



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

April 7, 2022

Zoning Division

ORANGE COUNTY GOVERNMENT
BOARD OF ZONING ADJUSTMENT (BZA)

<u>Board Member</u>	<u>District</u>
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John Drago (Vice Chair)	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Vacant	5
Charles J. Hawkins, II	6
Roberta Walton Johnson	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
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Laekin O'Hara	Planner I
Michael Rosso	Planner II
Jenale Garnett	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
APRIL 7, 2022**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
SE-21-04-006	Amr Gawad For Crenshaw School	1	Denied	1
VA-22-04-013	Liz Castillo For The Licking Orlando	3	Approved w/Conditions	24
VA-22-04-012	Viviana Cancel For Chiqui Burger	3	Approved w/Conditions	36
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VA-22-04-016	Michelle Robinson	5	Approved w/Conditions	62
VA-22-04-014	Blake Roby, Elena Roby	1	Approved w/Conditions	79
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Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on Apr 26, 2022.

ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

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

Residential Districts

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

Non-Residential Districts

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

Other District

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

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

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

<i>District</i>	<i>Min. lot area (sq. ft.)^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>

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

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

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

FOOTNOTES

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

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

VARIANCE CRITERIA:

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

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

SPECIAL EXCEPTION CRITERIA:

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

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

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

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#1**

Case #: **SE-21-04-006**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): AMR GAWAD FOR CRENSHAW SCHOOL

OWNER(s): 2220 HEMPEL ROAD LLC.

REQUEST: Special Exception in the A-1 zoning district to allow a K-12 private school for 90 children including 40 dorms.

PROPERTY LOCATION: 2268 Hempel Avenue, Gotha, Florida 34734, west side of Hempel Ave., southeast of S.R. 408, north of Florida's Turnpike.

PARCEL ID: 33-22-28-3100-13-201

LOT SIZE: +/- 7 acres

NOTICE AREA: 1,000 ft.

NUMBER OF NOTICES: 83

DECISION: Recommended **DENIAL** of the Special Exception request in that the Board finds it does not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest (4 in favor, 1 opposed, 1 absent and 1 vacant).

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial due to incompatibility with the Rural Settlement. Staff noted that 3 comments were received in support, and 11 comments were received in opposition.

The applicant discussed the intensity of uses in the area and stated that all issues have been resolved including drainage and traffic. He also discussed the appropriateness of dormitories and the need for a quality private school in the area, and noted that Crenshaw School has been offering educational services to the community for over 10 years with no complaints at the church next to the property. He further noted that the majority of the school buildings would not be visible from Hempel Avenue and that agreed with staff's recommendation to reduce the number of spaces to the Code minimum to reduce the impervious area and visible impacts.

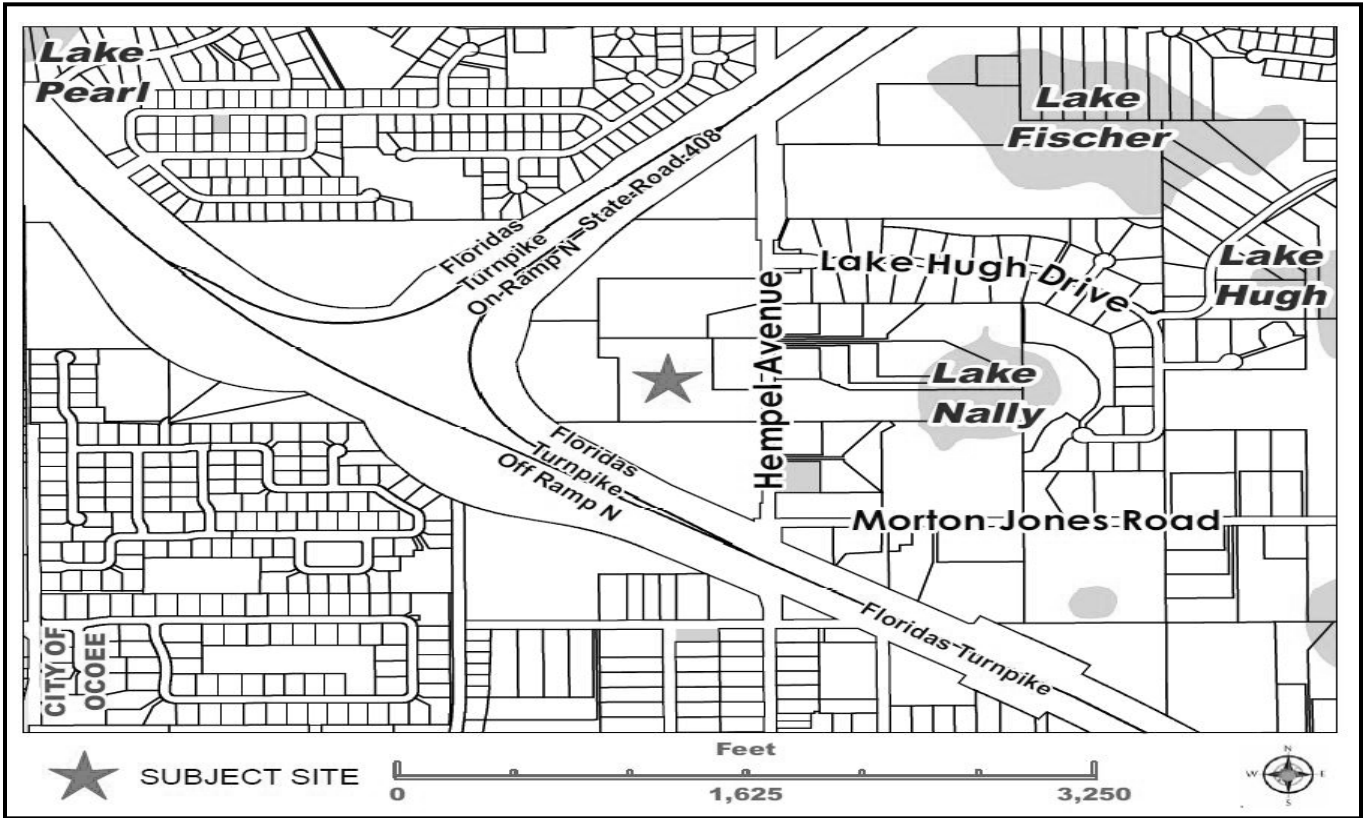
Five (5) people spoke in favor of the request and six (6) people spoke against the request, stating concerns about stormwater, environmental issues, noise, traffic, the dormitories and preservation of the Rural Settlement, noting that the use will not benefit the residents of the area.

The BZA noted that the proposal is not consistent with the Rural Settlement, was concerned about preserving the rural character since the use is not intended to serve the area and recommended denial of the Special Exception by a 4-1 vote, with one absent and one seat vacant.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement
Current Use	Vacant	Single-family residence, warehouse buildings, landscape nursery	Educational facility, religious facility	Single-family residence, warehouse buildings	Electric utility

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1, Citrus Rural district, which primarily allows agricultural uses, nurseries and greenhouses, as well as mobile homes and single-family homes on larger lots. Certain non-agricultural, non-residential uses, such as educational facilities, are permitted through the Special Exception process. The Future Land Use is RS-1/1, Rural Settlement 1 du/1 ac, which is consistent with the A-1 zoning district.

The subject property is located in the Gotha Rural Settlement. The Gotha Rural Settlement is identified in the Orange County Future Land Use Element as one of five Rural Settlements within the County that has maintained its historically rural character, and mandates that every effort shall be made to preserve this rural character as part of Orange County's heritage and historic preservation efforts. Rural Settlements restrict non-residential uses to those that support existing residential uses and serve the residents of the community.

The subject property is a 7-acre vacant parcel, created through a lot split in 2021 (LS-21-03-016) and conforms to the minimum lot requirements of the zoning district. There is an existing Progress Energy easement at the south end of the property that provides access to the Progress Energy site to the west of the subject property. The access to the site will be generally in the same location and will allow continued access to the Progress Energy site. The area is comprised of groves and nurseries to the north, a school and church to the south, single-family residences and warehouse buildings to the north/east, and electricity/utility site (referenced above) and freeways to the west.

The proposal is to allow construction of a kindergarten through 12th grade private school campus for 90 children with a cumulative total building area of 43,940 sq. ft. A special exception is required for the proposed use. The proposal includes a 12,180 sq. ft. school building, Building #1, a 10,400 sq. ft. administration building, Building #2, a 16,000 sq. ft. 40 student dorm building intended for international students, Building #3, a 4,000 sq. ft. cafeteria building, Building #4, a 960 sq. ft. maintenance shed, Building #5 and a 400 sq. ft. clinic, Building #6, paved parking, a courtyard, open space, a playground and a retention pond. While the plans call out a playground, no details have been provided as to what that will include, or how it will be laid out. The cover letter provided indicates that basketball courts are proposed but none have been identified on the plan. Vehicular access to the site will be provided from Hempel Avenue.

The applicant, the Crenshaw School, Inc. has been operating a K-12 private school since 1999, on the adjacent property to the south since 2010 with 60 students and no dorms. That school is proposed to remain, in addition to the new school on the subject site. The proposed 6 buildings and associated facilities and amenities shall only be for the exclusive use for the 90 students and residents of the dorms.

Parking requirements are as follows:

- School: maximum 6 classrooms, at 4 parking spaces per classroom, requiring 24 spaces
- High School: maximum 45 students, at 1 parking space per 3 students, requiring 15 spaces
- Total required is 39 spaces, while 100 paved parking spaces are being provided.

The proposed hours of operation are as follows:

- Administration Building – 7:00 AM to 6:00 PM – Monday to Saturday
- School Buildings – 8:00 AM to 3:00 PM – Monday to Friday. Dorms used nights and weekends

Comprehensive Planning reviewed the request and determined that the proposal is generally consistent with the policies in the Comprehensive Plan, but expressed concerns about compatibility with the Gotha Rural Settlement, and the inability of the information and plans provided to clearly explain or illustrate how compatibility with the surrounding Gotha Rural Settlement will be achieved, specifically in regards to the amount of open space to impervious area, the lack of a significant tree canopy, and the primary building's location.

Future Land Use Element Policy FLU6.2.5 states that the permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character. Factors to be considered shall include lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses. While the project entails a total building area of 43,940 square feet, resulting in a floor area ratio (FAR) of 0.14 (consistent with the 0.15 FAR considered suitable for neighborhood commercial and office uses in Rural Settlements that have maintained their historic character), the Development Data sheet notes that impervious area is expected to cover 60.8 percent (or 185,333 square feet) of the site, which is excessive for a rural area, specifically when the amount of parking provided far exceeds that required.

While the Orange County Code requires 39 parking spaces, 100 paved parking spaces are proposed, including a 43-space lot situated at the entrance to the property, between the planned administration building and Hempel Avenue. By revising the site plan to remove the parking lot adjacent to Hempel Avenue, or to be more in line with the parking area for the school to the south (with a drive aisle and one row of parking) and pulling the administration building forward toward Hempel Avenue, with all or most of the necessary parking located behind the building, it would create a more rural character at least as viewed from the street.

Planning also notes that in contrast to the heavily-vegetated properties on the opposite side of Hempel Avenue, the subject property is largely an open field, with few trees present on the site. Although the Conceptual Landscape Plan proposes planting shade trees along the perimeter of the property—one shade tree per 25 linear feet within a 7-foot landscape buffer—and depicts a number of shade trees in the planned parking areas, the proposed plan appears to meet only the minimum landscape requirements of code. As a condition of approval of this report, additional canopy trees will be required to be planted around the campus and in the areas identified as “playground” or “open space.”

The cover letter references the elementary school campus to the south being owned and operated by the same school. With respect to access management and safety, there appears to be no existing or planned vehicular or pedestrian/bicycle connectivity between the Crenshaw School’s proposed middle and high school campus on the subject property and its intended elementary school campus on the neighboring New Life Worship Center site to the south. It is Planning’s belief that cross-access—particularly pedestrian and bicycle connectivity—should be provided and that the property owners work together to provide at least one cross-access point. The provision of cross-access would allow students, faculty, staff, and parents to safely travel between the two campuses without having to venture onto Hempel Avenue and would likely prove beneficial to the surrounding Rural Settlement by helping to reduce the disruption of traffic flow on Hempel Avenue.

The County Transportation Planning Division reviewed a traffic study provided by the applicant and concluded that it did not show any transportation deficiencies. Therefore, no additional technical analysis is required to support the request.

On Thursday March 10, 2022, a Community Meeting was held at Gotha Middle School to allow for input. The meeting was attended by the applicant, County staff, and 47 attendees. The majority of the attendees spoke negatively about the proposal, stating concerns about drainage, flooding and run off, environmental issues, additional traffic, the inappropriateness of the dormitories, and preservation of the Rural Settlement, noting that the use will not benefit the residents of the area.

At the date of the writing of this report, 5 comments have been received in opposition to the request and 1 comment has been received in support of the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	100 ft.	213 ft.
Min. Lot Size:	1/2 ac.	7 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	133 ft. (East – Building #2)
Rear:	50 ft.	51 ft. (West – Building #3)
Side:	7.5 ft.	35 ft. (North – Building #2) 39 ft. (North – Building #1) 48 ft. (South – Building #2) 37 ft. (East – Building #1)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of private school campuses as conditioned through the special exception process is consistent with the Comprehensive Plan, and has been determined by the Comprehensive Planning Division to be consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The provision of a private school campus with 43,940 cumulative square feet of buildings, including 40 dormitory residents, and 100 parking spaces is not similar and compatible with the intensity of uses surrounding the rural settlement, the majority of which contain a density of 1 home per acre.

Shall not act as a detrimental intrusion into a surrounding area

The scale and intensity of the proposal will be a detrimental intrusion to the surrounding area since it is a rural settlement, and the uses are clearly not intended to serve the residents of the community as evidenced by the proposed dorms. Furthermore, details have not yet been provided as to the outdoor playground area and/or basketball court. Depending on the location of the courts and the hours of use, lighting and noise could add to the intrusion into the neighborhood.

Meet the performance standards of the district

The proposed design of the private school campus will meet the performance standards of the district.

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

The proposed activities on the site will not be similar to the rural residential uses within the surrounding area.

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

Landscaping buffers with trees, including the preservation of existing trees within the south buffers, will be provided in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan, landscape plan and elevations received March 17, 2022, as modified to meet these conditions of approval, and subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant

fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Hours of operation shall be 7:00 AM to 6:00 PM – Monday to Saturday for the Administration Building, and 8:00 AM to 3:00 PM – Monday to Friday for the School Buildings. The hours of operation for the outdoor playground and any associated basketball courts or other outdoor activities shall be from 8:00 AM to 8:00 PM.
6. Prior to the issuance of a Certificate of Occupancy, the owner shall record a cross access easement to allow access with the adjacent existing parking area for the non-residential buildings on the property located to the northeast.
7. The owner shall work with the property owner to the south to provide pedestrian and vehicular access to the property to the south via a cross access easement.
8. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.
9. The site plan shall be updated to show parking spaces that meet the Orange County code minimum size requirements.
10. The number of parking spaces shall be reduced to the minimum 39 parking spaces required by code.
11. Enhanced landscaping shall be provided along the entire length of the perimeter of the areas identified on the Site Plan as "playground" and "open space". This enhanced buffer shall consist of 2 parallel rows, planted 25 ft. on center, staggered, with canopy shade trees. Enhanced landscaping shall also be provided along the perimeter running along the east and north sides of the property located adjacent to the property containing non-residential buildings. Canopy trees will be required to be installed in this area within a minimum 5-foot-wide landscape strip, with one canopy tree to be installed every 25 feet on-center, supplemented with a continuous row of shrubs/ hedges.

C: Amr Gawad
3061 Seigneury Drive
Windermere, FL, 34786

COVER LETTER



March 15, 2022

Mr. Nick Balevich
Orange County Zoning Division
201 South Rosalind Ave., 1st Floor
Orlando, Fl. 32801

TRUE.

**Subject: Cover Letter to Application for Special Exception (revised)
The Crenshaw School – Total 90 Students
2268 Hempel Ave, Gotha, Florida
Parcel I.D. 33-22-28-3100-13-201
TEC # 20-012.10**

Dears Mr. Balevich:

In light of the community meeting that took place last week coupled with our conference meeting with County on Monday March 14, 2022, True Engineering & Consulting, Corp (TEC) is pleased to present this cover letter (as revised) to the Orange County Board of Zoning Adjustment (BZA) special exception application for the property located at 2268 Hempel Avenue, in the town of Gotha, within the unincorporated Orange County, Florida. The purpose of this letter is to provide detailed information for the proposed use of the school development on the subject property. Please note that this property was created as a result of a lot split process, which was completed and new parcel I.D. was issued.

Subject Property:

The proposed school is to be developed on 2268 Hempel Avenue, Gotha, Florida. This property is 6.998 acres.

Current zoning:

The subject property is currently zoned A-1

Existing Conditions:

This property is currently vacant, and was never developed.

Applicant Information & Background:

The applicant for this application is The Crenshaw School, Inc. This applicant has been operating a K-12 private school with full accreditation since 1999. As of August 2010, this school began operations at its current location of 2342 Hempel Avenue, Gotha, Florida, which is the adjacent property to the south of the subject property. The current accreditations include: AISF, SACS (now called CASI/COGNIA), CITA, NCPSA and Accreditation International (AI). The same organization and accredited staff will be the backbone of the operations of the proposed school.

TRUE.

3061 Seigneury Drive, Windermere, Fl. 34786
T. (321) 231-1200 F. (407) 909-3067
agawad@trueengineering.com

COVER LETTER

Mr. Nick Balevich
Orange County Zoning Division
Cover Letter to Application for Special Exception (Revised)
The Crenshaw School – Total 90 Students
2268 Hempel Ave, Gotha, Florida
Parcel I.D. 33-22-28-3100-13-201
TEC # 20-012.10
Page 2 of 6

Proposed Project:

Lot area:

The applicant is planning to lease this parcel of land (approximately 7.0 Acres) from the current owner to develop the proposed school.

The proposed private school shall consist of Six (6) buildings along with associated facilities:

The proposed build-out capacity for this location was 450 students. Following our online conference call with Orange County on March 14, 2022, the applicant has decided to reduce the number of students to a total of 90 students. **There will be NO phasing for this project, this proposed 90 students is the total capacity for this site.**

The proposed buildings and associated facilities for the total proposed 90 students will remain the same as presented before, except the dorm building which was reduced to only 16,000 SF. These buildings will consist of the following:

1. Administration Building – 130 ft. x 80 ft. (10,400 SF) one story, maximum height 35 ft.
2. School Building A – 203 ft. x 60 ft. (12,180 SF) one story, maximum height 35 ft.
3. Cafeteria Building – 80 ft. x 50 ft. (4,000 SF) one story, maximum height 35 ft.
4. Nurse Clinic – 20 ft. x 20ft. (400 SF) one story, maximum height 35 ft.
5. Maintenance shed – 32 ft. x 30 ft. (960 SF) one story, maximum height 35 ft.
6. Dorm Building – 100 ft. x 80 ft. (16,000 SF) two story, maximum height 35 ft.

Outdoor playground

Courtyard for recess

Parking lot

Stormwater Retention pond

Note: All amenities on this project shall ONLY be for the exclusive use of the registered students and residents of the dorms, including parking facilities and others.

School Staff and Students:

Number of Staff/Administration – 15 to 28

Number of Teachers/Instructors – 9 to 14

Number of Students (Total) – 90

Days and Hours of operations:

Administration Building – 7:00 AM to 6:00 PM – Monday to Saturday

School Building – 8:00 AM to 3:00 PM – Monday to Friday

Open Space:

The proposed open space for this development is 39.2%. Refer to **Exhibit 4B** for detailed calculations of all development elements on this project.

COVER LETTER

Mr. Nick Balevich
Orange County Zoning Division
Cover Letter to Application for Special Exception (Revised)
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TEC # 20-012.10
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Cross Access Easement:

The 2268 Hempel Ave parcel and the 2220 Hempel Ave parcel are owned by the same corporation. The proposed school will be leasing the 2268 Hempel Ave parcel from its owner. Therefore, no cross access easement would be required. Note that the previous proposed site plan had suggested some parking spaces on that north parcel, however, these parking spaces have been eliminated in the revised site plan, as shown on **Exhibit 4A**.

Progress Energy Easement:

The property owner has an existing (recorded) easement with Progress Energy power station located to the west of this development. This easement instrument is CFN # 20070231490, which is recorded in Book 9204, Page 591. A copy of this easement is presented in **Exhibit 12**.

Note that this access easement does not exactly line up with the proposed internal road for this project. The applicant is proposing to widen that road to be 24 feet wide and re-align it to continue to provide access to Progress Energy site with no obstructions or violations to terms and conditions of the existing easement agreement. Please refer to **Exhibit 4A** showing the current location of the Progress Energy easement in relation to the proposed internal road for this project.

The property owner shall revise this instrument, coordinate with Progress Energy and record it following approval of the final site plans.

Internal Roads and on Site Traffic Pattern:

The proposed site layout provides for safe access to all users and residents. The parking lot is proposed to facilitate the drop-off and pick-up of students with ample room for on-site vehicle stacking that guarantees no traffic back-ups/congestions on Hempel Ave. Refer to the internal drop-off / pick-up route on **Exhibit 4A** and the traffic study attached as **Exhibit 13**.

In addition, all turning radii are proposed to comply with Orange County codes and shall allow firefighting engines easy and safe egress to and from all buildings on this development. This includes the on-way road proposed to the east, north and west of the dorm buildings, which should provide immediate access to all corners of these buildings in case of fire rescue situations. On-site fire hydrants are also proposed as per requirements of County fire department codes.

Traffic Study:

The applicant has retained the services of a traffic engineering firm; Traffic Planning and Design, Inc., to address the traffic impacts of the proposed project on the surrounding roads. The methodology for the traffic study at this stage of special exception was discussed and issued by Orange County traffic/transportation department as well as County traffic consultant. The proposed modification submitted herein will NOT affect the outcome of the traffic analysis, since

COVER LETTER

Mr. Nick Balevich
Orange County Zoning Division
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the total number of student for this school will only be 90 students, which is less than the 150 students included in the traffic study.

Refer to **Exhibit 13** for copy of the traffic study issued for this development.

Special Exception Criteria Justification

Section 38-78, Orange County Code stipulates specific criteria to be met for all Special Exception requests. The following presents justification for these 6 criteria:

- 1. The use shall be consistent with the Comprehensive Policy Plan.**
The future land use map shows the subject parcel is in rural 1/1 with A-1 zoning. The code of ordinance would allow the use of private schools on A-1 zoning with special exception. The proposed use is 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.**
All surrounding properties have the same land use and A-1 zoning. In addition, there are currently a K-12 private school to the south (The Crenshaw School). The proposed use is similar and compatible with the surrounding area, and is consistent with the pattern of surrounding development.
- 3. The use shall not act as a detrimental intrusion into a surrounding area.**
The property to the south has already a private school since August 2010 (The Crenshaw School). Therefore, this area has been familiar with this type of use with no notable issues from surrounding neighbors. As a result, the proposed use will NOT act as a detrimental intrusion into the surrounding area.
- 4. The use shall meet the performance standards of the district in which the use is permitted.**
The proposed use will be a private middle and high school. The proposed development shall meet all required setbacks, buffers, height limitations, traffic, egress, parking and other planning and zoning codes. The proposed use meets 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.**
As per the proposed site plan (attached), the school building is planned to be placed **265 feet** from Hempel Avenue western R/W. The only possible source of noise is during

COVER LETTER

Mr. Nick Balevich
Orange County Zoning Division
Cover Letter to Application for Special Exception (Revised)
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recess time which would be held at the court yard placed west of the school building, away from Hempel Ave. This should minimize any noise level that could affect the surrounding neighbors. Therefore, the proposed use is 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 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.**

The proposed development intends to apply landscape buffers that are in accordance with section 24-5 of the Orange County code. Please see proposed development plan indicating a continuous 7 ft landscaping buffer with shade trees placed at 25 ft intervals, all around the property.

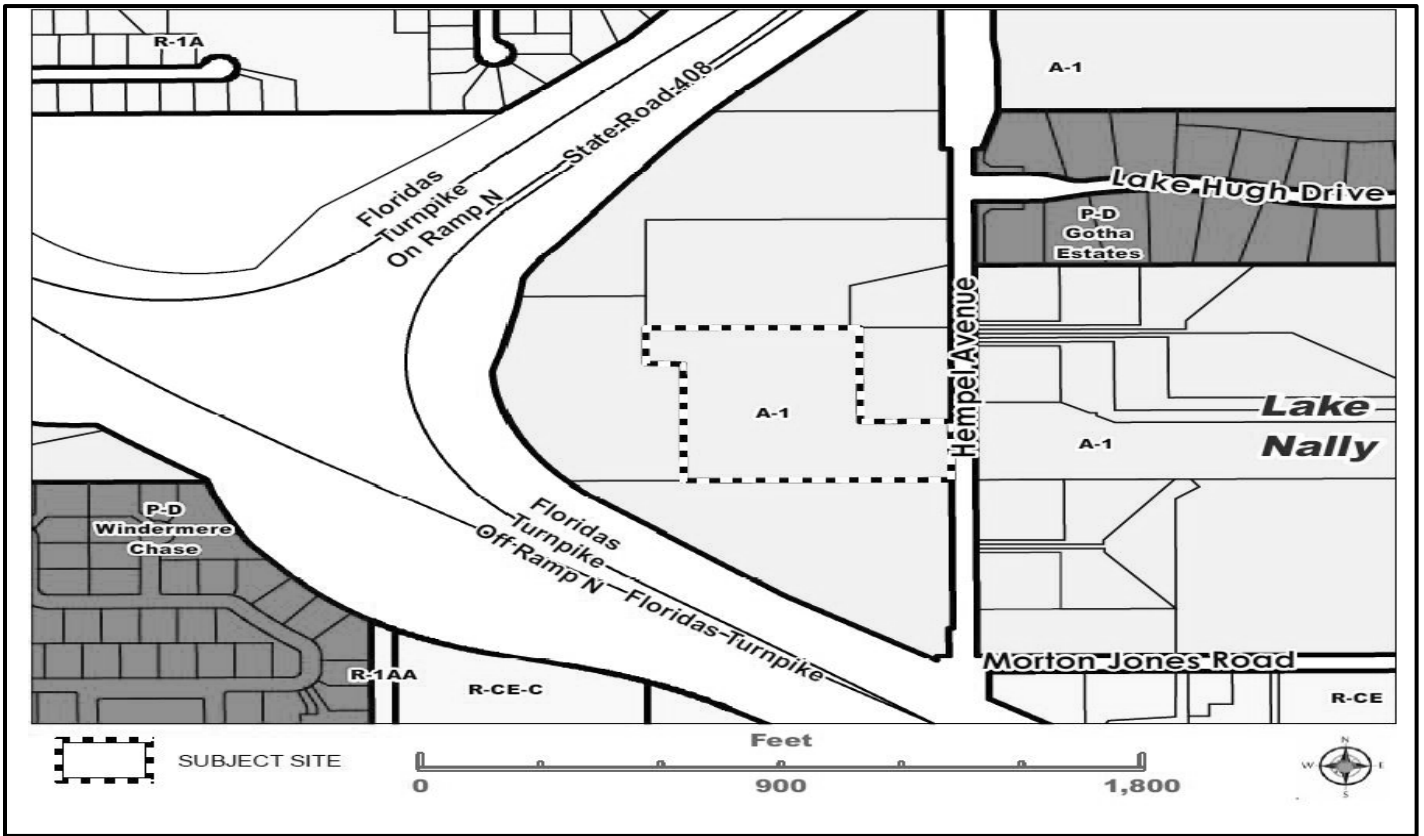
We trust the above information meets with your requirements for this application. Should you require any additional information or have any questions regarding this application and the attached supporting documents, please do not hesitate to contact me.

Very truly yours,
True Engineering & Consulting, Corp

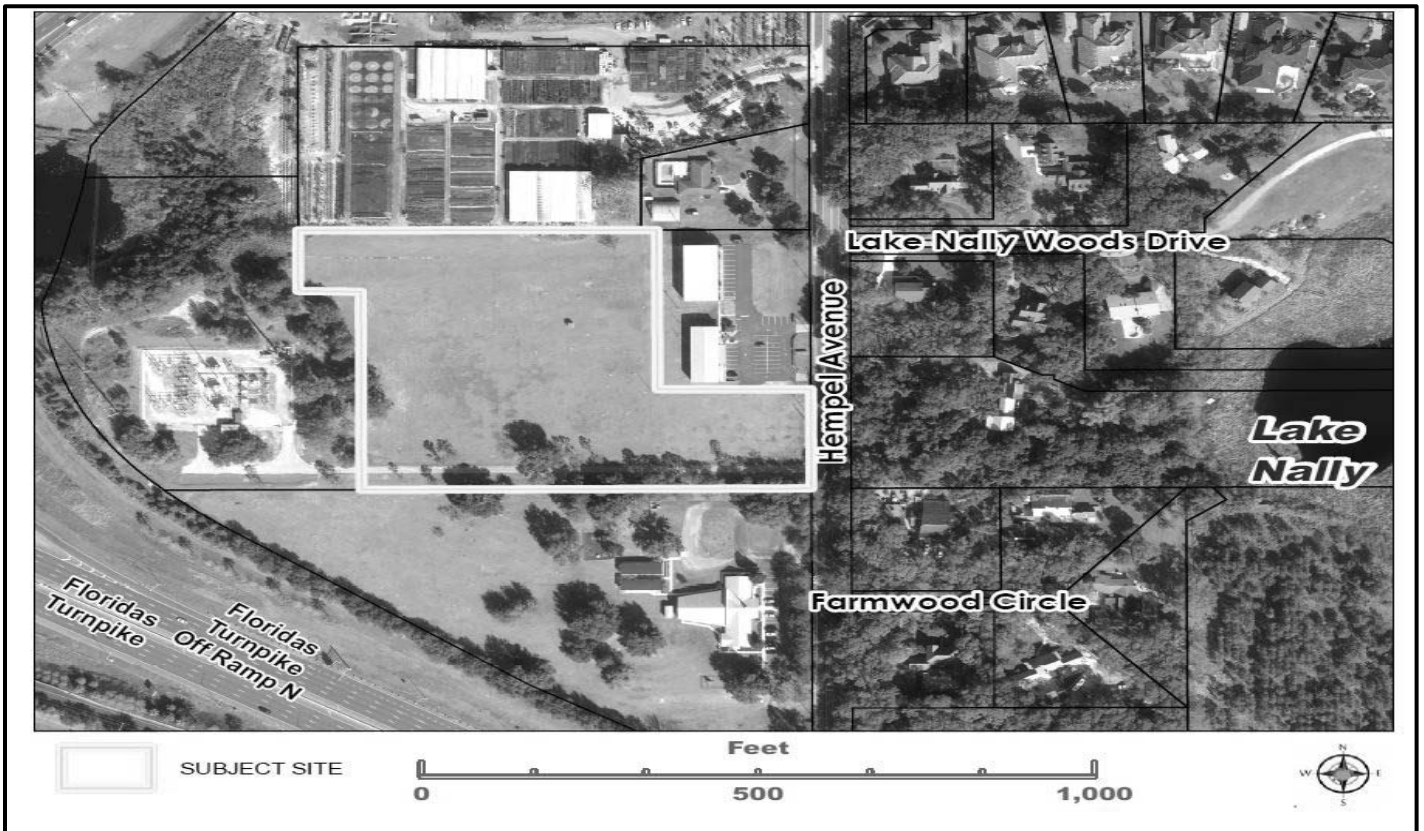


By: Amir T. Gawad, P.E.,
President

ZONING MAP



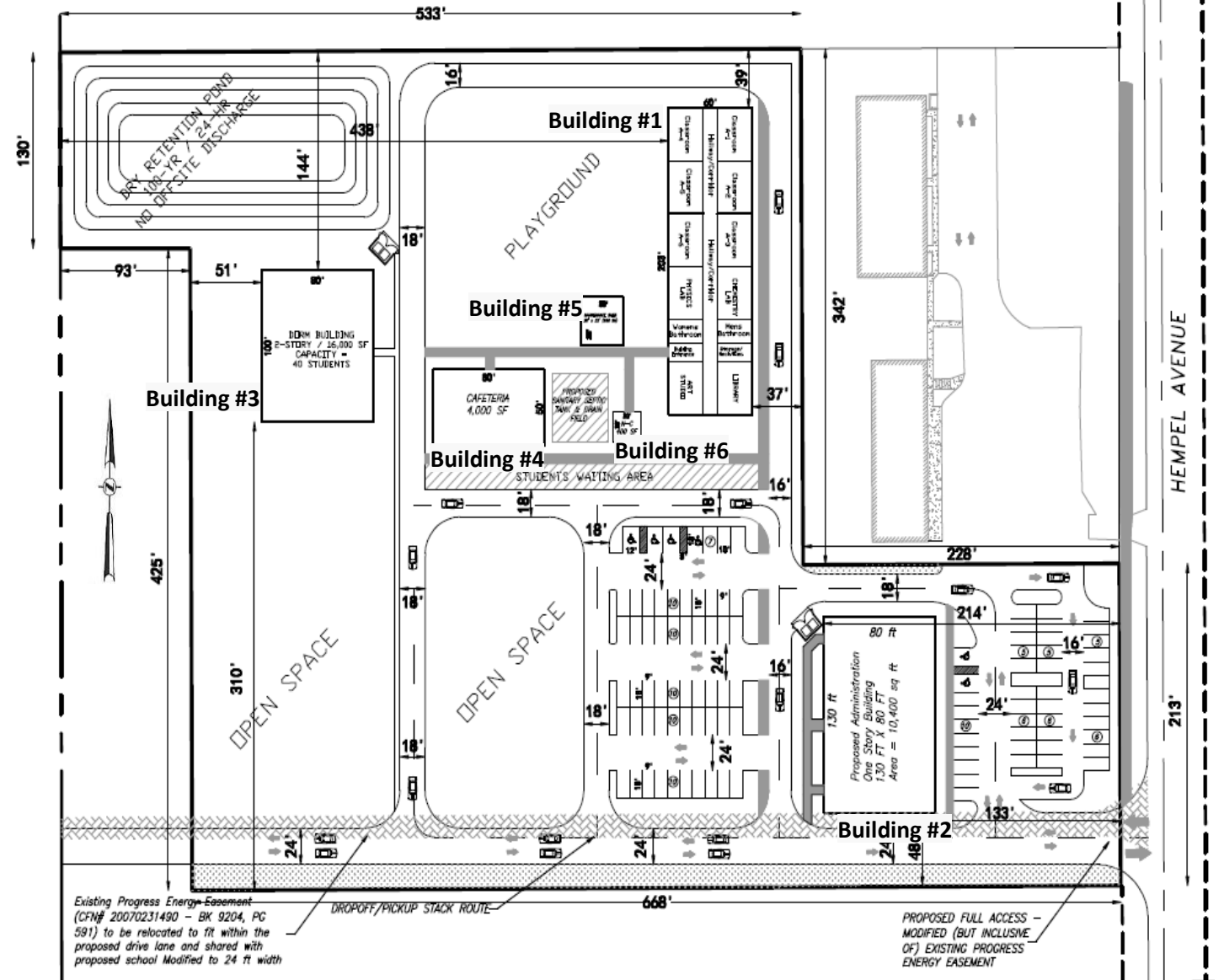
AERIAL MAP



SITE PLAN

OPERATING SCHOOL HOURS (90-STUDENT)
ALL GRADES 8:00 AM - 3:00 PM

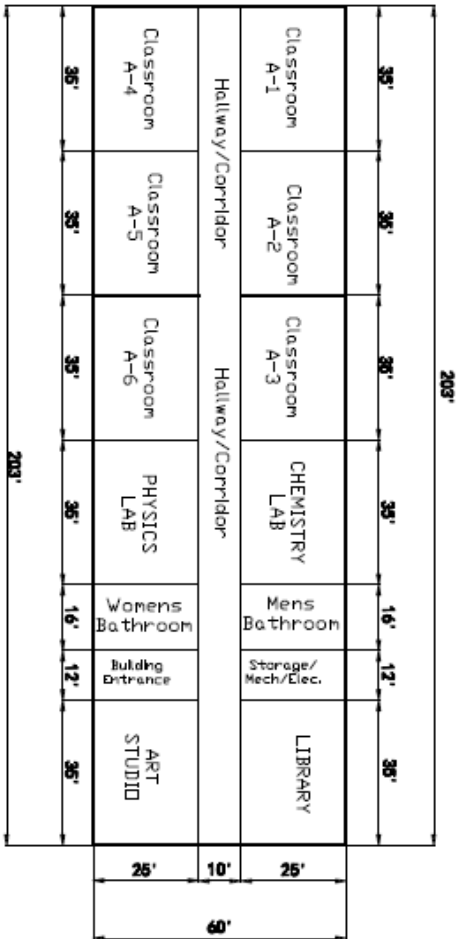
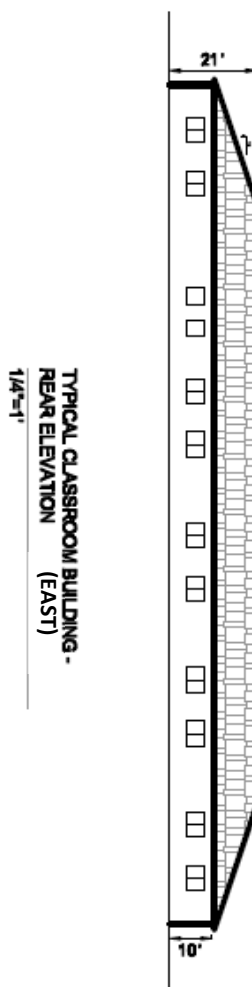
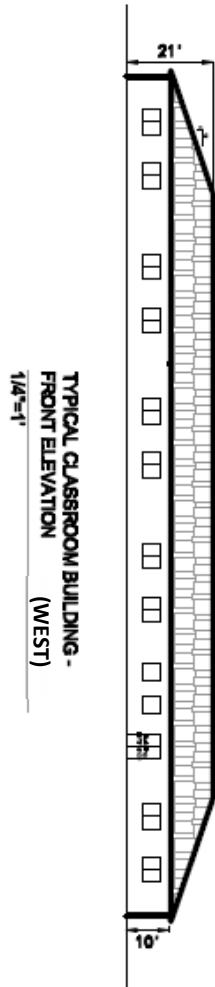
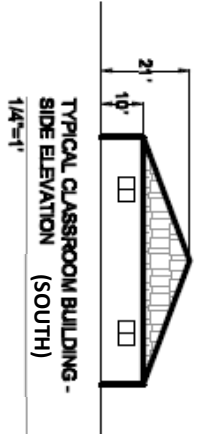
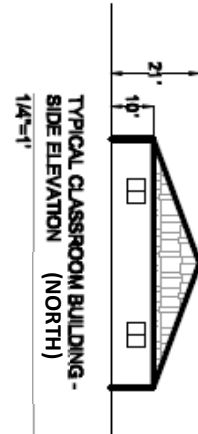
RECEIVED
By Orange County Gov at 4:24 pm, Mar 17, 202



Existing Progress Energy-Easement (CFN# 20070231490 - BK 9204, PC 591) to be relocated to fit within the proposed drive lane and shared with proposed school Modified to 24 ft width

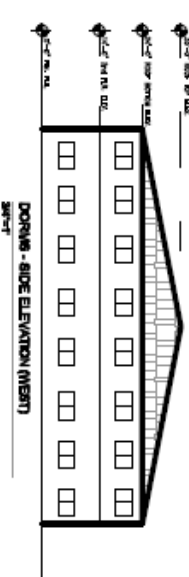
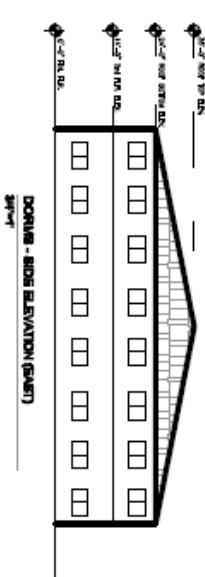
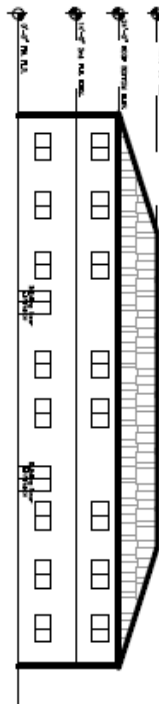
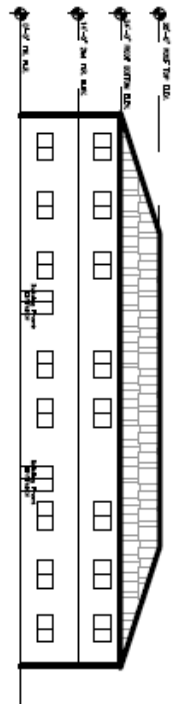
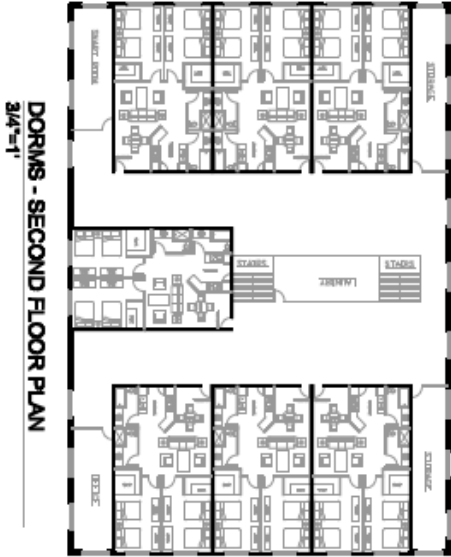
PROPOSED FULL ACCESS - MODIFIED (BUT INCLUSIVE OF) EXISTING PROGRESS ENERGY EASEMENT

