plan review process within 180 days of final approval by Orange County, and complete the required improvements pursuant to the approved construction plans within one year after the Board of County Commissioners' approval of the special exception and variance, or else this approval shall become null and void, unless extended by the Board of County Commissioners for a limited duration for good cause shown.
5. Hours of operation shall be as follows: 1) Mondays through Fridays: 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown; 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.
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. Noise shall be regulated by Chapter 15, Orange County Code, "Environmental Control," specifically, Article V, "Noise Pollution." No outdoor speakers or other audio amplification shall be permitted.
8. Signage shall be in accordance with 31.5-75, Orange County Code.
9. Development shall comply with Chapter 24 (Landscaping), Buffering and Open Space) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.
A six (6) foot high vinyl fence shall be maintained along the eastern and northern property lines. Should
10. the County remove the six (6) foot high wall along the western property line, a six (6) foot high vinyl fence shall be installed and maintained by the property owner.
11. The grass parking spaces shall be fitted with wheel stops. The drive aisles and handicap parking spaces shall be improved with a durable all-weather surface and properly drained in accordance with Orange County Code.
12. There shall be no on-street parking. All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

C: Mr. Derek E. Bruce
200 S Orange Ave. Suite 1400
Orlando, FL 32801

SPECIAL EXCEPTION JUSTIFICATION STATEMENT

I. Background

The subject property, zoned R-1A, has a future land use designation of Low Density Residential ("LDR") located at 8613 Banyan Blvd in the Sand Lake Hills subdivision in southwest Orange County in the Bay Hill area. The site is situated at the corner of the subdivision entrance to S. Apopka Vineland Road, a heavily travelled four lane right of way. The subject property is approximately ¼ acre and can park 35 to 40 cars. The house on the property is a modest sized home of 2544 gross square feet with a living area of 1654 square feet. The home is occupied by a tenant who lives there full time pursuant to a lease agreement with the owner, Orlando Torah Center Inc. In addition to being a residence, the structure is used for Jewish religious activities on a daily basis for a limited time each day.

The prayer room has approximately 60 non-fixed seats, many of which are unused aside from special holidays. See attached photographs. The number of participants during prayers generally averages around 15 to 20 individuals with around 10 more on the Sabbath, which extends from sundown on Friday to sundown on Saturday. After prayer services on Saturday mornings, families gather at the home to socialize for approximately an hour. Approximately 75 to 100 people, which includes adults and children (all ages), attend these post-prayer-services gatherings. While the Sabbath is the day that the home is most heavily used for religious purposes, it is the day on which there is the least traffic impact because Jews who worship at this home do not drive on the Sabbath. See attached traffic report. Consequently, many of the nearby residents are also worshippers at this home.

Outside of the Sabbath, all of those who do drive to the subject property are required to park on the property and off the street.

The closest neighbor in terms of physical proximity between residences is a residence along the eastern boundary of the subject property. As shown below, there are three neighboring properties on the northern boundary, but they are located more than 100 feet away. The property to the west is an undeveloped, unoccupied parcel owned by Orange County.



Special Exception Criteria

A. Use shall be consistent with the Comprehensive Plan

The primary use of the subject property is for residential use. This is consistent with the comprehensive plan designation of LDR.

B. Use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development

Proposed low intensity use is compatible with the surrounding uses. The home has been improved and the landscaping improved since the home was purchased. There are no external structural improvements to the property; its use as a home appears the same as any other property in the surrounding development.

The property has a structure that was used primarily – if not exclusively – as a residence prior to its acquisition by Orlando Torah Center. However, at the time of the acquisition, the property was vacant and had fallen into disrepair. See attached photographs obtained from the Orange County Property Appraiser’s website.

Orlando Torah Center has restored the property and the structure is similar in look and feel to the structures in place on surrounding properties. There are also a number of properties within the subject property’s subdivision that are put to nonresidential uses – including educational and park uses.

C. Use shall not act as a detrimental intrusion into a surrounding area

The proposed use will not negatively impact adjacent uses. Moreover, any traffic generated by the intermittently scheduled religious prayers and services will be de minimis, and the impact on neighbors is minimized by the fact that such visitors are less than 100 feet away from the exit to the subdivision because the residential lot is uniquely situated as the closest residential lot on Banyan Boulevard to the nearest arterial road (South Apopka Vineland Road).

Given the limited time of use and the special conditions made available for parking and given the limited number of individuals involved, the home is not a detrimental intrusion into any surrounding area. Indeed, the condition of the home has been improved since it was acquired by the applicant.

See attached letters of support and letters of no objection from adjacent and nearby property owners.

D. Use shall meet the performance standards of the district in which the use is permitted

The proposed use meets the performance standards of the R-1A zoning district and other county development standards.

- E. 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.**

Similar to individuals that conduct social gatherings, meetings, fundraisers, and events in their homes, the applicant is also utilizing the subject property for certain religious activities. Those activities do not cause any noise, vibration, dust, odor, glare, heat producing or other characteristics that would be a detrimental intrusion to the surrounding area. Activities onsite will be predominately indoors.

- F. 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 accordance with Orange County Code § 24-5, no buffer yard should be required for the proposed use. There is a six (6) foot tall wooden fence along the entire east property line, a six (6) foot vinyl fence along the entire north property line, and a six (6) foot concrete block wall just west of the entire west property line. Nevertheless, to the extent the County requires a further buffer, we have proposed a seven and one half (7.5) foot buffer. See attached Variance Justification Statement.

III. Suggested Conditions of Approval

We request a special exception to include or to permit limited religious-oriented activities at this residential property. Such religious activities would be subject to the following conditions:

1. The structure on the premises shall be used for residential purposes but will also be used for religious-oriented activities. The structure shall not be used for day care, child care, or camp purposes.
2. The hours of operation for religious-oriented activities shall generally be:
 - a. Mondays through Fridays: 6:00 am to 8:00 am and 15 minutes before sundown to one hour after sundown
 - b. Saturdays: 8:00 am to 1:00 pm and 90 minutes before sundown to one hour after sundown
 - c. Sundays: 8:00 am to 10:00 am and 15 minutes before sundown to one hour after sundown
3. There shall be no more than four outdoor special events per calendar year, and the hours of those events shall be limited between the hours of 9:00 am and 9:00 pm. Outdoor amplified sound and music would be consistent with a typical home-based party atmosphere gathering. Outdoor lighting, if any, shall be directed away from neighboring properties.

4. There shall be no on-street parking. All parking by such visitors shall be on the residential lot behind a gated driveway, with the exception of the four outdoor special events noted in paragraph 3 above. On those occasions, on-street parking would be consistent with a home-based party atmosphere gathering that requires extra parking.
5. The six (6) foot fences on both the eastern and northern property lines shall be maintained.

Given the factual circumstances and the application of the foregoing conditions, it is clear that the subject property is and will continue to be used for residential purposes with permitted religious-oriented activity. As a result, the requested use of the property is consistent with the comprehensive plan which provides a residential use designation for the subject property.

IV. Necessity of Approval

In order for those of the Orthodox Jewish faith to practice their religion on the Sabbath, the assembly of prayer MUST be within reasonable walking distance of their homes. To trek out a number of miles outside of the neighborhood to attend prayers would be exhausting and frankly dangerous. Additionally, it would place young families in harm's way having to cross busy streets and intersections with small children. Not permitting this assembly would be an overwhelming burden for the 30 current homeowner families. It would require them to leave Orange County, as the closest similar Orthodox Jewish community is approximately 2.5-3 hours away.

V. Off-Street Parking Area Variance

As depicted on the site plan, this project has unpaved parking. In accordance with Orange County Code of Ordinances Sec. 38-1479 (a), the applicant requests approval for this parking area to remain unpaved. See attached Variance Justification Statement.

VARIANCE JUSTIFICATION

UNPAVED PARKING

The Orange County Code of Ordinances, Section 38-1479(a), entitled “Off-street parking lot requirements,” provides:

All parking areas shall have durable all-weather surfaces for vehicle use areas, shall be properly drained and shall be designed with regard to pedestrian safety. 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. Residential conversions to professional office use, churches, bed and breakfast homestays, bed and breakfast inns and overflow parking on unimproved property used in conjunction with special events and/or holiday parking demands may be exempt from this condition subject to approval by the zoning manager or when approved by the board of zoning adjustment ("BZA") and the board of county commissioners ("BCC").

This same code provision covers both the parking spaces themselves and the drive aisles that provide access to them. Although we are requesting a variance to allow both the parking spaces and the drive aisles to be unpaved (except for the handicapped spaces), the physical treatment of the two are proposed to be different. The drive aisles will have a “geomat” surface while the parking spaces will be grass, with wheel stops. Therefore the variance criteria below will differentiate between the two where appropriate.

The geomat is a tough but porous plastic fabric that can be surfaced with rock or pebbles. It allows water penetration so that site drainage is not compromised, but is less visually intrusive than pavement.

The general basis of this request is twofold: First, this parking area is used more lightly and intermittently than would be expected for a religious congregation of this size; and second, an unpaved parking area will be less aesthetically objectionable in a residential neighborhood than would a paved parking lot.

The applicant recently commissioned a Parking Demand Analysis for this site. It establishes that the number of parking spots at the premises complies with the parking space ratio required for a religious use under the Orange County Code, and it further establishes that the actual vehicular use at the premises is substantially less than the parking spots can accommodate.

The specific Orange County Code of Ordinances variance criteria are addressed below.

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.

RESPONSE: The special conditions and circumstances in this case are that The Orlando Torah Center is an Orthodox Jewish congregation, which adheres to strict rules of Sabbath observance. Congregants walk to services rather than driving, so none of the congregants drive into or out of the parking area on the Sabbath, the day of peak attendance. The congregants live within walking distance, just so this rule can be observed. On other days, smaller services are held.

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.

RESPONSE: The Orlando Torah Center did not create the rules for proper activity on the Sabbath, which are of ancient origin.

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.

RESPONSE: The granting of this variance would not confer any special privilege on the applicant. In fact, the Orange County Code of Ordinances Sec. 38-1479(a) specifically anticipates the granting of exemptions from the paved parking requirements for churches, bed and breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

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.

RESPONSE: A literal interpretation of the paved parking requirement to apply to this property and its circumstances would create a hardship on the applicant because it would force the applicant to create a large paved parking lot within a residential neighborhood. Paving in this circumstance would be unnecessary from a functional standpoint. Further, the provisions of this Chapter specifically contemplate the granting of exemptions from the paved parking requirements for churches, bed and

breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

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.

RESPONSE: The variance requested, which is to allow the parking spaces and drive aisles to remain unpaved, is the minimum variance that could be requested because there is no ‘middle ground,’ compromise or lesser variance that could be requested in this case. Either the parking area is paved or it is unpaved. Moreover, pursuant to the applicant’s discussions with Orange County Public Works Department (“Public Works”), Public Works is amenable to the applicant’s use of the County’s easements as a parking area so long as the easements remain unpaved as a grass surface. *See* attached Email from Pedro L. Medina, P.E., Manager of Development Engineering Division of Public Works Department, dated April 27, 2020. Thus, the applicant proposes the usage of one of those easements, the 30’ drainage and utility easement on the west side of the property, for parking. However the treatment of the drive aisles and the parking spaces is proposed to be different, with the higher-traffic drive aisles having a “geomat” surface and the parking spaces (including all parking spaces located on easements) being grass, with wheel stops.