BUILDING #1 CLASSROOM FLOOR PLAN AND ELEVATIONS

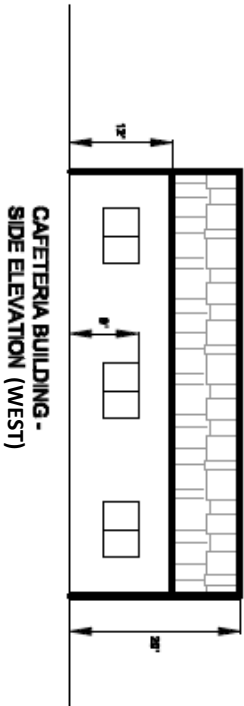
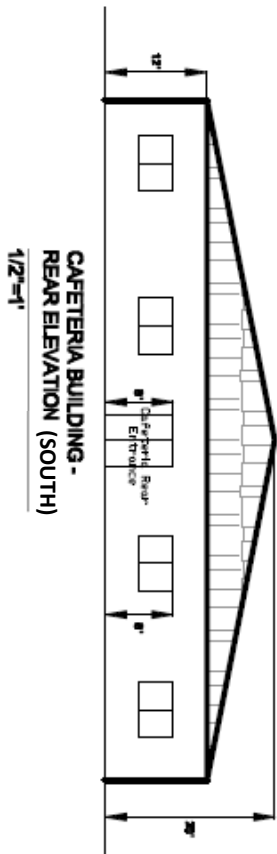
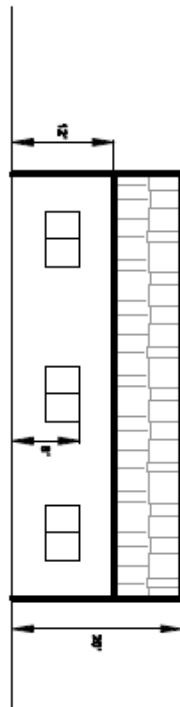
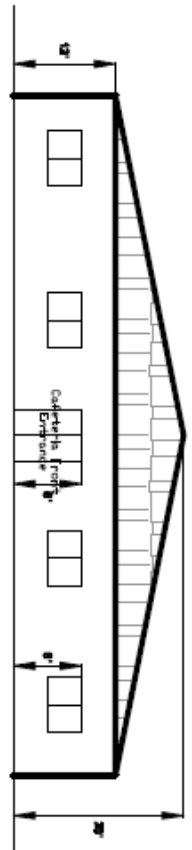
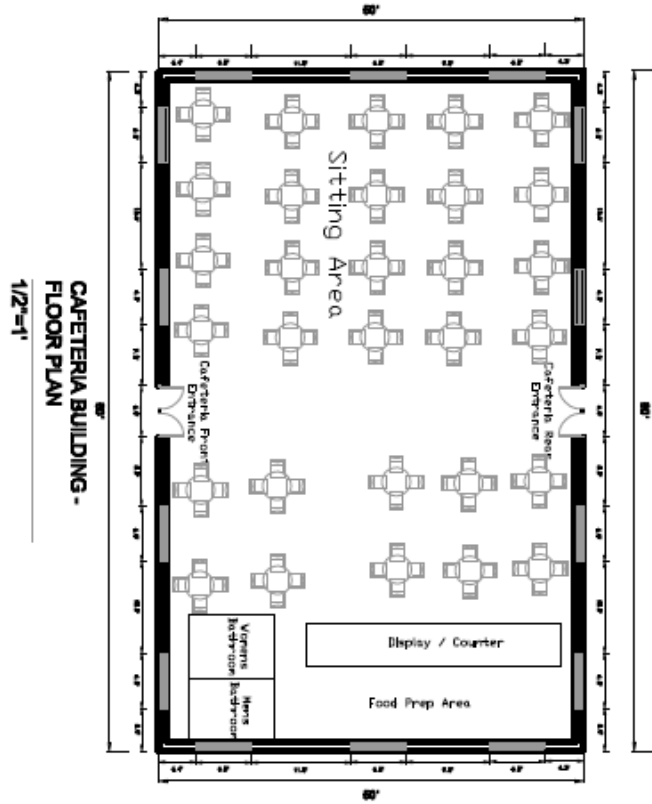


TYPICAL CLASSROOM BUILDING - FLOOR PLAN

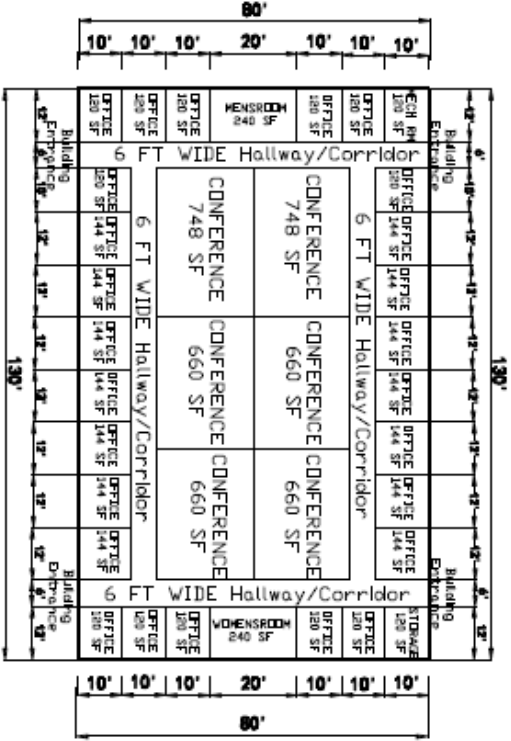
BUILDING #3 DORM FLOOR PLAN AND ELEVATIONS



BUILDING #4 CAFETERIA FLOOR PLAN AND ELEVATIONS



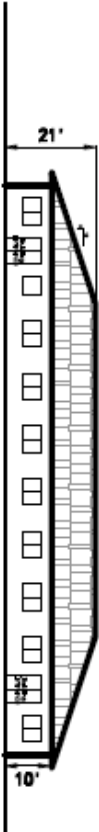
BUILDING #2 ADMINISTRATION FLOOR PLAN AND ELEVATIONS



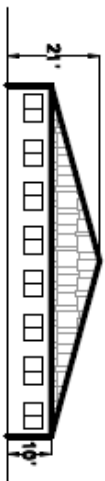
ADMINISTRATION BUILDING - FLOOR PLAN
1/4"=1'



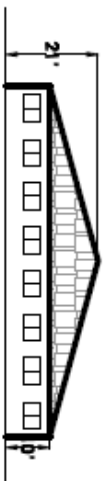
ADMINISTRATION BUILDING -
FRONT ELEVATION (EAST)
1/4"=1'



ADMINISTRATION BUILDING -
REAR ELEVATION (WEST)
1/4"=1'

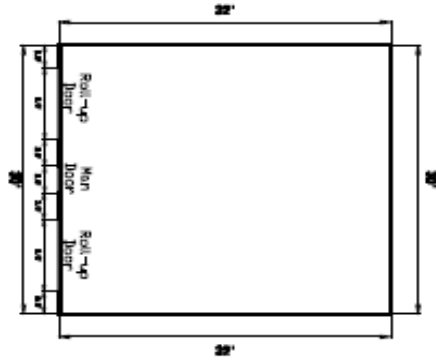


ADMINISTRATION BUILDING -
SIDE ELEVATION (NORTH)
1/4"=1'

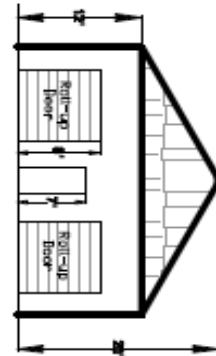


ADMINISTRATION BUILDING -
SIDE ELEVATION (SOUTH)
1/4"=1'

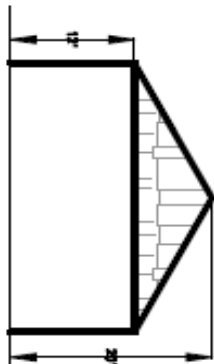
BUILDING #5 SHED FLOOR PLAN AND ELEVATIONS



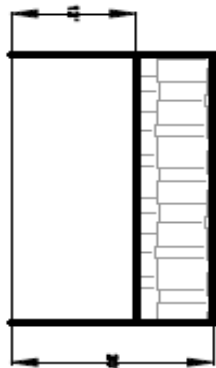
**MAINTENANCE SHED -
FLOOR PLAN**
1/2"=1'



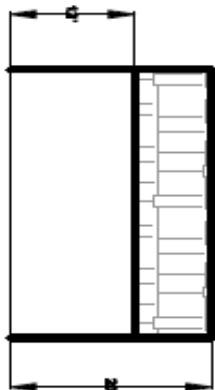
**MAINTENANCE SHED -
FRONT ELEVATION**
1/2"=1'



**MAINTENANCE SHED -
REAR ELEVATION**
1/2"=1'

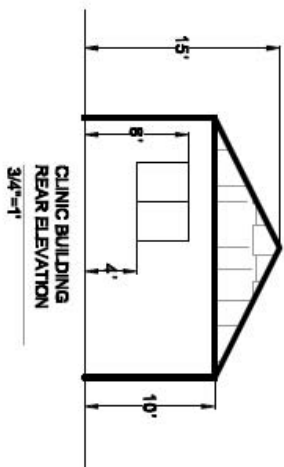
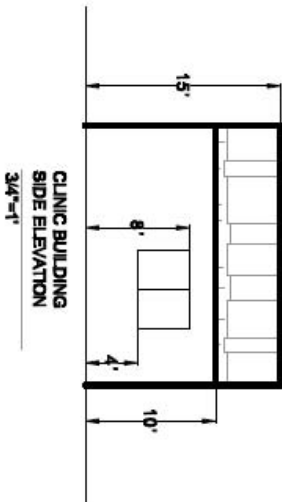
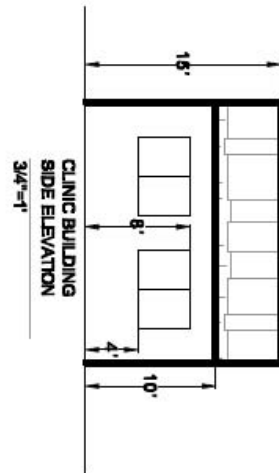
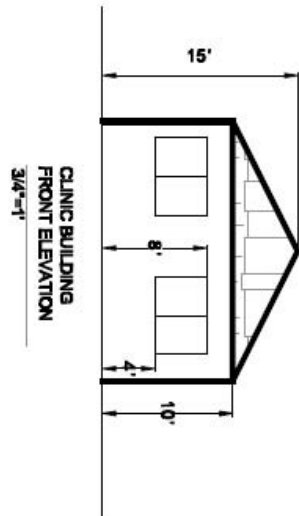
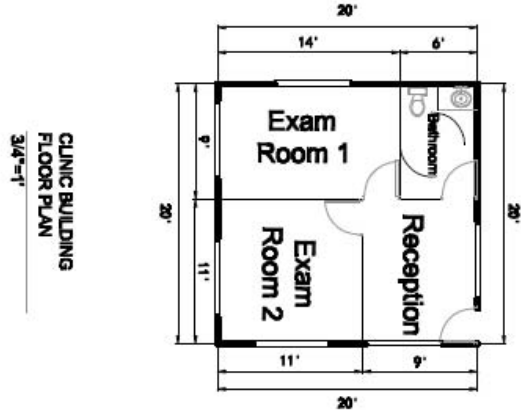


**MAINTENANCE SHED -
SIDE ELEVATION**
1/2"=1'



**MAINTENANCE SHED -
SIDE ELEVATION**
1/2"=1'

BUILDING #6 CLINIC FLOOR PLAN AND ELEVATIONS



SITE PHOTOS



Front from Hempel Ave facing west



Property facing north

SITE PHOTOS



Church and school on property to the south from Hempel Ave. facing west



School on property to the south facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#3**

Case #: **VA-22-04-013**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): LIZ CASTILLO FOR THE LICKING ORLANDO

OWNER(s): FOOD GIANTS INVESTMENTS CORP

REQUEST: Variance in the PD zoning district to allow a 4COP license for consumption of beer, wine and liquor on premises located 435 ft. from a school in lieu of 500 ft.

PROPERTY LOCATION: 1117 Florida Mall Avenue, Orlando, Florida, 32809, northwest corner of Florida Mall Ave, and Golden Sky Ln., south of W. Sand Lake Rd., east of S. Orange Blossom Trl.

PARCEL ID: 34-23-29-8610-00-030

LOT SIZE: +/- 1.04 acres

NOTICE AREA: 1 mile

NUMBER OF NOTICES: 1,990

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (4 in favor, 1 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan received February 11, 2022, 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that 1 comment was received in support, and 4 comments were received in opposition.

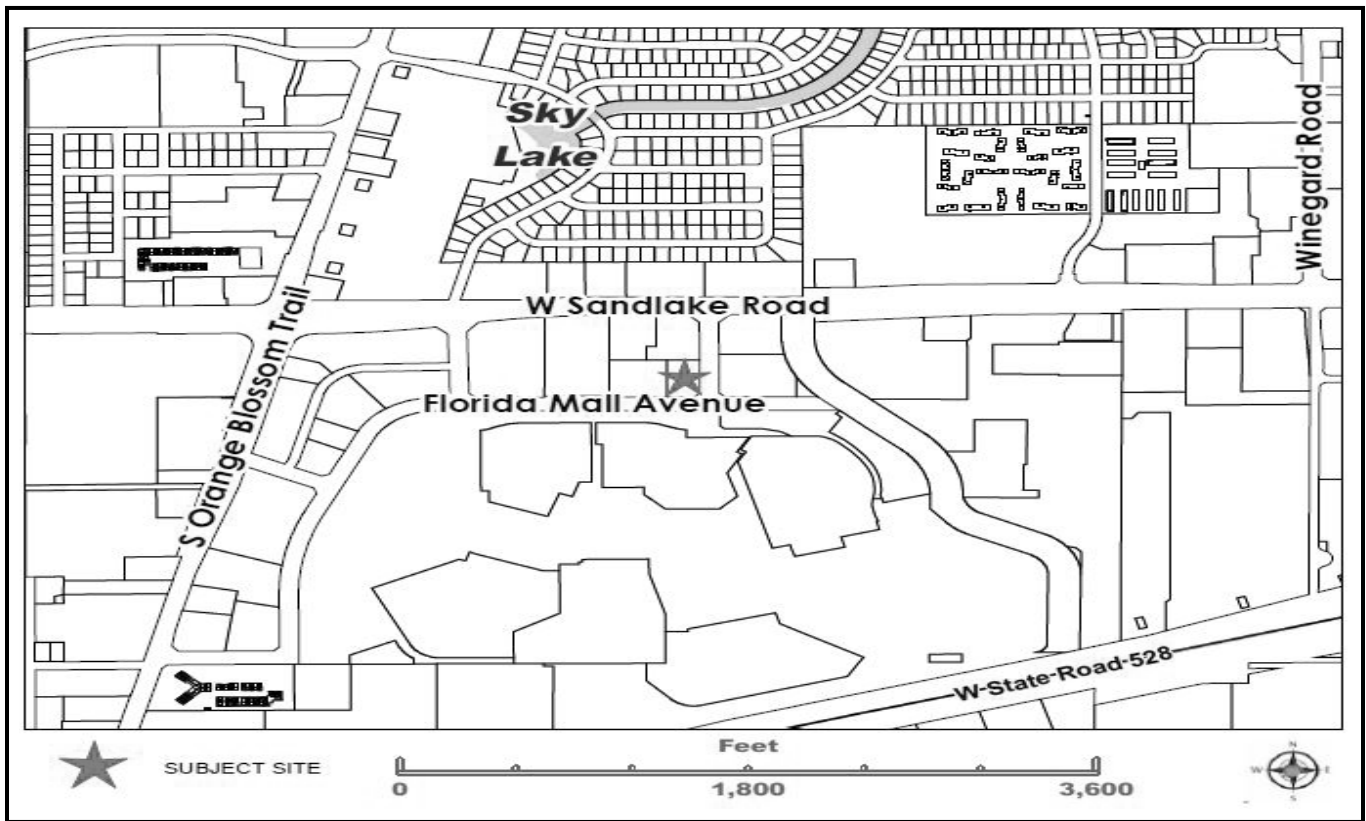
The applicant agreed with the staff presentation and noted the restaurant’s positive relationship with the adjacent property owners.

The BZA discussed the code pertaining to alcohol distance separation and recommended approval of the variance by a 4-1 vote, with one absent and one seat vacant, subject to the 4 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	Florida Mall PD	Florida Mall PD	Florida Mall PD	Florida Mall PD	Florida Mall PD
Future Land Use	C	C	C	C	C
Current Use	Commercial	Commercial	Commercial	Parking/vacant	Commercial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Florida Mall Planned Development (PD) District, which allows commercial, office and hotel uses. The Future Land Use is Commercial (C), which is consistent with the PD zoning district.

The subject property is 1.04 acres in size, and was platted in 1986 as Lot 3 of the Florida Mall Plat, and is a conforming lot of record. The property is developed with a 4,721 sq. ft., commercial building that has recently been converted from a Panera Bread to a new restaurant called The Licking Orlando. The area is comprised of commercial uses, including numerous full service restaurants serving alcohol such as Chili's and Red Lobster. Directly east of the subject site is a small strip shopping center that houses a Montessori School (established in 2009), a massage and facial business, a business called "Noze Art", and a Simon Parrilla restaurant, which sells beer, wine and liquor (under a 4COP license). There has been a restaurant with a 4COP license in the same location as the current Simon Parrilla since 2001.

The request is for a 4COP license to allow consumption of beer, wine and liquor on premises for The Licking Orlando restaurant. Sec. 38-1415 of Orange County Code requires any business serving alcohol on site to be located at least one thousand (1,000) feet away from any established religious institution or school. The code has a provision allowing businesses that derive more than fifty-one (51) percent of their business from the sale of food and nonalcoholic beverages be established no closer than 500 ft. from a school. The distance is measured by following the ordinary route of pedestrian travel along the public thoroughfare from the main entrance of the place of business to the main entrance door of the school. The Licking Orlando is located 435 feet from The Montessori School, where 500 ft. is required, necessitating the requested variance.

As of the date of this report, no comments have been received in favor and 3 comments have been received in opposition to this request. The applicant has provided a letter of support from the Montessori School.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

This subject property and all the surrounding properties are located within the Florida Mall PD which is specifically intended for commercial uses, and while a school is also allowed this is clearly a commercial area, with many other restaurants in the area with existing 2COP and 4COP licenses, including the property containing the affected school. The special condition is the presence of the school which occupies a commercial space in strip shopping center.

Not Self-Created

The need for the variance is not self-created, as many restaurants located within commercial areas request licenses to allow consumption of beer, wine, and/or liquor on premises, and a school located in a commercial strip shopping center where commercial uses and restaurants are allowed prompts the need for the variance.

No Special Privilege Conferred

Granting the variance as requested will not confer special privilege, as many other similar businesses in the area have licenses to sell alcohol on premise, including the Simon Parrilla restaurant located in the same building as the school.

Deprivation of Rights

Denying this restaurant the ability to serve beer, wine and liquor on premises would deprive them of the rights commonly enjoyed by neighboring properties and similar restaurants.

Minimum Possible Variance

The variance requested is the minimum required to operate a restaurant in an existing commercial plaza adjacent to an existing school. Further the request is minimal, as the business is located 435 ft. from the school, which is a substantial distance.

Purpose and Intent

Approval of this variance will be in harmony with the zoning code as the commercial zoning districts in the area allows restaurants and bars. Allowing on-site consumption at this location would not be detrimental or injurious to the adjacent businesses or the school.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received February 11, 2022, 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

C: Liz Castillo
P.O. Box 451446
Kissimmee, FL 34745

COVER LETTER



February 8, 2022

Orange County Zoning Division
Application- Board of zoning adjustment (BZA)
Variance

The Licking Orlando is a new restaurant located at 1117 Florida Mall Ave, Orlando FL 32809, where the Panera bread used to be. We are seeking the opportunity to submit a variance for Alcoholic beverage license for our restaurant. The restaurant is a family oriented, we like to create a fun environment for our customers and would like to offer beer, wine or cocktail drinks with their meals. We have neighboring restaurants in the plaza who already have liquor licenses such as Red lobster, Chilis, A Akab sushi & Steakhouse among others in the Florida Mall plaza. The church of The Montessori School of Orlando daycare facility is the closest to us, we are 435 feet away from the required 500 feet by code. We have contacted the school and they have no objections to us pursuing this license. We have attached a letter in support to this process. Please allow and help us to grow in the community, as we plan to be here for a long time and offer our customers delicious food.

Sincerely,

A handwritten signature in black ink, appearing to read 'Liz Castillo', written in a cursive style.

Liz Castillo
For Ahmand Johnson
Owner- The Locking Orlando

COVER LETTER

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

Our special conditions for requesting a variance is a school is with the 500 feet from the restaurant. We are 435 feet from the school.

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

The conditions were not self created as the daycare/school was already there before us. There are also neighboring restaurants such as chilis, red lobster and others in the area(drawings attached) that already have a liquor license.

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.

Should we be approved for the variance, we plan to uphold all the zoning restrictions, and liquor licensing regulations that govern this county and state.

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.

We are committed to upholding the standards of this community, at the florida mall and respect of our neighboring businesses. We understand and appreciate that if we were not to follow the governing laws this variance will then be voided and we would no longer enjoy the privileges obtained through this variance.

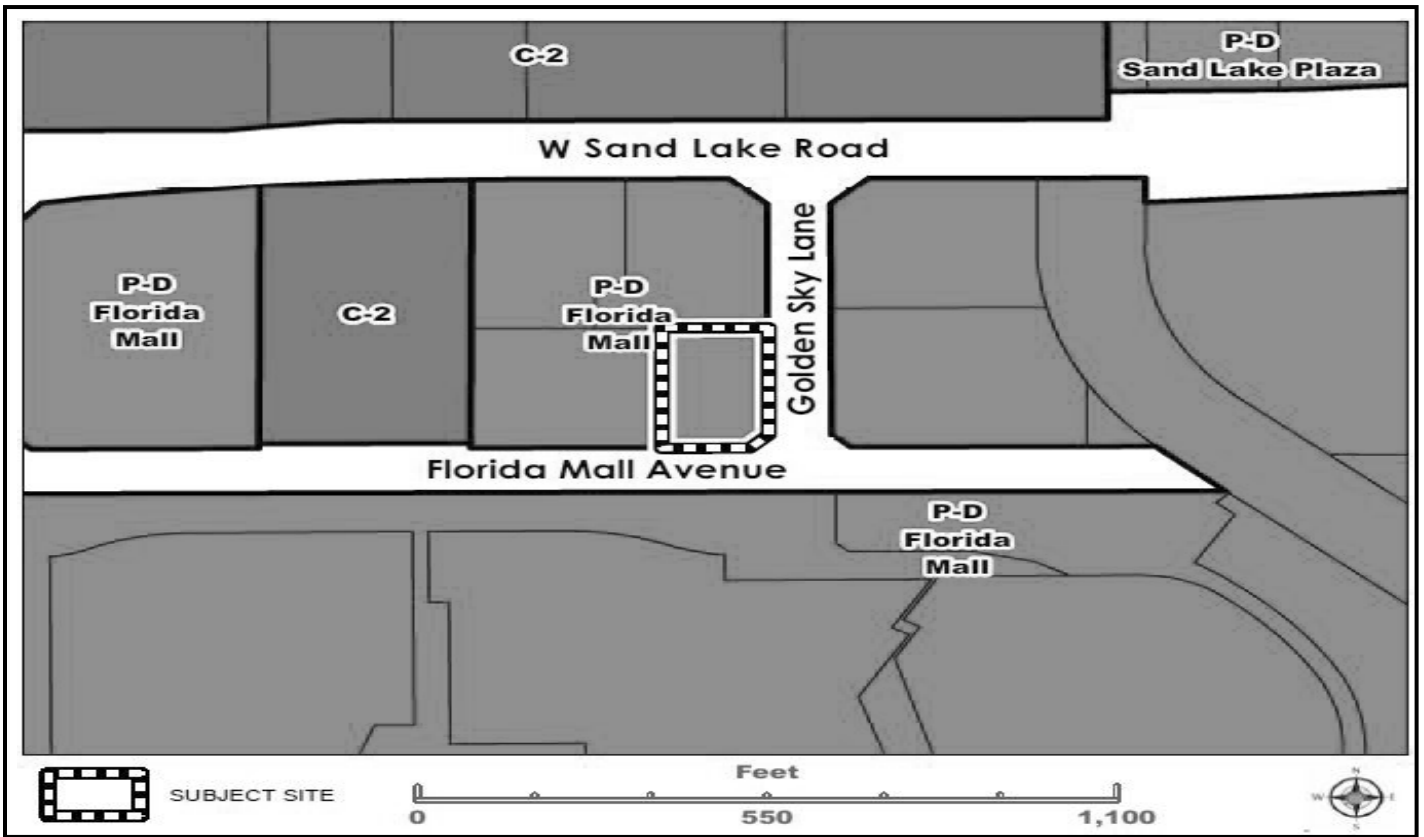
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

we will obide by variances and conditions put in place.

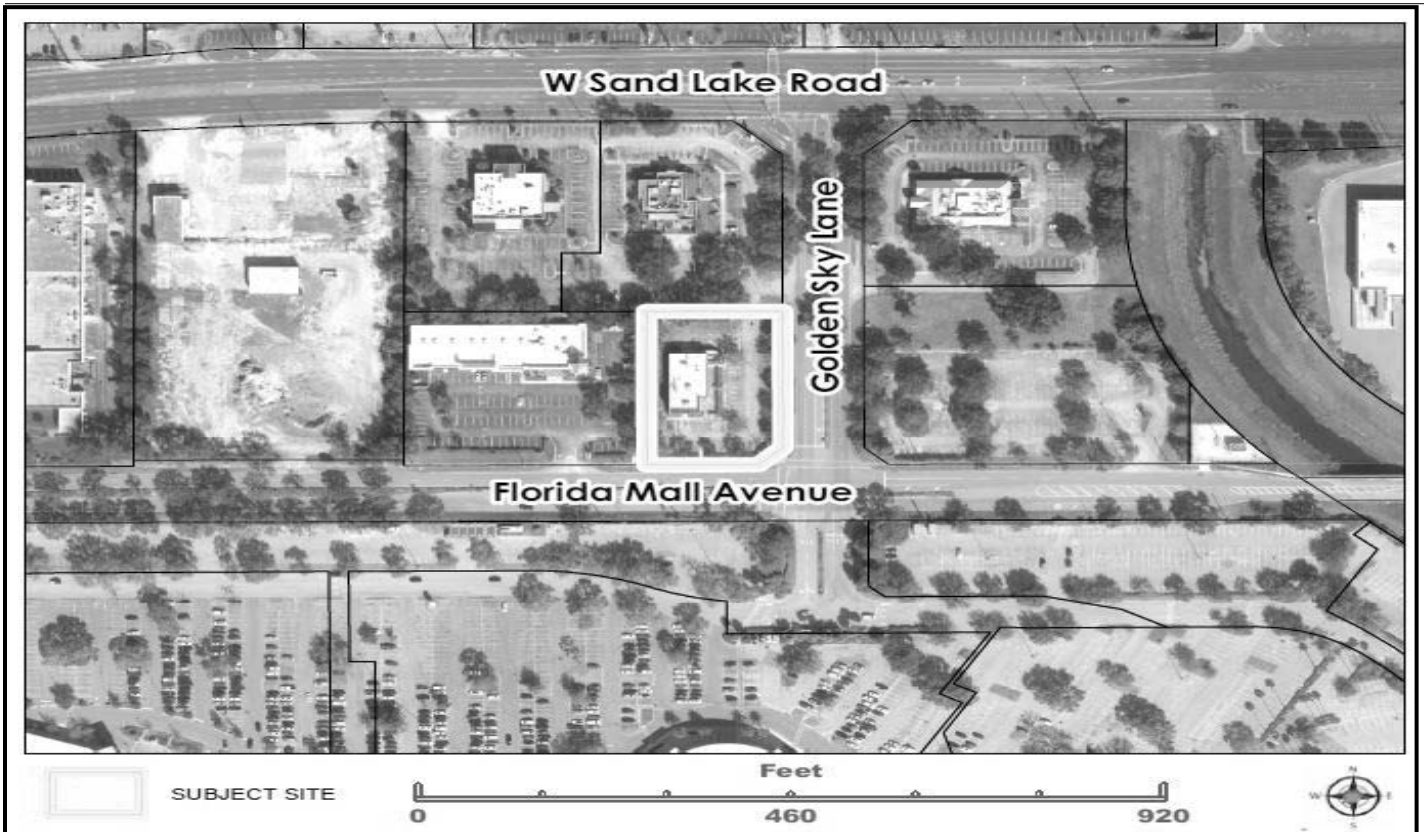
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

We will behave in a manner that will reflect respect and following of the ordinances of this county and state as well as the land use, in our case a full service restaurant and with consideration for those neighboring businesses.

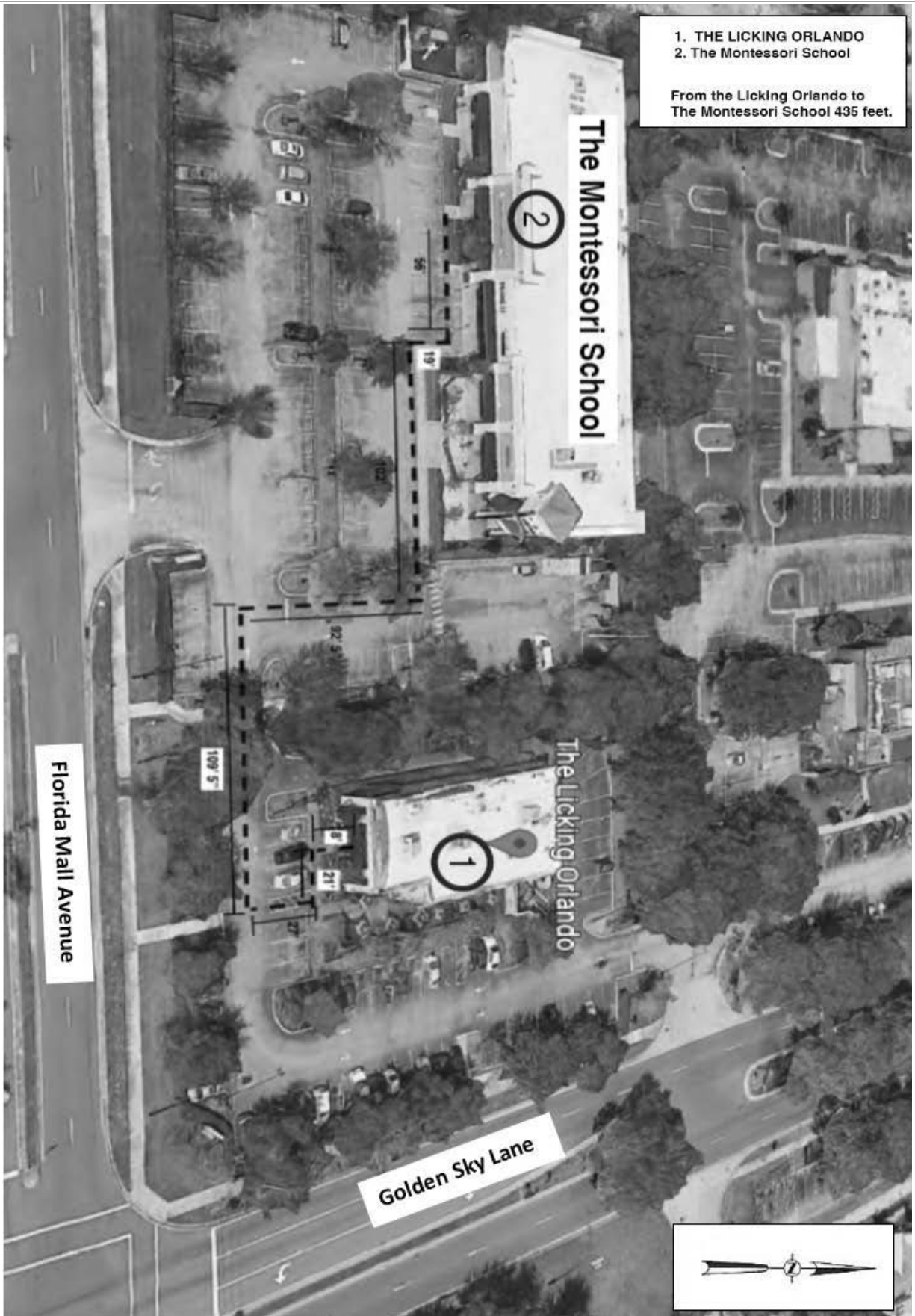
ZONING MAP



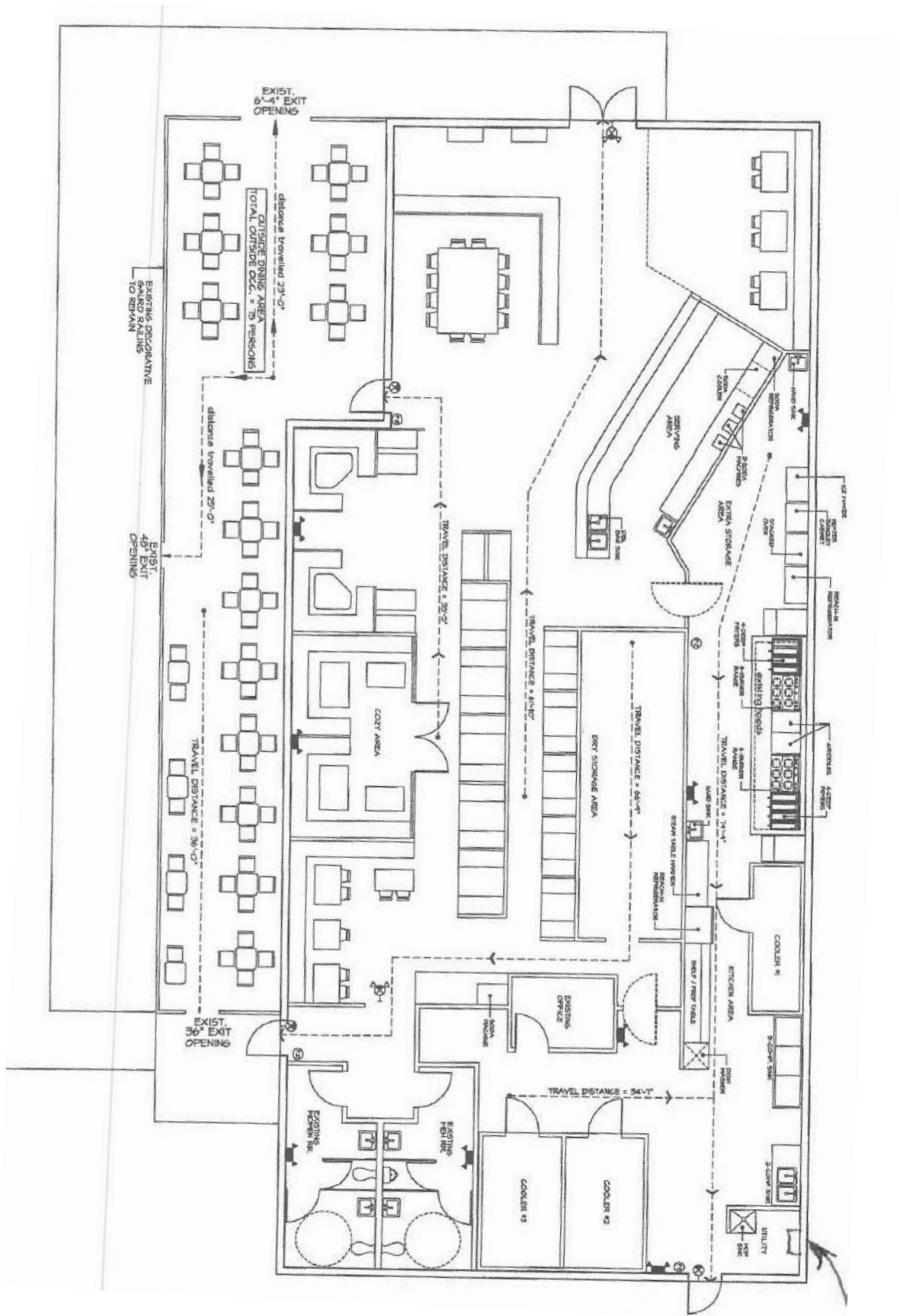
AERIAL MAP



DISTANCE SEPARATION TO ADJACENT SCHOOL



FLOOR PLAN



SITE PHOTOS



Property from Florida Mall Ave. facing north



The Montessori School 435 ft. separation

SITE PHOTOS



Simon Parilla Restaurant in same building as The Montessori School

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#3**

Case #: **VA-22-04-012**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): VIVIANA CANCEL FOR CHIQUI BURGER

OWNER(s): FH PLUS HOLDING USA LLC

REQUEST: Variance in the I-2/ I-3 zoning district to allow a 2COP liquor license for consumption of beer and wine on premises located 563 ft. from a religious institution in lieu of 1,000 ft.

PROPERTY LOCATION: 9785 S. Orange Blossom Trail, Orlando, Florida, 32837, east side of S. Orange Blossom Tr., north of the Central Florida Pkwy, south of Taft Vineland Rd.

PARCEL ID: 10-24-29-8637-00-010

LOT SIZE: +/- 6.5 acres

NOTICE AREA: 1,300 ft.

NUMBER OF NOTICES: 155

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (4 in favor, 1 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the survey received February 11, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that 1 comment was received in support, and 2 comments were received in opposition.

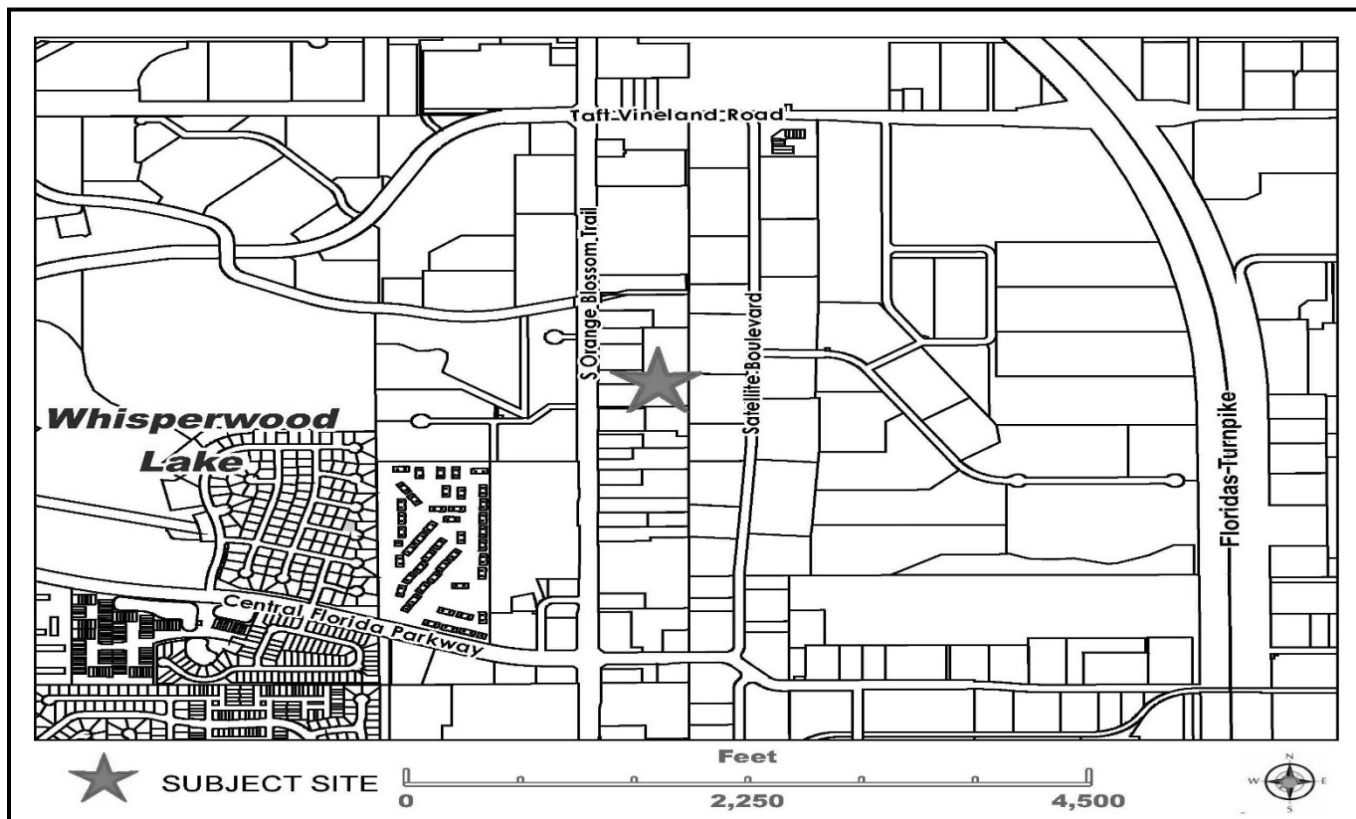
The applicant discussed the other restaurants in the area, stated that the church is not in the same plaza as the subject restaurant and that the affected closest religious institution provided a letter of no objection.

The BZA discussed the hours of operation and recommended approval of the variance by a 4-1 vote, with one absent and one seat vacant, 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	I-2/ I-3	I-2/ I-3	I-2/ I-3	I-4	I-2/ I-3 and Orangewood PD
Future Land Use	IND	IND	IND	IND	IND
Current Use	Industrial, commercial	Industrial, commercial	Industrial	Industrial	Office, commercial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the I-2/I-3, Industrial district, which allows general industrial and related activities such as warehousing, manufacturing, and certain retail uses, including restaurants. The Future Land Use is Industrial (IND), which is consistent with the I-2/ I-3 zoning district.

The area is comprised of commercial and industrial uses. The subject property is 6.5 acres in size, was platted in 1991 as Lot 1 of the Tompkin's Club Subdivision Plat, and is a conforming lot of record. The property is an L-shaped lot developed with a 5,500 square foot commercial strip center with 5 tenant spaces, located on the west portion of the site fronting S. Orange Blossom Trail and 5 additional industrial buildings, totaling 52,200 square feet, located at the rear. Directly north of the subject site is a 2 story professional office building with dental and other offices, and a commercial strip shopping center with a variety of commercial businesses as well as an existing church, The Israelite Church of God.

The request is for a 2COP license to allow consumption of beer and wine on premises for Chiqui Burger, a 2,120 square foot restaurant in Suite E, located at the south end of the western commercial building on the property. Sec. 38-1415 requires any business serving alcohol on site to be located at least one thousand (1,000) feet away from any established religious institution or school. The code has a provision allowing businesses that derive more than fifty-one (51) percent of their business from the sale of food and nonalcoholic beverages to be at least 500 ft. away from the primary door of a school, but this exemption does not apply to churches. The distance is measured by following the ordinary route of pedestrian travel along the public thoroughfare from the main entrance of the place of business to the main entrance door of the school. Chiqui Burger is located 563 feet from The Israelite Church of God, where 1,000 ft. is required, resulting in the requested variance. Both the church and subject restaurant are located in commercial strip buildings within the I-2/ I-3 zoning district.

The applicant has submitted a letter of no objection from the affected church. As of the date of this report, no comments have been received in favor, and 2 comments have been received in opposition to this request.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The location of a religious institution in an industrial zoning district is a special condition as the area is intended primarily for commercial and industrial uses. The applicant is requesting a 2COP license to allow consumption of beer and wine on premises for an existing restaurant, and will not have any noticeable impacts on adjacent commercial and industrial properties. There are other restaurants with licenses to serve alcohol in the area, and the addition of a 2COP license to this property will not have any negative effects on the area which contains industrial and commercial uses.

Not Self-Created

The need for the variance is not self-created, as many restaurants request licenses to allow consumption of alcohol on premises. Furthermore, this property is adjacent to a commercial plaza containing other restaurants in addition to the church.

No Special Privilege Conferred

Granting the variance as requested will not confer special privilege, as many other similar businesses in the area offer on premise consumption in conjunction with their restaurant.

Deprivation of Rights

Not allowing this applicant to serve beer and wine on premises would deprive them of the rights commonly enjoyed by neighboring properties and similar restaurants.

Minimum Possible Variance

The variance requested is the minimum possible to allow the consumption of beer and wine at an existing restaurant in a commercial plaza within 1,000 ft. of an existing church. Further, the request is minimal, as the business is located 563 ft. from the church, which is a substantial distance.

Purpose and Intent

Approval of this variance will be in harmony with the zoning code as the commercial and industrial zoning districts in the area allows restaurants and bars, including the property containing the church. Allowing on-site consumption at this location would not be detrimental or injurious to the adjacent industrial properties, and the church.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the survey received February 11, 2022, 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: Viviana Cancel
9785 S. Orange Blossom Trail
Orlando, FL 32837

COVER LETTER



November 2, 2021

Re: Orange County Zoning Division
Application- Board of Zoning Adjustment (BZA)
Variance

Chiqui-burger & Frappe is a new restaurant located at 9785 S Orange Blossom Trl, Orlando, FL 32837. I am working on obtaining the Beer & wine license (2cop) with this variance. The restaurant is family oriented and The Israelite Church of God that is 563 feet away from the restaurant is endorsing this application (Attached). The distance from the restaurant to the church is 563 feet. We hope that can help us in the consideration and approval of this variance, as it will allow us the same opportunities as other restaurants in the same plaza who already have with the Beer & wine License as well as grow on the community, by providing new options to our customers and delicious food.

Sincerely,

A handwritten signature in black ink, appearing to read 'Viviana Cancel', is written over a horizontal line.

Viviana Cancel

Owner

COVER LETTER

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

Special Conditions or Circumstances for our variance is we are a restaurant in a plaza where other restaurants also have a beer and wine license. We are applying for this variance in order to be able to serve our customers with service similar that of what the plaza is offering, without causing any changes to the already use of the plaza.

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

The conditions of the circumstances were not self created. We leased the space and was unaware the church was near by. When we did our research the church did not come up near the location, it was not until the meter was physically ran that the county and we realized the church was there.

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

The special conditions and circumstances do not result from the actions of the applicant. We ask that we are considered for this variance and approval. A neighboring restaurant in the same plaza has the and are hopeful we can also offer our customers with same services.

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.

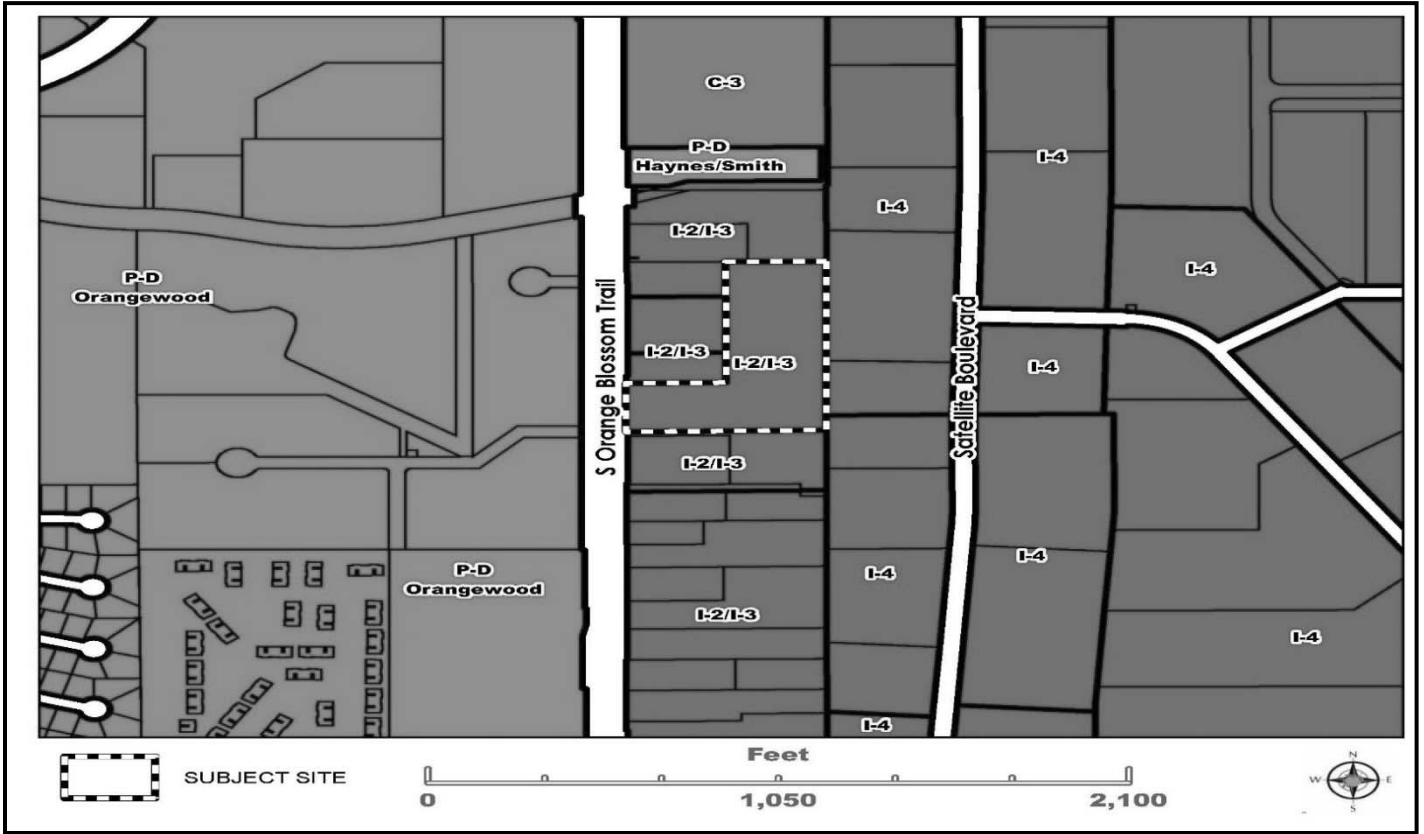
We will follow the guidelines of this variance if approved and the Beer and Wine regulations.

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.
-

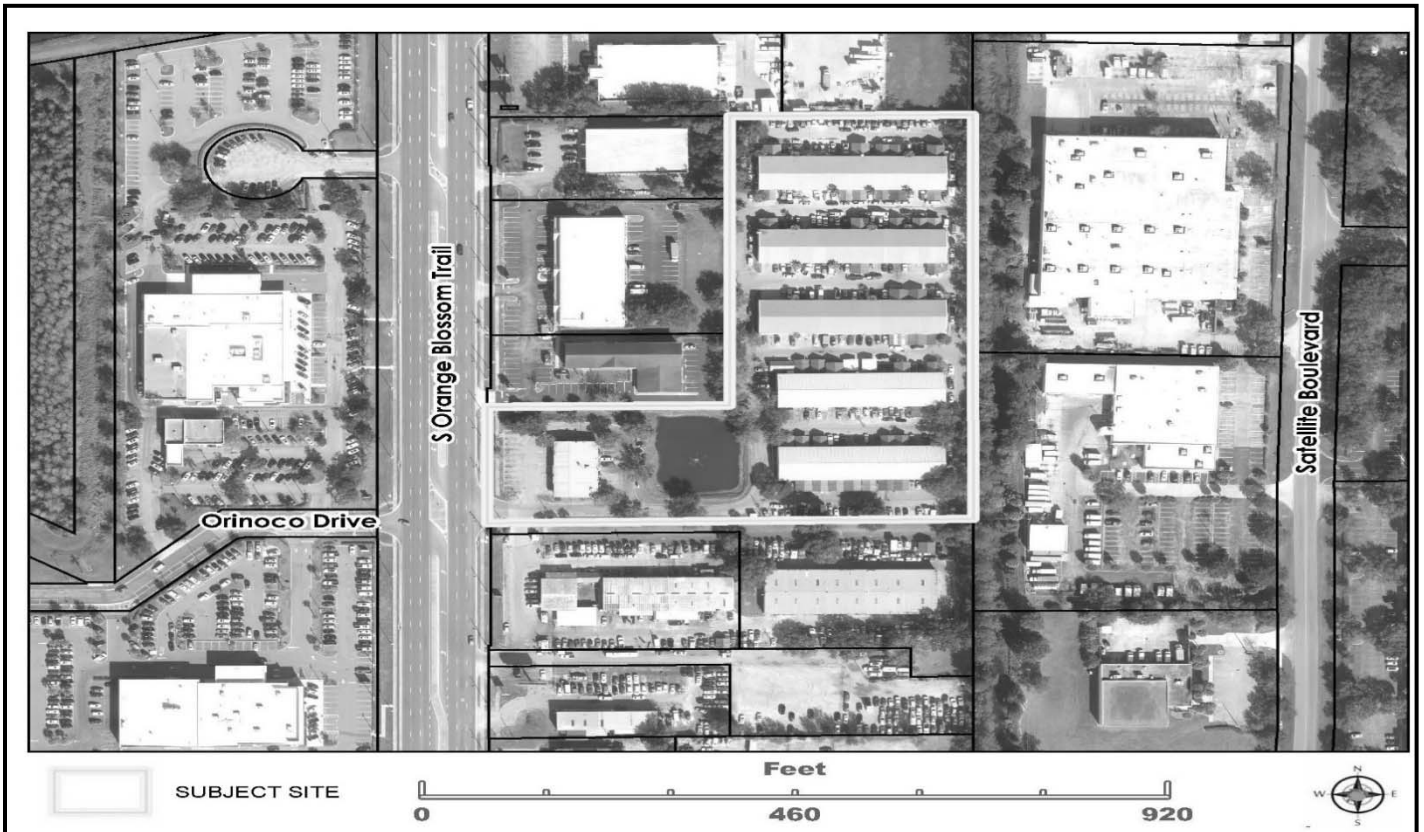
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

We will follow the guidelines and rules of this variance.

ZONING MAP



AERIAL MAP



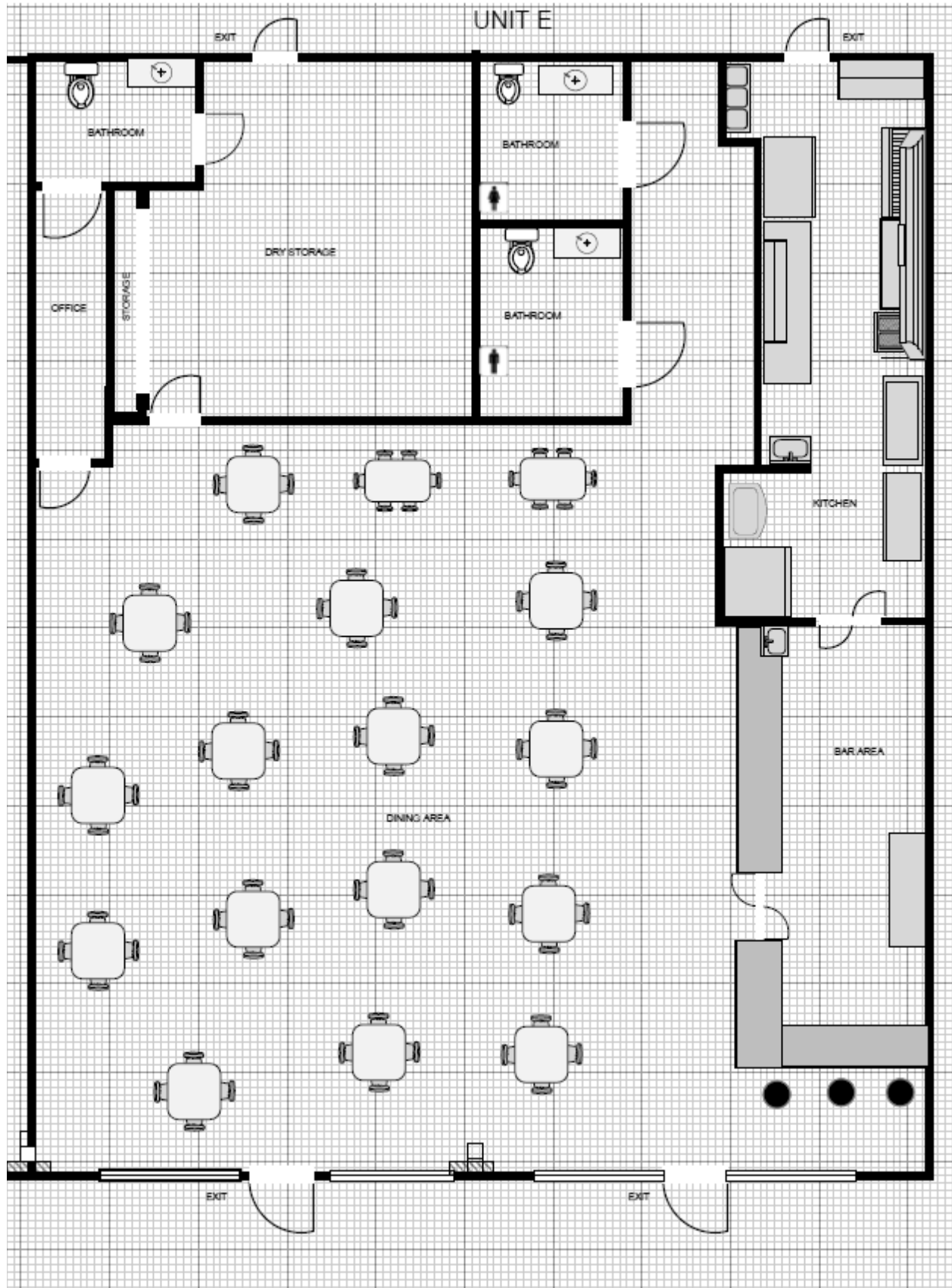
DISTANCE SEPARATION TO ADJACENT CHURCH

- 1. Chiqui-burger
- 2. Israelite church of god

From Chiqui-burger to Israelite church of god distance 563'.



RESTAURANT FLOOR PLAN



SITE PHOTOS



Property from S. Orange Blossom Tr. facing east



Property from S. Orange Blossom Tr. facing north

SITE PHOTOS



Route between the properties along S. Orange Blossom Tr. facing north



Adjacent church to the north of the property facing east with 563 ft. separation

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#5**

Case #: **SE-22-04-020**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JAMES DEBOW

OWNER(s): JAMES DEBOW, CHRISTINE DEBOW

REQUEST: Special Exception in the A-2 zoning district to allow a cumulative of 4,985 sq. ft. detached accessory structure area in lieu of 3,000 sq. ft.

PROPERTY LOCATION: 19840 Quarterly Pkwy., Orlando, FL 32833, south side of Quarterly Pkwy., west of Bancroft Blvd., east of Dallas Blvd.

PARCEL ID: 23-23-32-9630-01-131

LOT SIZE: +/- 3.6 acres

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 31

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (unanimous; 4 in favor, 0 opposed, 2 absent, and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received March 7, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval.

Staff noted that one (1) comment was received in favor of the application, and no comments were received in opposition.

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

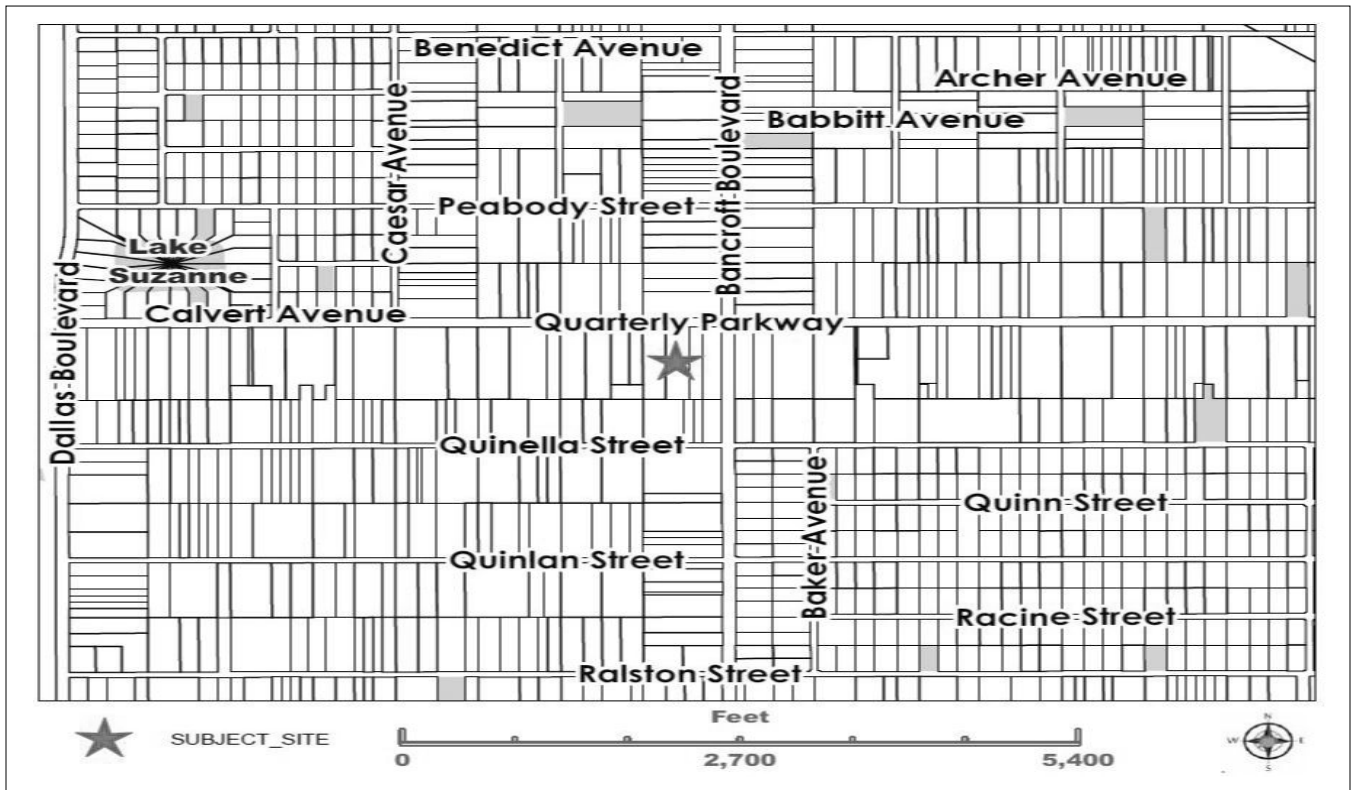
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the special exception by a 4-0 vote, with two absent and one seat vacant, 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	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Vacant	Single-family residential	Single-family residential	Single-family residential	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-2, Farmland Rural zoning district, which primarily allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The future land use is Rural (R), which is consistent with the zoning district.

The area around the subject site consists of single-family homes. The subject property is a +/- 3.64-acre lot that was created by a lot reconfiguration in October 2019 (LS-19-10-610). It is located in the Rocket City Unit 8A subdivision, recorded in 1963, and is considered to be a conforming lot of record. The property is vacant. It was purchased by the current owners in February 2021, who are in the process of constructing a single story 7,736 gross sq. ft. single-family home (B21012249) which complies with all zoning requirements, including setbacks.

The proposal is to construct a 4,385 sq. ft. detached 2-story accessory structure, Building #1, located behind the residence. The ground floor is proposed to be 2,838 sq. ft. and includes a garage, a half bath, laundry, and storage areas; and the second floor will consist of an Accessory Dwelling Unit (ADU) with 1,302 sq. ft. of living area. The ADU will include two bedrooms and two bathrooms with a full kitchen. Additionally, a 16 foot high, 600 sq. ft. detached accessory structure (shed), Building #2 is proposed to be located to the rear of the garage/ADU.

A total of 4,985 sq. ft. of cumulative detached accessory structure area is proposed, where a maximum of 3,000 sq. ft. is permitted, requiring a special exception. Per Section 38-1426 (6), the cumulative square feet of all detached accessory structures shall be limited to ten (10) percent of the net land area, or five hundred (500) square feet, whichever is greater, and in no case shall the cumulative total exceed three thousand (3,000) square feet. A permit, B21023388, to construct the ADU is on hold pending the outcome of this request.

The Orange County Environmental Protection Division has no objection to the request.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. accessory structure	28 ft. (ADU); 12.8 ft. Shed
Min. Lot Width:	100 ft.	185 ft.
Min. Lot Size:	21,780 sq. ft.	3.6 acres

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	50 ft.	428.5 (North)
Rear:	35 ft.	333.7 ft. (South)
Side:	25 ft.	40 ft. (East - Building #1) 30 ft. (East - Building #2) 89 ft. (West - Building #1) 100 ft. (West - Building #2)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA**Consistent with the Comprehensive Plan**

The provision of accessory structure square footage above 3,000 sq. ft. is permitted in the A-2 zoning district through the Special Exception process contingent upon performance standards being met. As such, with the approval of the Special Exception, the proposal is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The proposal will be compatible with the surrounding area, which consists of large lot residential properties with a number of detached accessory structures, and the proposed buildings will meet code requirements.

Shall not act as a detrimental intrusion into a surrounding area

The provision of additional accessory structure area is compatible with the surrounding area, will not act as a detrimental intrusion and will not negatively impact the surrounding area. The accessory structures will meet the increased required setbacks and will likely not be visible from adjacent properties as the property will remain heavily wooded after construction. The proposed cumulative square feet of the detached accessory structures is 3% of the total lot area.

Meet the performance standards of the district

The detached accessory structures will comply with the additional square footage and setback restrictions as required by a Special Exception for cumulative accessory structure sq. ft. greater than 3,000 sq. ft.

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

The provision of additional accessory structure square footage will not generate any more noise, vibration, dust, odor glare or heat than any other typical agricultural/ residential uses in the area.

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

The property will be used for single-family residential purposes, and therefore landscaping buffers are not required by Section 24-5 of the County Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received March 7, 2022, 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: James Debow, Christine Debow
14455 Tanja King Boulevard
Orlando, FL 32828

COVER LETTER

Orange County Zoning Division
201 South Rosalind Ave, 1st Floor
Orlando, FL 32801

To Whom It May Concern:

Hello, my wife and I are in the process of building our forever home in Wedgefield and would like to include an ADU for my father. The proposed structure will be located above a detached garage located behind the primary residence. The proposed structure would be 2 bedrooms, 2.5 baths and 1392 living sq. ft. The structure will be placed on our current lot with dimensions of 185' x 830'. Parcel ID numbers: 23-23-43-9630-01-131. The ADU residence will be solely occupied my father. He has a desire to live near us, and our children, which we share as well. Funds are not available to support an Assisted Living Facility placement, and we would like for him to be near us for closer monitoring. This would be preferred given the current state of the world with COVID, and undue risk to his health that any such placement would incur as an additional consideration as well. We have enclosed the elevations of the proposed buildings along with the floor plans, and surveys for your review.

1. **Comprehensive Policy Plan:** Proposal is consistent with the comprehensive policy plan
2. **Similar Use:** In order to enable our elderly father to maintain independence we are requesting the approval to build an ADU above a single story detached garage There are many properties within the Wedgefield community, which have been granted the same, or similar approval.
3. **Detrimental Intrusion:** The size and placement of the proposed structure aligns with the code requirements as outlined in Sec. 38-1426 for detached accessory structures.
4. **Performance Standards:** If approved this special exception would be in harmony with the purpose and intent of the zoning regulations and such zoning variance would not be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. **Similar Characteristics:** The proposed ADU has been designed to match the primary residence and will use the same exterior finishes.
6. **Landscape Buffer Yards:** Setback and buffer distances are represented on the attached document

Sincerely,



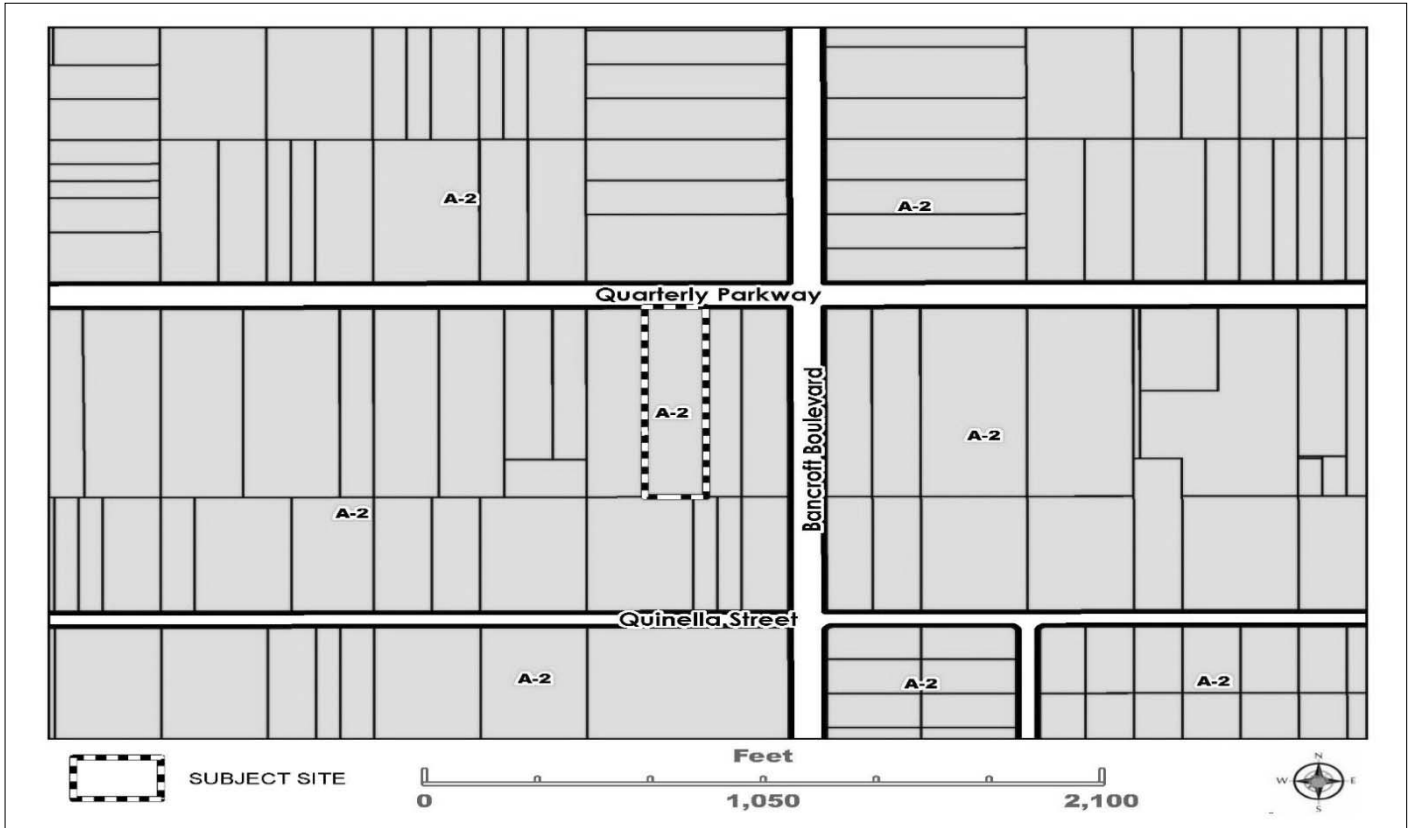
James DeBow

14455 Tanja King Blvd.
Orlando, FL 32828
321-696-4778

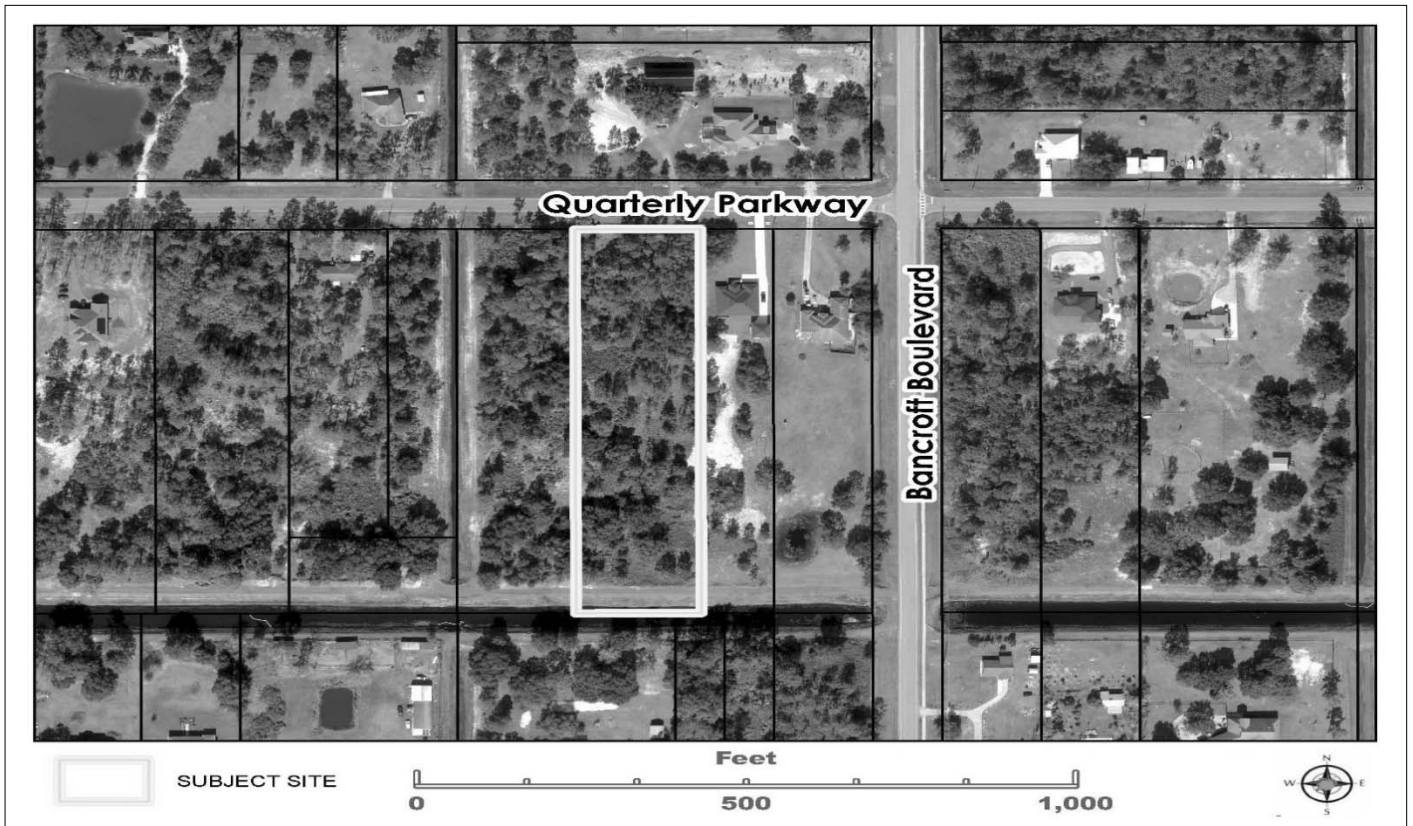


Christine DeBow

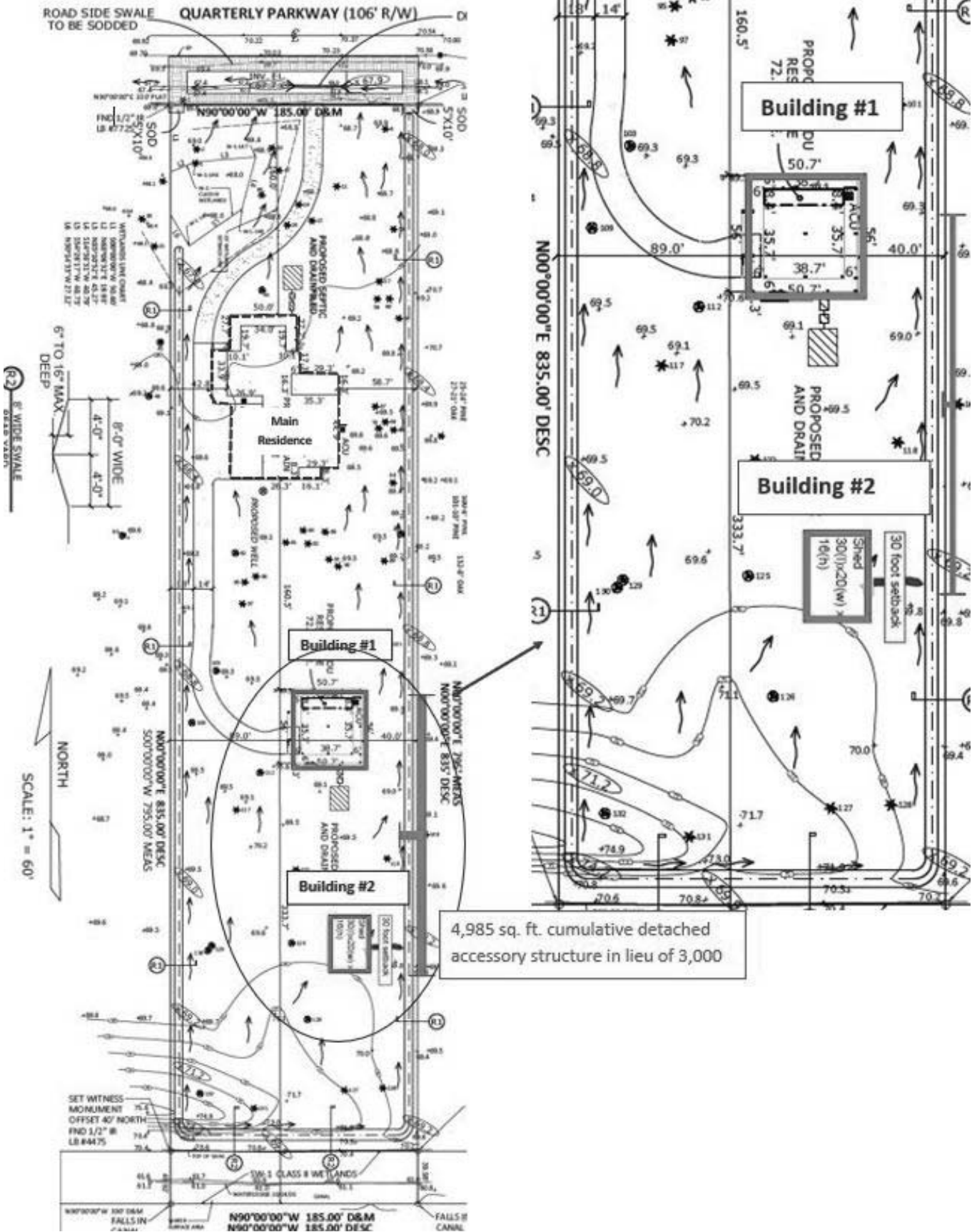
ZONING MAP



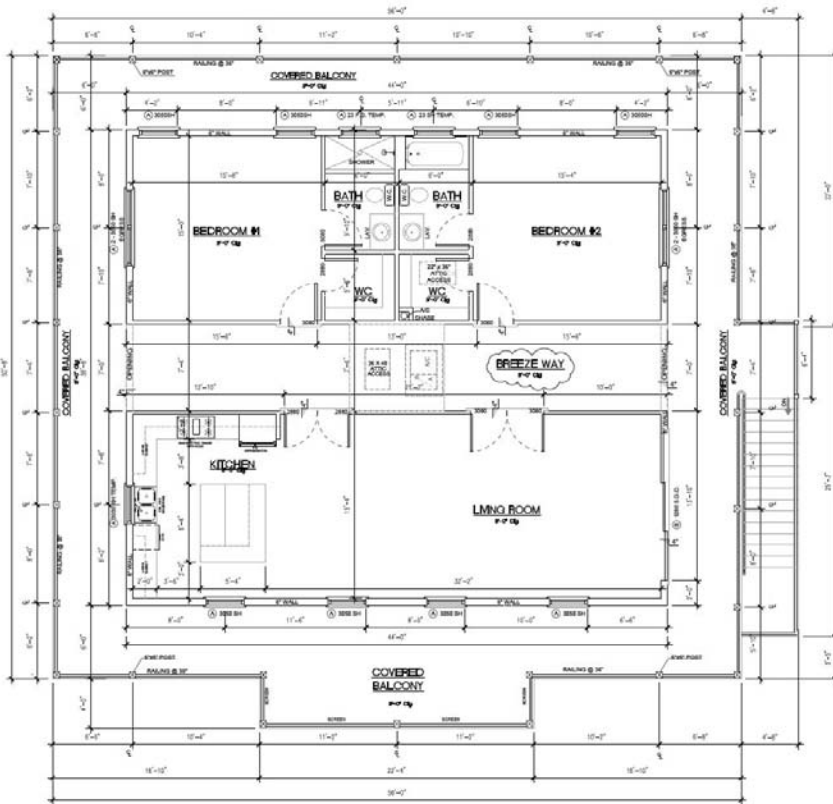
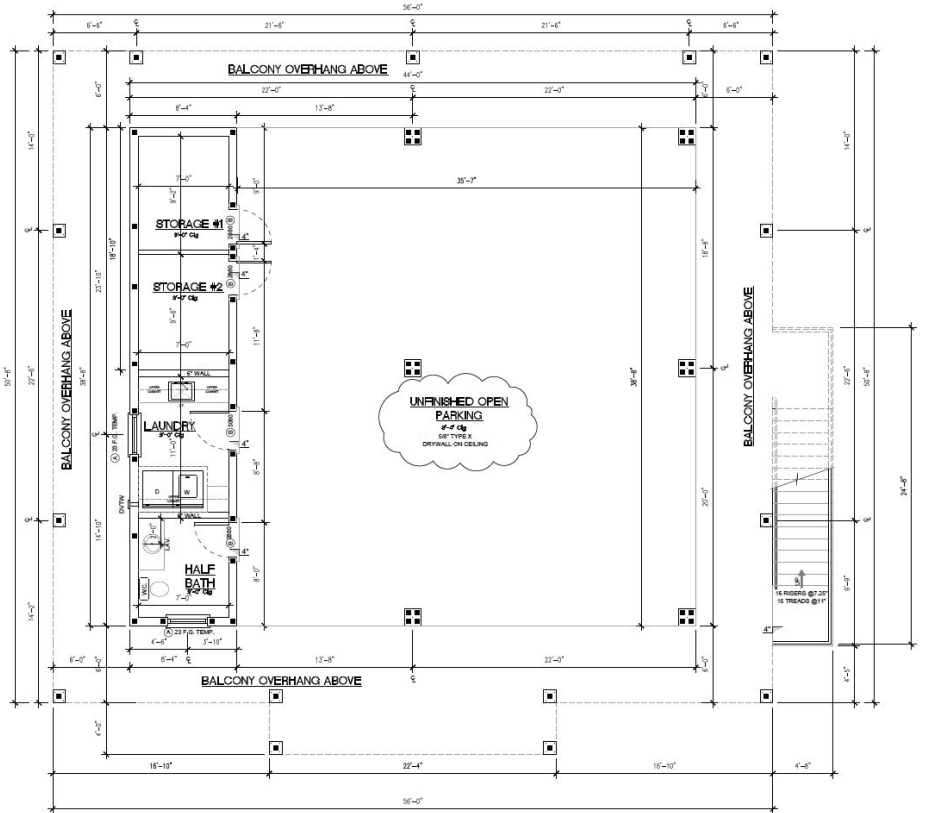
AERIAL MAP



SITE PLAN



GARAGE, ADU - 1ST AND 2ND FLOOR PLANS



ELEVATIONS



REAR (EAST) ELEVATION

1/4"=1'-0"



LEFT (NORTH) ELEVATION

1/4"=1'-0"

EQUIPMENT
TALL FOR EDITION
UNDER PITCH
REPLACE OR OTHER
NOTES TO INDICATE
SPECIFICATION



FRONT (WEST) ELEVATION

1/4"=1'-0"



RIGHT (SOUTH) ELEVATION

1/4"=1'-0"

BUILDING #2 RENDERING OF THE PROPOSED SHED



SITE PHOTOS



Facing south towards front of subject property



Facing south towards new main residence (under construction)

SITE PHOTOS



Rear yard, facing south towards proposed detached accessory structure



Rear yard, facing north towards the home

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#5**

Case #: **VA-22-04-016**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MICHELLE ROBINSON

OWNER(s): MICHELLE ROBINSON, SEAN ROBINSON

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

1) To allow the installation of an external staircase and new porch with a south side setback of 5 ft. in lieu of 7.5 ft.

2) To allow an existing detached accessory structure with a north side setback of 3.2 ft. in lieu of 5 ft.

PROPERTY LOCATION: 4479 Fairview Ave., Orlando, FL 32804, south of Naples Dr., north of W. Fairbanks Ave.

PARCEL ID: 03-22-29-2192-00-270

LOT SIZE: +/- 0.37 acres (16,159 sq. ft.)

NOTICE AREA: 500 ft

NUMBER OF NOTICES: 101

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received March 17, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to issuance of a permit for the exterior staircase, the covered patio area shall be removed or permitted, subject to the satisfaction of Condition #5.

5. Prior to the issuance of a permit for the covered patio, the easement holder of the existing 15 ft. easement located along the east property line shall give written permission to encroach such easement and to record in Official Public Records or the easement shall be abandoned.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that three (3) comments were received in favor and no comments were received in opposition.

The applicant discussed the staff recommendation and noted that the staff recommended lesser variance would not provide a functional staircase and described the detached accessory structure modifications were for safety and the need for the second variance.