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.

RESPONSE: The intent of the paving requirement is to provide a safe, solid surface for the parking of vehicles for land uses that engender substantial vehicular access. In this case, the land use, an Orthodox Jewish congregation, is by its nature one that does not engender substantial vehicular use and in fact has no congregants that drive on the Sabbath, the day of peak attendance.

As noted above, the provisions of this Chapter specifically contemplate the granting of exemptions from the paved parking requirements for churches, bed and breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

Given that the Chapter specifically contemplates such an exemption, it is apparent that this variance—which would greatly benefit the applicant—

would also be in harmony with the purpose and intent of the zoning regulations and will not be injurious to the neighborhood nor otherwise detrimental to the public welfare.

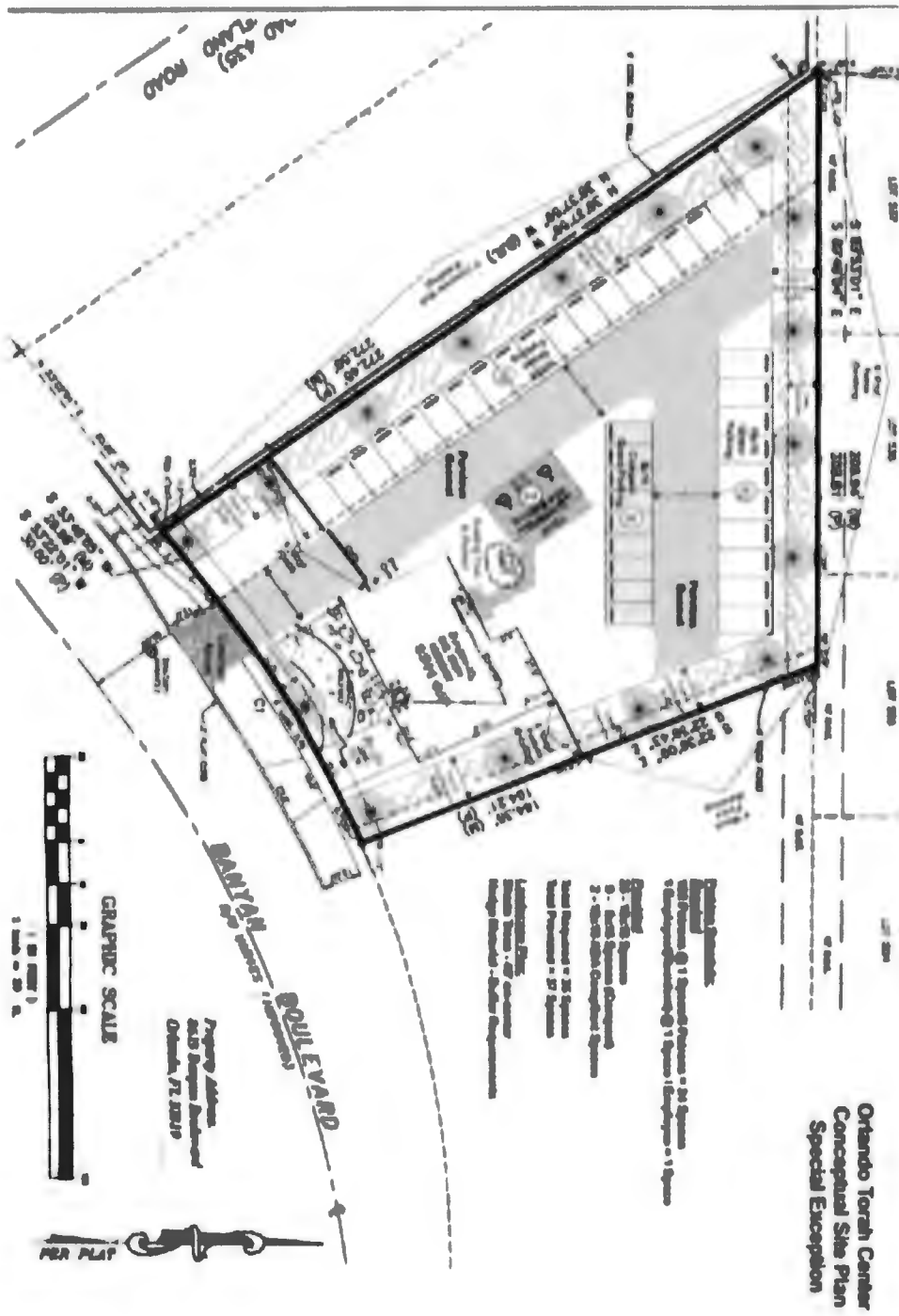
ZONING MAP



AERIAL MAP



SITE PLAN



SITE PHOTOS



Subject property

Entrance to the subdivision and location of where a U-turn will have to be made to get to the subject property as identified by the yellow arrow



SITE PHOTOS



Rear yard where the proposed parking will be located



Rear yard gently slopes downward toward the fence and neighboring homes

SITE PHOTOS



Rear of the house looking toward the proposed parking area entrance and parking area

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 02, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-07-054**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): BRYAN DORION

OWNER(s): RAMON CRUZ & SONIA SERRANO

REQUEST: Variance in the R-2 zoning district to permit a sunroom addition with a rear (west) setback of 12 ft. in lieu of 20 ft.

PROPERTY LOCATION: 2832 Lyndscape St., Orlando, FL 32833, west side of Lyndscape St., south of Meredith Parkway.

PARCEL ID: 11-23-32-1170-00-660

LOT SIZE: 50 ft. x 110 ft./0.12 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 113

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (6 in favor and 1 opposed):

1. Development shall be in accordance with the site plan dated May 11, 2020, 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 not be constructed any closer to the rear property line than where the existing screen room is located.

SYNOPSIS: Staff gave a brief history of the property, including when the existing screen room was constructed. Staff explained their analysis of the six (6) criteria, and why they recommended denial. Staff noted that they

had received one (1) commentary in support, and no (0) commentaries in opposition, and that the HOA supports the proposal as presented.

The applicant stated that they will not be replacing the existing screen room. They will be adding onto it across the rear of the house, however, they will not be going any closer to the rear property line than the existing structure already does. There was no one in attendance to speak in favor or in opposition to the request.

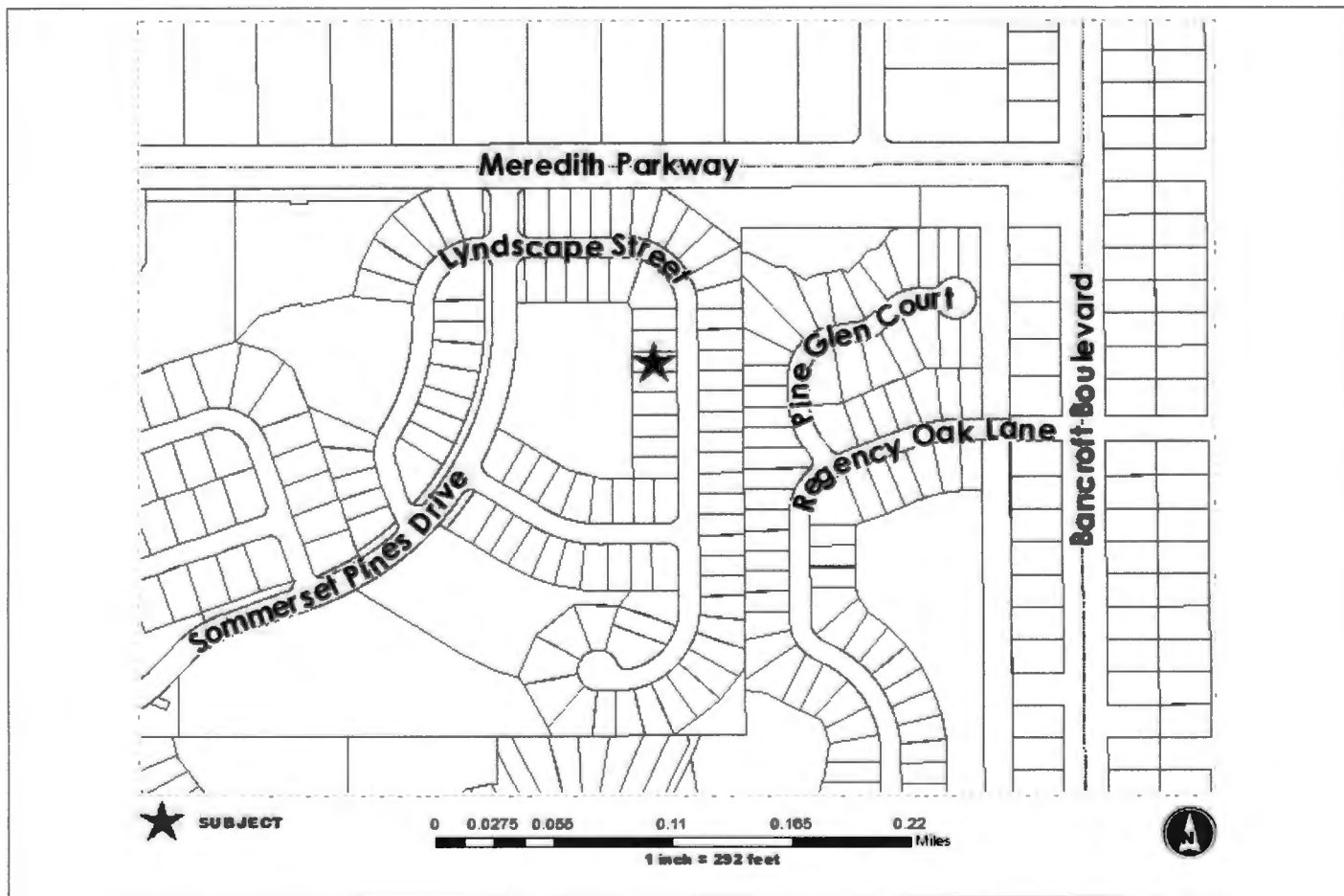
The BZA discussed the applicant's plans and that the sunroom is proposed to be 12 ft. wide, and the plans for the screen room approved in 2017, show a width of 11 ft. The BZA found that the lack of a neighbor to the rear constituted a special condition and circumstance; since the home was built by a prior owner, the need for the variance is not self-imposed; this is not granting a special privilege since the structure is already existing, and they are just letting them glass in and expand the room, but going no closer to the rear property line; the room is existing, and they are simply letting them extend it across the rear of the house with glass; and better security is consistent with the purpose and intent of the code.

The BZA recommended approval of the variance by a vote of 6-1, subject to the addition of condition #4.

STAFF RECOMMENDATIONS

Denial. However, should the BZA find that the request satisfies the criteria for granting a variance, staff recommends the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	R	R	R	R	R
Current Use	Single family residence	Single family residence	Single family residence	Single family residence	Retention pond

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is zoned R-2, Multiple-family Residential district, which allows single-family homes, multi-family development, and associated accessory structures on lots a minimum 4,500 sq. ft. or greater in size.