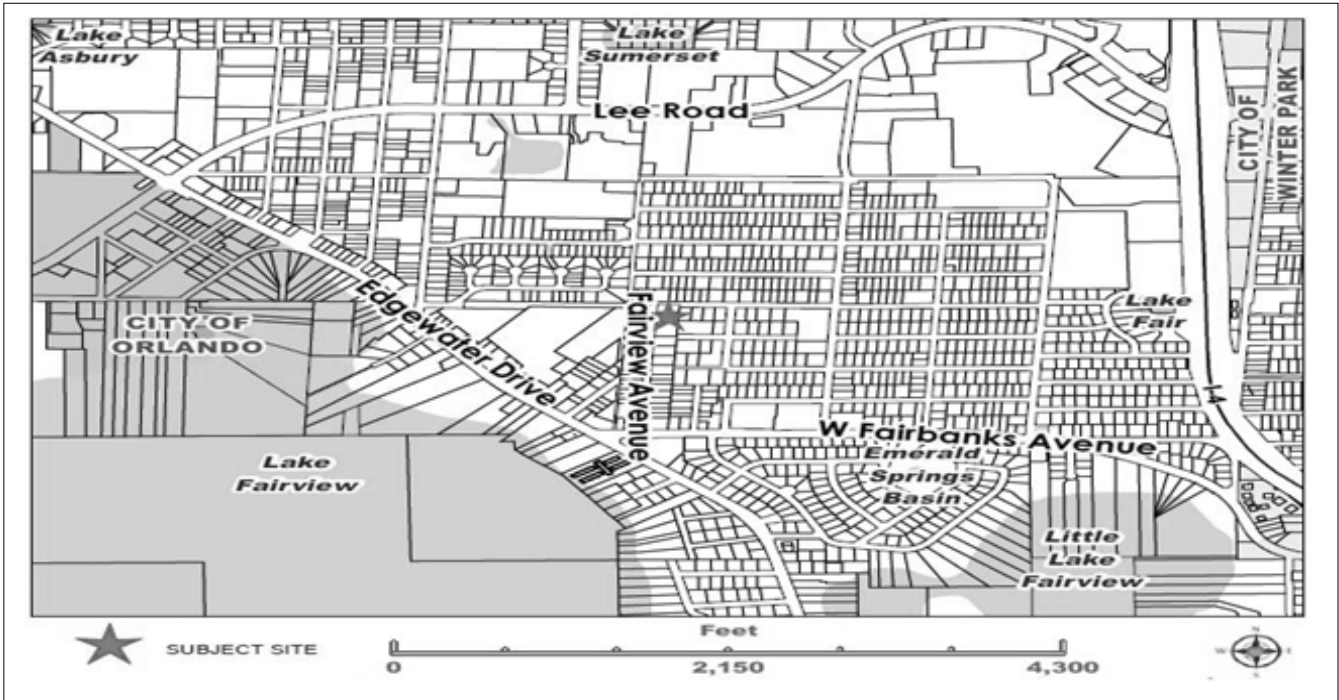
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the variances and stated justification for the six (6) criteria and unanimously recommended approval of the variances by a 5-0 vote, with one absent and one seat vacant, subject to the five (5) conditions in the staff report, and an amended Condition #1, which states “Development shall be in accordance with the site plan and elevations received March 17, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations...” and an amended Condition #5, which states “Prior to the issuance of a permit for the covered patio, the easement holder of the existing 15 ft. easement located along the east property line shall give written permission to encroach such easement and to record in Official Public Records or the easement shall be abandoned.”

STAFF RECOMMENDATIONS

Approval of a lesser variance of 7 ft. in lieu of 7.5 ft., and denial of Variance #2. If the BZA should find that the applicant has satisfied the criteria needed to grant the variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property is a +/- 0.37 acre lot that was created by a lot reconfiguration on January 14, 2020 (LS-20-01-004). It is located in the Dowd Park subdivision, recorded in 1924, and is considered to be a conforming lot of record. The property was purchased by the current owner in April 2020. The area around the subject site consists of single-family homes.

The property is developed with a 1-story, 3,946 gross sq. ft. single-family home constructed in 1959, as well as an existing two story detached accessory structure (ground floor garage with an internal staircase and an

unfinished second story), and a 19 ft. by 7.7 ft. covered patio that appears to have been built sometime in 2006 based on aerials, however a permit cannot be found. All of the existing structures meet code setback requirements, with the exception of the covered patio, which is located 3.2 ft. from the north property line, in lieu of 5 ft., requiring Variance #2. The covered patio is located 9.7 ft. from the east/rear property line where only 5 ft. is required, however it appears to encroach into a 15 ft. drainage easement (OR 5529, Page 4666) that is not identified on the site plan that runs parallel along the east property line. Recently the covered patio was reduced in size, without permits, in a manner which did not lessen the requested impact or the encroachment. If approved, Condition #4 requires that a permit be obtained for that structure and Condition #5 requires permission to be granted by the easement holder to encroach or to fully or partially abandon the 15 ft. easement prior to obtaining the permit.

Proposed is the installation of a 3 ft. wide external staircase and a new 5 ft. x 12 ft. porch with a south side setback of 5 ft. in lieu of 7.5 ft. for the detached accessory structure, requiring Variance #1. This request is needed to provide 2nd floor exterior access to a proposed Accessory Dwelling Unit (ADU). A permit (B21011880) to convert the second floor to an ADU, to demolish the existing internal staircase and to construct the new exterior staircase is on hold pending the outcome of the request.

While the request meets some of the standards for variance criteria, it does not meet all of the standards. Therefore, staff is recommending for a lesser variance of 7 ft. in lieu of 7.5 ft. as the minimum possible request for Variance #1. Based on staff analysis, the staircase could be aligned next to the side of the accessory structure and the width of the landing for the staircase which would be reduced to 3 ft. instead of 5 ft. Further, based on staff analysis for Variance #2, the covered patio could have been constructed, and later modified, in a manner meeting code setback requirements and not encroaching the 15 ft. drainage easement if a permit was obtained prior to construction.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12 ft. staircase
Min. Lot Width:	75 ft.	113 ft.
Min. Lot Size:	7,500 sq. ft.	16,159 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	N/A detached accessory structure	82.2 ft. staircase (West) 125.3 ft. covered patio (West)
Rear:	10 ft. detached accessory structure over 15 ft. height 5 ft. detached accessory structure under 15 ft. height	35 ft. staircase (East) 9.7 ft. covered patio (East)
Side:	7.5 ft. detached accessory structure over 15 ft. height 5 ft. detached accessory structure under 15 ft. height	5 ft. staircase (South - Variance #1) 3.2 ft. covered patio (North - Variance #2)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: The special condition and circumstance particular to the subject property is the close proximity of the existing detached accessory structure to the side property line. Any proposed improvement to the side would need a variance.

Variance #2: There are no special conditions related to the covered patio, as it could be constructed in a manner that met setback requirements and avoided encroachment of the adjacent easement. Furthermore, it could have been modified to meet the required side setback for an accessory structure by shifting it further to the south by 2 ft. Furthermore, it encroaches into the 15 ft. drainage easement along the east property line.

Not Self-Created

Variance #1: The need for the variance is not self-created as the existing detached accessory structure restricts the area where access to the second story ADU could be built that conforms to the setback requirements.

Variance #2: The requested variance is self-created since the covered patio could have been built or modified in a manner which meets the required side setback for an accessory structure.

No Special Privilege Conferred

Variance #1: Due to the orientation of the existing accessory structure on the lot, granting the proposed lesser variance will not confer any special privilege conferred to others under the same circumstances.

Variance #2: Granting this variance would confer special privilege as it does not appear that any other properties in the surrounding area have similar encroachments.

Deprivation of Rights

Variance #1: Denial of this variance would deprive the owners of the right to utilize and enjoy the proposed ADU on the second floor of the accessory structure with an exterior staircase, and the lesser variance of 7 ft. will allow them to access the second floor in this location while limiting the patio area to just a landing.

Variance #2: Denial of this variance would not deprive the owners of any rights as the covered patio could have been constructed in a manner would have avoided the encroachment of the easement and the required setback.

Minimum Possible Variance

Variance #1: The requested variance for the staircase is not the minimum possible since the proposal could be redesigned to lessen the requested net setback variance from 2.5 ft. to 0.5 ft. (from a setback of 5 ft. to 7 ft.); the proposed lesser variance is the minimum possible.

Variance #2: The requested variance for the covered patio is not the minimum possible since it could have been constructed or modified in a manner that met required setbacks and did not need to fully or partially vacate the existing easement.

Purpose and Intent

Variance #1: Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties.

Variance #2: The requested variance does not meet the purpose and intent of the code since there are no other instances in the surrounding area with appear to encroach into the required side setbacks and an easement.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received March 17, 2022, as modified to reflect the lesser variance of 7 ft. for variance #1, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to issuance of a permit for the exterior staircase, the covered patio area shall be removed or permitted, subject to the satisfaction of Condition #5.
5. Prior to the issuance of a permit for the covered patio, the easement holder of the existing 15 ft. easement located along the east property line shall give written permission to encroach such easement or the easement shall be abandoned.

C: Michelle Robinson, Sean Robinson
4479 Fairview Avenue
Orlando, FL 32804

COVER LETTER

Cover Letter

Variance Request:

1. The request is for a 5' setback for an external staircase on an existing structure where a 7.5' setback is required. Since the building is existing, in order to have a 5' wide staircase, it encroaches into the side setback 2.5'. The existing structure exceeds the minimum 7.5 setback with a 10 setback. The building permit has been submitted under B21011880.
2. Request for a 3.2' side setback in lieu of a 5' setback for an accessory structure on the north side setback. There is an existing shade structure, which was installed prior to our purchase of the home in 2020. The original owner (Printice C Greene) also owned 4481 Fairview Avenue so it appears that he mistakenly installed the shade structure at the incorrect setback.

Variance Criteria:

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 variance application.

Response #1: The garage building is an existing structure that is set back 10' from the side property line. The building is a two car garage with an unfinished space on the 2nd story. Currently, the stairs are located internal to the structure, however, the location renders one of the side of the garage unusable for parking a car, which is the intent of the two car garage.

Response #2: The shade structure is an existing structure. The original owner (Printice C Greene) also owned 4481 Fairview Avenue so it appears that he mistakenly installed the shade structure at the incorrect setback.

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 #1: This is not a self-created hardship as the garage building is an existing structure.

Response #2: This is not a self-created hardship as the shade structure is an existing structure.

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, building, or structures in the same zoning district.

Response #1 & #2: No special privilege is conferred as utilizing buildings and shade structures is something everyone is allowed.

COVER LETTER

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 #1: Literal interpretation would not allow the applicant to utilize the garage fully and would not allow for a code complaint width of staircase to the existing 2nd story.

Response #2: Literal interpretation would not allow the applicant to utilize the existing shade structure which is in excellent condition. This would be wasteful of materials, time and money as literal interpretation would require us to spend additional time, money and resources to remove, purchase and install a new shade structure, just for an additional 1' 10" setback.

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

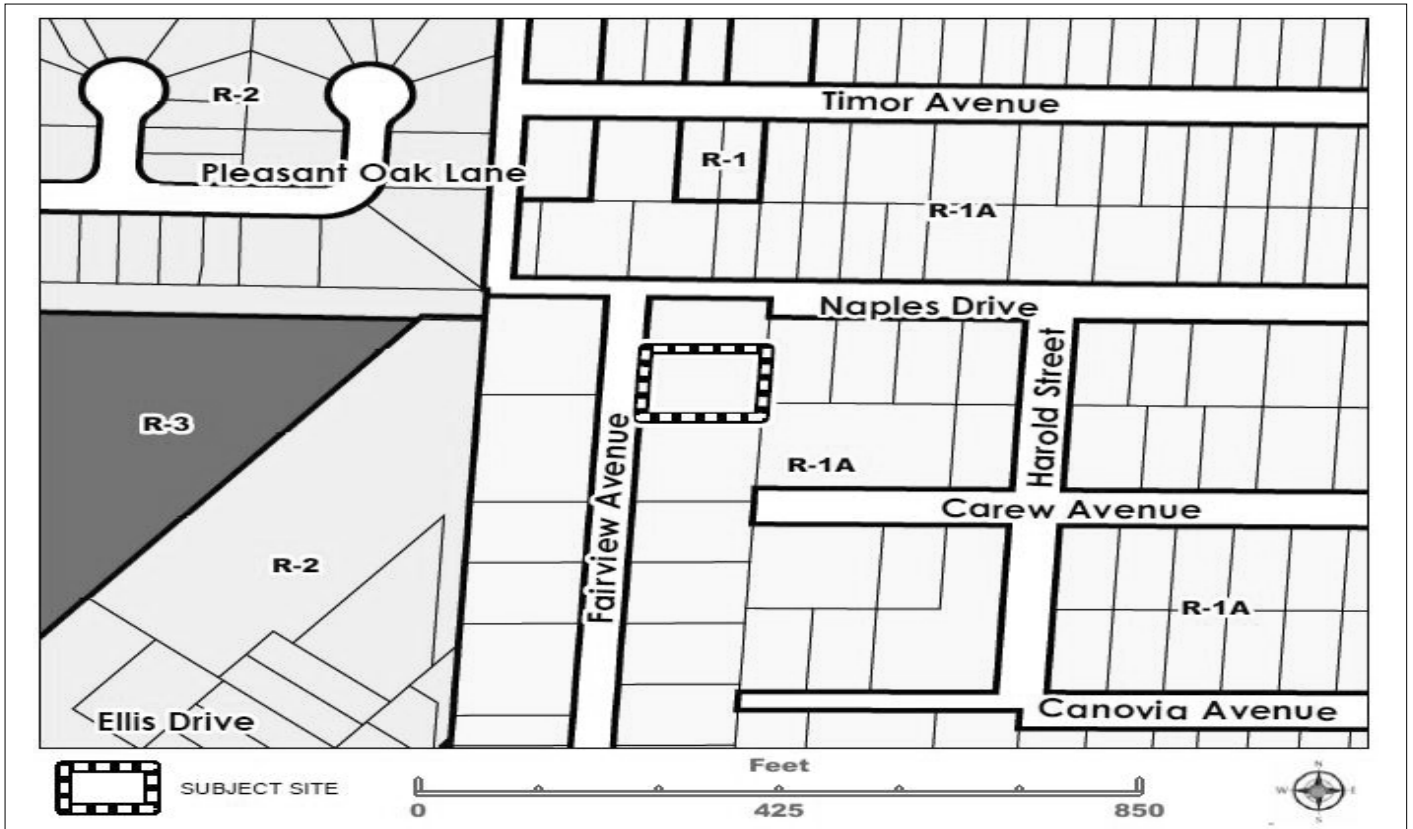
Response #1: The requested variance is the minimum variance needed for the staircase.

Response #2: The requested variance is the minimum variance needed as for the existing shade structure.

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

Response #1 & 2: The approval of the zoning variances 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.

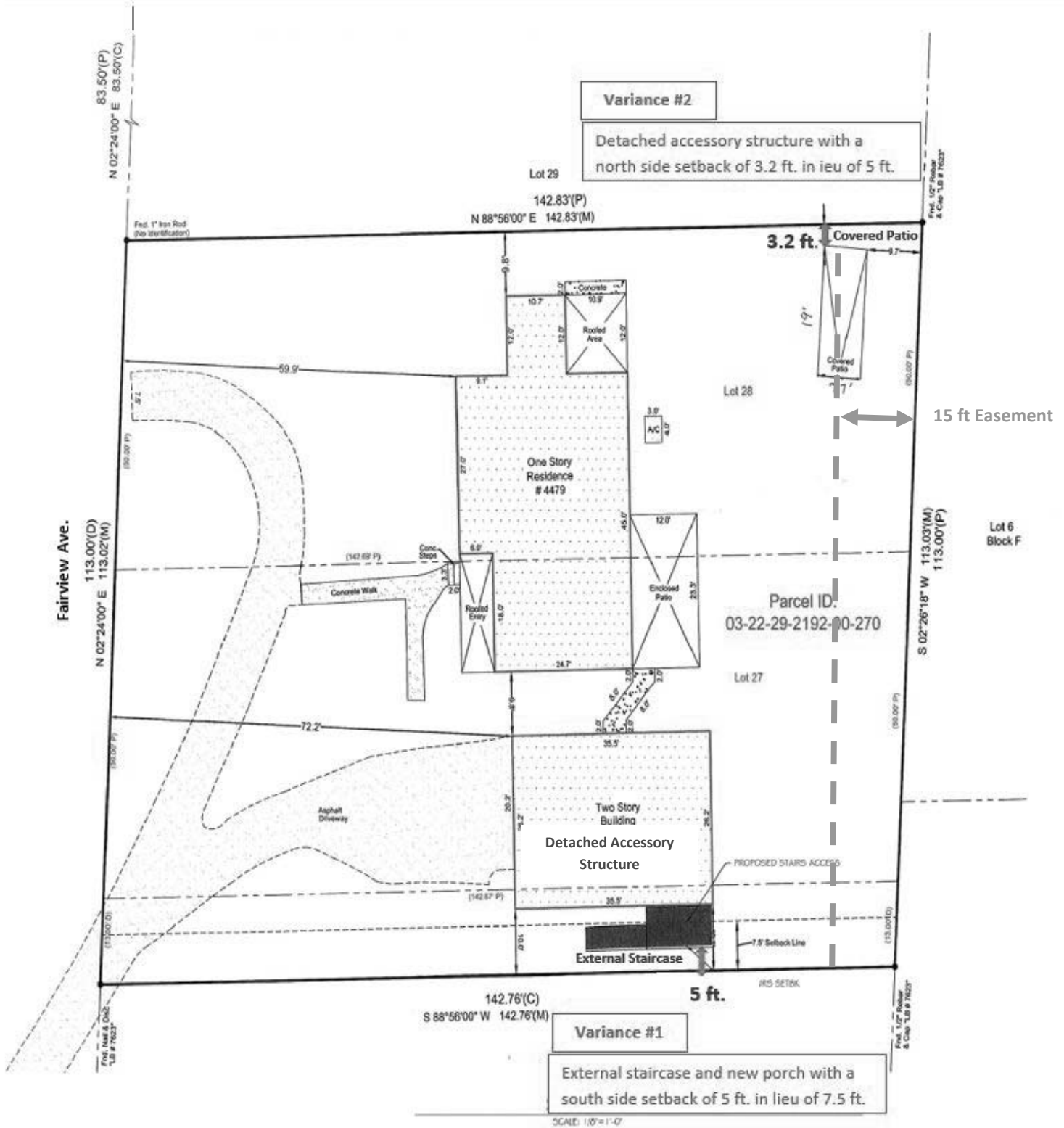
ZONING MAP



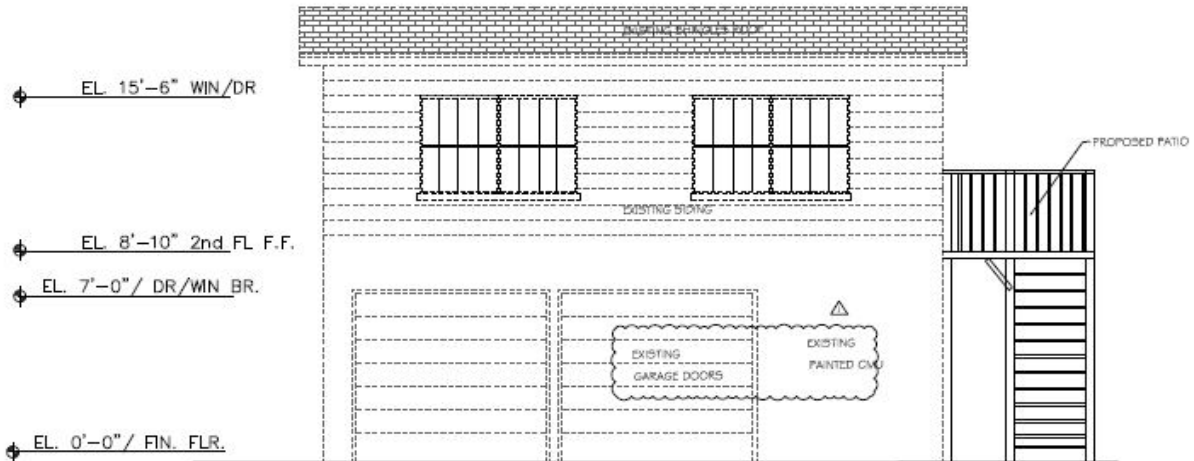
AERIAL MAP



SITE PLAN

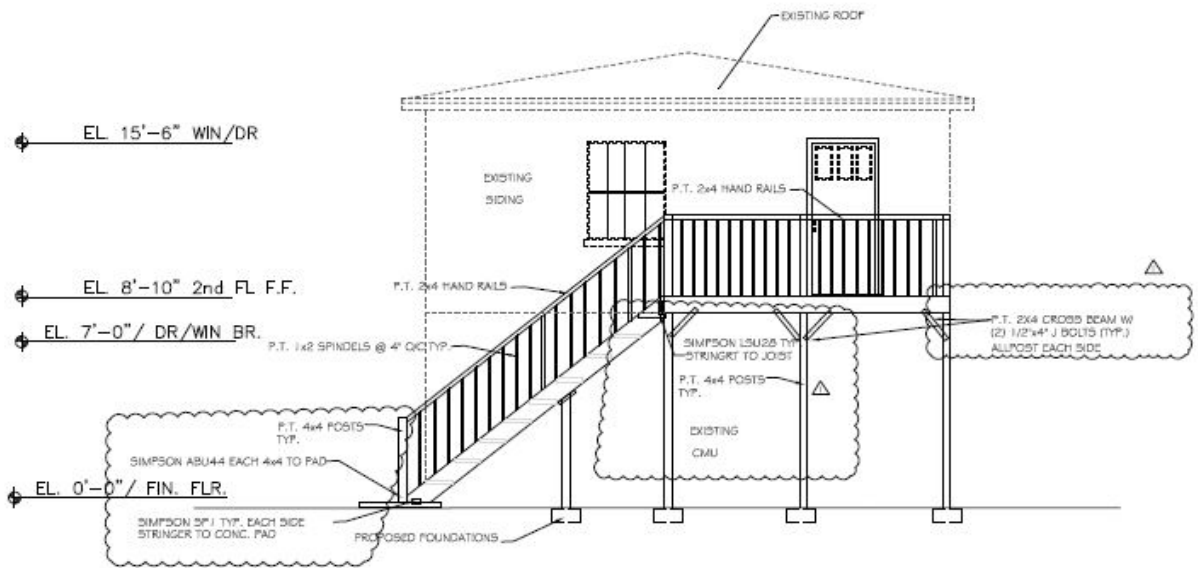


ELEVATIONS



EXISTING FRONT ELEVATION

SCALE: 1/4" = 1'-0"



SIDE ELEVATION

SCALE: 1/4" = 1'-0"

SITE PHOTOS



Facing east towards front of subject property



Rear yard, facing north towards rear of subject property

SITE PHOTOS



Facing east towards front of existing detached accessory structure (garage/ADU)



Facing east towards side of accessory structure (proposed external staircase and porch)

SITE PHOTOS



Rear yard, facing west towards rear of existing accessory structure (garage/ADU)



Rear yard, facing southwest towards rear of accessory structure (garage/ADU)

SITE PHOTOS



Rear yard, facing north towards existing covered patio



Rear yard, facing east towards side of covered patio

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#1**

Case #: **VA-22-04-014**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): BLAKE ROBY, ELENA ROBY

OWNER(s): BLAKE ROBY, ELENA ROBY

REQUEST: Variances in the P-D zoning district, as follows:

1) To allow the construction of a two story addition (attached garage and accessory dwelling unit) with a front setback of 20.6 ft. in lieu of 30 ft.

2) To allow a separate entrance to an accessory dwelling unit at the front in lieu of the side or rear.

PROPERTY LOCATION: 7306 Gladwin Ct., Orlando, FL 32836, south side of Gladwin Ct., west of Big Sand Lake, east of S. Apopka Vineland Rd.

PARCEL ID: 02-24-28-7842-02-720

LOT SIZE: +/- 1.65 acres (+/- 0.92 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 47

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received February 22, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

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

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

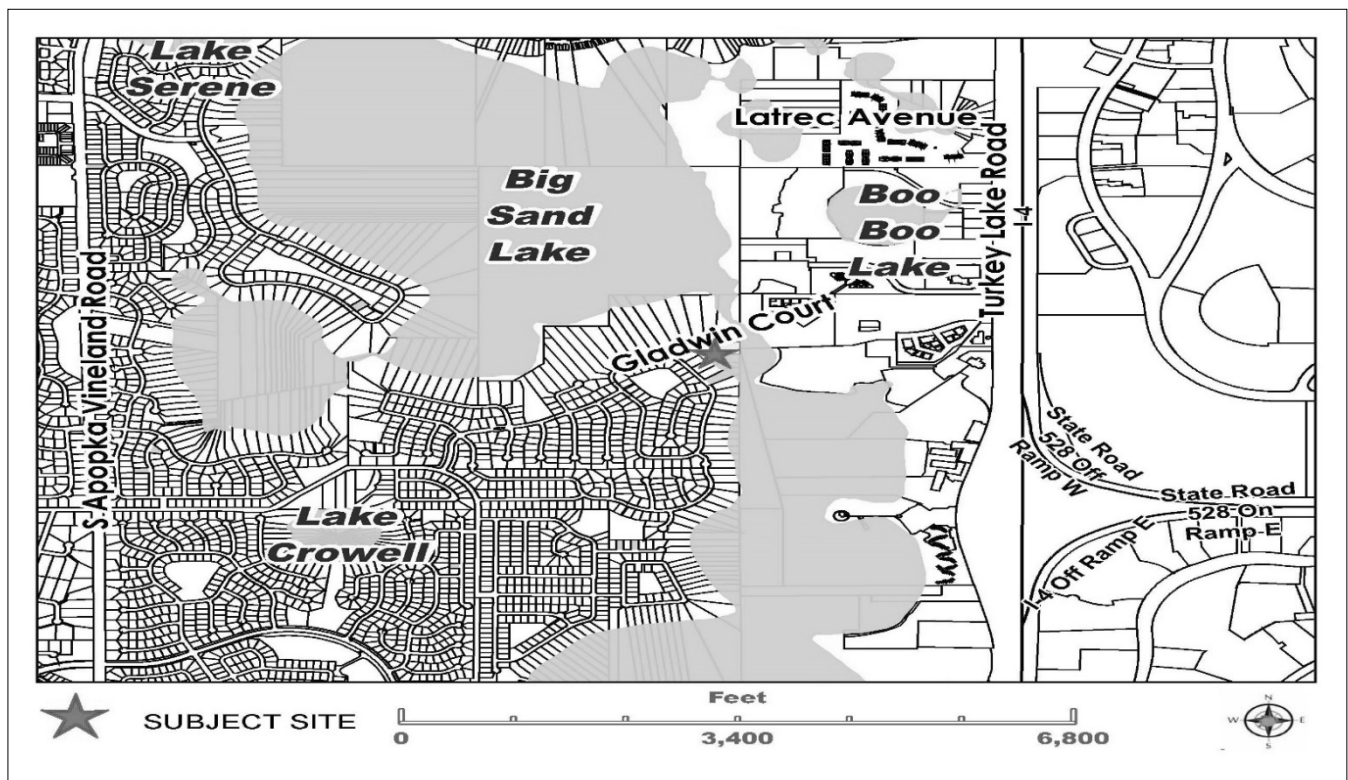
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variances by a 5-0 vote, with one absent and one seat vacant, 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	Sand Lake Point PD	Sand Lake Point PD	Sand Lake Point PD	Big Sand Lake	Sand Lake Point PD
Future Land Use	LDR	LDR	LDR	Big Sand Lake	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Big Sand Lake	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Sand Lake Point Planned Development (PD) district, which allows single-family homes and associated accessory structures. The future land use is Low Density Residential (LDR), which is consistent with the PD zoning district.

The subject property is Lot 272 of the Sand Lake Point Unit III Plat, recorded in 1989, and is considered to be a conforming lot of record. It is a +/- 1.65 acre platted parcel of land, of which +/- 0.92 acres is upland. The remainder of the parcel is either wetland or submerged property under Big Sand Lake. It is an irregularly shaped lot, with a wide variation of changes in elevation, and is located at the end of a cul-de-sac. It is currently developed with a 7,276 gross sq. ft. two story single-family home with an attached 3-car garage (B01012476), outdoor pool with spa (B01015526), and boat dock (B08003363) that were constructed in 2002. The current owners acquired the property in January 2018. The area surrounding the subject site consists of single-family homes, many of which are lakefront.

The proposal is to construct a two-story 2,536 sq. ft. attached addition, consisting of a 1,231 sq. ft. 4-car garage on the ground floor and an Accessory Dwelling Unit (ADU) with 878 sq. ft. of living area on the 2nd floor. The proposal meets the south rear, and east and west side setbacks required by the Sand Lake Point PD, as well as the 1,000 sq. ft. maximum ADU size limitation as required per Sec. 38-1426(a)(3)(a)(5). However, due to the irregular configuration of the lot and the location of the home in relation to the surrounding property line, a 20.6 ft. front north setback is proposed in lieu of 30 ft., requiring Variance #1.

Per Section 38-1426(b)(3)(g) of the Orange County Code, a building entrance of an ADU may either share a common entrance with the primary dwelling unit or use a separate entrance which shall be located only on the side or rear of the primary structure. In order to minimize rear and side paved walkways, a separate entrance to the ADU is proposed to be at the front in lieu of the side or rear, requiring Variance #2. A permit, B21021730, to construct the subject addition is on hold pending the outcome of this request.

The Orange County Environmental Protection Division has reviewed the request and has no objection.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	23 ft.
Min. Lot Width:	110 ft.	231.2 ft.
Min. Lot Size:	21,780 sq. ft.	1.65 acres (0.92 acres upland)

Building Setbacks (that apply to structure in question)

	Sand Lake Point PD Requirement	Proposed
Front:	30 ft.	20.6 ft. (North - Variance #1)
Rear:	35 ft.	50.2 ft. (South)
Side:	10 ft.	20 ft. (East)
NHWE:	50 ft.	50.2 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are its configuration and angle at which the house was constructed in relation to the property lines, and the angle of the rear property line, which renders any addition or improvements difficult without the variances. The rear of the property has an elevation change and the placement of the subject property in a cul-de-sac with an irregular property line creates a challenge for a separate entrance to meet code requirements.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration and location of the home in relation to the surrounding property line. Nor are the owners responsible for the elevation change in the rear of the property and the placement of the subject property in a cul-de-sac with an irregular property line.

No Special Privilege Conferred

Granting the requested variances will not confer any special privilege conferred to others under the same circumstances since meeting the literal interpretation of the code would prohibit any additions due to the irregular configuration of the lot and the location of the home in relation to the surrounding property line.

Deprivation of Rights

Without approval of the requested variances, the owners will be deprived of the ability to construct any addition on the parcel. Also, having a separate entrance that meets code requirements will deprive them of utilizing the addition due to the elevation change at the rear of the property.

Minimum Possible Variance

The requested variances are the minimum necessary to construct any improvements in the front of the property, due to the irregular shape of the lot, and only a small portion will encroach into the front setback. The separate entrance in front will minimize the impact of the construction to provide access on the side or rear.

Purpose and Intent

Approval of the requested variances will allow improvements to the site, which will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to adjacent properties. The addition will be consistent with the predominant construction of similar sized single-family residences surrounding the subject property.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 22, 2022, 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: Blake Roby, Elena Roby
7306 Gladwin Court
Orlando, FL 32836

COVER LETTER

February, 7, 2022

ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue,
1st Floor, Orlando, Florida 32801
Phone: (407) 836-3111
Email: BZA@ocfl.net

Re: Zoning Variance/Special Exception for Permit B21021730

Dear Board of Zoning Reviewers:

We are requesting a zoning variance for an ADU (2 story garage) that has a setback of 20.6' in the front, where the requirement is stated as 30'. This variance would allow for approximately 15' of our total structure to conform with other developments in the area. The adjacent communities built at a similar time period, such as Sand Lake Cove (early 90s), only have a 20' setback while new development communities such as Venezia (early 2000s), Parkside (2014), and Phillips Grove (Current construction) all only have 15' front setbacks. This information may have been what the engineer used for the planning/zoning guide. To scale down the garage and offset it from the front of building would make it unsightly and could impede on the rear setback from the waterfront. We are also asking for a variance allowing and entryway on the front of the structure. By allowing a front entryway, curb appeal will be increased while simultaneously allowing us not to add an additional walkway around the side of the structure.

The plans will match the existing structure aesthetically and will increase property value, not just of the residence, but the surrounding community as well. The immediately adjacent property (7301 Gladwin Ct) is 7,800 heated sq ft and has a 5 car garage, so we will not be overbuilding the property for the community. Proposed structure would be block with stucco finish to match, and tile roofing. Total square footage of the addition is 2,536. It has a footprint of 43'-8" x 25'-4". Code from front setback is currently 30' and plans are 20'-6", code for rear setback is 50' and plans are 50'-2 3/4". Overall height is 25'-1".

With the 10' variance we are requesting we won't impede on any other lot, or build, as this happens to be on a cul-de-sac with ample distance to the setback on the side of the structure. Also, with keeping as is, there would be minimal impact on the waterfront since we are conforming with the normal high-water setback.

This build will also serve as an in-law suite to accommodate our aging parents with full kitchen and living quarters. With the influx of people moving to central Florida, this seems like a win-win all around. It allows minimal impact on the community while increasing revenue for the city.

With safety being a priority, our current landscape design includes a walking path to our boat dock. Currently, people ignore the no trespassing signs thinking it is a community walking path and dock. It would help alleviate the need for an unsightly fence running the length of our property along the current setback line to deter this action. With the addition, others would recognize the path and boat dock as a private entity rather than a community area.

This addition beautifies the community which follows true to the city's nickname of the "City Beautiful". Let's build together for growth and beautify the community in these expanding times. It seems we, as in the community, win with this addition.

Attached please find the approval and full support of our Homeowner's Association for these designs.

Sincerely,

Blake, Elena, Sophia, Kayden, Kamden, & Savana

6 CRITERIA RESPONSE

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.

This variance is requested due to the irregular shape of our lot. The structure cannot be built further back on the property due to the rear lot line and the steep slope into the lake.

This variance is requested to make the home more aesthetically pleasing rather than having an unnecessary additional walkway around the house to a rear entrance.

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.

Based on the lot layout and current setbacks, any addition to the residence on the NE side would impede front or rear setbacks. If using current OC zoning/planning guide, 20' front setback is conforming, therefore, it is not self-created.

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

No special privilege conferred. _____

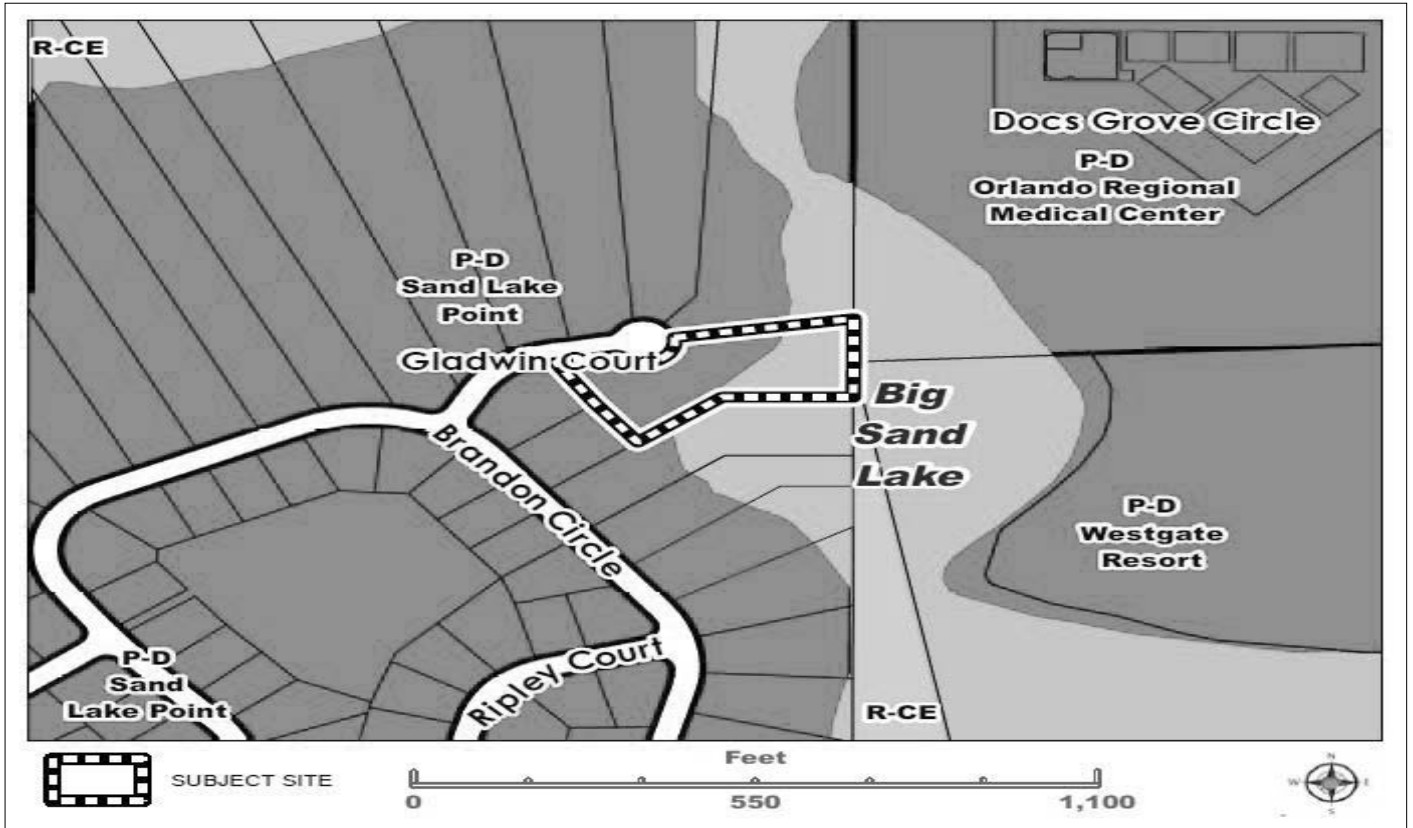
4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial 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.

Deprivation of Rights is not an issue with this particular request. Purchase of this property 4 years ago had no intention of development in violation the setbacks.

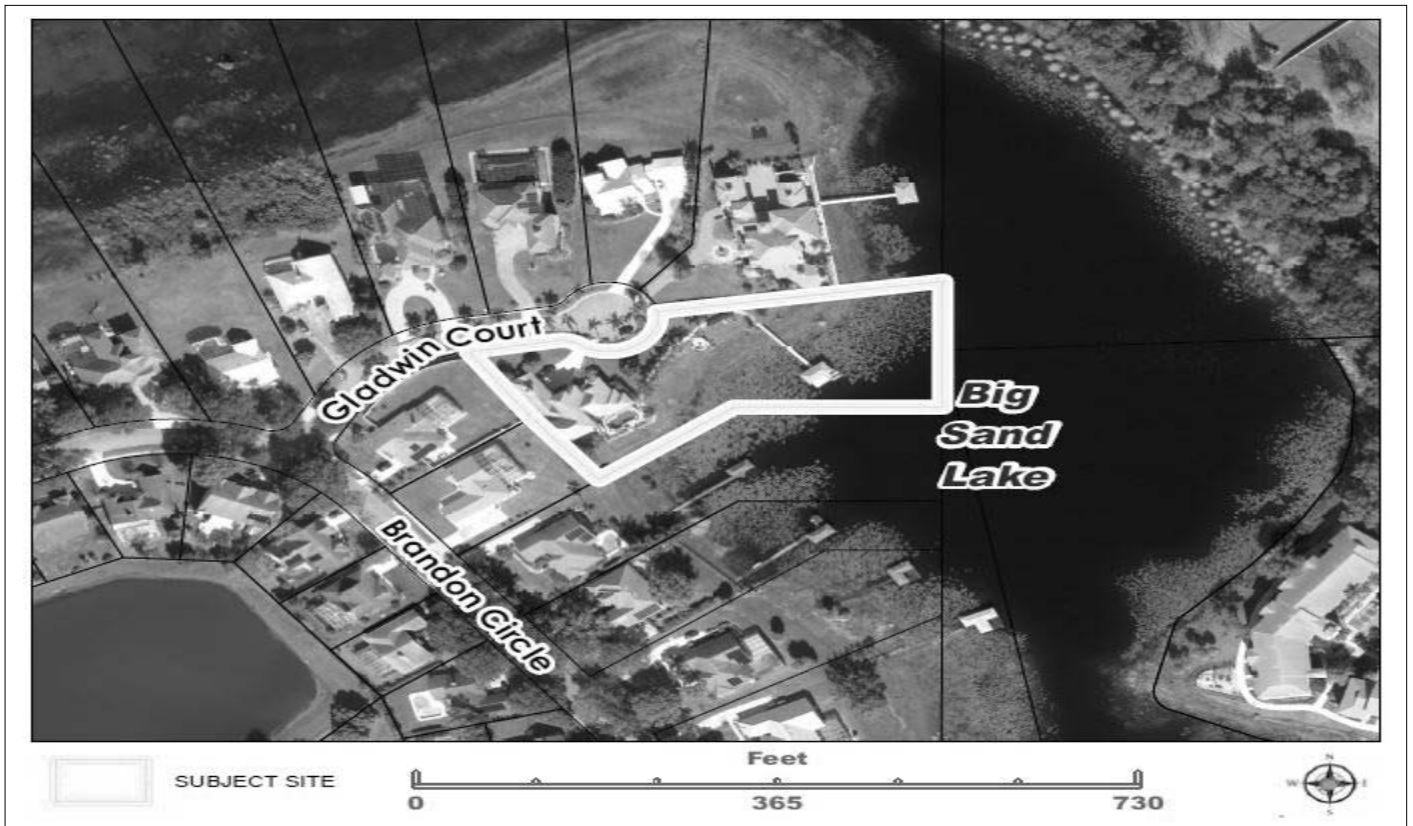
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Based on the lot layout and current setbacks, any addition to the residence on the NE side would impede front or rear setbacks. If using current OC zoning/planning guide, 20' front setback is conforming, therefore, has no possible variance.

ZONING MAP



AERIAL MAP



SITE PLAN



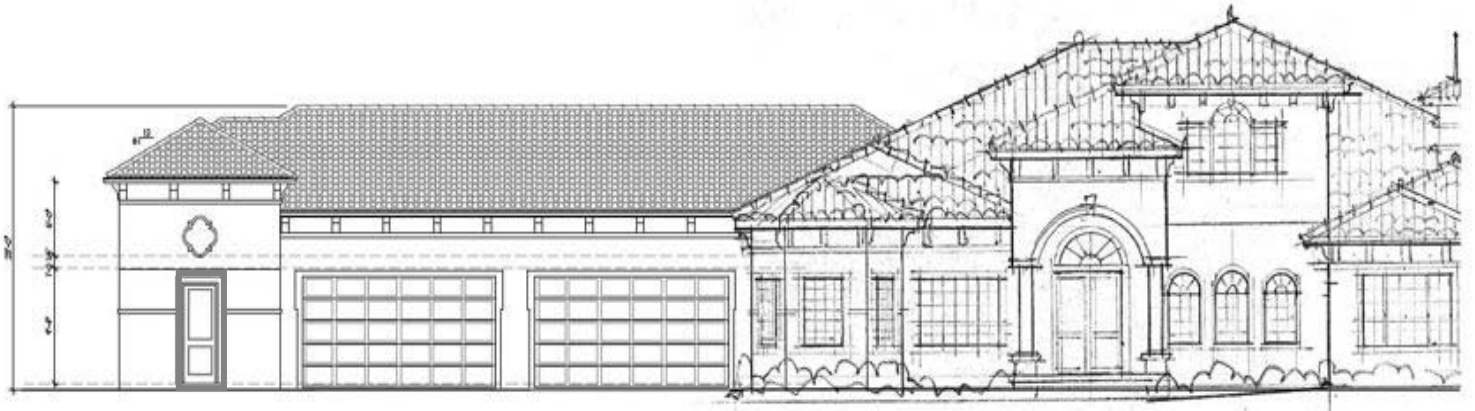
Variance #1

2 story addition with a front setback of 20.6 ft. in lieu of 30 ft.