The subject property consists of a 50 ft. x 110 ft., 0.12 acre, lot created through the Reserve at Wedgefield Unit 2 plat, recorded February, 2003. The subject property is developed with a 2,400 sq. ft. home and an attached 2-car garage constructed in 2004. There is also an 11 ft. x 25 ft., 275 sq. ft., screen room that was constructed at the rear of the house in 2017 (B17020004). The property backs up to a large stormwater retention pond.

The applicant is requesting approval to construct a 12 ft. x 40 ft. sunroom across the rear of the home. Screen rooms are permitted to encroach up to 13 ft. into a required setback. However, once a room is enclosed with glass, it becomes living area, and must comply with the required setbacks, which in this case is 20 ft. from the rear. Since the house is situated 24 ft. from the rear property line, the proposed sunroom will encroach eight (8) ft. into the rear setback.

As of the writing of this report, staff had not received any correspondence regarding this application; however, the owner provided a letter from the HOA in support of the proposed design.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	9 ft. (Sunroom)
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	5,500 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	20 ft.	24.99 ft. (east)
Rear:	20 ft.	12 ft. (west)
Side:	5 ft.	5ft. (north)/5 ft. (south)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances particular to this property. The subject property is rectangular in shape and the house is generally centered on the lot.

Not Self-Created

The need for the variance is self-created. The home includes a screen room across a portion of the rear, in compliance with the code. The applicant is proposing to remove the existing 275 sq. ft. code compliant screen room and install a 480 sq. ft. addition across the entire rear of the house.

No Special Privilege Conferred

Granting the variance would confer a special privilege. Staff did not find any other similar variances within the Reserve at Wedgefield.

Deprivation of Rights

Literal interpretation of the code would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district, as they are all required to meet the rear yard setback for the district.

Minimum Possible Variance

This is not the minimum variance possible, as the proposal could be modified to reduce the proposed depth or width of the addition such that the variance request is reduced. The existing screen room is just under 2/3 the width of the home.

Purpose and Intent

The purpose and intent of required setback is to maintain living space outside of the required setbacks. The proposal does not meet this criteria.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated May 11, 2020, 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: Bryan Dorion
2938 Stonewall Pl.
Sanford, FL 32773

COVER LETTER

Orange County Building and Zoning
4, 2020

May

RE: Application for Rear Yard Variance on SFR
2832 Lyndscape St. Orlando, FL 32833

To whom it may concern,

This is a new application for a zoning variance. We are requesting a new rear yard setback of 12'. The existing rear yard setback is 20'. The request is to allow the construction of an aluminum Category II Glass Sunroom on the rear of our home. We have obtained HOA approval. (see attached approval letter)

The proposed sunroom measures 12' X 40'. We have attached the answers to the justification questions to this application. There is an existing screen room on the home and we wish to extend it and add glass windows. We received a comments page from the Orange County Building department indicating that a variance would be necessary to make this improvement. It has been assigned permit number B20006586.

Thank you,

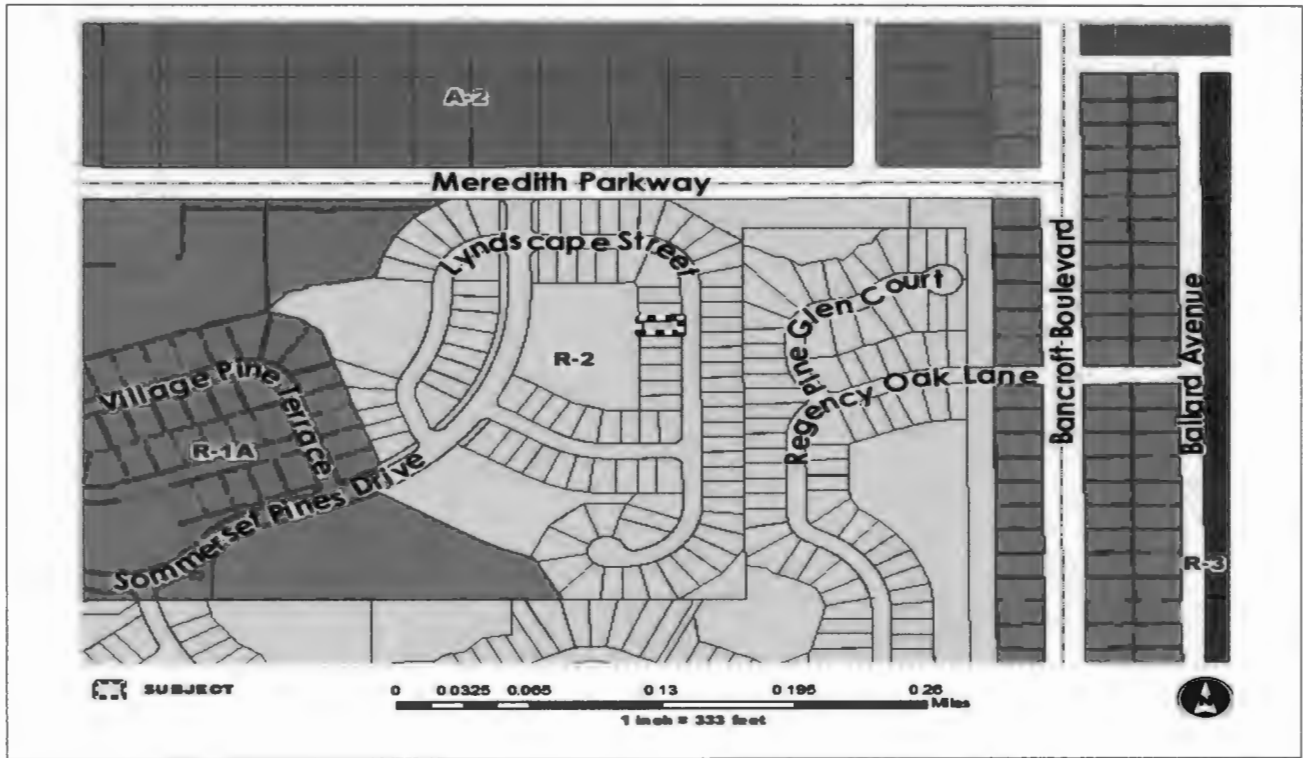


Sonia Serrano, Ramon Cruz (Homeowners)

2832 Lyndscape St Orlando, FL 32833

1. This house was constructed toward the rear of the lot leaving very little rear yard space. Hence the need for a deviation from the standard 20' setback.
2. The location of house in relation to the rear and side yard was established before the home was purchased by the existing owner and no action on the part of the existing homeowner created the issue.
3. The granting of a variance will afford no special privilege that has not already been provided to others in this same community.
4. The strict adherence to the existing setback requirement (20') would make it impossible to utilize the rear yard space in a reasonable manner as it would allow a new room of only 4' in width which is impractical for use.
5. The request is for a deviation of 8' feet off of the required 20' setback. We are asking for a new setback of 12' from the rear property line which is the smallest practical setback to utilize our rear yard space.
6. The granting of this deviation will allow the construction of a room that is identical to others previously erected in this same community by others.

ZONING MAP



AERIAL MAP



SCREEN ROOM SITE PLAN (2017)

LOCATION SKETCH

Not to Scale



APPROVED

TRACT 7
COMMON AREA
(RETENTION)
N.00°20'03"W 50.00'(P)
N.00°52'00"W 49.98'(M)

RANGER DRAINAGE DISTRICT

19950 Nugent Street
Orlando, Florida 32638

SCALE: 1"=30'

PER PLAT

LOT 65

S.89°39'57"W 110.00'(P) B.R.
S.89°39'57"W 109.89'(M)

ONE STORY
RESIDENCE

I HEREBY CERTIFY THAT SITE PLAN
SUBMITTED SHOWS LOCATION OF ALL
EXISTING AND PROPOSED STRUCTURES
AND AVAILABLE HOMES ON PROPERTY

12-1-17 Green

ORANGE COUNTY ZONING DIVISION

APPROVED BY: AA

NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN APPROVAL OF THE COUNTY ZONING DIVISION. THIS PLAN IS SUBJECT TO ALL RESTRICTIONS AND APPROVALS IMPOSING ON THE PROPERTY. THE ZONING DIVISION DOES NOT GUARANTEE THE ACCURACY OF THIS PLAN. YOU SHOULD CONSULT WITH YOUR HOMEOWNERS ASSOCIATION OR ARCHITECTURAL REVIEW BOARD.

S.47.04'(P)
S.48.97'(M)
S.00°18'30"E

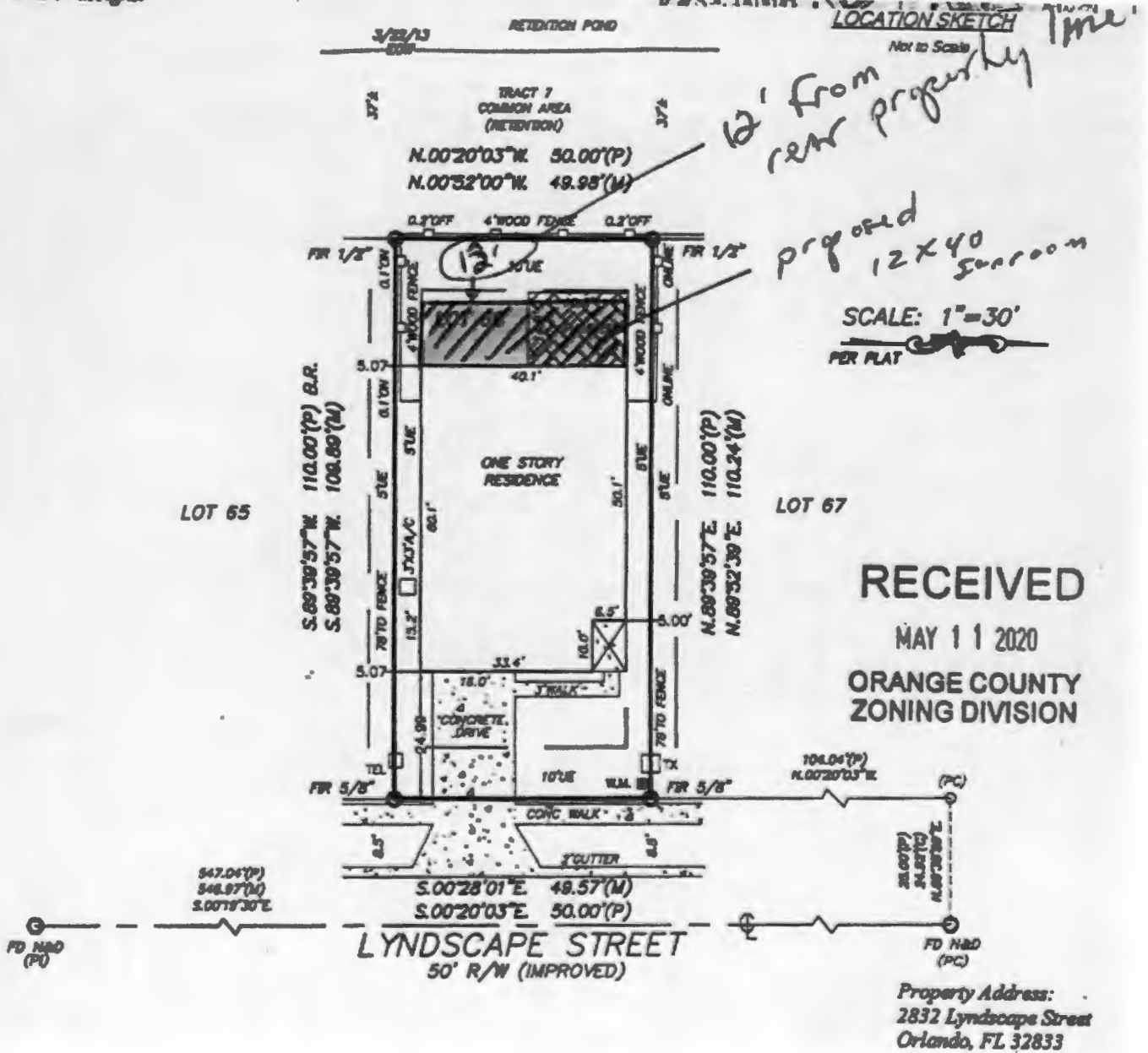
S.00°28'01"E 49.57'(M)
S.00°20'03"E 60.00'(R)

LYNDSCAPE STREET
50' R/W (IMPROVED)

Property Address:
2832 Lyndscape Street
Orlando, FL 32833

SITE PLAN

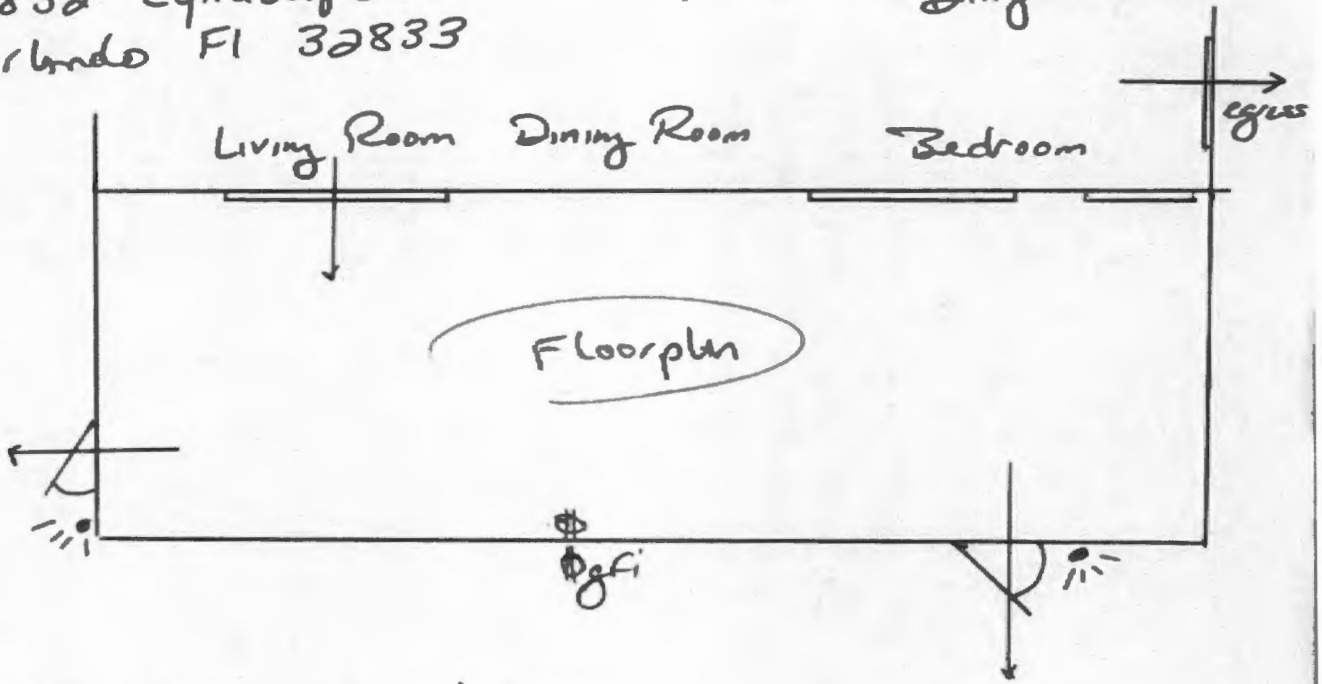
and/or assigns.



FLOOR PLAN

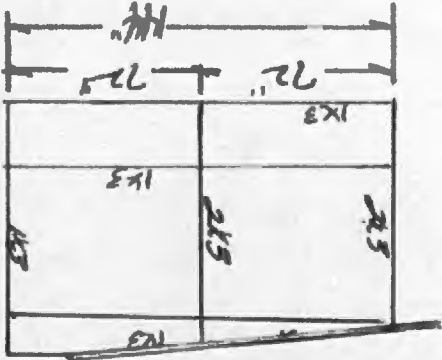
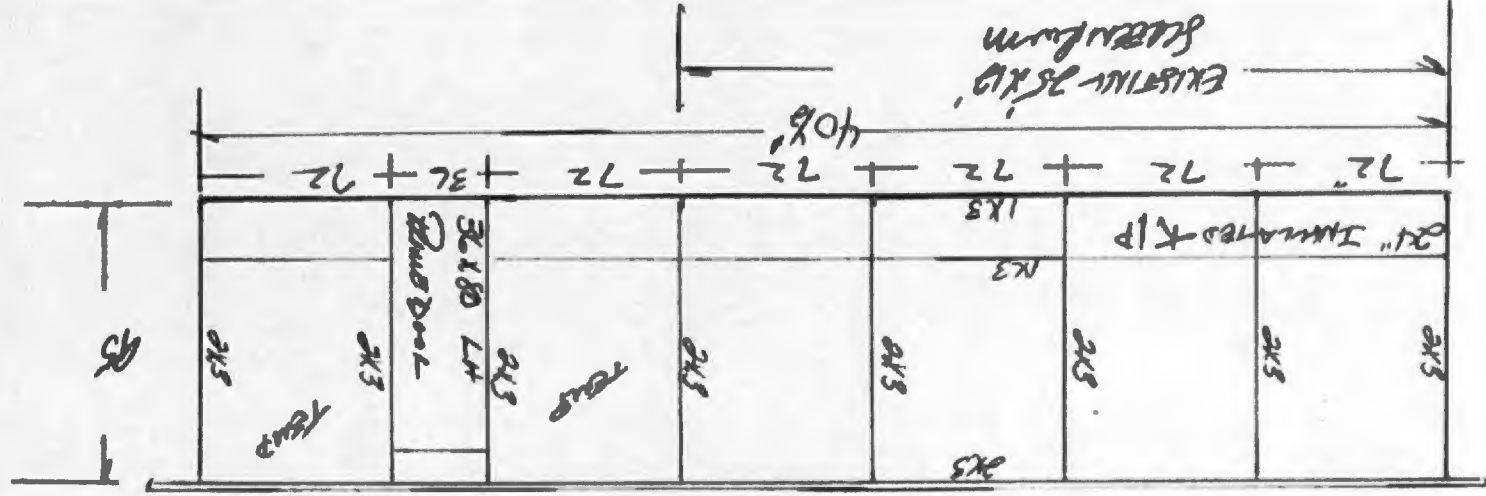
Cruz
2832 Lyndscope St
Orlando FL 32833

Floorplan / Egress + Electrical Diagram



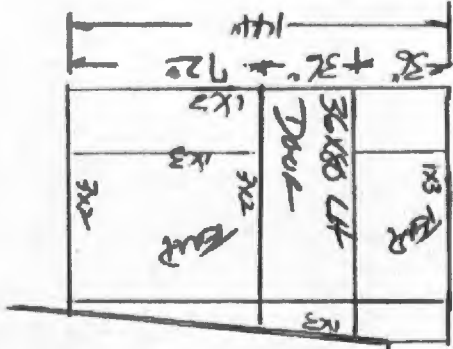
- * All existing windows + doors to remain in house walls
- * No egress issues present

ELEVATIONS



(25'x12' Screen Room) EXHIBIT

40'x10' Cor II
 Sou Room w/
 Side yr Glass Windows



Job # Dev
 2822 Landscape
 Orlando FL 32833

Elevation

SITE PHOTOS



Subject property looking west



Existing screen room looking southeast

SITE PHOTOS



Proposed location of sunroom looking north



Proposed location of sunroom looking northeast

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JULY 02, 2020**

Case Planner: **David Nearing, AICP**

Case #: **SE-20-07-068**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): TECHNICAL HEALTH ACADEMY (LUIS TORRES)

OWNER(s): LAKE CECILE RESORT INC.

REQUEST: Special Exception in the P-O zoning district to operate a 2,500 sq. ft. vocational school in an existing office building.

PROPERTY LOCATION: 672 N. Semoran Blvd., Ste. 303, Orlando, FL 32807, west side of N. Semoran Blvd., approximately 0.2 miles south of E. Colonial Dr., on the east side of Lake Barton.

PARCEL ID: 28-22-30-0000-00-001

LOT SIZE: 2.70 acres

NOTICE AREA: 700 ft.

NUMBER OF NOTICES: 94

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met 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 as amended (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated May 12, 2020, 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 applicant shall submit construction plans through the commercial site plan review process within 3 years of final approval of this application by Orange County or this approval is null and void.

- The school is limited to a maximum of 32 students. Any expansions of the use shall require BZA approval.

SYNOPSIS: Staff explained that all construction associated with this request will be interior with no exterior alterations. The applicant will be teaching people to use medical examination equipment.

Staff noted the morning and evening weekday and Saturday morning hours of operation, which are convenient for the students are currently employed. Staff noted that the existing building is a nonconforming structure in that it lies 0.7 ft. into the side setback which was discovered after the case was advertised, but the hearing was permitted to move forward since all proposed improvements are interior.