Variance #2

A separate entrance at the front in lieu of the side or rear

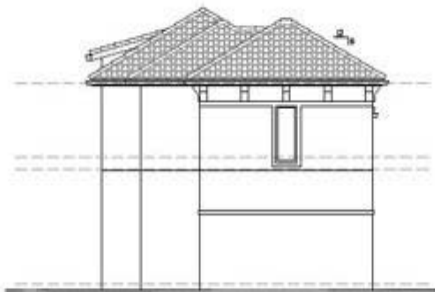
ELEVATIONS



FRONT ELEVATION

000-01 01

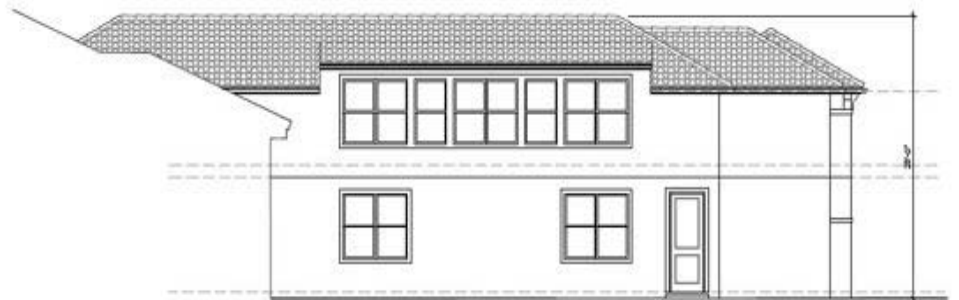
Front (East) Elevation



LEFT SIDE ELEVATION

000-01 03

Left Side (West) Elevation



REAR ELEVATION

000-01 02

Rear (North) Elevation

SITE PHOTOS



Facing south towards front of subject property



Facing southeast towards subject property

SITE PHOTOS



Facing east towards side of subject property towards proposed addition



Front yard, facing north towards side property line towards proposed addition

SITE PHOTOS



Rear yard, facing northeast towards walkway to boat dock



Rear yard, facing east towards Big Sand Lake

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#3**

Case #: **VA-22-04-006**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ROBERTO GONZALEZ

OWNER(s): ROBERTO GONZALEZ

REQUEST: Variance in the R-1 zoning district to allow a conversion from a screen room to a sunroom with a west side street setback of 10 ft. in lieu of 15 ft.

PROPERTY LOCATION: 3203 Coe Ave., Orlando, FL 32832, northeast corner of Coe Ave. and S. Crystal Lake Dr., south of Curry Ford Rd.

PARCEL ID: 05-23-30-7952-02-120

LOT SIZE: 0.23 acres (10,023 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 97

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received March 9, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the existing garage within 1 year of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. A permit for the garage shall be issued prior to obtaining a permit for the conversion of the screen room.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial as the proposal does not meet all the variance criteria. Staff noted that one (1) comment was received in favor of the request and no comments were received in opposition to the request.

The applicant discussed the need for the variance and the rationale for the request.

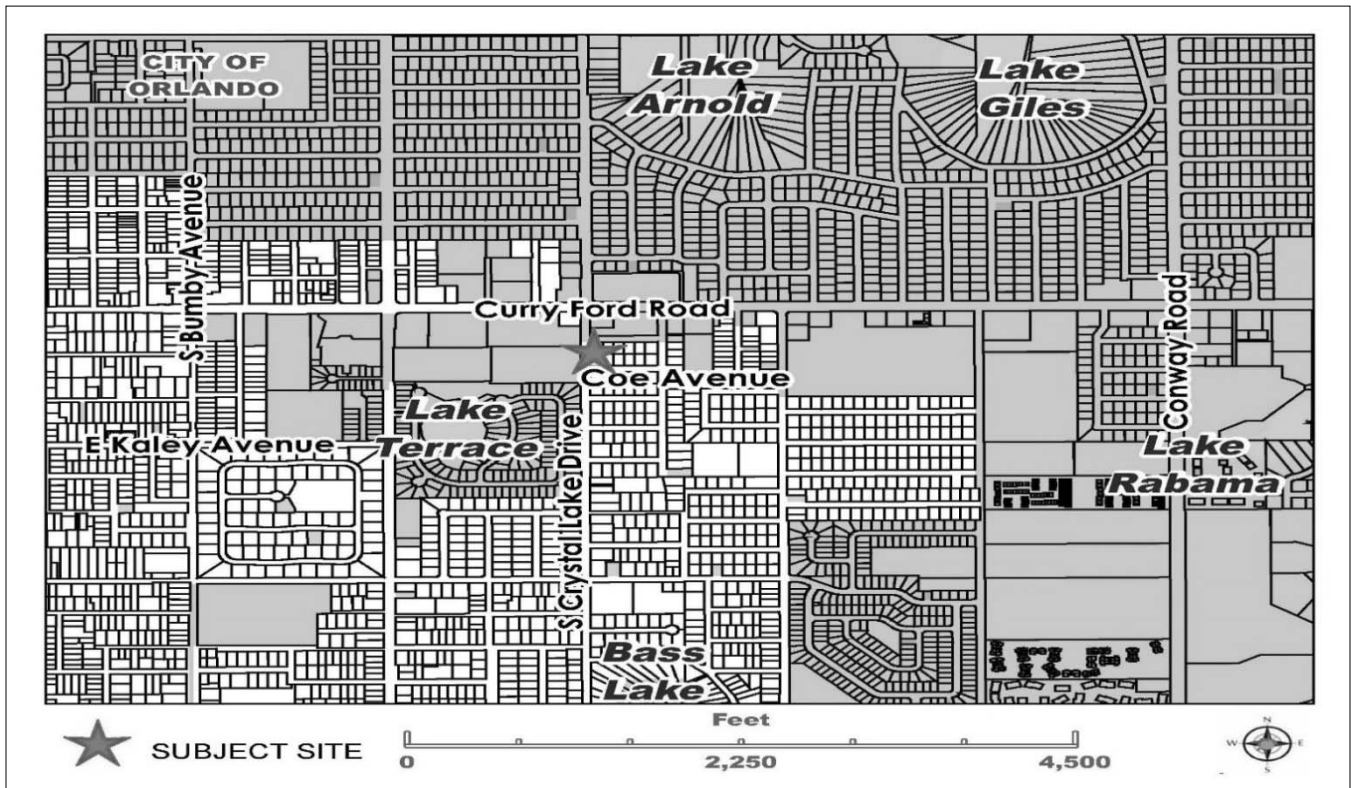
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the proposal, noted the non-conforming side street encroachment since 1956 and unanimously recommended approval of the variance by a 5-0 vote, with one absent and one seat vacant, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum 5,000 square ft. lot. The future land use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The subject property is a +/- 0.23-acre lot, was platted in 1956 as Lot 12 of the Shady Acres plat, and is a conforming lot of record. The property is a corner lot with the front yard abutting Coe Avenue and the side street yard abutting South Crystal Lake Drive. There is a 5 ft. utility easement abutting the north property line. The property was purchased by the current owners in August 1998, and is developed with a one story, 2,137 sq. ft. single-family home, constructed in 1956 according to the Orange County Property Appraiser's office. The property also includes a 24 ft. by 18 ft. detached garage, which meets required setbacks and a 6 ft. by 8.4 ft. concrete pad covered with an aluminum canopy used for storage. The aluminum canopy and existing concrete pad will be demolished and an uncovered concrete pad will be replaced. Based upon aerials, the detached garage was constructed in 2001. There is no record of a permit for the garage.

There is an existing screen room on the rear of the structure that is 21 ft. x 14 ft. in size with an existing non-conforming 10 ft. west side street setback that appears to have been constructed at the same time as construction of the residence in 1956. The current proposal is to convert the existing screen room to a 21 ft. by 20 ft. sunroom with a west side street setback of 10 ft. in lieu of 15 ft., necessitating the requested variance. A permit, B21023815, to convert the existing screen room to a sun room is on hold pending the outcome of this request.

While the request meets some of the standards for variance criteria, it does not meet all of the standards. Therefore, staff is recommending denial of this request. Based on staff analysis, the sunroom's new design that extends in the rear of the structure will be creating further encroachment into the west street side setback. Using the current footprint of the screen room only for the conversion would prevent further encroachment. Another option is to have the extended rear of the structure added further east to meet the 15 ft. west side street setback.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10.4 ft.
Min. Lot Width:	50 ft.	87.17 ft.
Min. Lot Size:	1,000 sq. ft.	10,023 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	25.7 ft. (South)
Rear:	25 ft.	41.2 ft. (North)
Side:	6 ft. 15 ft. side street	14 ft. (East) 10 ft. (West - Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is the location and age of the existing screen room which was built in 1956 prior to the existence of the zoning code. The proposed extension of the existing improvements will be in line with the existing non-conforming side street setback.

Not Self-Created

The request is self-created since the owner's conversion of the screen room into a sunroom will also increase the footprint which creates additional encroachment into the west side street setback.

No Special Privilege Conferred

Due to the orientation of the house on the lot, and the year the house was built, granting the requested variance will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Denial of this variance would deprive the owner of the right to utilize and enjoy improvements to the property that similar surrounding properties are allowed.

Minimum Possible Variance

Given the year the house was built and the orientation of the house on the property, the requested variance is the minimum possible.

Purpose and Intent

Approval of the request will be in harmony with the purpose and intent of the of the Code, and the proposed request will not be detrimental to the neighborhood since the design of the conversion as proposed is consistent with the architectural design of the existing house and would be compatible with other residences in the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received March 9, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the existing garage within 1 year of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. A permit for the garage shall be issued prior to obtaining a permit for the conversion of the screen room.

C: Roberto Gonzalez
3203 Coe Avenue
Orlando, FL 32806

COVER LETTER

January, 12, 2022

Orange County Board of Zoning Adjustment
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32801

RE: Request for Sidestreet Setback Variance to Refurbish an Existing Sunroom

Dear Board Members

PURPOSE

The purpose of this letter is to submit an application to request a sidestreet setback variance (see attached Application) to refurbish an existing Sunroom constructed in 1956 for a single-family residence located at 3203 Coe Avenue, Orlando, Florida 32806 (See attached Proposed Site Plan). The reason for the request is to extended the existing structure 6 feet north.

BACKGROUND

The existing aluminum screened Sunroom porch will be replaced with concrete masonry unit (CMU) walls. The refurbished Sunroom will be approximately 420 ft² (36 ft² partial variance needed).

The refurbishment will maintain the same distance of the existing building constructed in 1956 of approximately 10 ft from the sidestreet property line.

The proposed height of the refurbished Sunroom will be a minimum of 10 feet 4 inches to match existing roof line (See attached Elevation) up to a maximum of 16 feet to allow for natural light needed for roof truss design.

Code only allows for 15 feet setback from sidestreets and 35 feet height maximum.

JUSTIFICATION

Justification for how the proposed variance requests meets the six (6) standards for variance approval are as follows:

1. **Special Conditions and Circumstances** - Variance is requested to refurbish an existing Sunroom constructed in 1956. Project is for a single-family resident property. Special condition

COVER LETTER

and circumstances for requested variance are not intended to be applicable to other structures in the same zoning district at this time.

2. **Not Self-Created** - Special conditions and circumstances do not result from actions of applicant. Variance requested is to refurbish an existing Sunroom constructed in 1956 that is setback approximately 10.7 feet from property line.
3. **No Special Privilege Conferred** - Request for setback variance do not confer special privilege to applicant denied to others in the same zoning district as the project is to refurbish an existing Sunroom constructed in 1956.
4. **Deprivation of Rights** - Refurbishing the existing Sunroom is not intended to deprive other properties in the same zoning district of rights.
5. **Minimum Possible Variance** - Minimum variance requested is for refurbishing an existing Sunroom making the reasonable use of the existing structure.
6. **Purpose and Intent** - Purpose and intent is to refurbish an existing Sunroom constructed in 1956. Refurbishment is planned to meet 2020 Florida Building Code Standards; and is therefore not anticipated to be injurious to the neighborhood or detrimental to public welfare.

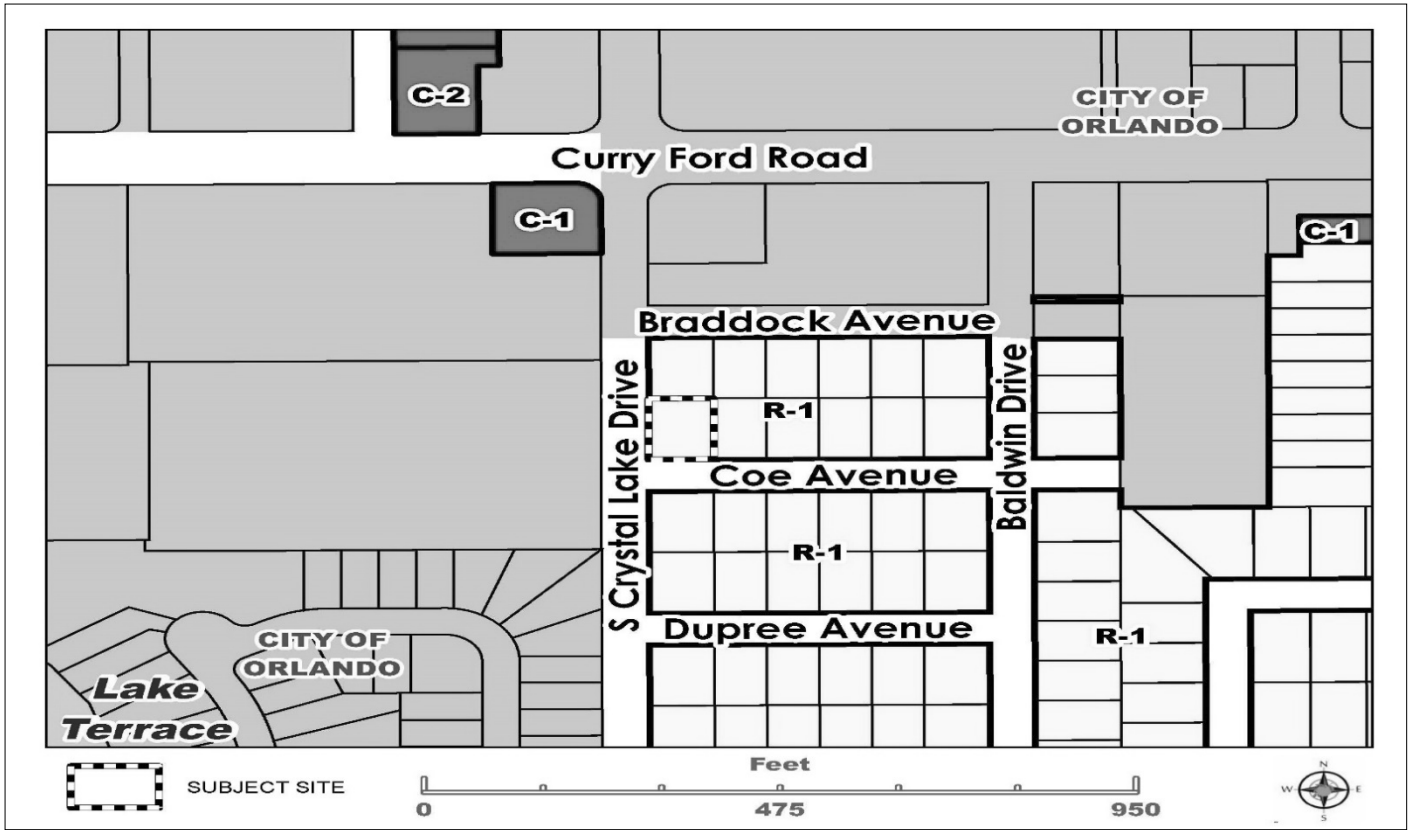
CLOSING

Thank you for your consideration in this matter. Should you have any questions please contact me at (407) 443-0269 or rgonzalez@cphcorp.com.

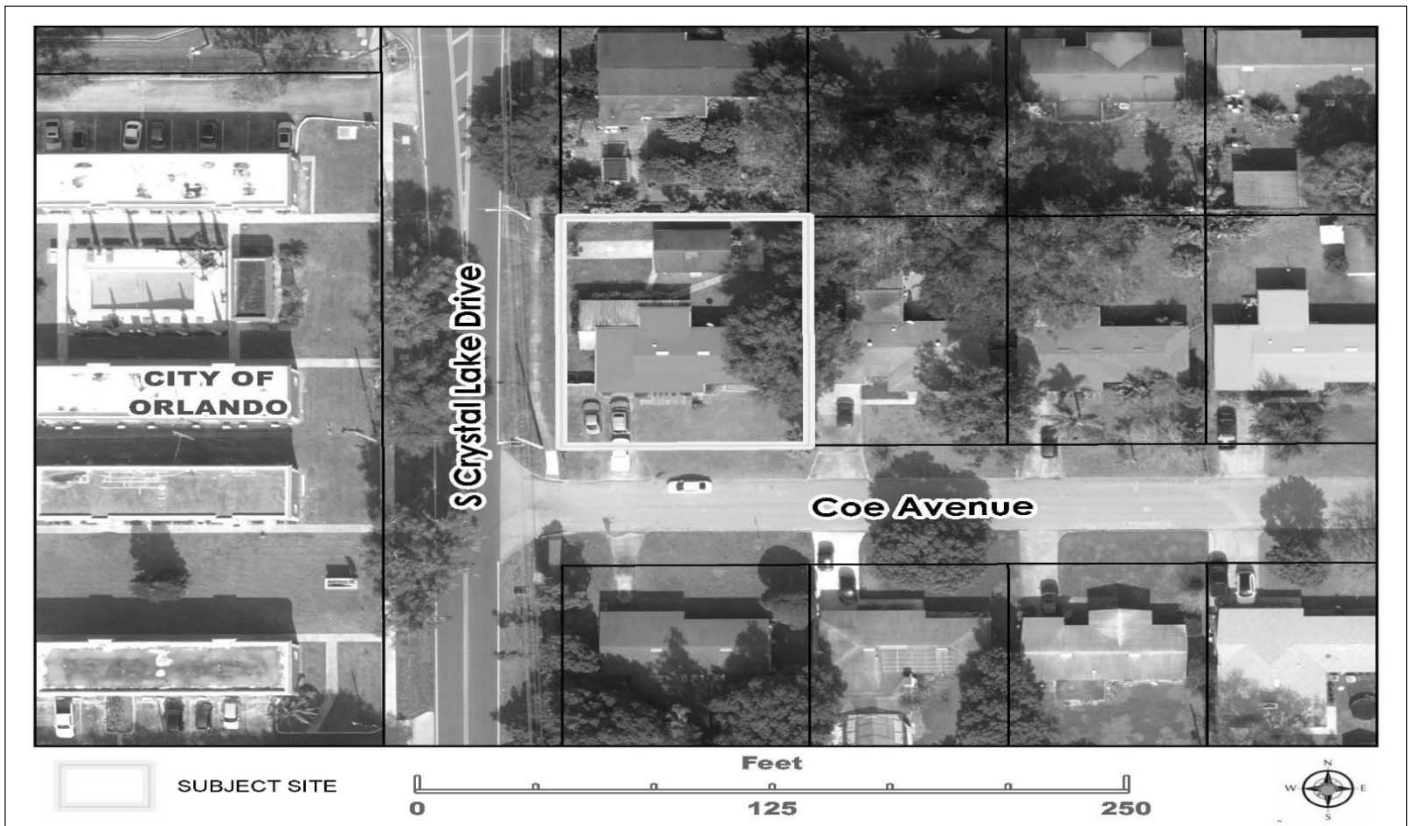
Sincerely,

Roberto M. Gonzalez, P.E.
Property Owner

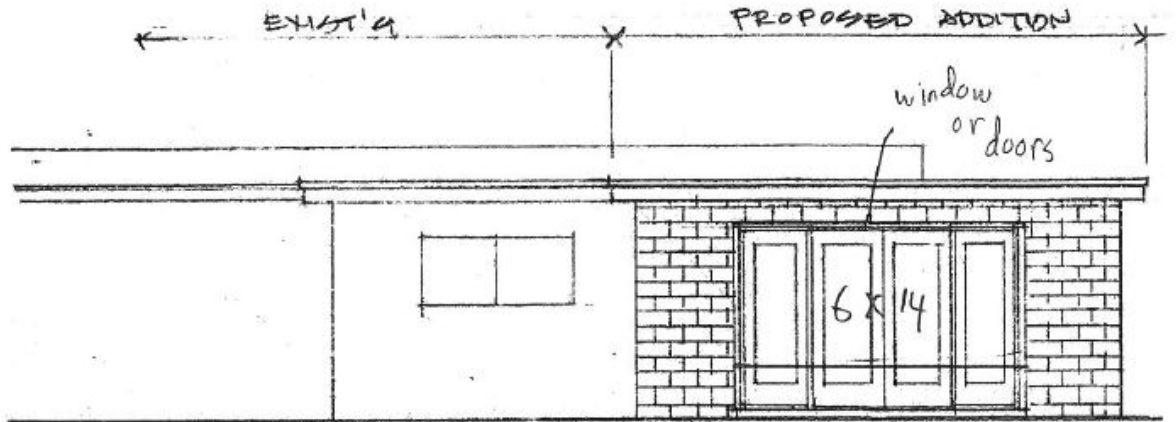
ZONING MAP



AERIAL MAP

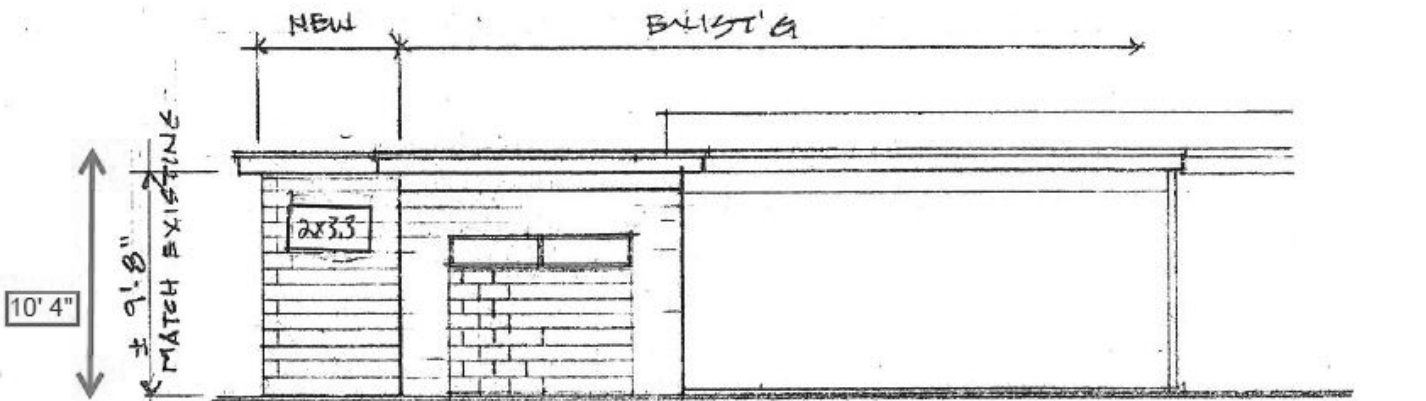


ELEVATIONS



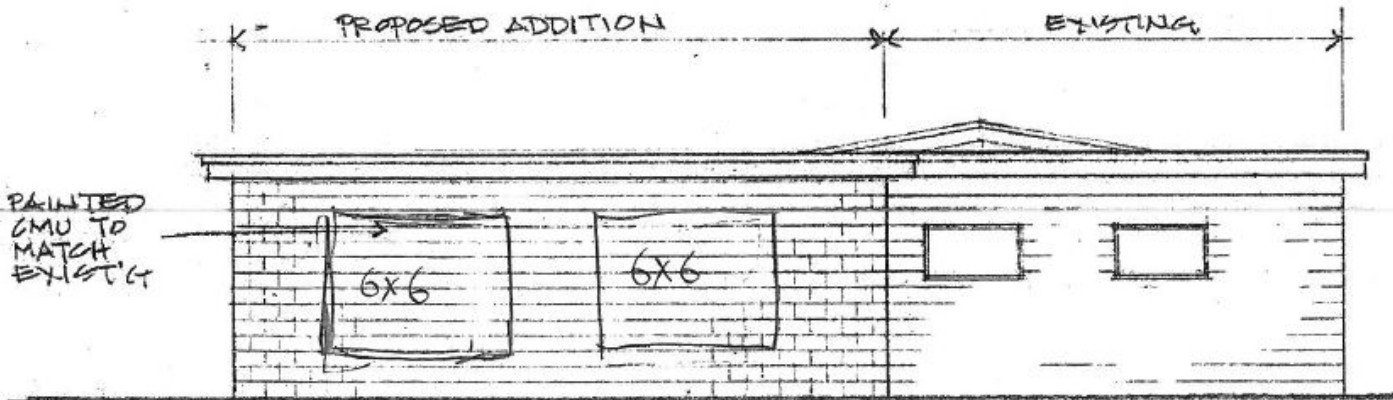
PARTIAL NORTH ELEVATION

1/8" = 1'-0"



PARTIAL SOUTH (FRONT) ELEVATION

1/8" = 1'-0"



WEST ELEVATION

1/8" = 1'-0"

SITE PHOTOS



Facing north towards front of subject property



Facing northeast towards subject property

SITE PHOTOS



Rear yard, facing south towards the proposed sunroom



Rear yard, facing southwest towards the proposed sunroom

SITE PHOTOS



Rear yard, facing south towards side of proposed sunroom



Facing east from Crystal Lake Dr. towards side of subject property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#1**

Case #: **VA-22-04-015**

Case Planner: **Michael Rosso (407) 836-5592**
Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): SCOTT SHOENFELT

OWNER(s): SCOTT SHOENFELT, LINDA SHOENFELT

REQUEST: Variance in the P-D zoning district to allow a screen enclosure with a north side setback of zero in lieu of 5 ft.

PROPERTY LOCATION: 8808 European Fan Palm Aly., Winter Garden, FL, 34787, west side of European Fan Palm Alley, north of Seidel Rd., northeast of S.R. 429.

PARCEL ID: 05-24-27-5330-00-480

LOT SIZE: +/- 0.09 acres (4,246 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 104

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received February 22, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

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

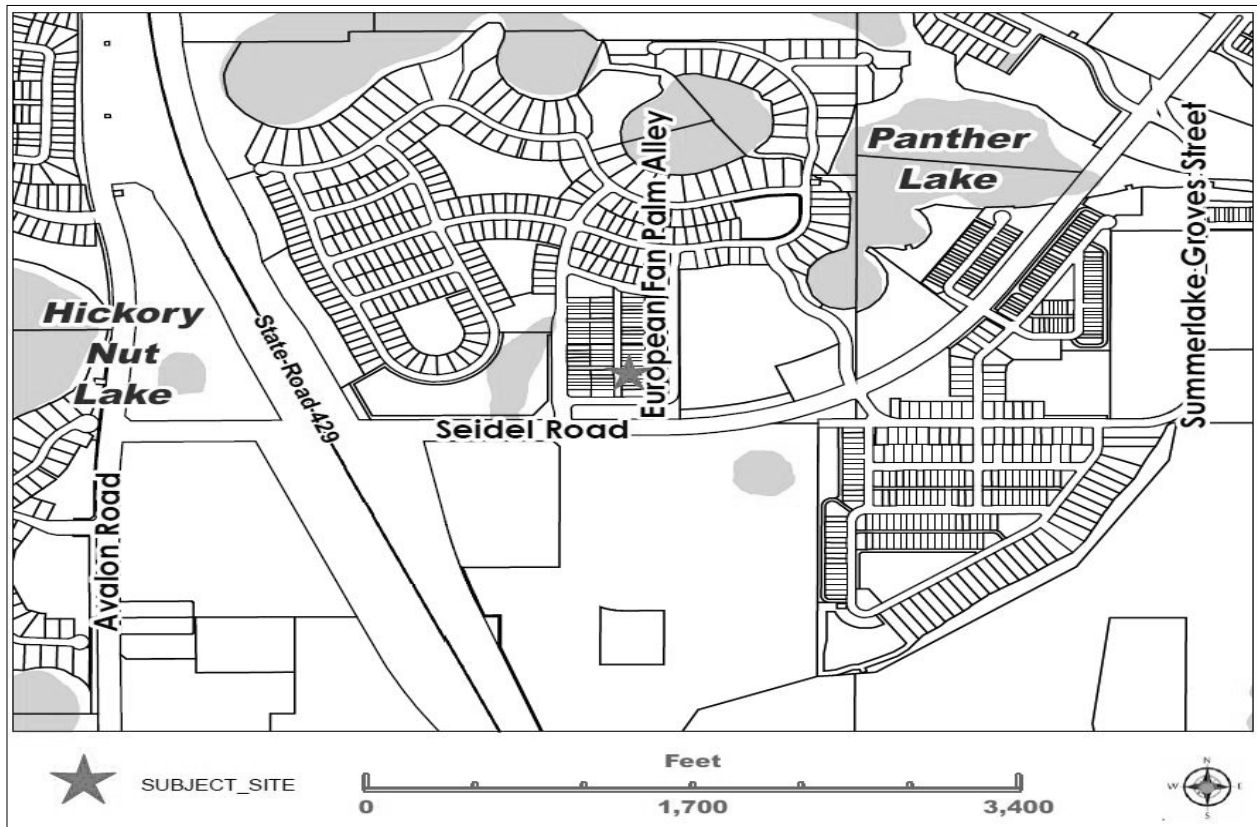
The applicant did not speak.

The BZA unanimously recommended approval of the variance by a 5-0 vote, with one absent and one seat vacant, subject to the 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	Village F Master PD	Village F Master PD	Village F Master PD	Village F Master PD	Village F Master PD
Future Land Use	Village	Village	Village	Village	Village
Current Use	Townhouse	Open Space Tract	Townhouse	Townhouse	Park Tract

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Horizon West Village F Master Planned Development (PD) district, which allows a range of uses including single-family, townhouses and multi-family. This property is within Parcel S-24 of the PD, and is designated on the approved Land Use Plan as a Townhome District. The Future Land Use is Village, which is consistent with the zoning.

The area is comprised of townhomes and single-family homes. The subject property is a rear loaded lot, accessed from European Fan Palm Alley. The front yard faces a park and the north side yard faces an open space tract. The property was platted in 2015 as part of the Lakeshore Preserve Phase 1 Plat, and is considered to be a conforming lot of record. There is a 2,030 sq. ft. end-unit townhouse on the lot, which was constructed in 2018.

Townhome Districts are regulated by Sec. 38-1387 of the Orange County Code. The applicant is proposing to add a 54 ft. by 10 ft. screen enclosure on top of an existing 7 ft. high block wall, with a 0 ft. north side setback, in lieu of the minimum 5 ft. side setback for screen enclosures, requiring a Variance. The north side property line abuts a 25 ft. wide open space tract thus no neighbors will be directly impacted by this request. The proposal is for a screen enclosure, which will have a screen roof, as opposed to a screen room with a structural roof. A building permit, B21907860, has been submitted for the screen enclosure, and is on hold pending the outcome of this variance request.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	55 ft.	15 ft. (screen enclosure)
Min. Lot Width:	16 ft.	35 ft.
Min. Lot Size:	1,600 sq. ft.	4,246 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	15 ft. (screen enclosure)	33 ft. (screen enclosure, West)
Rear:	5 ft. (screen enclosure)	36 ft. (screen enclosure, East)
Side:	5 ft. (screen enclosure) 0 ft. (structure – interior setback)	0 ft. (screen enclosure, North) – Variance 0 ft. (structure, South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Interior units in the development are not encumbered from maximizing use of side and rear yards, which are special conditions and circumstances. The subject property is an end-unit townhouse lot that abuts a 25 ft. wide open space tract, thus eliminating any direct impact on neighboring properties.

Not Self-Created

The need for the requested variance is not self-created as it allows for the applicant to be able to install a screen enclosure in the only location possible, and with the same 0 ft. side setback that is standard for interior townhome lots.

No Special Privilege Conferred

Approval of the variance as requested will not confer special privilege as the County has granted variances to other end-unit townhomes in this subdivision for the same 0 ft. screen enclosure side setback.

Deprivation of Rights

Literal interpretation of the code will deprive this applicant of the right to add a screen enclosure in the only location that would be possible.

Minimum Possible Variance

This is the minimum possible variance to allow a screen enclosure on this property of an appropriate, useable size.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. As previously mentioned, there are other properties in this townhome subdivision that have screen enclosures with the same 0 ft. side setback. Furthermore, the screen enclosure is proposed to be installed on top of an existing block wall, adjacent to a 25 ft. wide open space tract.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 22, 2022, 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: Scott Shoenfelt, Linda Shoenfelt
8808 European Fan Palm Alley
Winter Garden, Florida, 34787

COVER LETTER

Accepted - VA-22-04-015
hearing 4/7/22
Paid \$638.00
2/14/22.

COVER LETTER FOR VARIANCE APPLICATION
Owner: SCOTT SHOENFELT
PARCEL ID 05-24-27-5330-00480

February 9, 2022

Re: 8808 European Fan Palm Aly, Winter Garden, FL 34787

To Whom It May Concern:

We are requesting a variance to approve an aluminum screen enclosure with mesh panels at 8808 European Fan Palm Aly, Winter Garden, FL 34787.

The proposed aluminum screen enclosure will be installed on top of an existing 7' block privacy wall located on the side of the property line. The side setback for this specific property is 5', however the previously constructed privacy wall is on the property line, therefore encroaching the 5' setback by 5'.


On the North side of the property there is public access and utility easement so no future structure will be built on that property.

In the same neighborhood, properties at 8897 Fountain Palm Aly and 8938 Bismarck Palm Dr. also have screen enclosures that enclose the entire courtyard and attach to the top of the existing privacy wall.

The screen will be installed on top of the existing wall and have a maximum wall height of 12'. The center of the screen will have a maximum height of 15'. The total square feet of the roof panel will be 540 sqft. The total square feet of the wall panels will be 370 sqft. The screen will be constructed out of bronze aluminum posts with 18X14 mesh panels.

Due to the unique property and configuration on the side yard at this property it is not feasible to have a screen enclosure installed anywhere but on the existing wall. The enclosure is meant to serve as protection to the courtyard patio. The proposed screen enclosure was approved by the HOA.

Thank You.


Scott Shoenfelt
727-859-7026

COVER LETTER

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

The previously constructed privacy wall is within the property line but encroaches on the setback line by 5'. It is not feasible to have a screen enclosure installed anywhere but on the existing wall.

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

The existing wall and configuration of the side yard at this property were not created by the owner and all approved under the original building permits for the Lakeshore community.

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.

In the same neighborhood, multiple properties of the same configuration have screen enclosures on top of the existing privacy walls, all within the owners property lines but outside the setback by the same 5'.

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.

Existing properties in the same neighborhood with the same configuration have screen enclosures on top of the existing privacy walls.

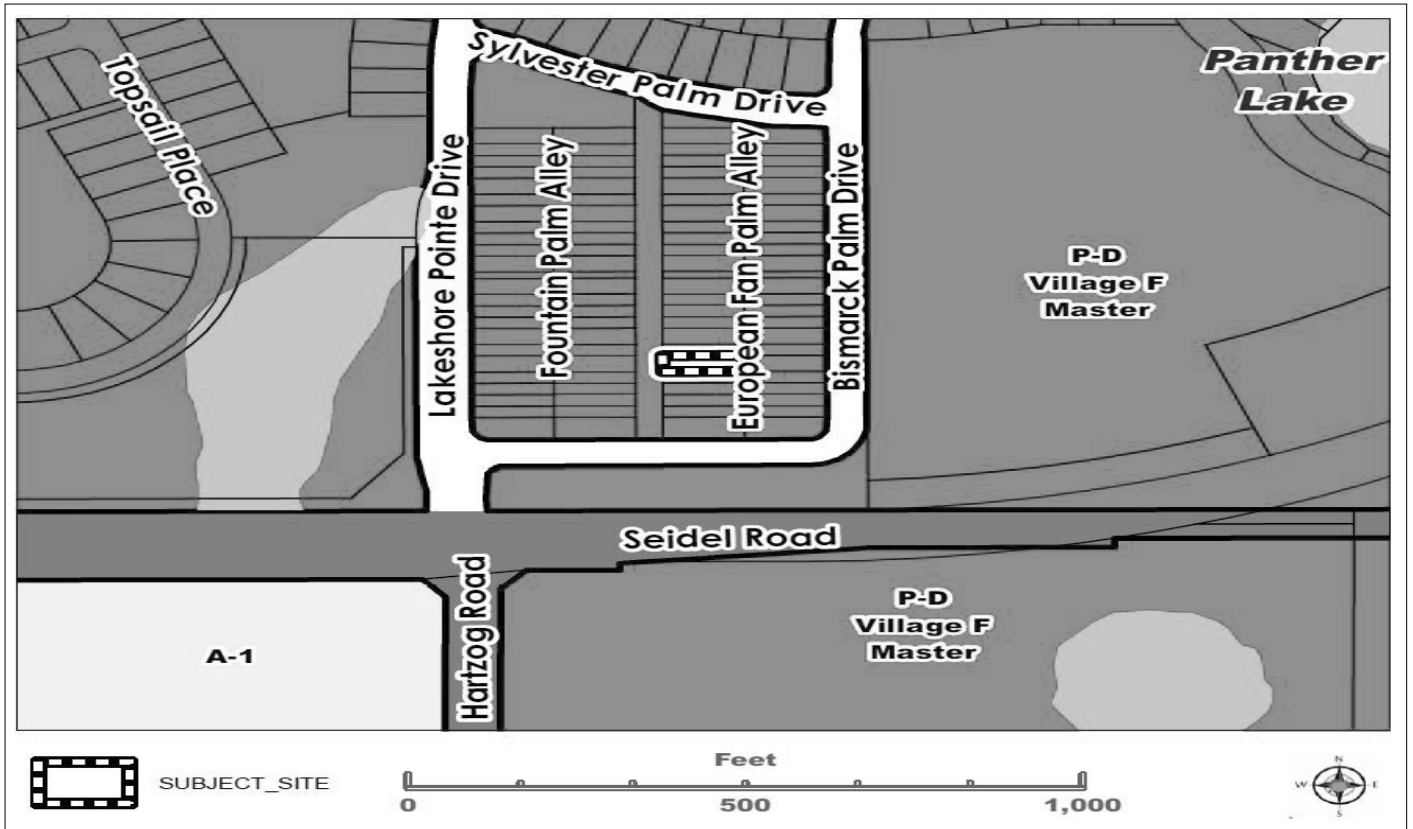
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The existing side setback for this specific property is 5' which is the amount requested for this variance.

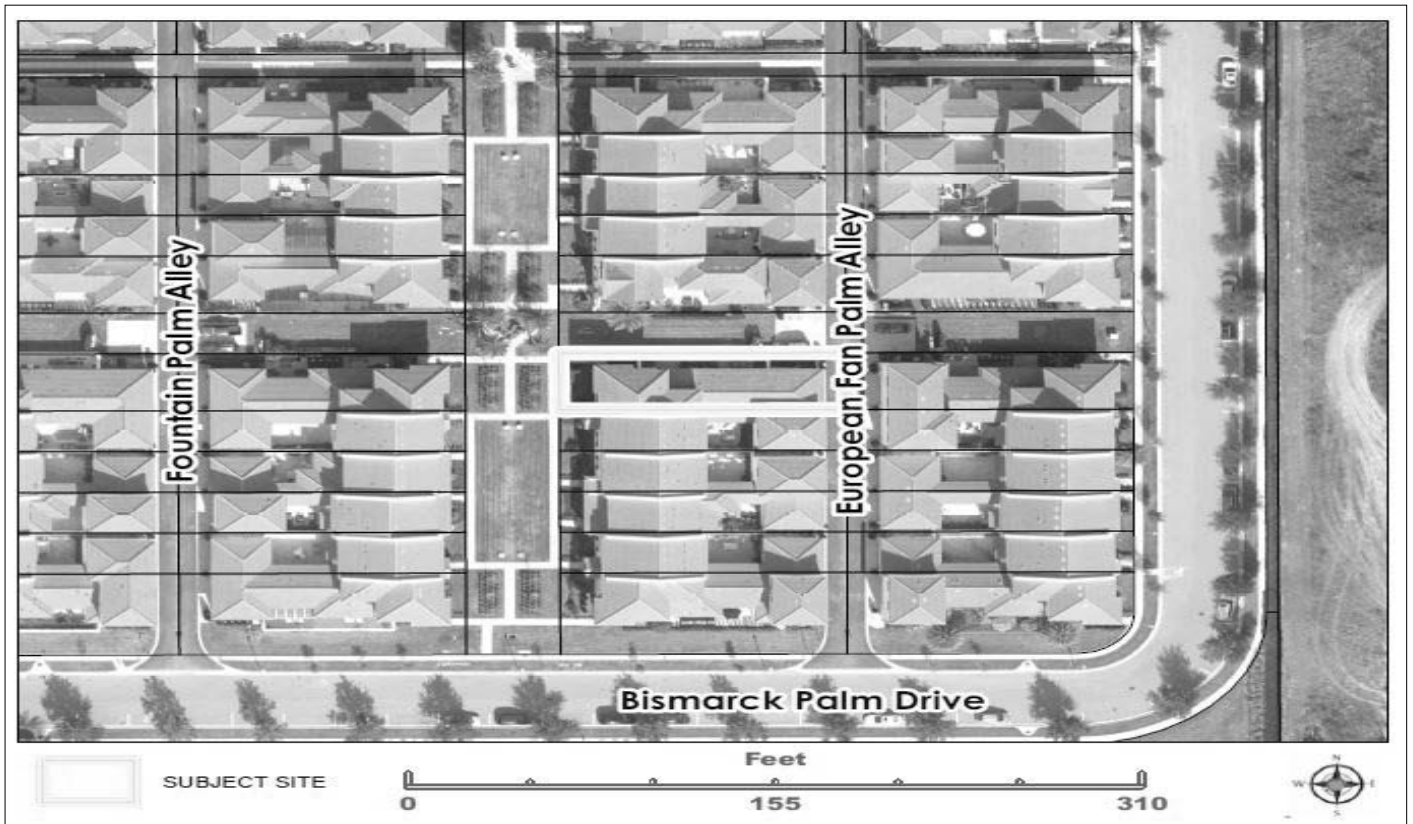
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The request will not be injurious to the neighborhood. Multiple other properties including one adjacent to this property (8897 Fountain Palm Aly) had have variance approvals consistent with this request. In between this property and the adjacent properties there is public access and utility easement so no future structures will be built on that property.