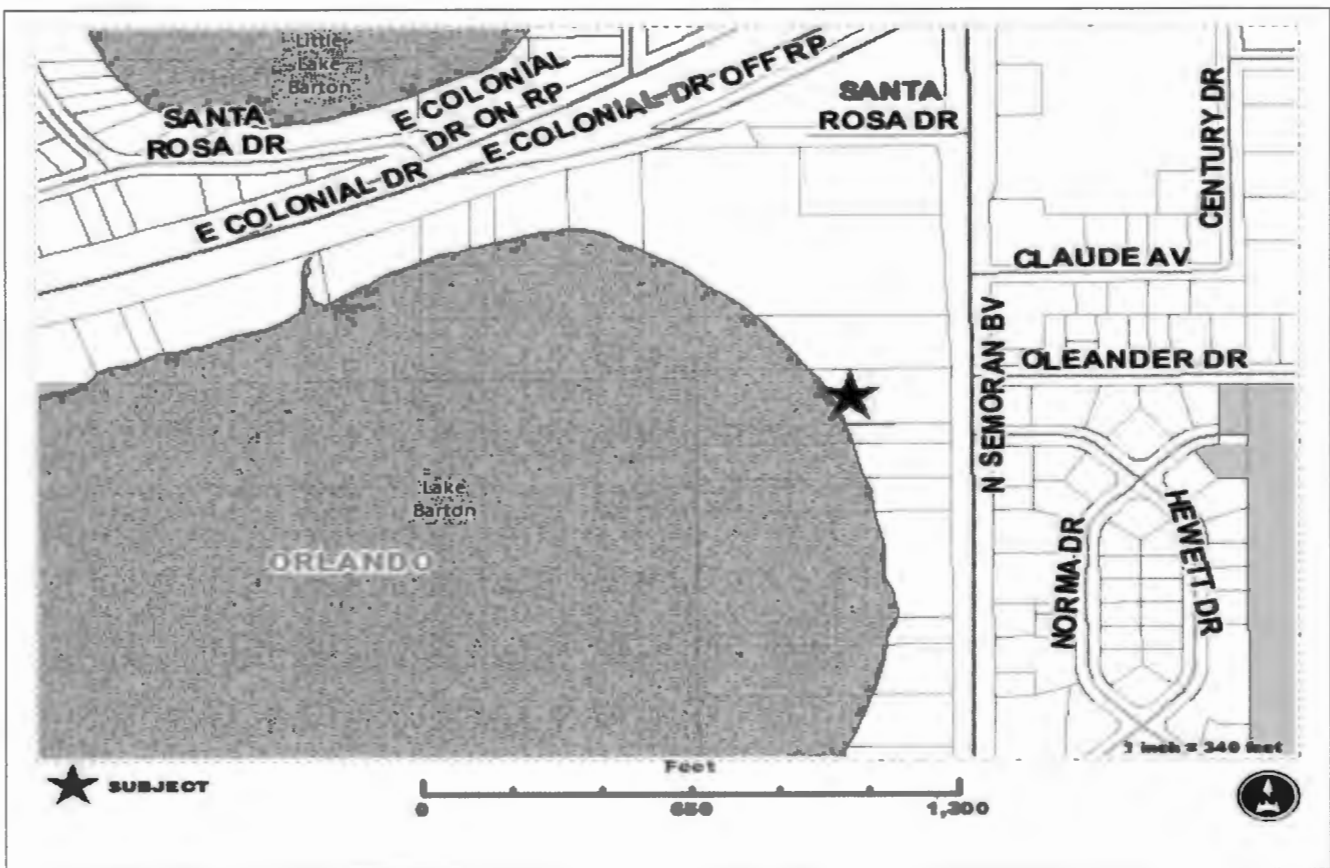
Staff noted that no correspondence has been received regarding this request and there was no one in attendance to speak in favor or in opposition to this application.

The BZA unanimously recommended approval of the Special Exception in that the proposed use was a good use for the subject property, and would be a beneficial addition to the community.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-O	C-2	C-1	C-1 & C-2	Lake Barton, City of Orlando
Future Land Use	O	C	C	C	Lake Barton, City of Orlando
Current Use	Office	Commercial	Office	Commercial	Lake Barton, City of Orlando

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the P-O Professional Office District, which allows for professional services such as medical offices, personal services and other office uses, and serves as a transition zone between commercial and residential uses. Vocational and technical schools are permitted through the Special Exception process.

The subject property is also located in the State Road 436/State Road 50 Corridor Overlay District. The intent of this overlay district is to promote the preservation and redevelopment of the corridor by prohibiting certain types of land uses which are considered detrimental to promoting redevelopment of the area. These uses include tattoo parlors and check cashing establishments. The requested use of a vocational training school is permitted.

The subject property consists of a total of 2.7 acres of unplatted land developed with a three-story office building containing a total of 19,817 sq. ft. of gross floor area, which was constructed in 1987. Of the 2.7 acres, just over one (1) acre of land is upland, with the remainder as either emergent wetland or submerged land.

The applicant, Technical Health Academy (THA) is proposing a 2,500 sq. ft. vocational school, which will teach medical technology, on the 3rd floor of an existing office building. The school proposes 3 classrooms, one testing room, and one seminar room for instruction by two teachers and one clerk. A maximum of 32 students is proposed. All improvements will be internal to the building. No site improvements are proposed.

The parking requirements for a college or advanced educational facility are essentially identical to that for the office use, that being one (1) parking space per each 200 sq. ft. of floor area used for office or classroom. The applicant is proposing to use a total of 2,500 sq. ft. for THA operations, which would require 13 parking spaces.

The site contains 73 parking spaces, including 71 standard spaces and two (2) handicap spaces. The number of spaces available will support up to 14,600 sq. ft. of actual office floor space at one (1) parking space per 200 sq. ft. of floor space used as office space. The remainder of the floor area consists of lobby area, corridors, restrooms, stairwells, elevator shafts, etc.

The proposed hours of operation are Monday through Friday between 9 a.m. and 12 p.m. and from 5 p.m. to 8 p.m., and Saturdays from 9 a.m. to 1 p.m.

The current building is non-conforming as to the north side yard setback. There is a slight discrepancy of 0.7 ft. between the north side setback which exists, and that required by code. However, the nonconformity has no bearing on the request for a vocational school to operate.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	85 ft.	165 ft.
Min. Lot Size:	10,000 sq. ft.	2.7 acres/117,612 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	180.5 ft. (east)
Rear:	30 ft.	1,008 ft. (west)
Side:	12 ft. (10 ft. plus 2 ft. for each story above 2)	11.3 ft.(north)/37 ft. (south)
NHWE:	50 ft.	50 ft. (west)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of educational facilities as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The use will be compatible with other uses located in the office building. The adjacent properties to the north, south and east are developed with similar commercial and office uses, and the proposed use will be completely contained within the existing office building.

Shall not act as a detrimental intrusion into a surrounding area

The proposed educational use will not act as a detrimental intrusion into the surrounding area. It will be located within an existing office building, and the number of students is limited to 32.

Meet the performance standards of the district

The proposed use, as conditioned, will meet the performance standards of the P-O district.

Similar in noise, vibration, dust, odor, glare, heat production

The proposal has similar characteristics as those associated with the majority of uses currently permitted in the P-O zoning district. It will be similar in noise, vibration, dust, odor, glare, and heat to a traditional office.

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 building on a developed site. There are no additional buffer yards required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the floor plan dated May 12, 2020, 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 applicant shall submit construction plans through the commercial site plan review process within 3 years of final approval of this application by Orange County or this approval is null and void.
5. The school is limited to a maximum of 32 students. Any increase in the number of students shall require BZA approval.

C: Luis Torres
672 N. Semoran Blvd. Suite 303
Orlando, FL 32807

COVER LETTER



May 13, 2020

Orange County Zoning Division
Board of County Commissioners
201 S. Rosalind Ave., 1st Floor
Orlando, Florida 32801

In Reference to: BZA Application for a Special Exception

Honorable Board and Members:

This letter and application is written to request a special exception for Technical Health Academy ("THA"), a vocational school that wishes to operate out of a P-O building called Point of View, located at 672 N. Semoran Blvd, Suite 303, Orlando, FL 32807.

BACKGROUND

THA was formed in 2019 with the intention of providing a smaller sized vocational setting for individuals interested in securing hands-on training in the following medical fields; electrocardiogram, medical billing and coding, phlebotomy and patient care. Currently, there are vocational schools along, or adjacent to, Semoran Blvd, however those facilities offer larger classroom settings, are more expensive and have longer cycle times. THA seeks to help individuals that are seeking similar instruction with affordable rates and smaller class sizes, which allow for closer interaction between instructor and student.

CLASSROOM INSTRUCTION

The office suite for THA is located on the third floor of a three-story building. THA's office space, 303, is approximately 2500 square feet. There are three classrooms, a testing room and a seminar room. Staff consists of two instructors and a clerk. Class sizes are limited to 4-8 students per class. Hours of operation are planned from Monday – Friday, 9-12 pm and evenings, 5-8 pm. On Saturdays the hours of operation are 9-1 pm. In the evening there is only one office that is open, Your Insurance Spot, and thus parking wouldn't be an issue, either in the evenings, or on Saturdays.

672 N. Semoran Blvd, Suite 303
Orlando, FL 32807
Office - 407-601-3341
Mobile - 407-415-8933

COVER LETTER (PAGE 2)

CURRENT TENANTS - PARKING

The building at Point of View is a three story building. There are a total of 73 parking spaces available. Occupancy is as follows:

Tenants 3 floor

Technical Health Academy, 3 employees
Perez-Calhoun Law Firm, 3-4 employees

Tenants 2nd floor

Angel Law Firm, 5-6 staff
Elite Medical & Rehab, 4-5 staff

Tenants 1st floor

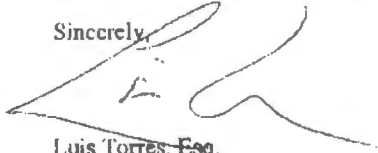
Your Insurance Spot, 10-15 employees.
Lifeline Injury Center/Solar Injury Center, 3-4 employees
Social Security Office, 10 employees

SPECIAL EXCEPTION CRITERIA

THA's business plan is consistent with the Comprehensive Policy Plan through the granting of the special exception. The use of THA is similar and compatible with the surrounding Semoran Blvd corridor--in the current building at 672 N. Semoran Blvd, there are doctor offices and medical clinics. THA's business plan is synonymous with the surrounding pattern of development, i.e., medical offices and schools of instruction and training, e.g., Keiser University on 5600 Lake Underhill Road, Orlando, FL 32807 and Ana G. Mendez University, 5601 S. Semoran Blvd, Orlando, FL 32822. THA will not be a detrimental intrusion into the surrounding area. THA will meet the performance standards of the district as a vocational school in an office building. As THA is a vocational school, there will not be any noise, nor vibration, dust, odor, or glare that is produced, outside of conversational level discussions that are held in a classroom environment. Landscape will not be affected as THA is an indoor setting, located in an office suite.

I thank you in advance for reviewing our application for the special exception and am available to answer any questions that are posed/presented.

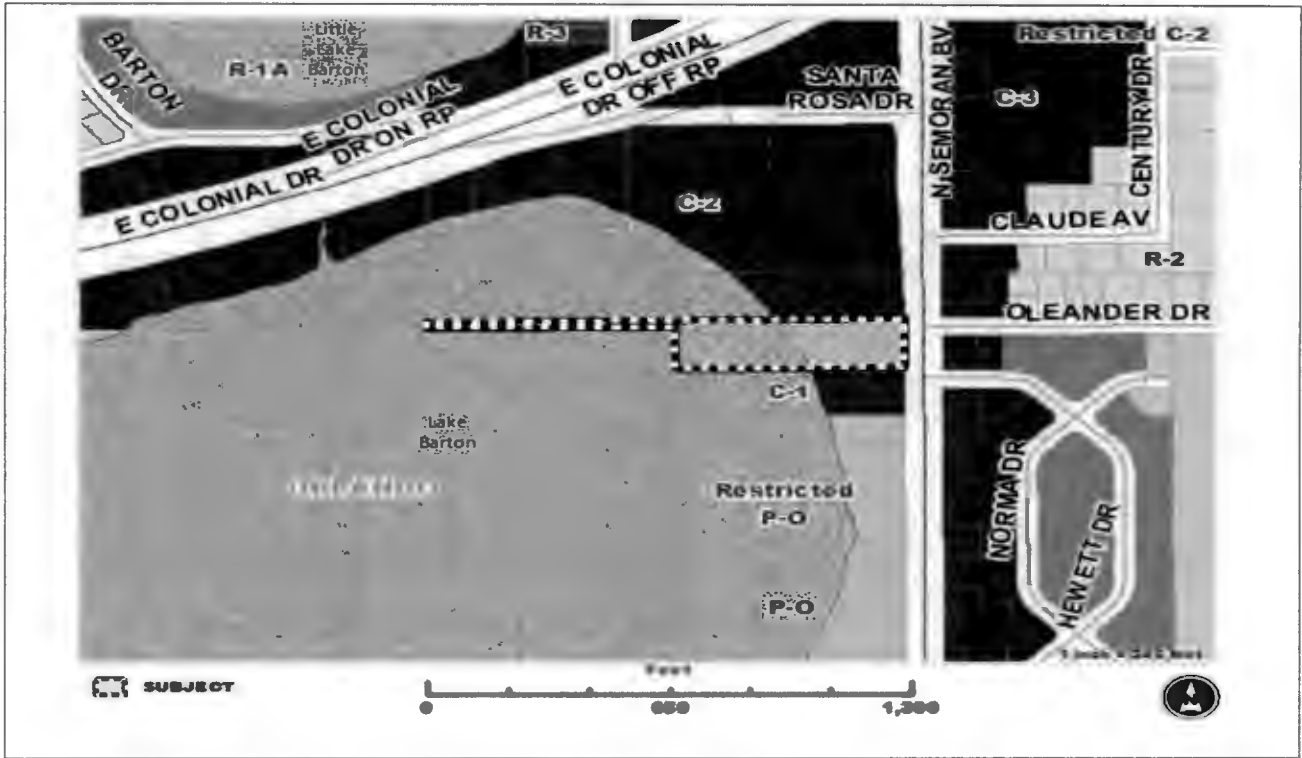
Sincerely,



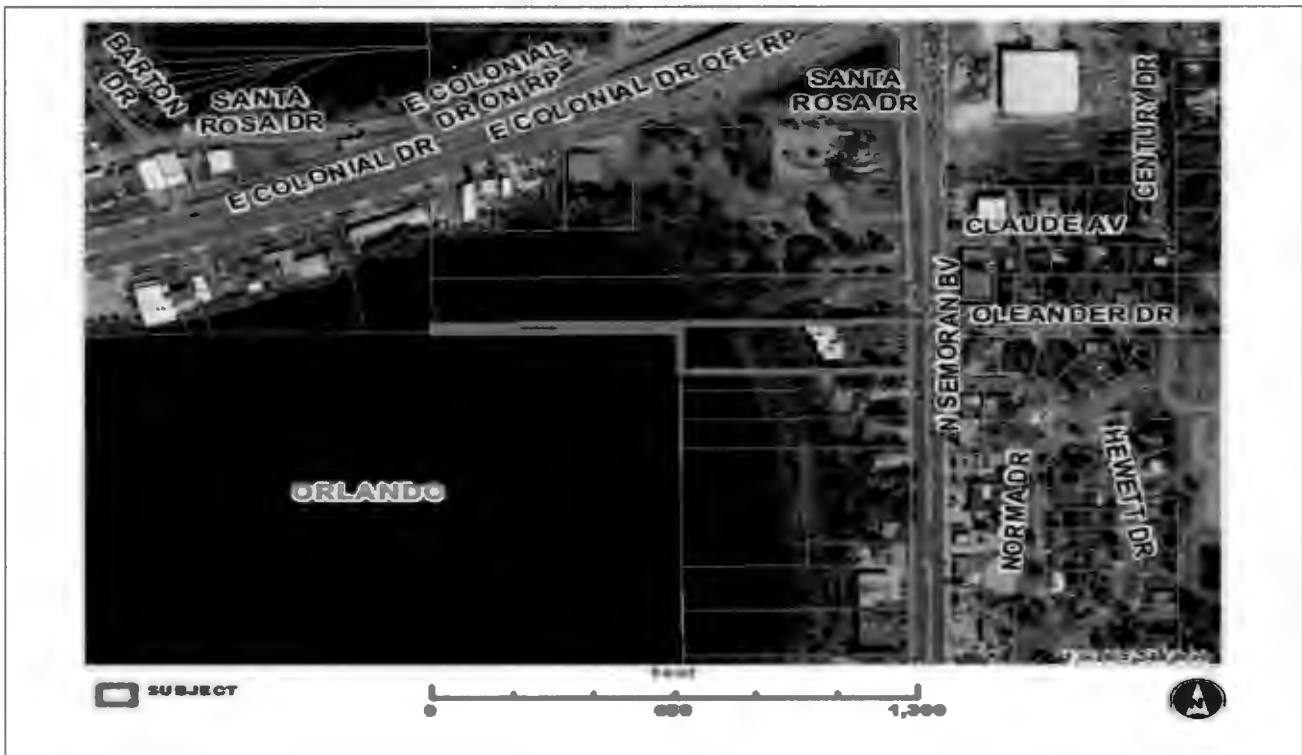
Luis Torres, Esq.
President, Technical Health Academy, LLC.

672 N. Semoran Blvd, Suite 303
Orlando, FL 32807
Office - 407-601-3341
Mobile - 407-415-8933

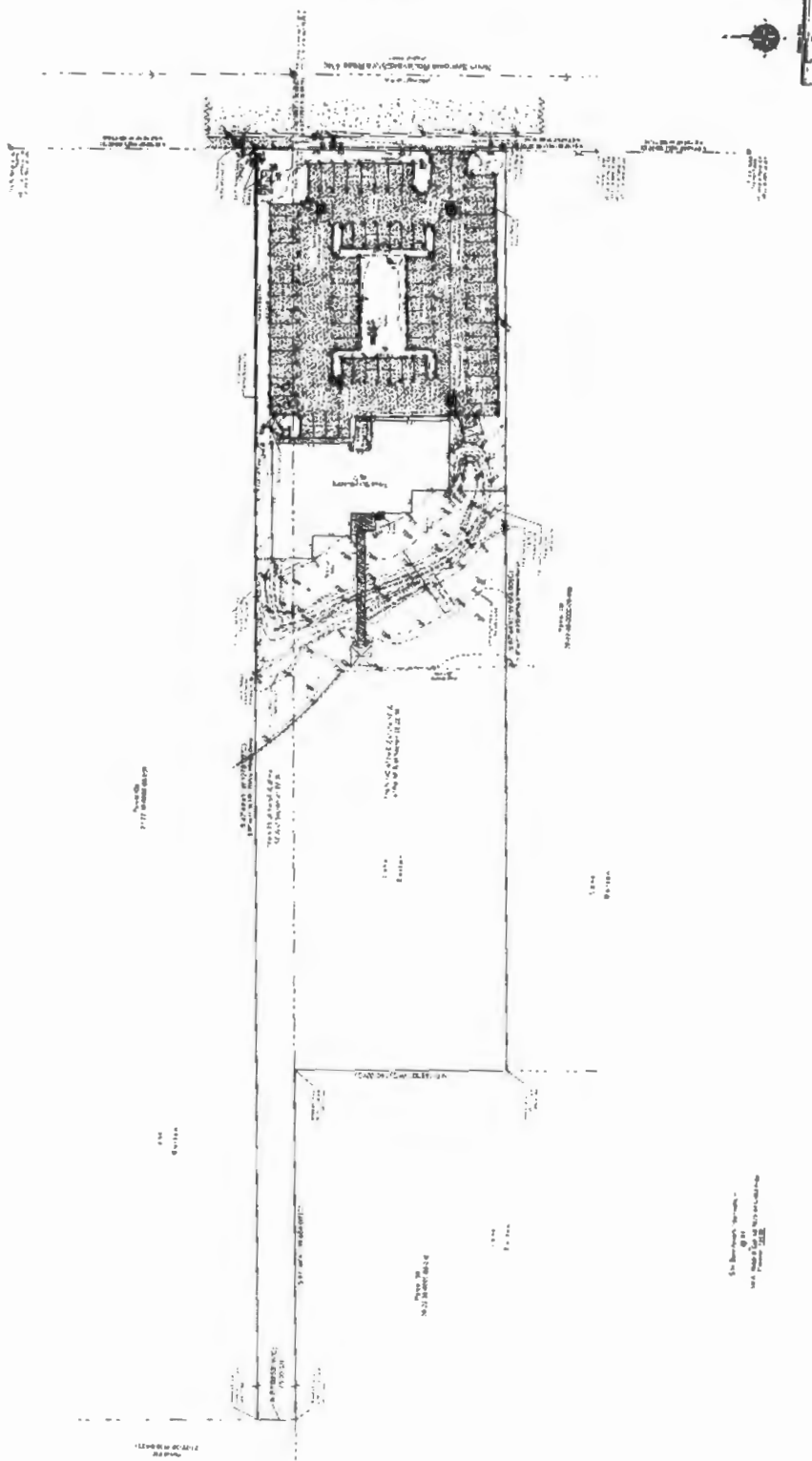
ZONING MAP



AERIAL MAP



SURVEY



SITE PHOTOS



Subject property looking west



South side of subject property looking west

SITE PHOTOS



North side of subject property looking west



East side of subject property looking south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 02, 2020**

Case Planner: **Nick Balevich**

Case #: **SE-20-08-070**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): JONATHAN P. HUELS

OWNER(s): ORANGE COUNTY INVESTMENTS LLC

REQUEST: Special Exception in the R-3 zoning district to allow an off-site retention pond in conjunction with non-residential development.

PROPERTY LOCATION: Conway Road, Orlando, Florida, 32812, west side of Conway Rd., north of S.R. 528

PARCEL ID: 29-23-30-0000-00-031

LOT SIZE: 16.04 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 121

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met 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 (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated May 12, 2020, 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 shall 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 gave a presentation on the case covering the location of the property, the site plan, and photos of the site. The applicant agreed with the presentation and had nothing to add.

The BZA confirmed it would be a dry retention pond that would outfall to the adjacent wetland. The BZA felt that the case was straightforward.