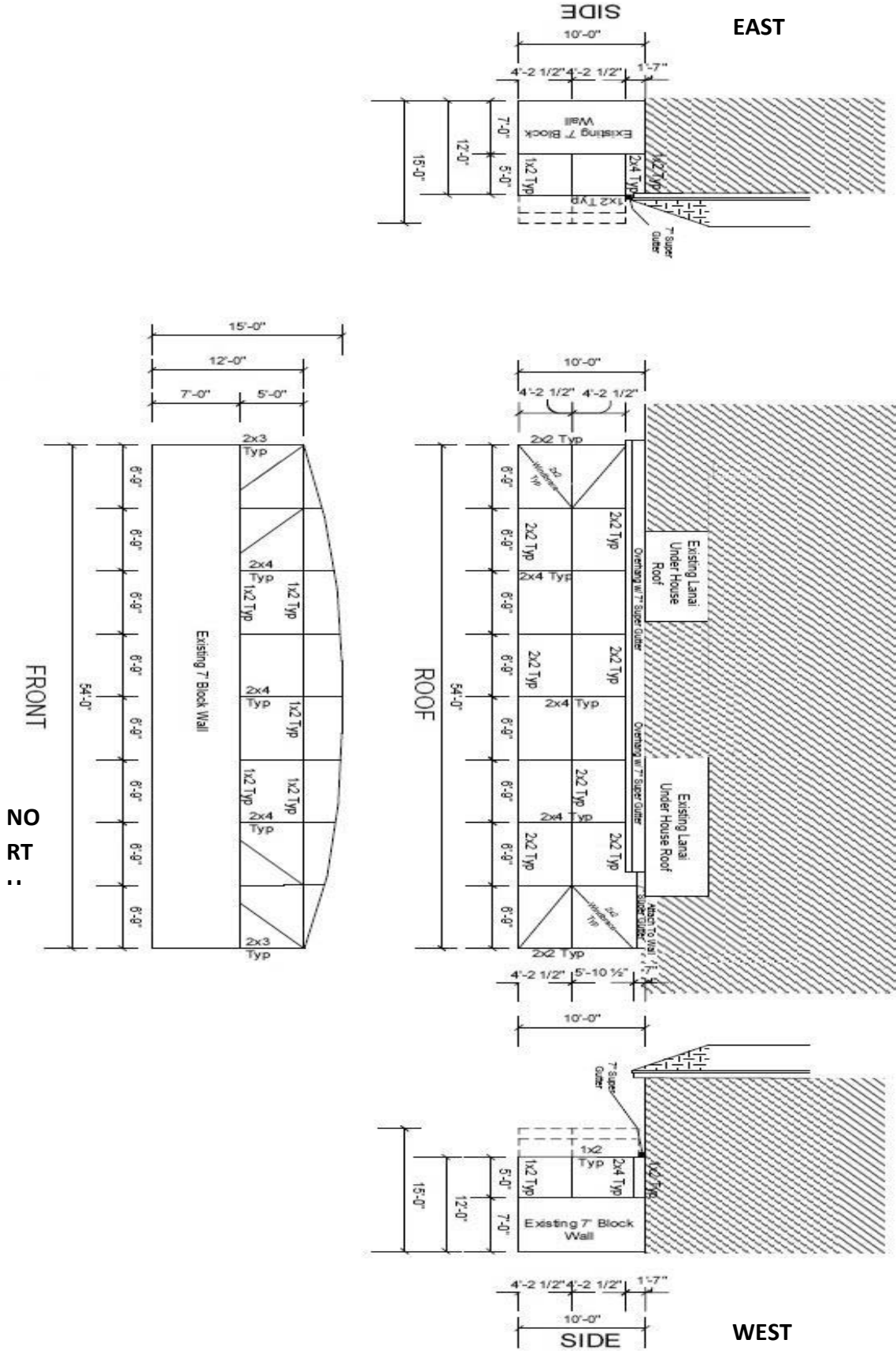
ZONING MAP



AERIAL MAP



ELEVATIONS



SITE PHOTOS



Location of proposed screen enclosure

Facing southeast towards side of subject property



Facing west towards side of subject property

SITE PHOTOS



Facing northwest inside area proposed to be enclosed



Facing northeast inside area proposed to be enclosed

SITE PHOTOS



Property directly to the northwest which received a variance for a screen enclosure with a 0 ft. side setback

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#1**

Case #: **VA-22-03-146**

Case Planner: **Michael Rosso (407) 836-5592**

Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MELVIN ADAMS

OWNER(s): MELVIN ADAMS, TAMELA ADAMS

REQUEST: Variances in the R-CE zoning district, as follows:

- 1) To allow a lot width of 113 ft. in lieu of a minimum lot width of 130 ft.
- 2) To allow a north side setback of 8.2 ft. in lieu of 10 ft. for the existing home
- 3) To allow a south side setback of 7 ft. in lieu of 10 ft. for a two-story addition
- 4) To allow an east rear setback of 10.2 ft. in lieu of 50 ft. for a two-story addition

PROPERTY LOCATION: 16217 Lake Johns Circle, Winter Garden, FL 34787, northeast corner of Lake Johns Cir. and 4th St., south of Florida's Turnpike, north of Johns Lake.

PARCEL ID: 29-22-27-4534-03-100

LOT SIZE: +/- 0.31 acres (13,779 sq. ft.)

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 29

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (4 in favor, 1 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan and elevations received February 16, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff reminded the board that this case was continued from the February BZA hearing to give the applicant the opportunity to revise the proposal to increase the proposed rear setback, previously 5.2 ft., to the current requested rear setback of 10.2 feet. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of Variances #1 and #2, and denial of Variances #3 and #4.

Staff noted that 7 letters of no objection were received, 3 of which are duplicate correspondences in favor of this request and that no comments were received in opposition to the request.

The applicant discussed the reasons for wanting to build the proposed addition.

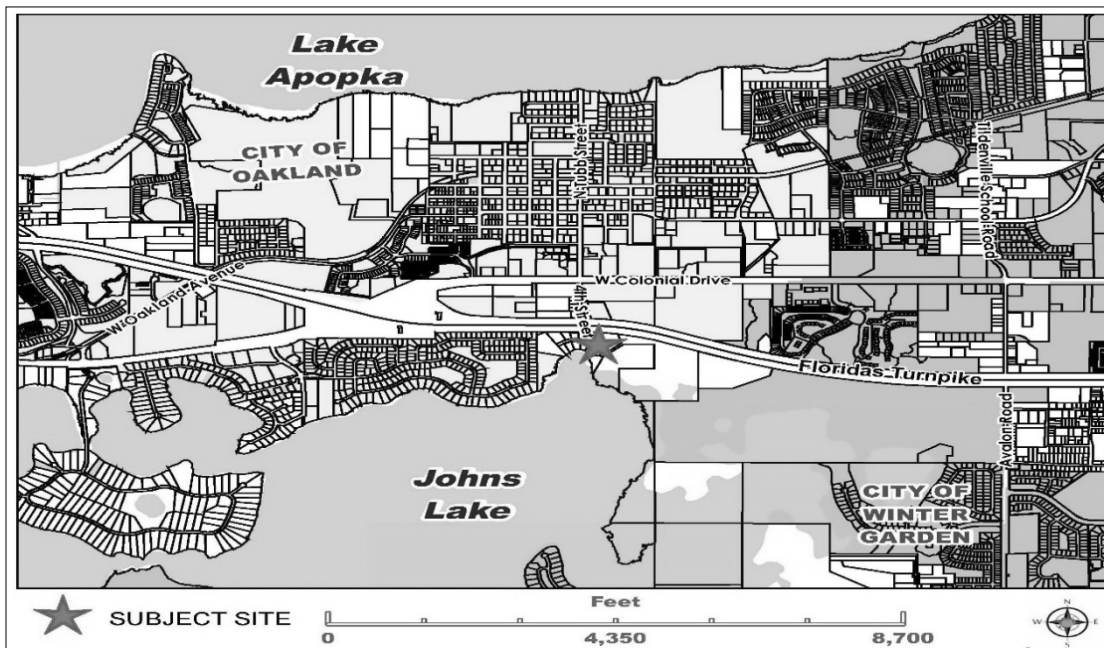
There was no one present to speak in favor or in opposition to the request.

The BZA recommended approval of the variances by a 4-1 vote, with one absent and one seat vacant, subject to the 4 conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-CE
Future Land Use	R	R	R	R	R
Current Use	Single-family residential	Single-family residential	Single-family residential	Vacant	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Country Estate District, which allows single-family homes and associated accessory structures on a minimum of one acre lots. The future land use of the property is Rural/Agricultural (R), which is consistent with the R-CE zoning district.

The subject property is 13,779 sq. ft., approximately 0.31 acres in size, and was platted in 1958 as Lot 10 of the Lake Johns Shores Plat. The property was previously zoned R-1A, but was rezoned to the R-CE district administratively by Orange County in 1983, along with the rest of the neighborhood. The existing 2,430 sq. ft. residence on the property was constructed in 1973, meeting R-1A district setback requirements at that time. The lot is considered a non-conforming legal lot of record as it was rezoned to R-CE after the lot was platted, thus requiring a larger lot size. There is also a small shed in the rear of the lot which meets setback requirements and is in the process of being permitted (B22001071).

The subject request was initially heard by the BZA on February 3, 2022. At that meeting, the BZA seemed to be in support of Variances 1, 2 and 3; however, they were not inclined to support the proposed 5.2 ft. rear setback for the proposed two-story addition. Therefore, BZA suggested that the applicant amend the proposed two-story addition in a way that would substantially increase the proposed rear setback, and then come back before the BZA. In an effort to minimize the impact of the rear setback, the applicant has since revised the proposed two-story addition to have a 10.2 ft. rear setback.

The proposal is to construct a 2,488 sq. ft. two-story addition, including a covered entryway. The lot in question is irregularly shaped, due to its location at the intersection of 4th Street and Lake Johns Circle. Although the property is addressed on Lake Johns Circle, the front of the lot with the 35 ft. setback is actually to the west along 4th Street; and, the required setback along the portion of the lot adjacent to Lake Johns Circle is a 15 ft. side street setback. The rear of the lot is to the east, and the sides of the lot are to the north and south.

Variance #1 is being requested as the existing lot meets the R-CE lot width requirement of 130 ft.; however, with the proposed covered entryway addition in front of the existing residence, the lot width measurement changes, and becomes 113 feet. Here, the proposed lot width is measured by drawing a straight line across the front of the proposed covered entryway, and measuring the distance of that line from where it intersects the north side property line to where it intersects the south side street property line.

Variance #2 is being requested as the existing home was built before the property was rezoned to R-CE and the north side setback of 8.2 ft. does not meet the 10 ft. side setback requirement. Staff is recommending

approval of Variance #1 and #2, as they meet all six variance criteria. Furthermore, the lot width and north side setback are consistent with R-1A standards, which were in place at the time the existing residence was constructed.

Variances #3 and #4 are being requested by the applicant in order to construct the proposed 2,488 sq. ft., two-story addition, which would encroach into the required south side and east rear setbacks. While it may be appropriate to provide reduced setback for this lot given the irregular shape and the size, compared to the requirements of the R-CE zoning district it was administratively rezoned to, the requested 10.2 ft. rear setback, revised from the previously requested 5.2 ft., is a substantial deviation and neither the 7 ft. side nor the 10.2 ft. rear is the minimum possible. The proposed setbacks are not even consistent with the 7.5 ft. side and 30 ft. rear setback requirements in the R-1A zoning district. Consequently, staff is recommending denial of Variance #3 and #4.

Alternatively, staff recommends approval of a variance of a 33.7 ft. east rear setback to recognize the existing location of the residence, if the variance request for a 10.2 ft. rear setback is denied, so that a residence could be rebuilt in the same location as the existing home.

As of the date of this report, seven letters of no objection have been received from surrounding property owners, of which includes three responses that have been received in favor of the request, and no comments have been received in opposition to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	27.9 ft.
Min. Lot Width:	130 ft.	113 ft. (Variance #1)
Min. Lot Size:	1 ac. (43,560 sq. ft.)	+/- 0.31 ac. (13,779 sq. ft.)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front (4 th Street):	35 ft.	35.4 ft. (West)
Rear:	50 ft.	10.2 ft. (East – Variance #4)
Side:	10 ft.	7 ft. (South – Variance #3)
Side:	10 ft.	8.2 ft. (North – Variance #2)
Side Street (Lake Johns Circle):	15 ft.	18.8 ft. (to breezeway addition (Southwest)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing lot was not platted in a way that would make building a home to meet R-CE zoning standards feasible due to setback requirements. In the case of minimum lot width, if the original home had been built to the current 35 ft. front setback line of R-CE, the lot width would be slightly less than the 113 ft. being proposed.

Due to these setback and lot width requirements and the odd shape of the lot, it is very difficult for an addition to even meet R-1A standards, let alone R-CE standards.

Not Self-Created

Variations #1 & #2: The need for the requested variations is not self-created as the requested lot width and north side setback would meet R-1A standards, which is what the lot was zoned before the County rezoned it in 1983, after the existing residence was constructed.

Variations #3 & #4: While staff recognizes the need for some variations on the lot, the variations requested are extensive. The need for the requested variations is self-created, as the proposed addition is larger than the existing residence and the proposal could be modified to be more in conformance with the code requirements, such as by adding a second floor over the existing building footprint.

No Special Privilege Conferred

Variations #1 – #3: Granting Variance #1 as requested, would not confer special privilege as there are several other properties in the Lake Johns Circle Neighborhood which would meet the R-1A lot width requirement as platted, but do not meet the R-CE lot width requirement.

Granting Variations #2 and #3 as requested, would not confer special privilege as although no setbacks have been granted in the neighborhood, there are properties which appear to have smaller side setbacks than the 7 ft. and 8.2 ft. being requested, and thus, would also not meet R-CE or R-1A setback requirements.

Variance #4: Granting the variance as requested would confer special privilege as all of the other properties in the neighborhood appear to be meeting the 50 ft. R-CE rear setback requirement.

Deprivation of Rights

Variations #1 & #2: Not granting Variance #1 would deprive the property owner of the ability to build a covered entryway on the front which would have been allowed with the original R-1A zoning.

Not granting Variance #2 would deprive the property owner from the ability to rebuild the residence in the same location if demolished.

Variations #3 & #4: There is no deprivation of rights as the existing residence can continue to be enjoyed as it exists without the need for either variance. Furthermore, the proposed addition would not even meet the requirements of the original R-1A zoning.

Minimum Possible Variance

Variance #1 is the minimum possible to allow the property owner to build the proposed covered entryway addition on the front, which would have been allowed with the original R-1A zoning.

Variance #2 is the minimum possible to allow the property owner to rebuild the residence in the same location should something happen to the existing home.

Variations #3 & #4: The requests are not the minimum possible as a smaller addition could be built which does not encroach into the rear setback any more than the existing residence does, and at a minimum, meets the 7.5 ft. side setback requirement of R-1A zoning. Alternatively, a second floor could be constructed over the existing building footprint.

Purpose and Intent

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. As previously mentioned, there are other properties in the surrounding area which are deficient in lot width, and some which are more deficient than the 113 ft. lot width being proposed. Therefore, this lot being deficient by 17 ft. will not cause any discernable negative impact.

Furthermore, there are several other instances of residences in the area which appear to be encroaching into required side setbacks, many of which appear to be encroaching more than the 7 ft. and 8.2 ft. side setbacks being proposed. Thus, the proposed side setbacks should also not cause any discernable negative impact when compared to what currently exists in the neighborhood.

Additionally, although the proposed 10.2 ft. rear setback, which was increased from the previous proposal of 5.2 ft., still does not meet the required rear setback, it does meet the 10 ft. side setback requirement in R-CE. This is relevant as the rear lot line of the subject parcel is actually a side lot line for the adjacent parcel to the east. This means that the adjacent parcel could build a residence 10 ft. from this property's rear lot line and not require a variance. Therefore, if Variance 4 is granted for a 10.2 ft. rear setback, this lot would essentially have the same minimum setback from the affected lot line as the adjacent parcel. Moreover, due to the size and shape of that adjacent parcel, it is unlikely that the proposed addition, with a 10.2 ft. rear setback, would be within close proximity to any residence built in the future on the adjacent parcel to the east.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 16, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Melvin Adams, Tamela Adams
16217 Lake Johns Circle
Winter Garden, Florida 34787

COVER LETTER

Re; Variance Request

12/7/21

To whom it may concern,

We submit this letter requesting a variance for an addition to our home. The reason for the request is to enlarge the structure due to our growing family. The house was originally unreasonably small, and due to the setbacks, we are not permitted to do any addition to the structure. The lot being large, having two front property lines and a very unusual rear setback requirement, makes this property impossible to build on or enlarge the structure.

The construction type will be concrete block addition in a two-story frame; standard asphalt shingle roofing to match the existing house. We also want to add a front covered entry because we don't have one. We will be adding approx. 2000 square feet of living space. This will consist of bedrooms above a 3-car garage. The size is approximately 30' x 40' with a covered front porch, and walkway attached. The structure will be 20' from the front two property lines, 7.5' from the side property line, and one small corner will be 5' from the rear property line, which is also the utility easement. The allowed setbacks for the code are now 35' front (2 front property lines), 10' on the sides, and 50' in the rear. As you can see, with these numbers, there's no place to build. Please see attached site plan. The proposed height will not exceed 28'.

Special conditions and circumstances: Due to the shape of the lot and having two front property lines, plus the required setbacks, makes an addition impossible.

Not self-created: This is not a self-imposed condition or circumstance. This hardship is brought on by the required setbacks.

No special privilege conferred: The proposed setback variance does not confer any special privileges.

Deprivation of rights: We are unable to expand our small home and increase the square footage for our growing family. All homes in the neighborhood are either two story or larger in square footage.

Minimum possible variance: With the approved variance, we will be able to make reasonable use of the land and property.

Purpose and Intent: The intent for the variance will be in harmony with the purpose and the intent of the zoning regulations.

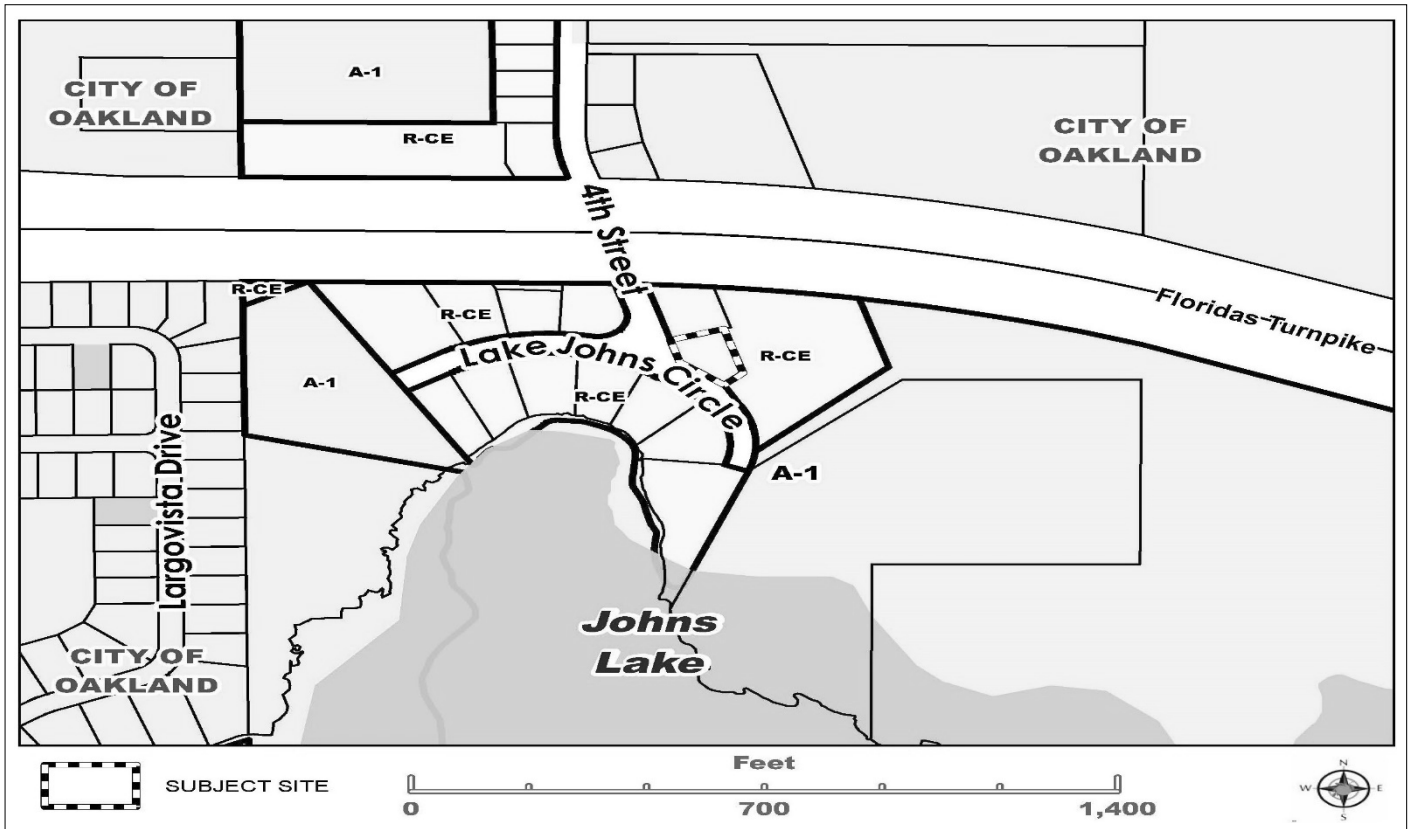
Thank you very much for your consideration.



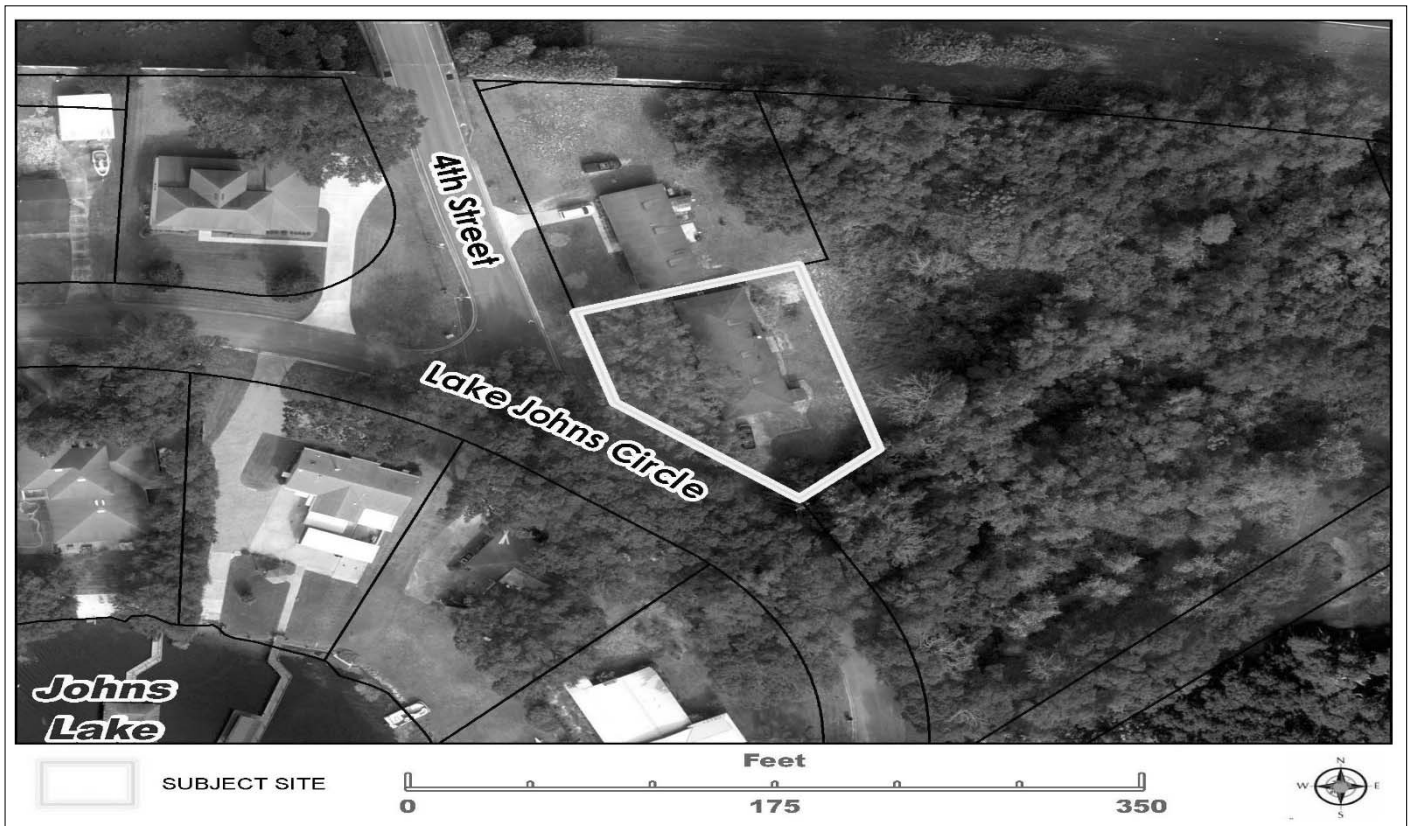
12/8/21

Melwin Adams

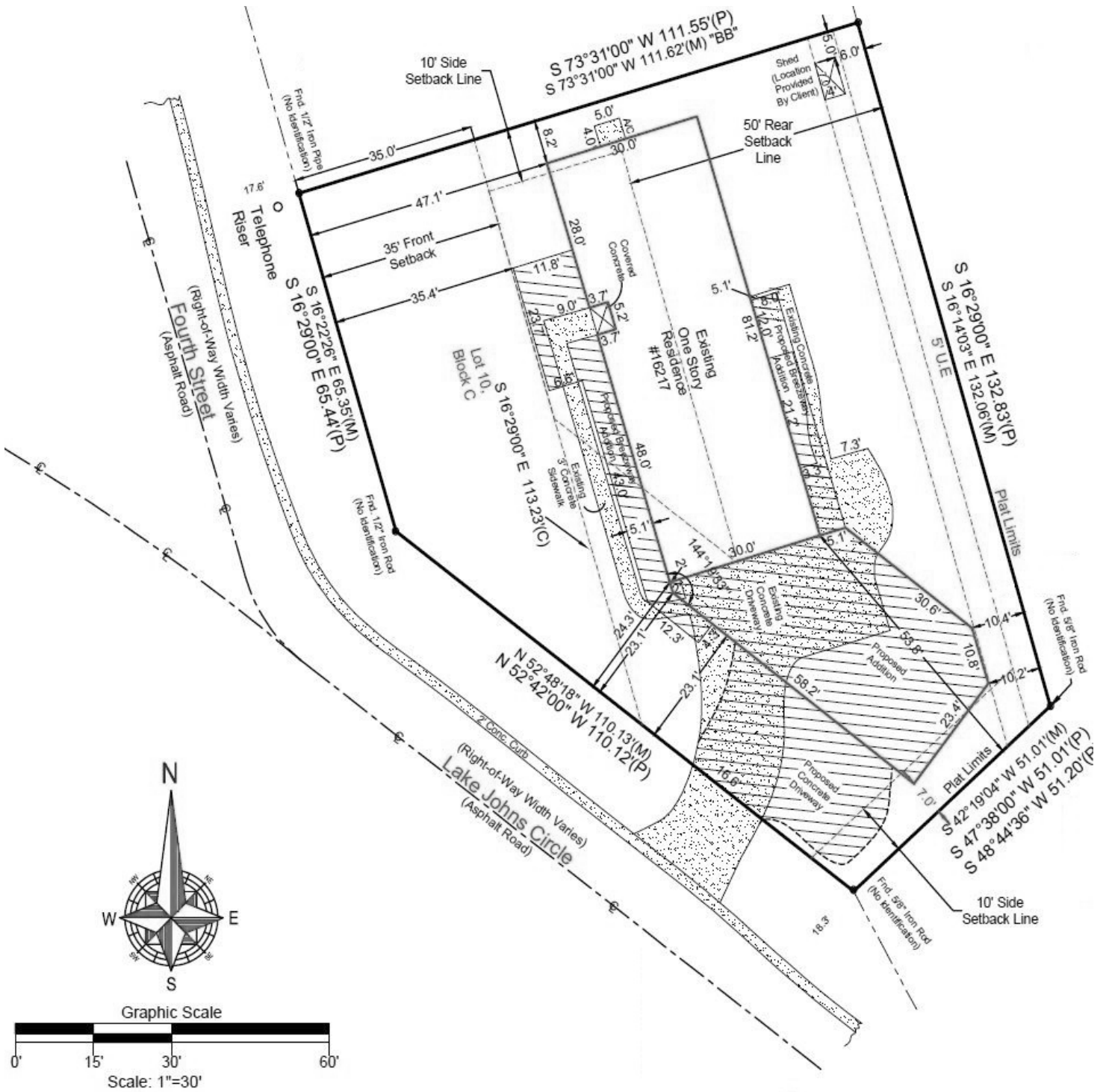
ZONING MAP



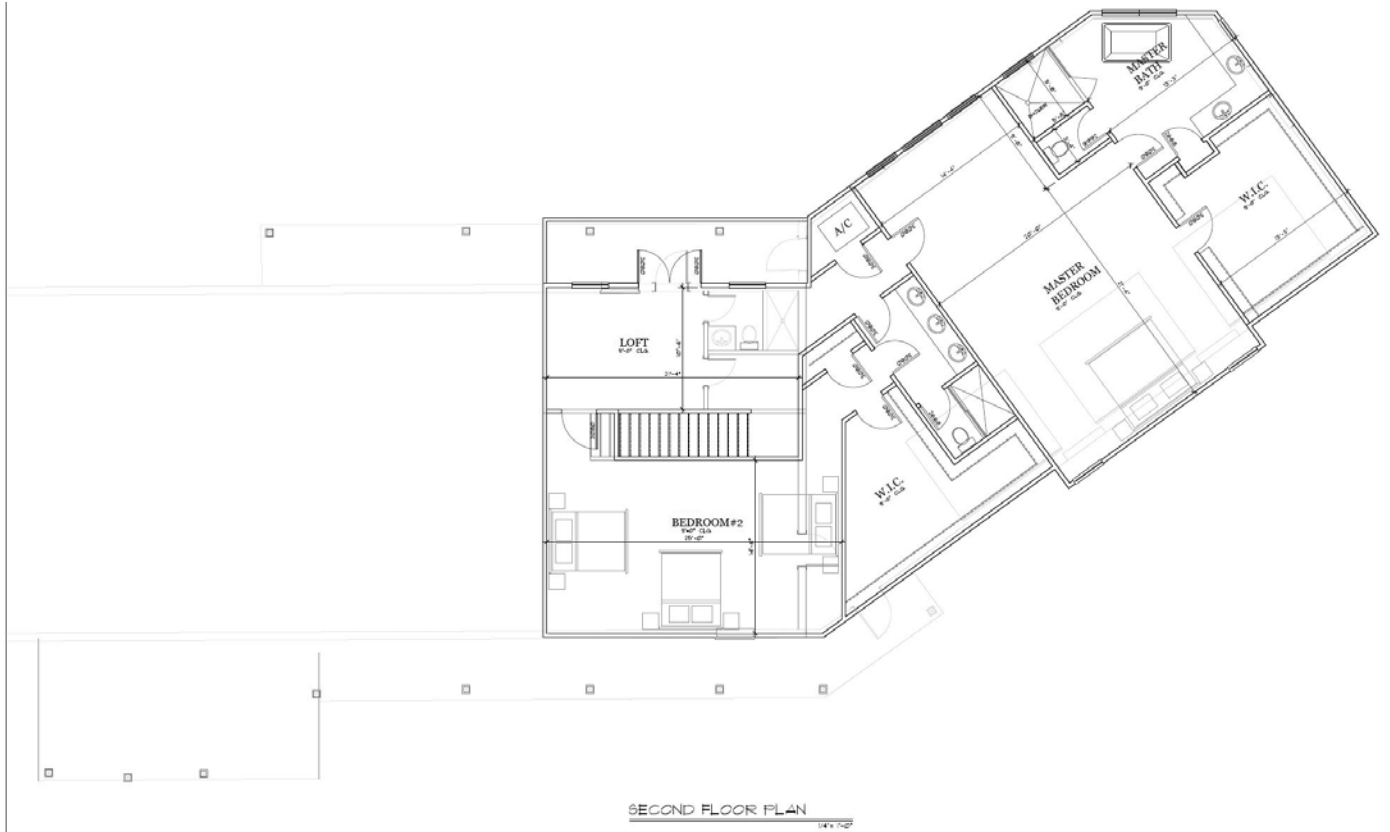
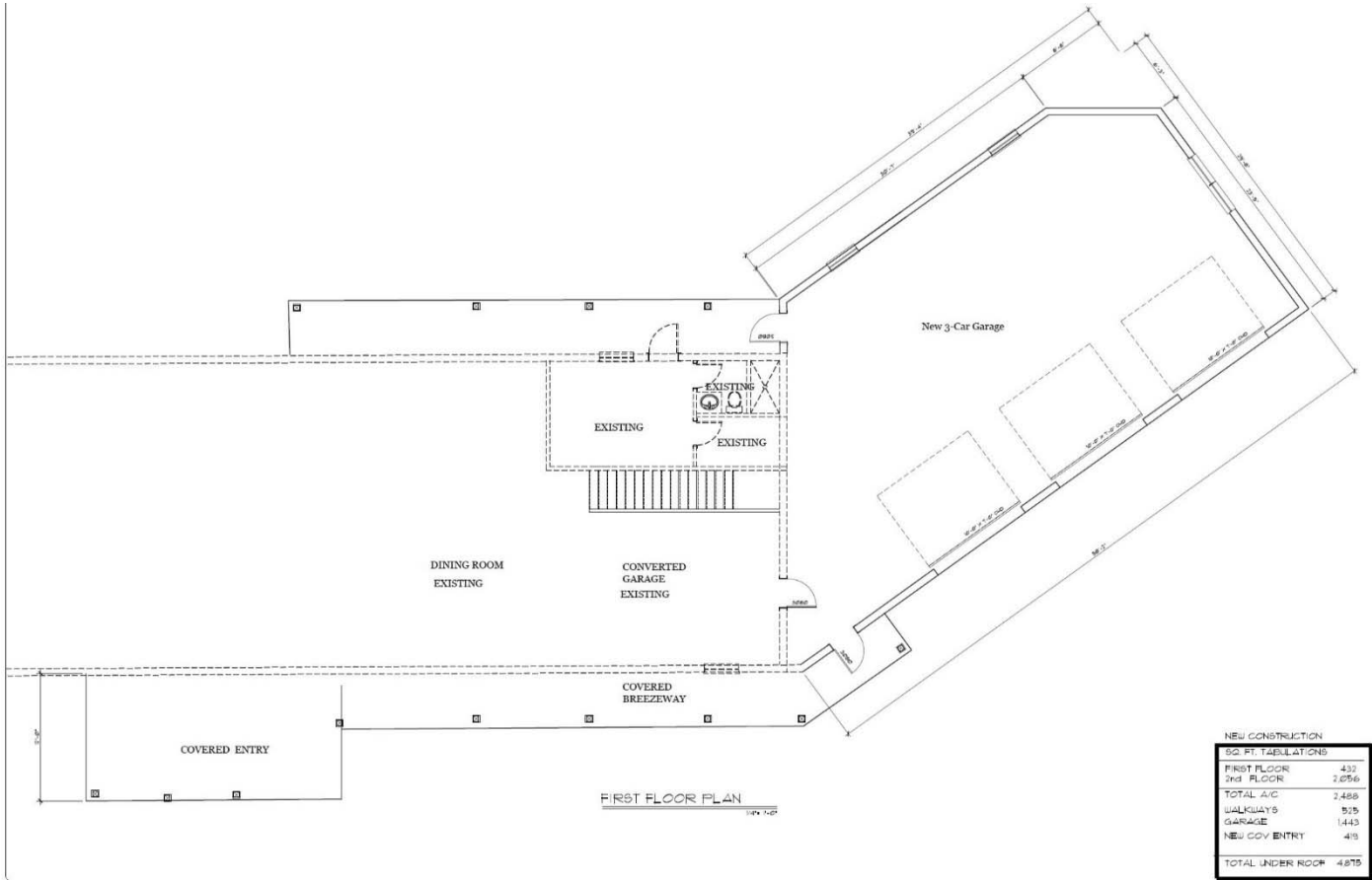
AERIAL MAP



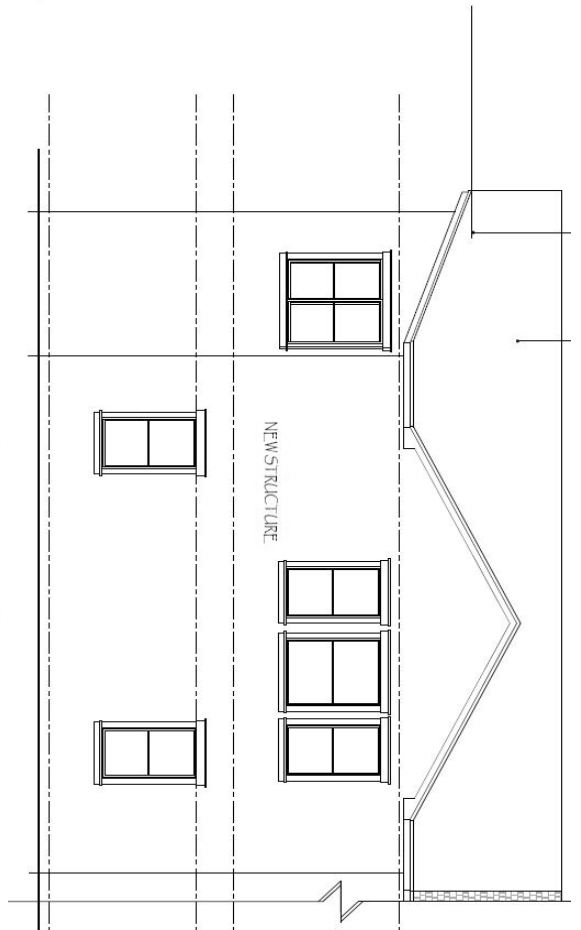
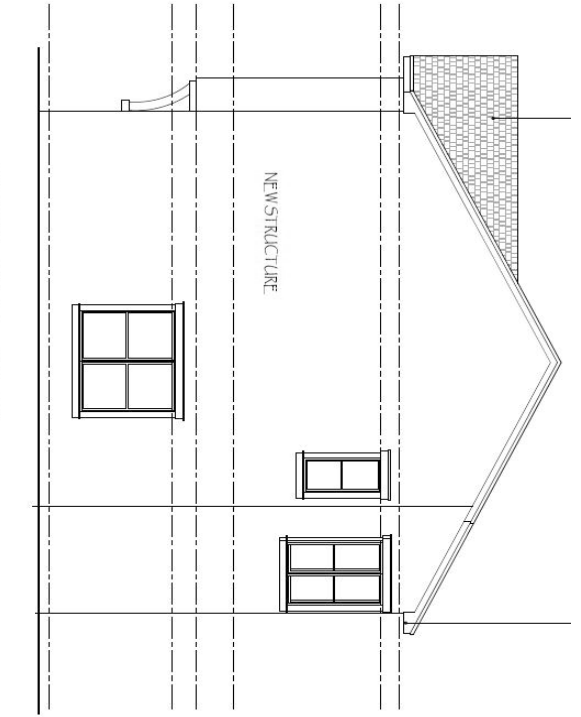
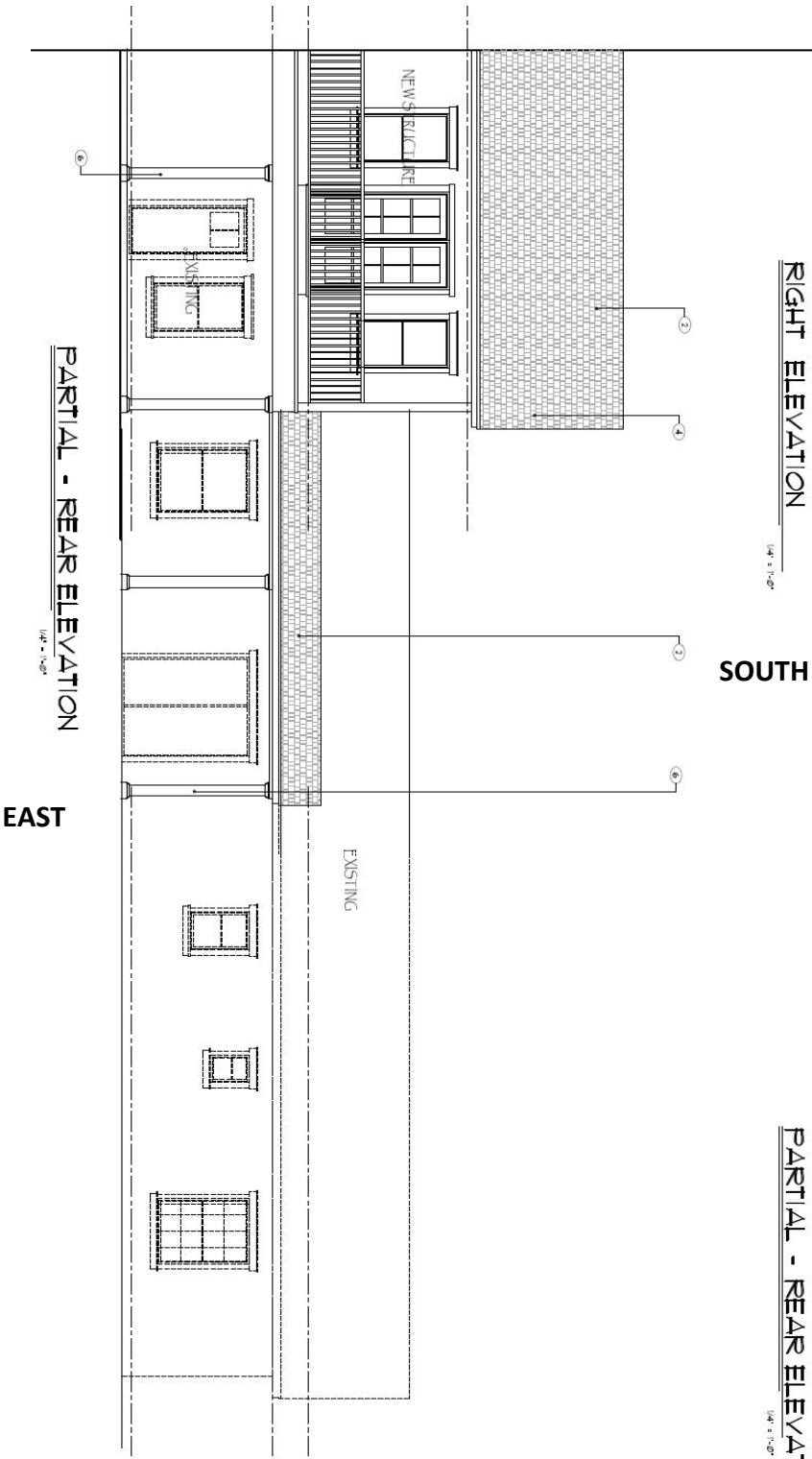
SITE PLAN



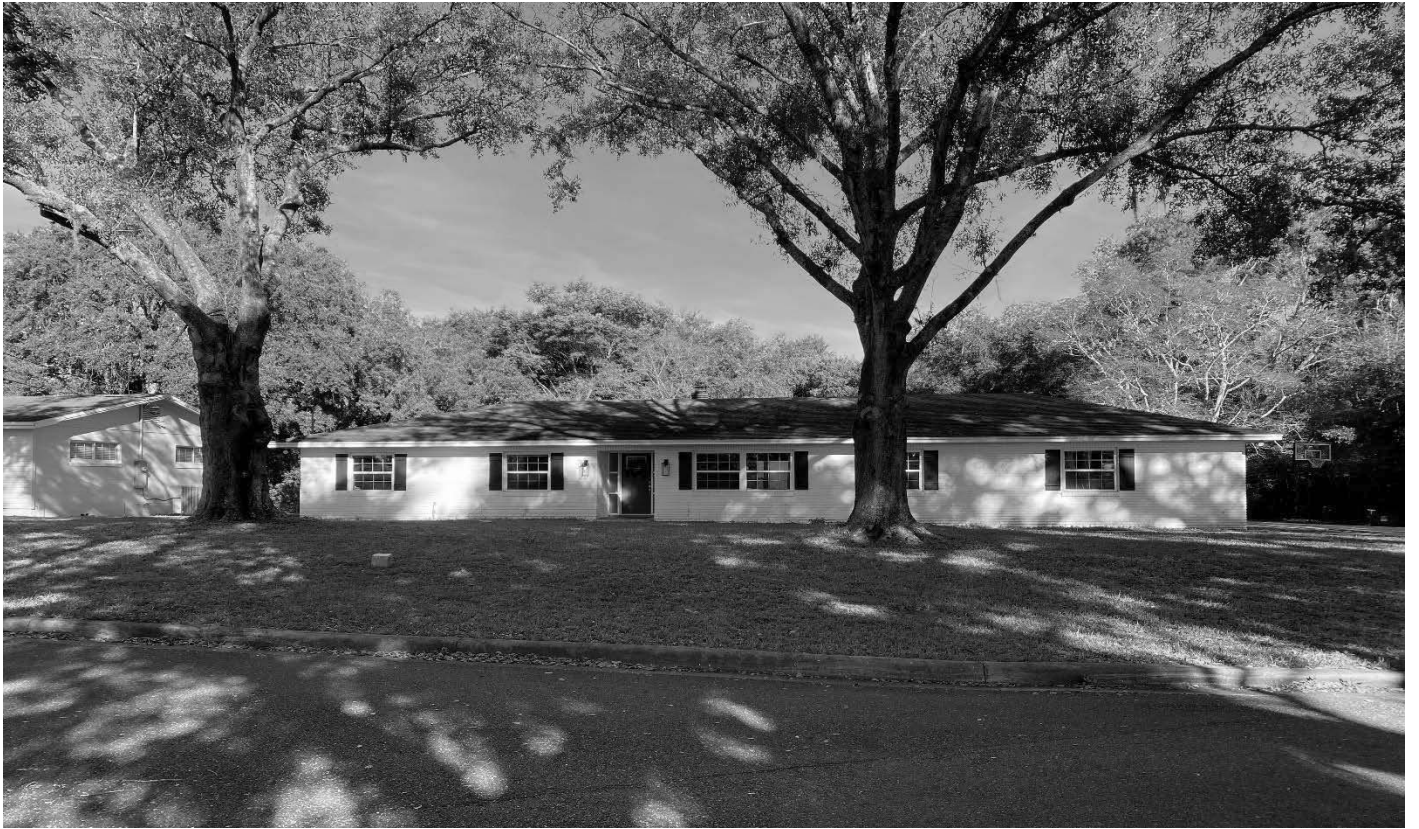
FLOOR PLANS



ELEVATIONS



SITE PHOTOS



Facing east towards front of subject property



Facing north towards side of subject property

SITE PHOTOS



Facing east towards side of subject property



Facing south towards rear of subject property

SITE PHOTOS



Facing west towards rear of subject property



Facing west towards side of subject property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APRIL 7, 2022**

Commission District: **#6**

Case #: **VA-21-12-124**

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

Ted.Kozak@ocfl.net

GENERAL INFORMATION

APPLICANT(s): RYAN WATT FOR OSPREY SOUND

OWNER(s): OSPREY SOUND LTD

REQUEST: Variances for multi-family development in the R-3 zoning district as follows:

- 1) To allow a maximum of 65 ft. in building height in lieu of 35 ft.
- 2) To allow a minimum parking ratio of 1.1 parking spaces per unit in lieu of 1.73 parking spaces per unit.
- 3) To allow a minimum parking stall area of 9 ft. by 18 ft., 162 sq. ft., in lieu of a minimum of 180 sq. ft. (either 9 ft. by 20 ft. or 10 ft. by 18 ft.).