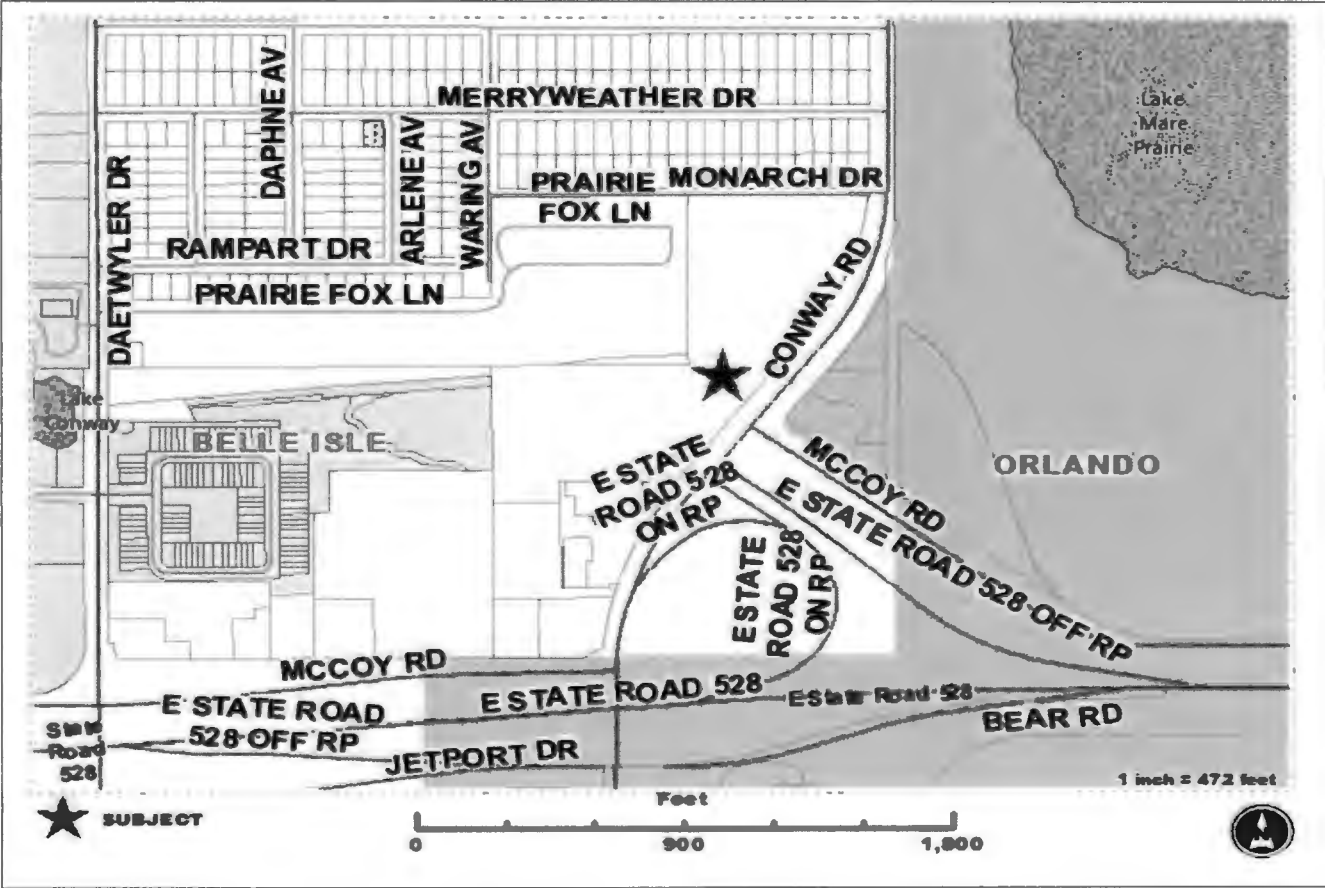
Staff received no correspondence in favor or in opposition to the application and there was no one present to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Special Exception, subject to the three (3) 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	R-1, R-3	R-1	C-1	City of Orlando	R-3, C-1, P-D, City of Orlando
Future Land Use	MDR	LMDR	C	City of Orlando	MDR, C
Current Use	Vacant	Single family residences, vacant	Commercial	Vacant	Vacant, multifamily, commercial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property has a split zoning of R-1 on the north side and R-3 on the south side. The portion of the property where the retention pond is proposed to be located is zoned R-3, Multiple-family Residential zoning district, which allows single-family homes, multifamily development, and associated accessory structures. It also allows for off-site retention ponds in conjunction with non-residential development through the Special Exception process.

The subject site is a 16 acre vacant lot that was created by a lot split in 2017 (LS-17-04-029). The property was then reconfigured in 2018 (LS-18-04-028) to remove the southwest portion of the parcel, directly adjacent to the location of the proposed retention pond. It is considered to be a conforming lot of record.

The applicant is proposing to install a 0.35 acre retention pond on the southeast side of the 16 acre parcel, adjacent to Conway Road, to serve a proposed hotel across Conway Road, east of the property. The pond will only be 3 ft. deep, as the berm and grade at the top of the pond will be at an elevation of 90 ft., and the bottom of the pond will be 87 ft. The pond will abut an existing retention wall to the south. The grading of the pond will generally follow the existing grades adjacent to the east property line along Conway Rd., but will be modified to provide an additional 10 feet at grade, along the adjacent sidewalk. The top of the pond will be 5 ft. from the property line, 13 ft. from the existing sidewalk and 29 ft. from the edge of Conway Road. This setback area will be landscaped with Crepe Myrtle trees and a continuous Viburnum hedge.

The area consists of single-family homes and vacant land to the north, multifamily, commercial and vacant land to the west, commercial uses, including hotels and a gas station to the south, and vacant land, across Conway Road, to the east. There is a proposed hotel, on the vacant property to the east, which this retention pond is being constructed to serve.

The property is also in the very early stages of a proposed annexation into the City of Orlando (ANX-ORL-1967) that isn't expected to be completed until mid-2021. There is a conceptual plan to construct a third hotel in the same area as the proposed stormwater pond that is the subject of the special exception request. The annexation is being processed, in part, for the third hotel to be serviced by the City's utilities. If the annexation is completed and the hotel constructed, then the stormwater being conveyed to the proposed pond would be redirected to the existing master pond located to the southwest. The special exception is needed to allow the proposed hotel across Conway Road to move forward with development while the annexation is working through the process.

As of the date of this staff report, staff has not received any correspondence in favor of or in opposition to the application.

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Future Land Use is Medium Density Residential and approval of the special exception, the project will be consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The proposed retention pond is located adjacent to Conway Road, across from the proposed hotel it will serve, to the east. A retention pond is a low intensity use, and is similar and compatible with the surrounding area, including the residential uses. Furthermore, the applicant has stated that the pond's design is intended to mimic a natural pond for compatibility with the area.

Shall not act as a detrimental intrusion into a surrounding area

The installation of a retention pond would not be a detrimental intrusion to the surrounding area as it is a passive open space use, and will be located over 800 feet from the nearest residential property.

Meet the performance standards of the district

The use of a portion of the property as proposed will meet the performance standards of the district.

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

The characteristics and impacts of a retention pond as a low impact use are consistent with the majority of uses permitted in area.

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

The applicant has provided a landscaping plan which addresses perimeter landscaping in compliance with Section 24-5 of Orange County Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated May 12, 2020, 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: Mr. Jonathan P. Huels
215 N. Eola Dr.
Orlando, FL 32801

COVER LETTER



MCGREGOR T. LOVE

Associate

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MAIN NUMBER: 407-843-4600

 MERITAS® LAW FIRMS WORLDWIDE

May 13, 2020

SENT VIA HAND DELIVERY

Jennifer Moreau
Orange County Zoning Division
201 S. Rosalind Avenue
Orlando, Florida 32802-2687

Re: Application for Special Exception for retention/detention pond at the intersection of Conway Road and McCoy Road, Orlando, Florida; Tax Parcel ID # 9-23-30-0000-00-031 (the "Property")

Dear Ms. Moreau:

This law firm represents Orange County Investments, LLC, the owner of the above-referenced Property, with respect to the application for special exception for the proposed retention/detention pond (the "Retention Pond") to be developed at the Property. The Property has a Comprehensive Plan Future Land Use designation of Medium-Density Residential. Consistent with this designation, the Property is zoned R-3 (Multifamily Dwelling District). The Property is currently undeveloped.

The Property is 16.04 acres and irregularly shaped. It is located immediately north of the interchange for Toll Road 528 on Conway Road. The Property is bounded by single family residential to the north, multifamily residential to the west, undeveloped land to the east (proposed to be developed as a hotel that will be serviced by the Retention Pond), and various commercial uses to the south, including two hotels and a gas station. The Future Land Use Designations of the parcels surrounding the Property are: (1) Low-Medium Density Residential to the north; (2) Medium-Density Residential to the West; (3) Mixed-Use Medium Intensity (Orlando) to the East; and (4) Commercial to the South.

The pending BZA application seeks a special exception to develop the Property as a Retention Pond, as is depicted in the enclosed site plan. The Retention Pond, if approved, will service the Best Western Premier Hotel (the "Hotel") proposed to be built to the east of the Property across Conway Road at the intersection of Conway Road and McCoy Road.

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

lowndes-law.com



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COVER LETTER

Jennifer Moreau
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Orange County Code, Section 38-79(123), permits storm water ponds on R-3-zoned property to be used in conjunction with adjacent nonresidential developments as a special exception. Section 38-78 of the Code details the specific criteria that must be met for all special exception requests. In this case, all of the criteria have been met as is discussed in more detail below.

(1) The use shall be consistent with the comprehensive policy plan.

The proposed Retention Pond is consistent with the goals, objectives and policies of the County's Comprehensive Plan. The proposed Retention Pond will further the County's objectives of promoting and facilitating visually appealing and sustainable storm water management systems (OBJ UD7.3) that provide adequate flood protection for all primary structures and protect the structural integrity of all roadways (SM1.1.2). Moreover, the proposed Retention Pond will allow for the disposal of storm water in a manner that will not cause personal or property damage to upstream and/or downstream property owners, as required by SM1.5.5 of the Comprehensive Plan.

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

The proposed Retention Pond is consistent with the character and pattern of development of the surrounding area. The Retention Pond would be located directly adjacent to Conway Road, a major roadway, and immediately north of the interchange for Toll Road 528. At its proposed location along the southeast border of the Property, the Retention Pond would be adjacent to various commercial uses to the south, including two hotels and a gas station. In addition, the Retention Pond's design, which mimics that of a natural pond, would ensure compatibility with the surrounding area.

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

The proposed Retention Pond is a passive use of the Property and will not act as a detrimental intrusion into the character of the surrounding area. Moreover, as demonstrated by the site plan, the Retention Pond is heavily buffered from all residential properties, with the nearest single-family residential parcel being more than 835 feet from the Retention Pond.

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

The Retention Pond will meet the performance standards set forth in Section 34-249 of the Orange County Code pertaining to retention, detention facilities.

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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.

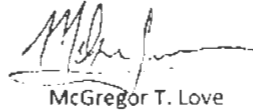
The proposed Retention Pond is a passive use for the Property and will produce no noise, vibration, dust, odor, glare, or other characteristics dissimilar with the uses permitted in the zoning district.

(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.

No landscape buffer yard is required under Section 24-5 of the Orange County Code.

As illustrated above, the proposed use meets all of the required standards for a special exception that are set forth in the County Code. We appreciate the opportunity to request this special exception. Please let me know if you have any questions or require any further information.