PROPERTY LOCATION: 1401 Duskin Ave., Orlando, FL 32839, east side of S. Rio Grande Ave., west of S. Orange Blossom Trl., south of Americana Blvd.

PARCEL ID: 15-23-29-0146-00-010

LOT SIZE: +/- 15 acres (+/- 8.3 acres uplands)

NOTICE AREA: 800 ft.

NUMBER OF NOTICES: 164

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (4 in favor, 1 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan received March 8, 2022 and elevations received October 11, 2021, 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.

- Permits shall be obtained within 5 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, elevations, floor plans and photos of the site. Staff provided an analysis of the six (6) criteria for each of the Variances, and the reasons for a recommendation for approval of Variances #2 and #3, since the development is multi-family and demand for the number and size of parking spaces is lower, and the reasons for a recommendation for denial for Variance #1, because there are no other developments in the area with comparable number of stories.

Staff noted that no comments were received in support or in opposition to the request.

The applicant and owner discussed the project, described the proposal as senior affordable housing, and the need for all the Variances, in particular Variance #1, to allow increased height to maximize the number of units.

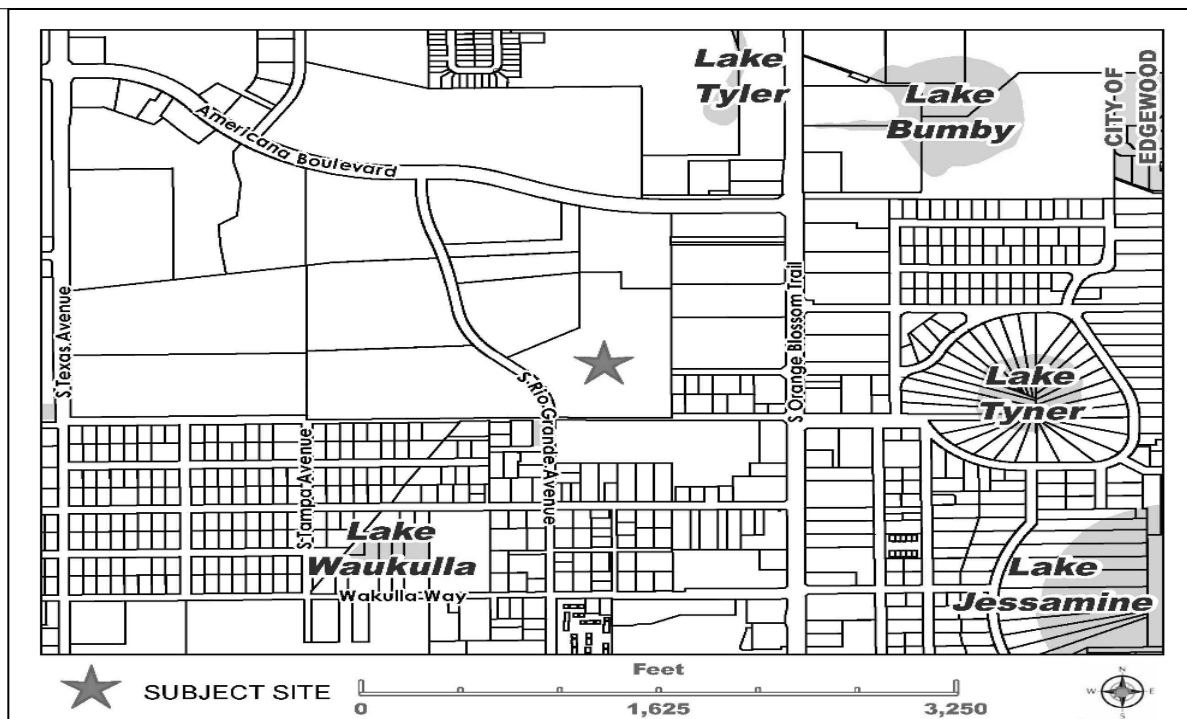
There was no one in attendance to speak in opposition to the request or in favor of the request.

The BZA briefly discussed the proposal and compared it with recent affordable housing developments within a half mile, and recommended approval of the variances by a 4-1 vote, with one absent and one vacant seat, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-3	R-3, P-O, C-2	R-1A, C-3	C-2, R-1A	R-3
Future Land Use	HDR	MDR, O, C	MDR	C	MDR
Current Use	Vacant	Religious Institution	Mobile Home Park	Commercial, Single-family residential	Multi-Family Residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-3, Multiple-Family Residential zoning district, which allows single-family homes and multi-family development. The Future Land Use is High Density Residential (HDR), which allows up to 50 dwelling units per acre, and is consistent with the R-3 district.

The area around the subject site consists of a retention pond to the north, commercial to the north and east, single-family residential to the southeast, mobile home park to the south, two and three story multi-family residential to the west and northwest and a religious institution to the northwest. The subject property is vacant and contains 15 acres of mixed woodlands, of which approximately 6.7 acres are wetlands. It is located in the Americana Unit One Plat, recorded in 1972.

On January 11, 2022, the BCC approved a small scale Future Land Use amendment from Medium Density Residential to High Density Residential (SS-21-10-06), which increased the allowable density from 20 dwelling units per acre to 50 dwelling units per acre.

The proposal is to construct a 294-unit affordable housing project targeted to senior aged residents consisting of one contiguous five-story multi-family building and a total of 324 parking spaces. The development will have a total of 162 one bedroom units and 132 two and three bedroom units.

Vehicular and pedestrian access to the site will be provided from S. Rio Grande Ave. to the west. The proposed building will meet the minimum building setbacks for the R-3 district, as well as the Major Street setback requirements from S. Rio Grande Ave., a minor collector. The proposed landscaping plan for the project will provide a 15 ft. landscape buffer with trees and shrubs along the east property line, with the exception of the southeast corner of the site where two existing trees are to remain, a 10 ft. landscape strip along the south and west property lines, and protection of upland/wetland areas to the north and northeast.

The site is encumbered by a 25 ft. and 67 ft. utility easement, running along the west property line near the southwest property line (OR 2428, PG 897). No buildings or improvements are proposed to encroach into this easement.

A 65 ft. building height allowing for a 5-story building is proposed in lieu of the maximum height allowed by code of 35 ft., requiring Variance #1. Per County Code, height is defined as the vertical distance measured from the

finished floor elevation of the front side of the structure to the highest point of the roof. Since a substantial portion of the property is encumbered by wetlands, the increased height is proposed to allow the development to provide a net density of approximately 35 dwelling units per acre. However, there are no other buildings within the area that are at a similar height. There are one story mobile homes to the south and two and three-story multi-family residential developments to the west and north, all of which appear to meet the maximum height of 35 ft.

The parking requirements for the development:

Unit Type	Parking Requirement	Number of Units Provided	Required # of Spaces
Efficiencies and one-bedroom	1.5 spaces/unit	162	243
3 units or more with 2 and 3 bedrooms	2 spaces/unit	132	264
Total			507 (ratio of 1.73)

Based upon the above unit count, the total parking spaces required is 507 parking spaces. Proposed is 324 spaces, at a parking ratio of 1.1, requiring Variance #2. Also proposed is a minimum parking stall area of 9 ft. by 18 ft., 162 sq. ft., in lieu of a minimum of 180 sq. ft. (either 9 ft. by 20 ft. or 10 ft. by 18 ft.), requiring Variance #3. The Orange County Transportation Planning Division requested that the applicant provide a parking study, based on the Orange County parking variance review procedure and methodology. In response, the applicant provided a parking technical memorandum which focused on consistency of the parking request with the Institute of Transportation Engineers (ITE) parking generation manual under the category for affordable housing. The parking memorandum concluded that the number of parking spaces proposed far exceeds the demand that will be realized. After review of the technical memorandum, the Transportation Planning Division agreed with the analysis based on the fact the project is within the Alternate Mobility Area and there are Lynx transit stops within 1/4 mile of the parcel that are within walking distance on S. Rio Grande and S. Orange Blossom Trail, of which Orange Blossom Trail has enhanced pedestrian facilities with 9' wide sidewalks on both sides.

A list of 26 comparable projects around the State of Florida were provided which identified a range of parking spaces provided at these properties from a 1.4 ratio at Holy Cross Manor II in Palmetto to a 0.6 ratio at Holy Cross Manor, also in Palmetto. The applicant asserts that comparable projects utilize a parking demand ratio of 1.08 spaces per unit, but instead for the proposed development will provide a slightly higher parking ratio at 1.1 spaces per unit. Further, a list of jurisdictions within Central Florida were used to compare the minimum parking stall size with the Orange County Code requirement of 10 ft. by 18 ft. or 9 ft. by 20 ft. The study concluded that the 9 ft. by 18 ft., 162 sq. ft. area proposed for the project is consistent with the minimum standards required by other nearby municipalities and as such would not have a detrimental impact within the development.

The reason for the low parking demand is because the majority of residents will not own an automobile, or will not use vehicles daily, and instead will utilize public transit. The closest transit service is the Lynx bus service operating #08 to the north, and #304 to the south, both along S. Rio Grande Ave. The nearest northbound stop is approximately 170 ft. north of the subject property, and the nearest southbound stop is approximately 360 ft. south of the subject property, both within walking distance of the site.

The County Environmental Protection Division (EPD) approved a Conservation Area Determination (CAD-21-5-105) and sent out a classification letter on August 3, 2021 which identified Class I and Class III Conservation Areas on the site. A Conservation Area Impact (CAI-21-10-065) was issued on January 24, 2022 to mitigate a total of 0.67 acres of wetlands associated with the development. The reduction in the number of paved parking space

areas would result in a reduction of the footprint of the development, which in turn could mean less wetland impacts.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	65 ft. (Variance #1)
Min. Lot Width:	85 ft.	289 ft. at the building line
Min. Lot Size:	15,000 sq. ft.	15 acres (+/- 8.3 ac. upland)

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	25 ft.	55 ft. (West)
Rear:	30 ft.	30 ft. (East)
Side:	5 ft.	133 ft. (North) 40.8 ft. (South)
Major Street:	55 ft. building (from street centerline) 50 ft. parking area (from street centerline)	118 ft. 50 ft.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

There are no special conditions and circumstances pertaining to the height requested, as the development could have been designed in a manner to conform to Orange County Code requirements.

Variances #2 and #3

The special condition and circumstance particular to this project is the parking data submitted tied to the parking demands of affordable housing projects. Typical parking requirements, including the size of the parking stall area, are excessive for this type of development. Furthermore, the demand for public transit will be greater for this complex than typical multi-family development.

Not Self-Created

Variance #1

The need to provide additional building height is self-created in that the project is able to meet the Zoning Regulations pertaining to height through the redesign of the proposed building, or providing fewer units. The building height requirement of 35 feet has been in place since the adoption of the original County Code in 1957.

Variances #2 and #3

The requests are not self-created since the owner is requesting to provide only the number and size of parking necessary to serve the development.

No Special Privilege Conferred

Variance #1

Granting the height variance will allow for 2 additional stories on the building and will also in-turn confer special privilege since there are no other structures within the area which have five stories, the maximum being three stories.

Variances #2 and #3

Granting the parking variances will not confer any special privilege since meeting the literal interpretation of the code would be unnecessary and more environmentally impactful, based upon the actual parking demand of other comparable projects.

Deprivation of Rights

Without the variances, the number of proposed units would have to be substantially reduced to meet the height requirements and furthermore the site would be required to provide unnecessary parking and cover the site with greater impervious surfaces.

Minimum Possible Variance

The requested height and parking variances are the minimum necessary to provide the greatest number of affordable housing units, after taking into consideration the wetland area on the property, leaving approximately 8.3 upland acres for development and the minimum necessary to meet actual parking demand, respectively.

Purpose and Intent

Variance #1

The proposed 65 ft. building height will not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the adjacent two and three story residential developments to the west and northwest and the mobile home development to the south. There are no other multi-family residential developments at an equivalent height within the nearby area and the proposed height will be more than 45 percent greater than the maximum height allowed by the district.

Variances #2 and #3

Approval of the requests of the reduction of required parking and the reduction of the minimum parking stall area and dimensions will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the nearby area since the number of parking spaces provided will meet demand.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received March 8, 2022 and elevations received October 11, 2021, 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. Permits shall be obtained within 5 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Ryan Watt
Ulysses Development Group LLC
210 University Blvd., Suite 77
Denver, CO 80206

COVER LETTER



March 4, 2022

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor,
Orlando Florida 32801

RE: Variance Request
Project: Osprey Sound Senior Apartments
Commission #: 21007.00

To whom it may concern,

Applicant is hereby requesting three variances for this affordable senior housing project per attached application and site plan.

1. A waiver from Chapter 38-1501 is requested to allow the entire senior affordable housing complex to be a maximum of five (5) stories, sixty-five (65') feet, in lieu of the building being a maximum of three (3) stories, forty (35') feet.

Justification –The increased building height will provide flexibility in the project’s design requirements, such that the project will be able to maximize the number of units of affordable housing provided to the community, while minimizing any adverse impacts on the surrounding area. Specifically, the increased allowable height will allow the project to minimize the expected wetland impact, while still providing approximately 294 units of much needed affordable housing. In addition, the increased height limit will allow the project to maintain the same number of affordable housing units, while also providing a building setback between the project building and surrounding single family homes in excess of 100’.

2. A waiver from Chapter 38-1476 is requested to allow 1.1 parking spaces per unit in lieu of the required (1.75) parking spaces per unit.

Justification – Based off comparable existing senior affordable housing communities in the area, many of our future residents are not expected to have more than one car per household; further, we expect that many of our future residents will utilize adjacent public transportation, including the Lynx bus route which has multiple stops within one quarter mile of the subject site. As such, we believe that the requested parking ratio is appropriate for the proposed development.

Other senior affordable housing communities approved in the greater Orlando area for reduced parking ratios include:

1. Sandpiper Glen Orange County approved at 1.4 spaces/unit
2. Heron Ridge City of Kissimmee approved at 1.2 spaces/unit
3. Osprey Village Osceola County approved at 1 space/unit

7901 4th Street North, #200 ▪ St. Petersburg, Florida 33702
(727) 894-4453 ▪ (727) 896-8662

COVER LETTER

Additional existing senior projects built with similar parking ratio are included for reference in the attached parking report.

3. A waiver from Chapter 38-1479 is requested to allow nine (9) feet x eighteen (18) feet parking space size in lieu of the required minimum one hundred eighty (180) square foot parking spaces (either nine (9) feet x twenty (20) feet or ten (10) feet x eighteen (18) feet).

Justification –The reduction in parking space size will allow the maximization of affordable housing units while ensuring that the project’s design complies with the required setbacks of 15’ adjacent to the residential use bordering the southeastern property line of the subject site, and the 50’ setback required between the centerline of Rio Grande Avenue and the surface parking areas on the property. The reduction in parking space size will allow for the requested 1.10 parking ratio and will ensure the minimization of wetland impact associated with the development to a total of 0.628 acres, all of which will be class III wetland impacts.

In addition, there are several examples of local Florida jurisdictions which require a minimum parking space size for multifamily development of (9) feet x eighteen (18) feet. Some examples of these jurisdictions include:

1. City of Apopka – 9’ x 18’
2. Town of Eatonville – 9’ x 18’
3. City of Maitland – 9’ x 18’
4. City of Winter Park – 9’ x 18’
5. City of Tampa – 9’ x 18’
6. City of Orlando – 9’ x 18.5’

Lastly, per the Urban Land Institute (ULI) and the National Parking Association joint publication entitled “The Dimensions of Parking, 5th Edition” Chapter 7 Parking Geometrics – section “Determining the Dimensions of Parking Spaces” the recommended width of parking stalls ranges between 8 feet 3 inches for low turnover facilities, up to 9 feet 0 inches for high turnover facilities. The publication further recommends the length of the parking spaces to be 18 feet.

Variance Criteria: Section 30-43 (3) of the Orange County stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following 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 a proposed zoning variance.
 - a. **Response:** The presence of existing wetland upland habitat area on the development site has reduced the developable land area significantly from approximately 14.99 acres to approximately 8.99 acres.
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.

COVER LETTER

- a. **Response:** The applicant has not created any of the above special conditions and has worked diligently to preserve all of the the class I wetlands, and the vast majority of the class III wetlands which exist on the development site, while also providing newly constructed, high-quality, affordable housing in the community.
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, buildings, or structures in the same zoning district.
 - a. **Response:** Approval of these variances allows the development to remain in harmony with the natural environment by minimizing the project’s wetland impact.
4. **Deprivation of Rights** – Literal interpretation of the provision 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 unnecessarily 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.
 - a. **Response:** Approval of the requested zoning variances will help to address the growing need for affordable housing in the community, at a location where infrastructure, transportation, and services are readily available.
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.
 - a. **Response:** The height variance is the minimum requested variance and provides the necessary flexibility to maximize the affordable housing units provided at the proposed community. Because of lost developable area due to the presence of wetlands, the buildable footprint for the development was dramatically reduced. As a result, we would like to increase our building height in order to provide a meaningful number of affordable housing units to the community, at a density that is consistent with that would be buildable on the site without the presence of the wetlands.

The parking ratio zoning variance is being requested due to the fact that the future senior residents at the property are expected to have no more than one vehicle per household, and also due to the fact that many of these residents will utilize the existing public transportation located nearby the development site. Further, the parking variance requested aligns with other comparable apartment communities previously approved in Orange County. These previously approved communities are further detailed in the attached parking data included with this submission.

The parking space size variance is being requested in order to meet the setback requirements which apply to the property, while maintaining a parking ratio of 1.1 per unit, and while also minimizing the wetland impacts associated with the development. More specifically, the approval of the requested parking space size variance will allow the development to meet the above requirements while also minimizing the wetland impact associated with the development to a total of 0.628 acres, all of which are class III wetlands.
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.
 - a. **Response:** The requested zoning variances will not be injurious to the surrounding community, or otherwise detrimental to the public welfare. The approval of the requested zoning variances will allow the project to maximize the number of affordable housing units provided to the surrounding community. In Orange County, the level of demand for affordable housing is far in excess of the current available inventory. A housing report

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produced by the Regional Affordable Housing Initiative in May 2018 estimated that almost 1/3rd of the 352,538 total households in Orange County are cost burdened. This report estimated that the population of Orange County is expected to grow by over 1,000,000 residents by the year 2040, indicating that the need for high-quality, affordable housing to serve cost-burdened residents will continue to grow in the coming years. The requested zoning variance will allow the proposed community to directly address this growing need for affordable housing, by providing significantly more units of affordable housing on the development site than would otherwise be possible.

If you have any questions, please do not hesitate to call.

Sincerely,

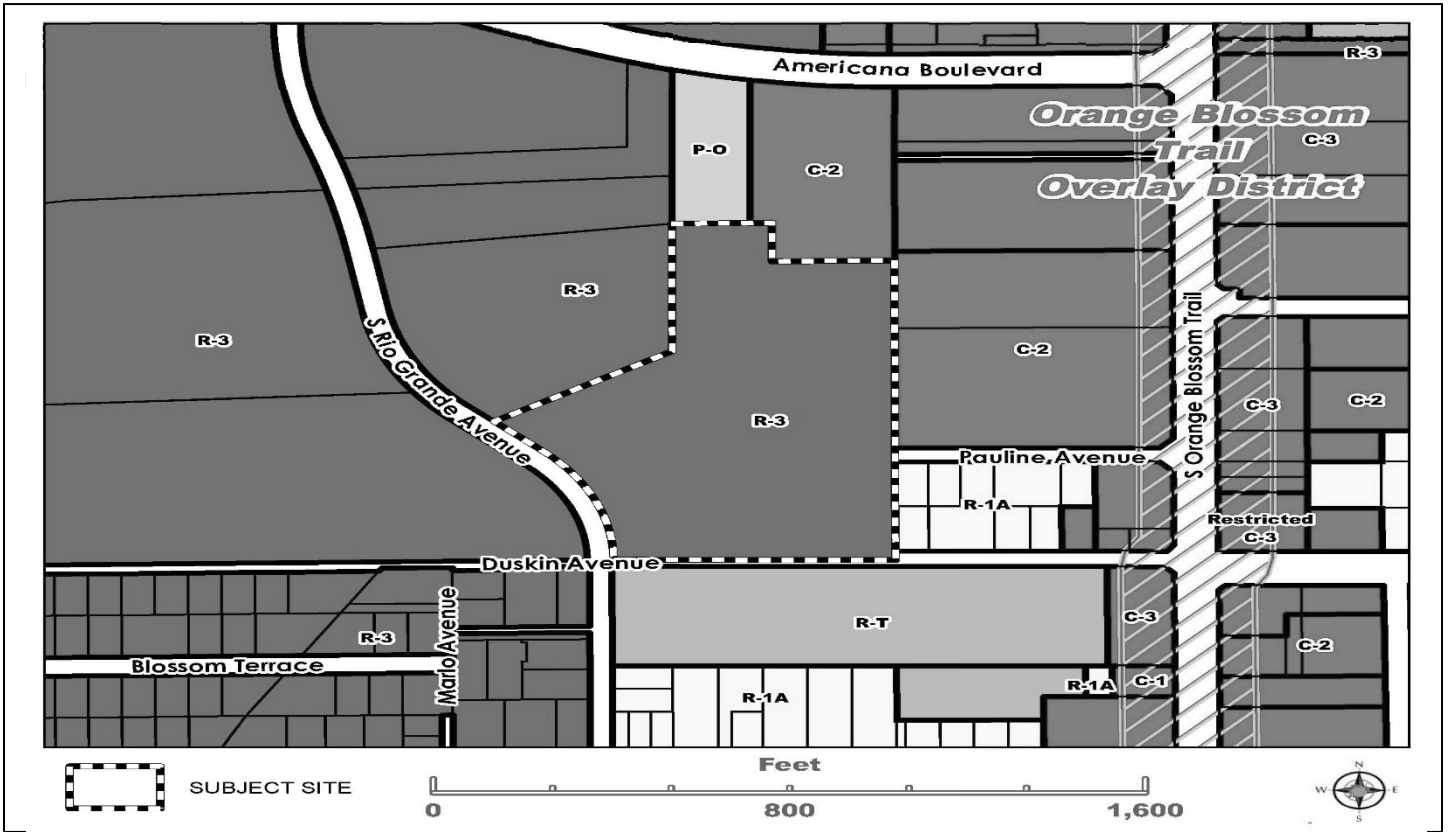
BESSOLO DESIGN GROUP, INC.

Kevin J. Bessolo

Kevin J. Bessolo, AIA
President

Cc: Connor Larr
Ryan Watt

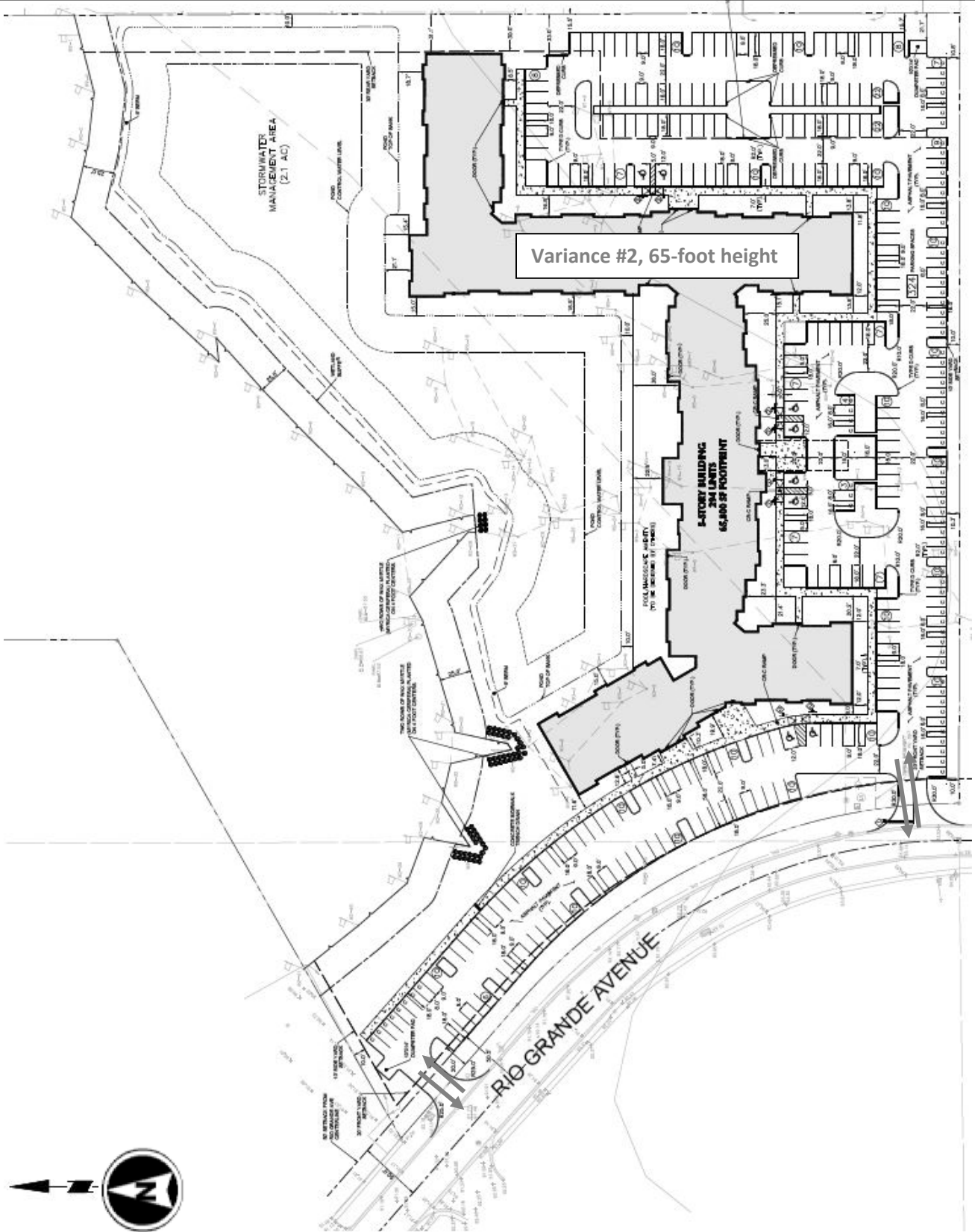
ZONING MAP



AERIAL MAP



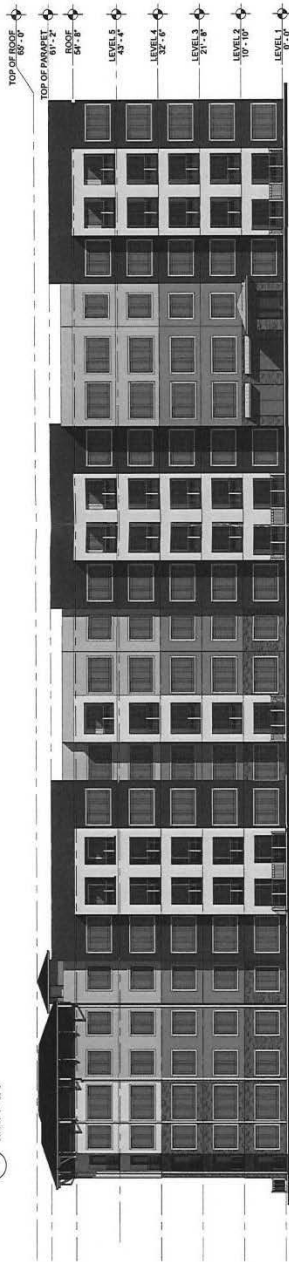
DETAILED SITE PLAN – SOUTH PORTION



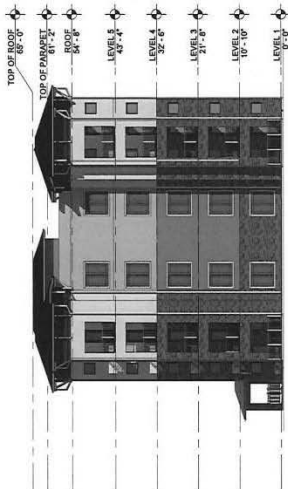
SOUTH, WEST AND EAST ELEVATIONS – EAST HALF OF BUILDING



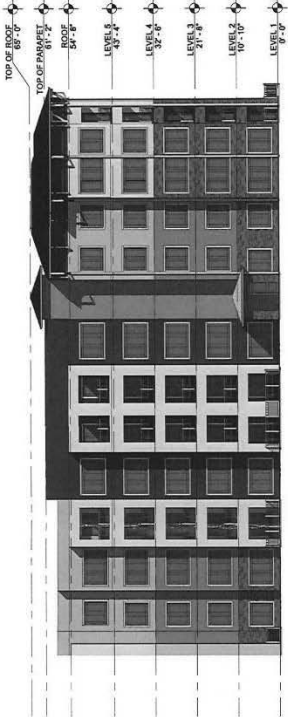
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SCALE: 1/8"=1'-0"



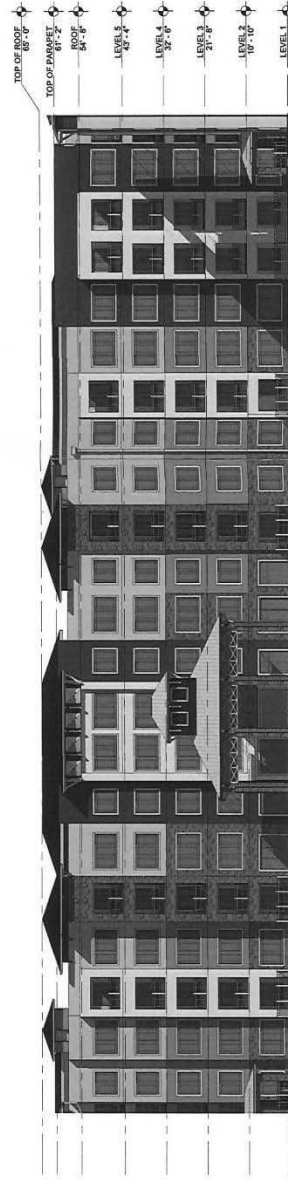
2 EXTERIOR ELEVATION
SCALE: 1/8"=1'-0"



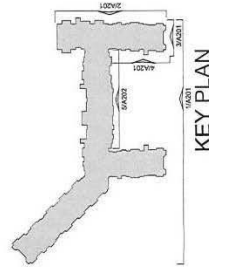
3 EXTERIOR ELEVATION
SCALE: 1/8"=1'-0"



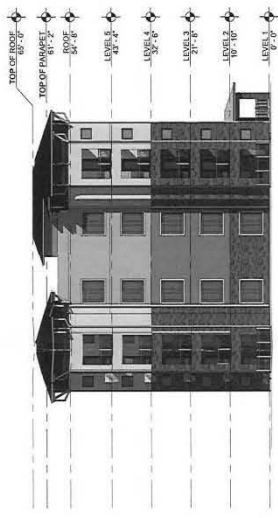
4 EXTERIOR ELEVATION
SCALE: 1/8"=1'-0"



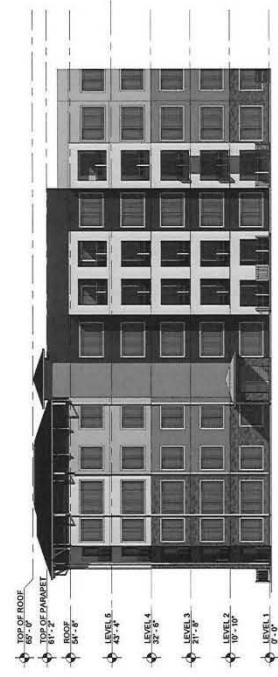
5 EXTERIOR ELEVATION
SCALE: 1/8"=1'-0"



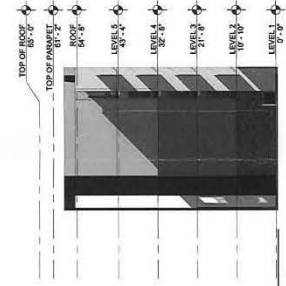
EAST, SOUTH AND WEST ELEVATIONS – WEST HALF OF BUILDING



1 EXTERIOR ELEVATION
SCALE: 1/8" = 1'-0"



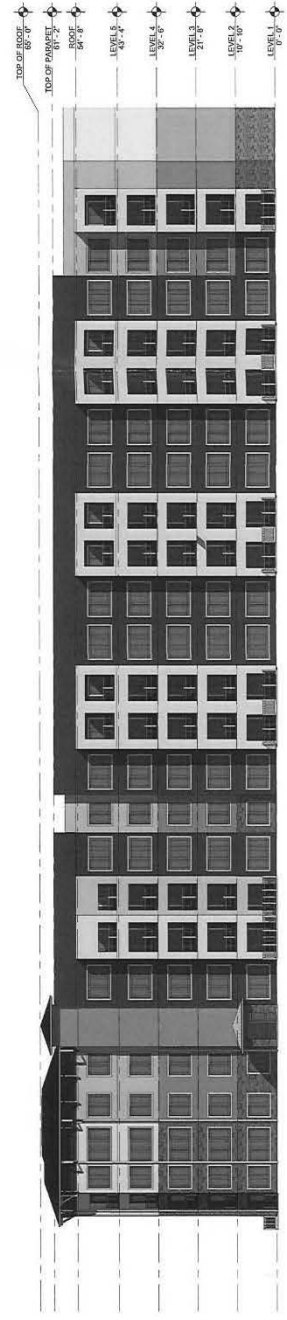
2 EXTERIOR ELEVATION
SCALE: 1/8" = 1'-0"



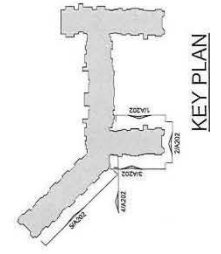
3 EXTERIOR ELEVATION
SCALE: 1/8" = 1'-0"



4 EXTERIOR ELEVATION
SCALE: 1/8" = 1'-0"



5 EXTERIOR ELEVATION
SCALE: 1/8" = 1'-0"



KEY PLAN

SITE PHOTOS



North access to site from S. Rio Grande Avenue at north property line, facing east



East side of S. Rio Grande Avenue at north property line facing south, subject parcel is to the left

SITE PHOTOS



East side of S. Rio Grande Avenue at south property line - future access facing north, subject parcel is to left



Facing northwest from the north property line of subject property towards nearby multi-family

SITE PHOTOS



Existing fencing along south property line from adjacent mobile home community, facing east



Facing north from adjacent mobile home community towards proposed location of future 5-story building

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#6**

Case #: **SE-22-03-004**

Case Planner: **Laekin O'Hara (407) 836-5943**

Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MOMTAZ BARQ FOR LITTLE ANGELS DAYCARE

OWNER(s): MATMODA INC

REQUEST: Special Exception and Variance in the R-3 zoning district as follows:

1) Special Exception to add 432 sq. ft. to an existing daycare center.

2) Variance to allow 17 parking spaces in lieu of 45 parking spaces for a 150 student Day Care center.

PROPERTY LOCATION: 5700 Silver Star Road, Orlando, Florida, 32808, south side of Silver Star Rd., west of N. Pine Hills Rd., east of N. Powers Dr.

PARCEL ID: 13-22-28-0000-00-031

LOT SIZE: +/- 0.85 acres (37,355 sq. ft.)

NOTICE AREA: 600 FT

NUMBER OF NOTICES: 117

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions: (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan received March 25, 2022 and elevations received January 25, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

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

The applicant agreed with the staff presentation.

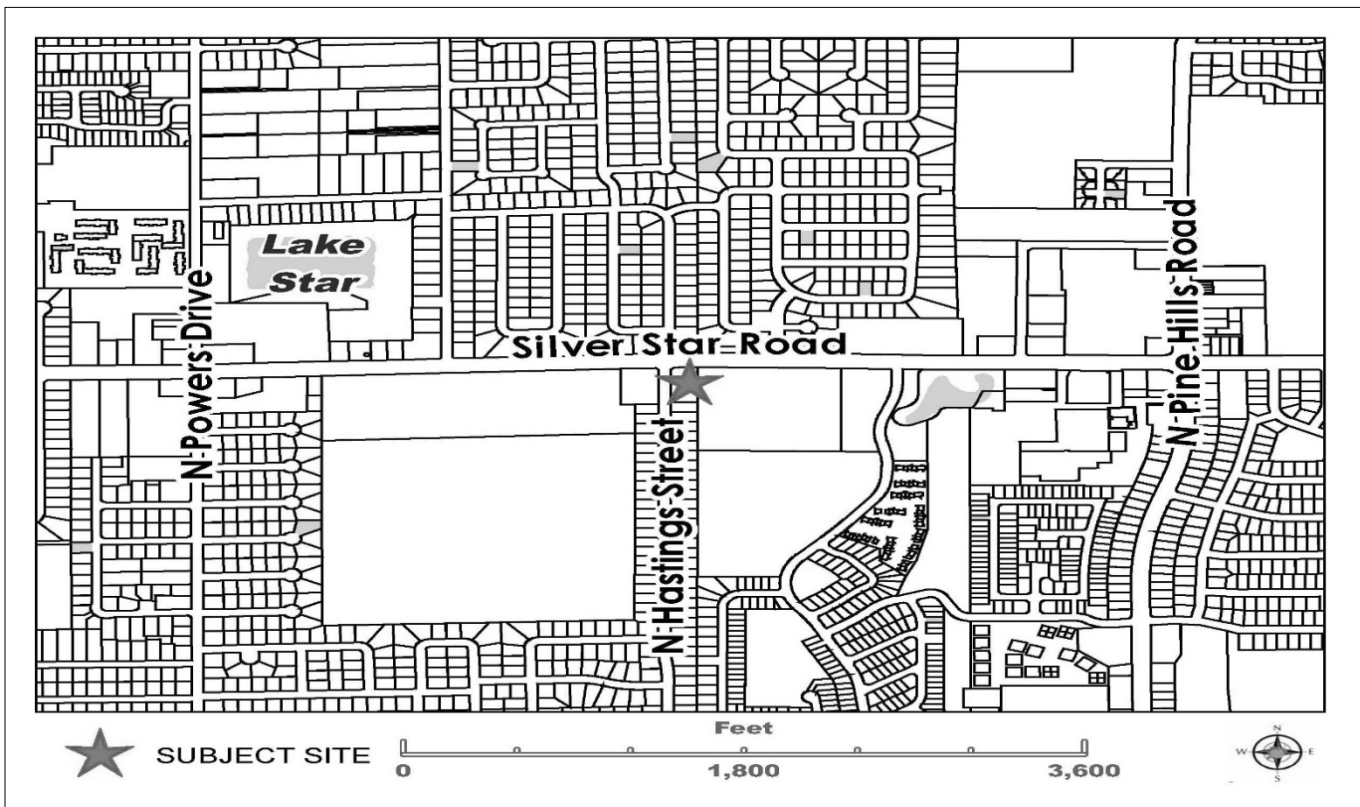
There was no one present to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the special exception and variance by a 5-0 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions listed in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-3	R-1A	R-1A	R-3	P-O
Future Land Use	LDR	LDR	LDR	MDR	O
Current Use	Daycare	Single-Family	Single-Family	Multi-Family	Bank

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-3, Multiple-Family Dwelling District, which allows single-family homes, multi-family development, as well as daycare facilities. The Future Land Use Map designation of the property is Low Density Residential (LDR), which is inconsistent with the R-3 zoning designation. However, per FLU8.2.5.1, a rezoning may not be required for properties with inconsistent zoning and Future Land Use Map (FLUM) designations when the proposed use is permitted in the existing zoning district, but the use would require a special exception if the property was rezoned to be consistent with the adopted FLUM designation. In this case, a daycare use is permitted by special exception in all zoning districts that are consistent with the LDR designation and therefore a rezoning is not required.