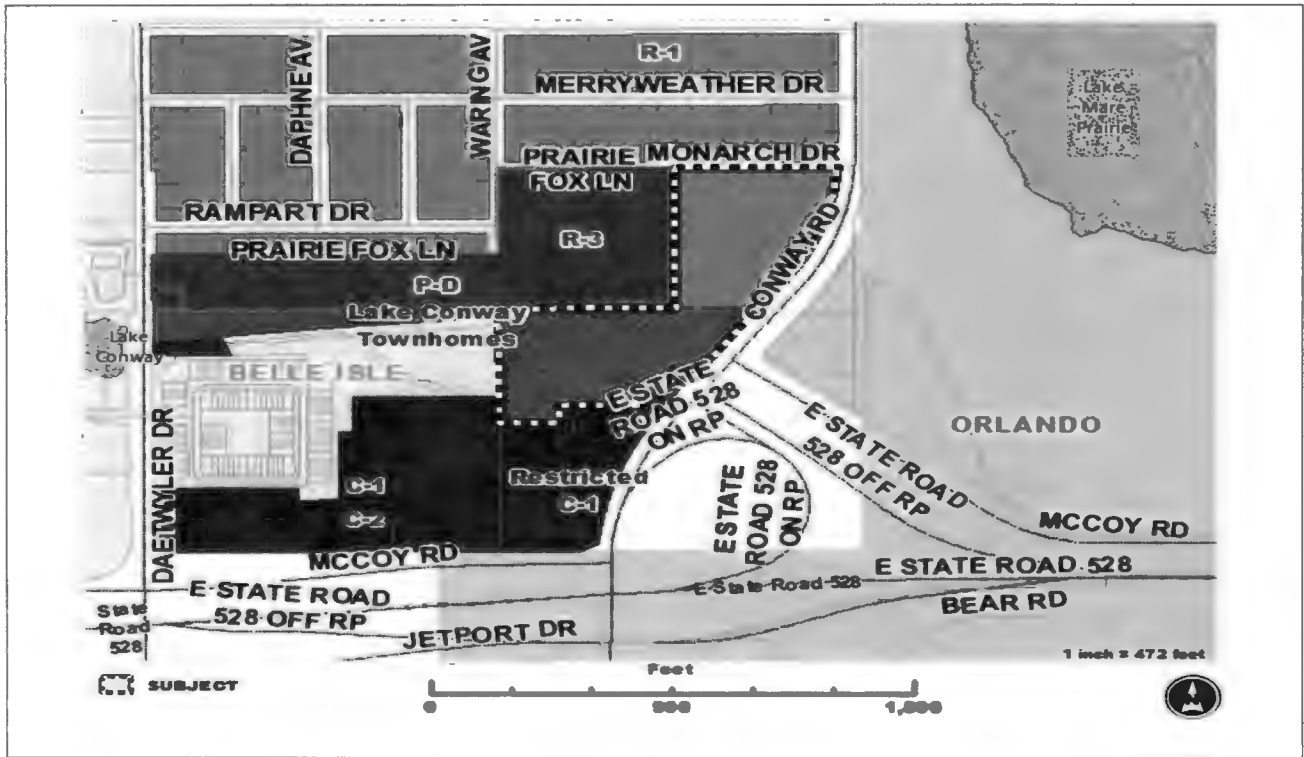
Sincerely,



McGregor T. Love

MTL/nle
Enclosures

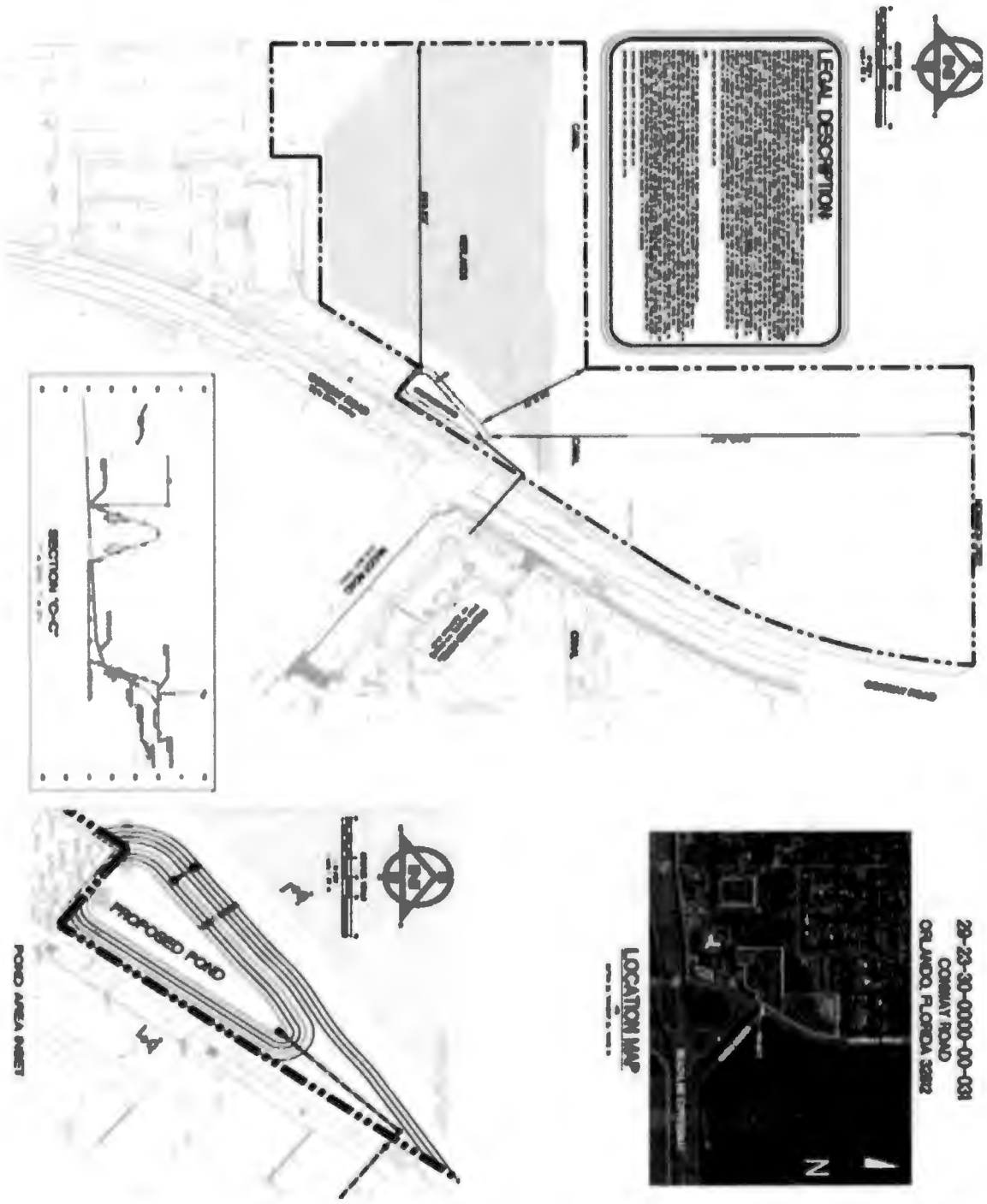
ZONING MAP



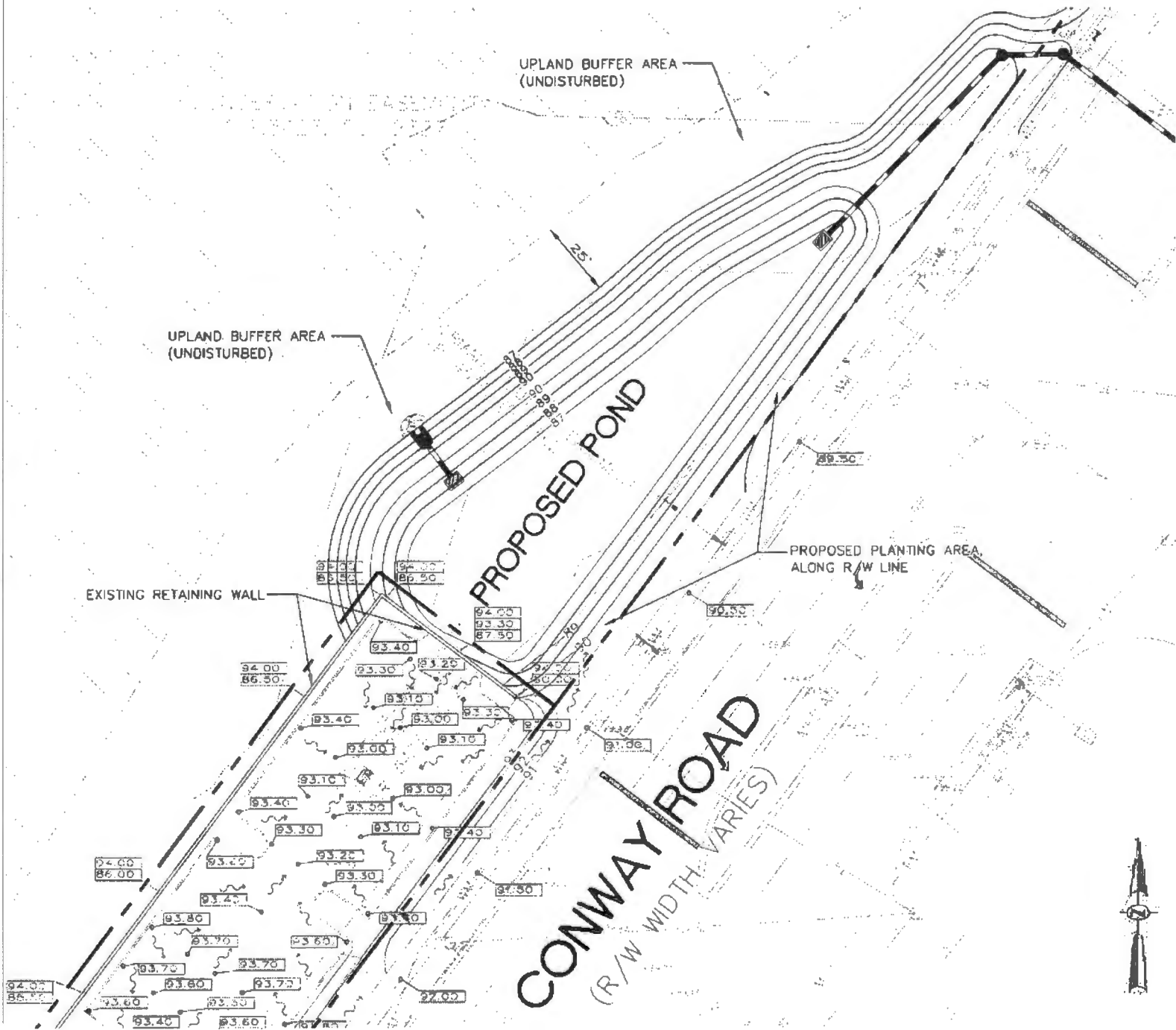
AERIAL MAP



SITE PLAN



POND DETAIL



SITE PHOTOS



Site from Conway Rd.



Site looking south

SITE PHOTOS



Retaining wall south of site



BOARD OF ZONING ADJUSTMENT