The subject property is 37,355 sq. ft., in size, and is a corner lot with frontage on both N. Hastings Street and Silver Star Road. The site is developed with a 1-story building constructed in 1971, containing a 5,661 sq. ft. daycare facility with 150 children. The property is also developed with a paved parking lot and a pool located at the front of the structure. Due to the age of the structure staff has been unable to located the original building permits, however a daycare was a permitted use in R-3 zoning district at the time, and in 1992, the property was issued a use permit for a daycare facility. The surrounding area is comprised of single-family residential, multi-family residential, and other community commercial uses. Vehicular and pedestrian access to the site is provided from Silver Star Road to the north, and from N. Hastings Street to the west. The property was purchased by the current owner in 2003.

The applicant is proposing a 432 sq. ft. addition located at the rear of the building for a new office, compliant with all the requirements of Code. The addition is being proposed as a result of the Covid-19 pandemic, and the need to expand existing classroom space. The existing daycare has 150 students, and is not proposing to increase the number of students with this expansion. Since the applicant is proposing exterior alterations to the existing building, this triggers a full review and requires that the site comply with the current zoning code. A Special Exception is required because of the inconsistency between the zoning district and future land use.

Transportation Planning has indicated that this project is located within the Alternative Mobility Area (AMA). The AMA is designated as a transportation concurrency exception area. The purpose of the AMA is to reduce the adverse impacts transportation concurrency may have on urban infill development and redevelopment and the achievement of other goals, such as promoting the development of public transportation and maximizing the use of existing public infrastructure in the areas.

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

The parking requirements for the development are as follows:

Parking Requirement	Number of Children	Calculation	Required # of Spaces	# of Spaces Provided
1 space for each 10 children, plus without a pick-up or drop-off area one space for each 5 children	150	15 + 30	45	17

Based upon the above unit count, the total parking spaces required is 45 parking spaces. The existing daycare has been operating with 12 parking spaces, and the applicant is proposing to add 5 additional spaces for a total of 17 spaces, in lieu of 45 spaces, requiring variance #2. The applicant has submitted a parking study, which shows that the parking demand has been met through transportation services the facility provides for its students, as well as the access to public transportation services that are utilized by both the daycare facility staff and parents. Transportation Planning reviewed the parking study and agrees with the methodology of the study.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft. (addition)
Min. Lot Width:	45 ft.	125.09 ft.
Min. Lot Size:	4,500 sq. ft.	37,355 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	20 ft.	82.7 ft. (North) (existing building)
Rear:	20 ft.	94.3 ft. (South)
Side:	5 ft.	45.2 ft. (East) (addition) 20.1 ft. (East) (existing building)
Side Street: (N. Hastings Rd)	15 ft.	70.3 ft. (West) (addition) 19.5 ft. (West) (existing building)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Future Land Use is Low Density Residential (LDR) and with approval of the special exception and the variance, allowing for the expansion of the size of the existing daycare, the project will be consistent with the Comprehensive Plan.

Similar and Compatible with the Surrounding Area

The one-story building is consistent with the adjacent properties, and the proposed addition is consistent with the existing structure.

Shall Not Act as a Detrimental Intrusion into a Surrounding Area

The proposed addition will be ancillary to the existing daycare use, and will not negatively impact the surrounding area since it meets all required setbacks and will be located over 94 feet from the most affected residential property to the south.

Meet the performance standards of the district

With approval of the variance, the development will meet the performance standards of the district.

Similar in Noise, Vibration, Dust, Odor, Glare, Heat Producing

There are not any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing daycare on the site.

Landscape Buffer Yards Shall be in Accordance with Section 24-5 of the Orange County Code

Landscaping will be provided in compliance with Section 24-5 of Orange County Code.

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstances particular to this site is the existing building location prevents expanding the parking lot. Providing additional parking at the rear of the property that is not needed or demanded by the existing operation, would be a detriment to the site, and would locate parking closer to single-family uses.

Not Self-Created

The need for the variance is not self-created as it arises from the need to expand the building due to the Covid-19 pandemic.

No Special Privilege Conferred

Granting the variance will not confer special privilege because the use currently exists with less parking than is proposed, and the number of students is not increasing.

Deprivation of Rights

Without the variance, the applicant will be unable to expand the building.

Minimum Possible Variance

The request is the minimum possible variance to provide the number of parking spaces realistically needed by the daycare operation.

Purpose and Intent

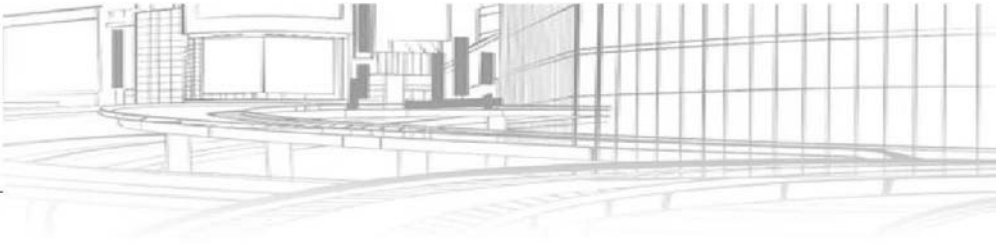
Approval of these requests will be harmony with the purpose and intent of the Code. The proposed minor expansion of the existing daycare, albeit without an increase of the number of children, will continue to be consistent with the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received March 25, 2022 and elevations received January 25, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Momtaz Barq
1507 S Hiwassee Road Suite 211
Orlando, FL 32835

COVER LETTER



January 13, 2022

RE: Special Exception Narrative
Little Angel's Childs Care
5700 Silver Star Road, Orlando, FL

The zoning district for the referenced parcel is R-3. The future land use is LDR. The applicant is requesting a special exception to allow for the continuation of the existing use under the current future land use. In addition, the applicant is requesting a variance from Sec. 38-1473, Quantity of off-street parking, at this existing facility. The existing day care center was built in 1971 and has been operating as childcare center since at least 1992. This daycare center currently has 150 children enrolled.

Due to the Covid-19 pandemic, additional space has been proposed to help with overcome Covid constraints and create more space in the classrooms. The proposed addition to the existing building is 20' x 23' and is approximately 432 sf. The space will be utilized as extra storage / office use.

Orange County requirements for parking for a Daycare center, as stipulated in Sec. 38-1473, is 1 space for each 10 children, plus with a pickup and drop-off area one space for each 10 children or without a pick-up or drop-off area one space for each 5 children. The current attendance of the Day care is 150 students; therefore, the required number of parking spots would have to be between 30 and 45 depending on whether or not, the County will consider the existing drop-off area sufficient.

The existing facility currently has 12 parking spots. The developer is proposing to add an additional 5 parking spaces, for a total of 17. The special exception request and associated variance request is for a parking waiver, to allow for 17 parking spots instead of the aforementioned required number of spaces. The special exception can be justified on the premise that this is an existing facility that has operated for many years with the same number of children and without any violations that we can discern.

Additionally, the requested special exception doesn't not encroach or infringe on any neighboring properties, nor would it impose any hardship on any neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected.

Site plans of the property will be attached with the Special Exception Application Request.

Sincerely,
Terra-Max Engineering, Inc.

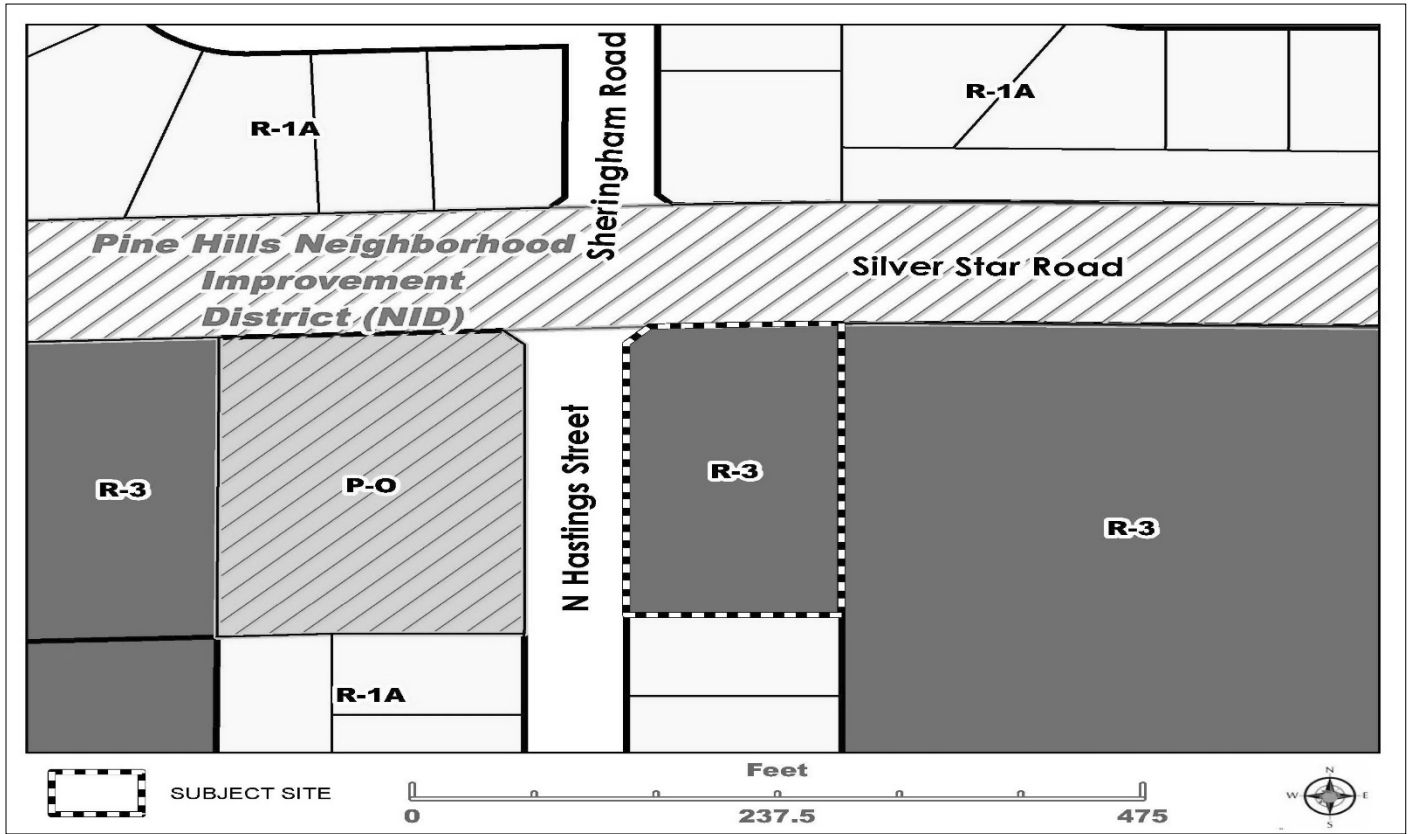
A handwritten signature in black ink that reads 'Momtaz Barq'. The signature is fluid and cursive, with a large initial 'M'.

Momtaz Barq, P.E.
Principal Engineer

CIVIL | ENVIRONMENTAL | GEOTECHNICAL | LAND DEVELOPMENT

1507 S. Hiawassee Rd., Suite 211 | Orlando, FL 32835 | Phone: (407) 578-2763 | Fax: (407) 578-2953

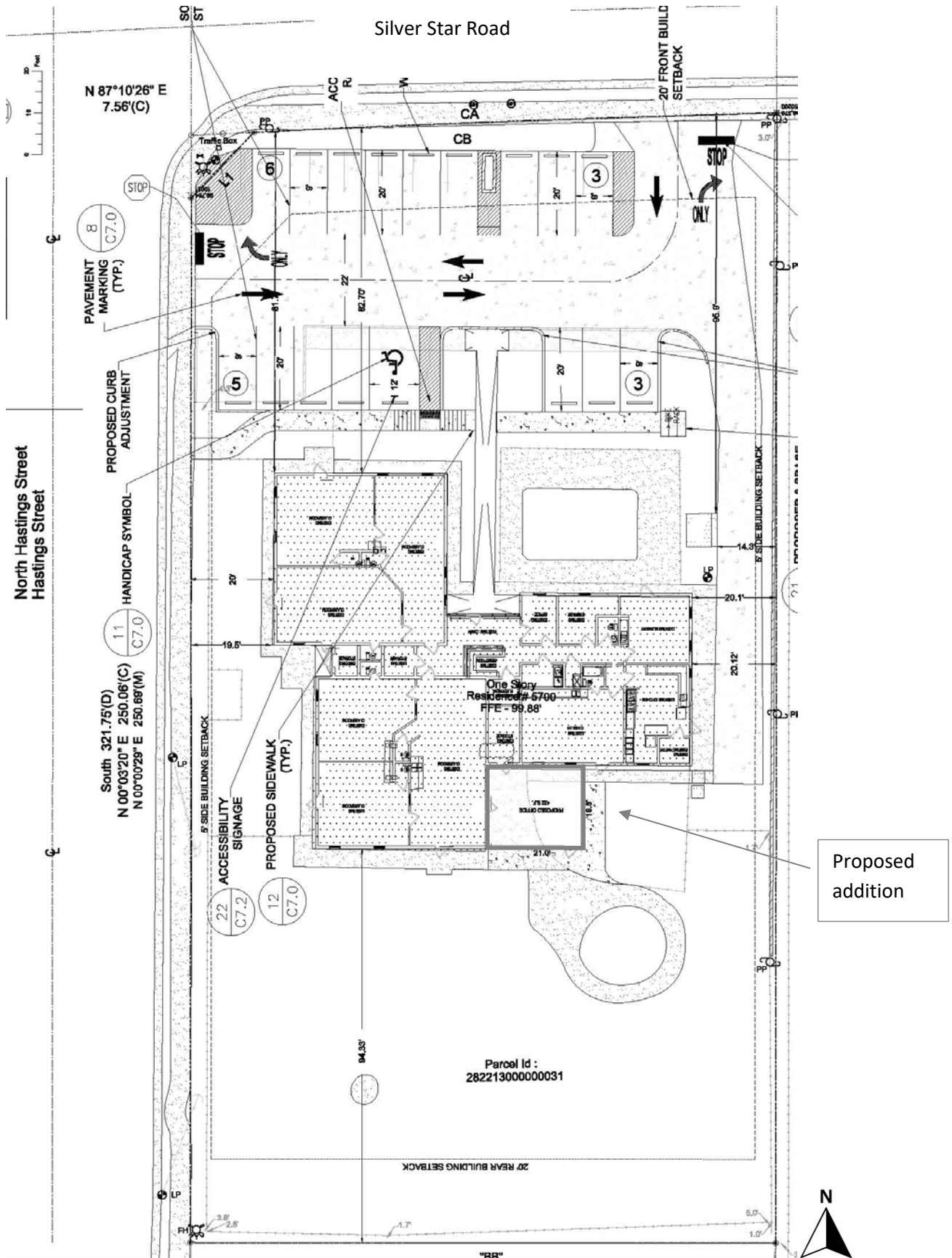
ZONING MAP



AERIAL MAP

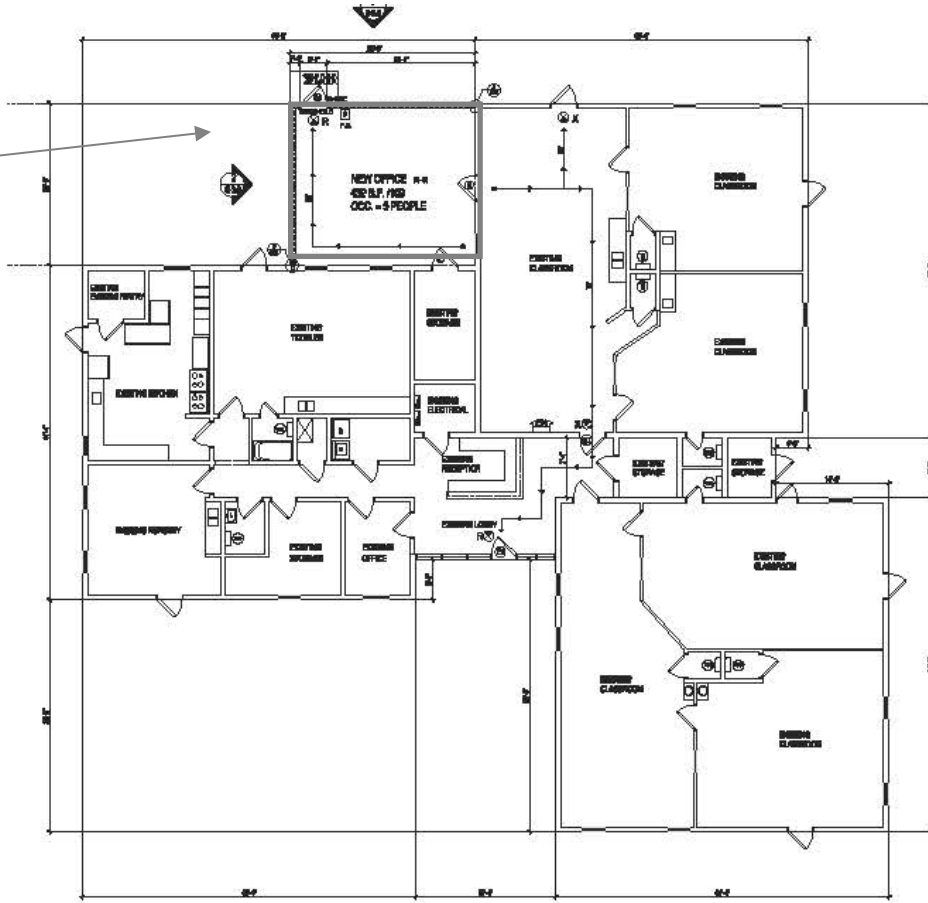


SITE PLAN

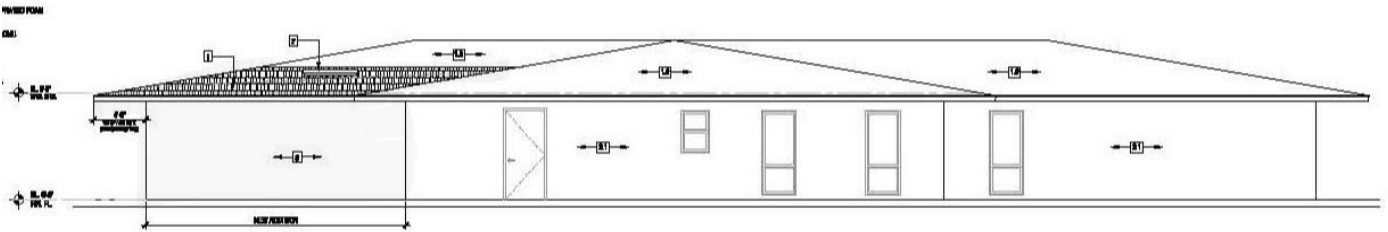


FLOOR PLAN

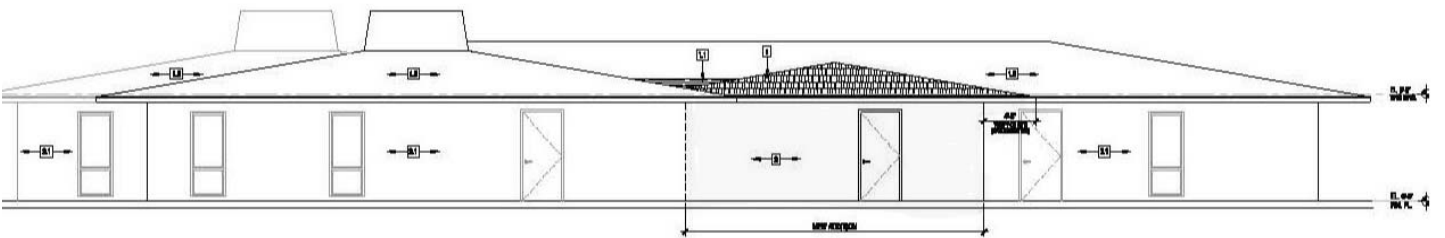
Proposed addition



ELEVATIONS



EAST RIGHT SIDE ELEVATION 1/138



SOUTH REAR ELEVATION 1/138

Proposed addition

SITE PHOTOS



Front of subject property facing south

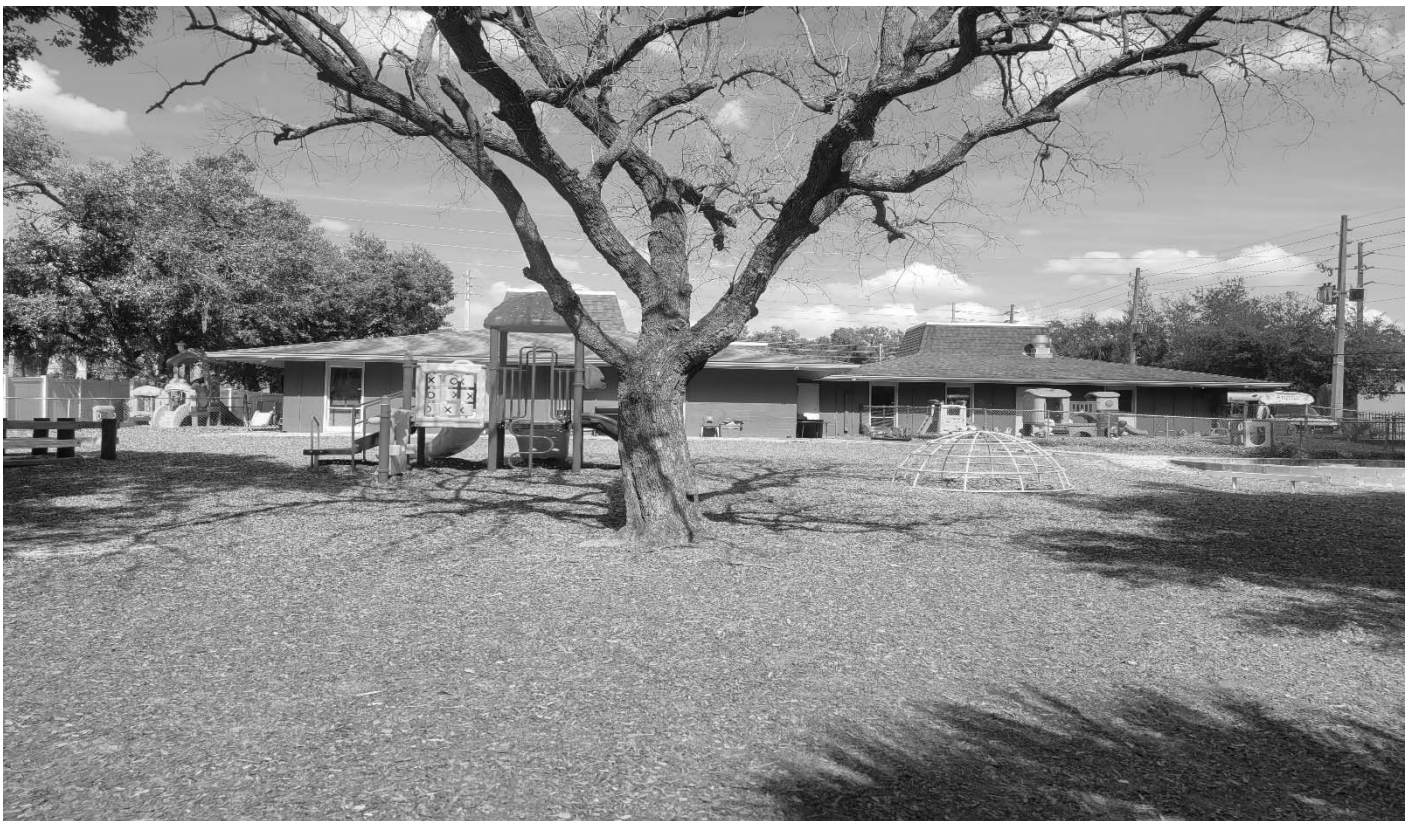


Front of subject property, facing west

SITE PHOTOS



From centerline of Silver Star Rd. Facing south



Rear yard, facing north towards proposed addition

SITE PHOTOS



Rear yard, facing northwest towards proposed addition location

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 07, 2022**

Commission District: **#1**

Case #: **SE-21-11-115**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ROB GARRETT FOR DISCOVERY CHURCH

OWNER(s): JACK H ROSS GROVES INC.

REQUEST: Special Exception in the A-1 zoning district to allow for the construction of a 737 seat 43,190 sq. ft. religious institution.

PROPERTY LOCATION: 5871 Rex Drive, Winter Garden, Florida, 34787, northeast corner of Rex Dr. and McKinney Rd., west of Avalon Rd.

PARCEL ID: 18-23-27-0000-00-004

LOT SIZE: 77.79 acres

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 434

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (3 in favor, 2 opposed, 1 absent, and 1 vacant):

1. Development shall be in accordance with the site plan, landscape plan and elevations received March 17, 2022, except as modified to satisfy Condition #7, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Hours of operation shall be from 7:00 a.m. to 6:00 p.m., daily, and to 9:00 p.m. on Wednesdays, Christmas Eve and Good Friday and special events. The hours of operation for the sports and activity fields shall be from 8:00 a.m. to 8:00 p.m., Sunday -Thursday and 8:00 a.m. to 9:00 p.m. on Friday and Saturday.
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. The Site Plan and Landscape Plan received March 17, 2022 shall be modified to remove all reference to the proposed new roadway and east access drive connection.
8. Exterior lighting shall be compliant with the county's exterior lighting ordinance. In addition, all pole mounted fixtures shall be full cutoff and with fixture color temperature of 3,500 K maximum. The photometric plan shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.
9. The facility shall be limited to 737 seats.
10. Enhanced landscaping shall be provided along the entire length of the perimeter buffers. This enhanced buffer shall consist of 2 parallel rows, planted 25 ft. on center, staggered, with canopy shade trees, supplemented with a continuous row of shrubs/ hedges planted along the landscape buffers.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial due to incompatibility concerns as a result of the scale of the proposal in the Rural Settlement. Staff noted that 77 comments were received in support, and 89 comments were received in opposition to the request.

The applicant presented an overview of the core operation and values of the church and the intent to relocate the existing Winter Garden church operations to this site. It was also noted that there will not be a school and there will be no sporting events. The applicant's attorney described the area surrounding the site and stated that adjacent properties are mainly non-residential, such as water treatment facility and a garbage dump and pointed out that the site is located on the edge of the Rural Settlement.

Twelve (12) people spoke in favor of the request, stating that this location would be good for the community and would be consistent with the Rural Settlement as it would buffer and act as a transition between the properties to the north and the higher density areas to the south. Four (4) people spoke against the request, stating that the use does not belong in a Rural Settlement, but rather belongs in a commercial area and expressed concerns about environmental issues and traffic.

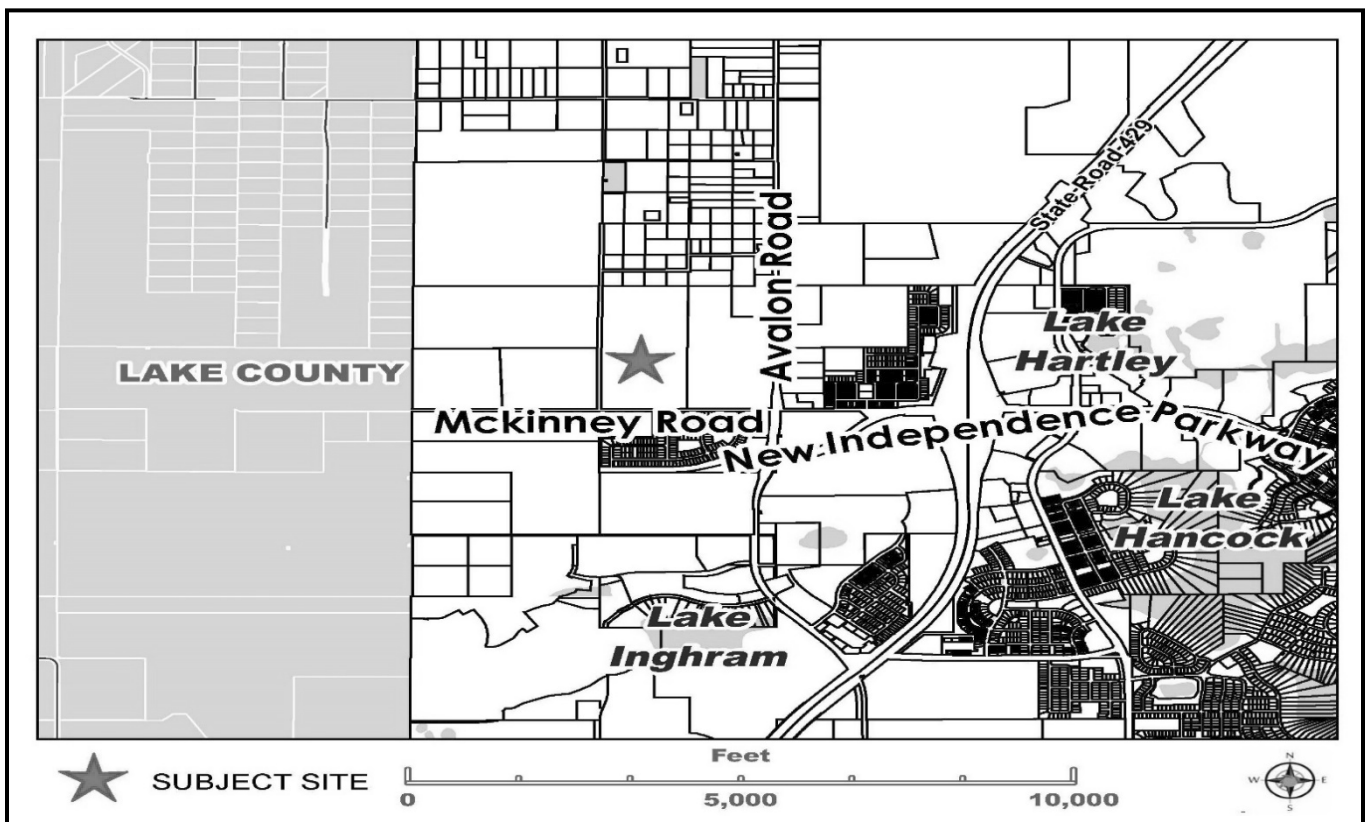
The BZA discussed the size and scale of the church and noted the concerns about compatibility of the proposal with the Rural Settlement. The BZA also noted that proposed location is on the edge of the Rural Settlement, adjacent to an urban area and noted that consistent with the Rural Settlement, the church also supports the community.

The BZA made a motion to deny the Special Exception which failed with a 3-2 vote, with one absent and one seat vacant. The BZA subsequently recommended approval of the Special Exception by a 3-2 vote, with one absent and one seat vacant.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1, Wincey Groves PD	A-1	A-1
Future Land Use	RS-1/5 Lake Avalon Rural Settlement	RS-1/2 Lake Avalon Rural Settlement	INST, V	RS-1/5 Lake Avalon Rural Settlement	RS-1/5 Lake Avalon Rural Settlement
Current Use	Vacant	Single-family residences	County utility buildings, Single-family residences	Vacant	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The property is located within the Lake Avalon Rural Settlement Commercial Design Overlay District. The regulations in the overlay district are specific to commercial and office uses, therefore the overlay guidelines do not apply to an institutional use. The property is also located in the Lake Avalon Rural Settlement (LARS). Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those areas wish to preserve. The stated purpose and intent of the LARS is to reinforce the rural character of the community, with acceptable commercial uses stated as being limited to small offices and small commercial developments, compatible with the existing rural development pattern. Rural Settlements restrict non-residential uses to those that support existing residential uses and serve the residents of the community.

The subject property is 77.79 acre citrus grove/vacant unplatted parcel that conforms to the minimum lot requirements of the zoning district. The property is a corner lot with frontage on both Rex Dr. and McKinney Rd. The area is comprised of vacant land to the east and west, and single-family residences to the north and south, as well as county utility buildings to the south.

The applicant is requesting a special exception for a religious institution with a cumulative total of 43,190 sq. ft. on the southwestern 20 acres of the 77.79 acre tract. The remaining tract is proposed to remain as is, with the expectation that a lot split would be effectuated if the proposal is approved. The proposal includes a 737 seat, 34,274 sq. ft. main sanctuary building, Building #1, with 2 student center buildings that are 4,234 sq. ft. each, Buildings #2 and #3, connected to the sanctuary by a breezeway that is less than 20 feet long, and a separate 448 sq. ft. bathroom structure, Building #4, paved parking, a sports field, and an activity field, and a retention pond. One ingress/ egress is proposed to McKinney Rd. and one egress only is proposed to McKinney Rd. The site plan indicates another future vehicular access to the east from an additional roadway,

however, Condition #7 requires the site plan to be modified to remove all reference to the proposed new roadway and east access drive connection.

Based on the number of seats, the project requires 270 parking spaces which was calculated using the Orange County Code requirement of 1 parking space per 3 seats for religious institutions (737 seats) for a total of 246 required spaces, and 1 parking space per employee with 24 employees proposed for a total of 24 required spaces. A total of 292 parking space are provided, meeting the requirement. All parking spaces will be paved.

The proposed hours of operation as stated by the applicant are:

- Sunday Services – 7 AM to 2 PM
- Saturday Services - 10 AM to 4 PM
- Administrative - Monday-Sunday 7 AM to 6 PM
- Wednesday - 12 PM to 9 PM
- Sports fields 5 PM to 11 PM (per site plan)

Seasonal Events:

- Christmas Eve Worship Service - 4 PM to 9 PM
- Good Friday Worship Service - 4 PM to 9 PM
- Quarterly Event - Thursday - 7 PM to 9 PM

While staff is recommending denial of this request, if the request is approved, we are recommending modified hours of operation for the sports and activity fields, limiting the hours to be from 8:00 a.m. to 8:00 p.m., Sunday -Thursday and 8:00 a.m. to 9:00 p.m. on Friday and Saturday.

The applicant submitted a Conservation Area Determination (CAD-21-11-270), which was reviewed by the County Environmental Protection Division (EPD). EPD determined that there are no wetlands or surface waters on the property.

The County Transportation Planning Division reviewed a traffic study provided by the applicant and provided comments that indicated that the proposed project is expected to generate 306 daily trips and 22 weekday PM peak hour trips, and that all roadway segments will operate within their adopted capacity upon addition of project trips except for segments of Avalon Road. The applicant may be required to submit a traffic study prior to obtaining an approved capacity encumbrance letter and building permit.

Comprehensive Planning staff reviewed the request and determined that the proposal is consistent with the policies contained within the Comprehensive Plan. The Planning Division reviewed the exterior lighting photometric plan submitted by the applicant, and confirmed that the proposed foot candle light levels along the perimeter property lines are compliant with the county's exterior lighting ordinance.

On Thursday February 17, 2022, a Community Meeting was held at Bridgewater Middle School to allow for input. The meeting was attended by the applicant, County staff, and 72 attendees. The majority of the attendees spoke negatively about the proposal, stating that it does not belong in a rural settlement, and noting that it was not just a church, but rather an entertainment complex and that it will bring too much additional traffic into the area. A community park/dog park was originally proposed on the property, but was removed due to objections raised at the Community Meeting.

At the date of the writing of this report, 27 comments have been received in opposition to the request and 78 comments have been received in support of the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	100 ft.	975 ft.
Min. Lot Size:	0.5 acre	77.79 acres

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	209 ft. south
Rear:	50 ft.	379 ft. north
Side:	10 ft.	75 ft. east
Side Street:	15 ft.	175 ft. west

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan provides that certain uses, such as religious institutions, as conditioned are consistent with the Rural Settlement Future Land Use through the Special Exception process. Further, Comprehensive Planning has indicated it is consistent with the provisions of the Rural Settlement.

Similar and compatible with the surrounding area

The size and scale of the proposed religious institution with 737 seats, a total of 43,190 square feet of building area, 292 paved parking spaces and sports and activity fields is not similar and compatible with the development pattern of the surrounding rural settlement, and is expected to serve more than just the residents of the community. The majority of the adjacent properties contain single-family residential homes, ranging in intensity from 1 home per acre to 1 home per 5 acres.

Shall not act as a detrimental intrusion into a surrounding area

The scale and intensity of the proposal will be a detrimental intrusion to the surrounding area.

Meet the performance standards of the district

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

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

The proposed use of outdoor sports and activity fields will generate noise and the overall use will generate traffic that is not similar to the adjacent single-family residences.

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

The applicant has provided a 75 ft. wide buffer at the east property line, a 50 ft. wide buffer at the north property line, a 40 ft. wide buffer at the south property line, and a 35 ft. wide buffer at the south property line, exceeding the requirements of Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan, landscape plan and elevations received March 17, 2022, except as modified to satisfy Condition #7, 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.
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5. Hours of operation shall be from 7:00 a.m. to 6:00 p.m., daily, and to 9:00 p.m. on Wednesdays, Christmas Eve and Good Friday and special events. The hours of operation for the sports and activity fields shall be from 8:00 a.m. to 8:00 p.m., Sunday -Thursday and 8:00 a.m. to 9:00 p.m. on Friday and Saturday.
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. The Site Plan and Landscape Plan received March 17, 2022 shall be modified to remove all reference to the proposed new roadway and east access drive connection.
8. Exterior lighting shall be compliant with the county's exterior lighting ordinance. In addition, all pole mounted fixtures shall be full cutoff and with fixture color temperature of 3,500 K maximum. The

photometric plan shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.

9. The facility shall be limited to 737 seats.
10. Enhanced landscaping shall be provided along the entire length of the perimeter buffers. This enhanced buffer shall consist of 2 parallel rows, planted 25 ft. on center, staggered, with canopy shade trees, supplemented with a continuous row of shrubs/ hedges planted along the landscape buffers.

C: Rob Garrett
1001 Sand Lake Road
Orlando, Florida, 32809

COVER LETTER



KELLY,
COLLINS &
GENTRY, INC.

ENGINEERING / PLANNING

March 22, 2022

Board of Zoning Adjustment
Orange County Zoning Division
201 S. Rosalind Avenue, 1st Floor
Orlando, FL 32801

RE: Special Exception – Discovery Church West Campus

Dear BZA Members,

On behalf of the applicant, Discovery Church, Kelly, Collins & Gentry, Inc. has prepared the attached application package for a Special Exception to allow for a church use within the Lake Avalon Rural Settlement and A-1 Zoning District.

Application Summary

1. Applicant and Owner Contact Information:

Applicant

Discovery Church (Rob Garrett)
1001 Sandlake Road
Orlando, Florida 32809
(407) 448-1919

Owner

Jack H. Ross Groves, Inc. (James Ross)
20 S Main Street, Ste. 200
Winter Garden, Florida 34787
(407) 843-7677

- 2. Property Location: 5871 Rex Drive Winter Garden, Florida 34787. Located at the northeast corner of Rex Drive and Mckinney Road.
- 3. Parcel ID Number: 18-23-27-0000-00-004 (southwest ±20 acres)
- 4. Size: ±20 acres
- 5. Existing Use: Citrus Grove
- 6. Proposed Use: Church
- 7. Project Details:

	<u>Code Permitted</u>	<u>Proposed</u>
Building Size	Not specified	44,000 sf
Building Height	35 ft	35 ft
Number of Buildings	Not specified	3 buildings
Number of Seats	Not specified	737 seats
Number of Members / Weekly Attendees	Not specified	400 / 700
Number of Employees	Not specified	24
Days / Hours of Operation	Not specified	Mon/Tues/Thurs 7am-6pm Wed 12pm-9pm Sat 10am-4pm Sun 7am-2pm

1700 NORTH ORANGE AVENUE, SUITE 400, ORLANDO, FLORIDA 32804
PHONE: 407 / 898-7858, FAX: 407 / 898-1488

		Seasonal Events: Christmas Eve Worship Service - 4pm-9pm Good Friday Worship Service - 4pm-9pm Quarterly Event - Thurs - 7pm-9pm <i>NOTE: THESE ARE TYPICAL HOURS BUT USE OF THE FACILITY IS NOT LIMITED TO THESE TIMES.</i>
Provided Services	Not specified	Worship services, youth meetings, family events, lay counseling, and community service activities
Outdoor Events/Activities	Not specified	Community park, playground, sports activities

Project Justification

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

The subject property has a Future Land Use Designation of Rural 1/5 (RS 1/5) within the Lake Avalon Rural Settlement. The RS 1/5 future land use is intended for agricultural uses and uses that maintain the existing rural character of the Rural Settlement. RS 1/5 does not have a maximum Floor Area Ratio (FAR); however, buildings with a gross area of 50,000 sf or more may be considered inappropriate based on the conditions listed under FLU6.2.13(A-D).

The proposed project will be located on the southwest 20 acres of a ±78 acre parent tract. The development program will consist of three buildings totaling approximately 44,000 sf, under the 50,000 sf threshold of FLU6.2.13. Various techniques will be utilized to preserve the existing rural character of the Lake Avalon Rural Settlement including:

- Increased landscape buffering and building setbacks above the minimum required.
- Location of buildings and recreation areas along the southernmost boundary of the Rural Settlement/Mckinney Road frontage.
- Primary driveway access located on roadways outside of the Rural Settlement (Mckinney Road).
- Incorporation of publicly accessible/community serving features such as a community park or community garden.

In addition, the project shall meet the following Comprehensive Plan policies:

- FLU6.24 – This policy provides criteria to ensure new (Planned Development) projects contribute to the community’s sense of place as follows:
 - A. Designs for new roads, and alterations to existing roads, should ensure the physical impact on the natural and historic environment is kept to a minimum;

- B. New roads or road improvements shall be designed to accommodate the anticipated volume and nature of traffic, but pavement shall be kept as narrow as safety allows while encouraging equestrian, bicycle, pedestrian, and other non-motorized, alternative means of transportation, preservation of wildlife corridors and habitat, and aesthetically pleasing landscape treatment; and,
- C. New buildings and structures shall be located where their construction or access does not cause substantial modification to the topography and natural resources.
- D. Provide for increased setbacks along roadways to preserve views, open space, and rural character; and provide guidelines for lot layout and cluster development for residential development to maintain open space and rural character.

While the proposed project is not a Planned Development, an effort has been made to contribute to the existing rural character and sense of place of the Lake Avalon Rural Settlement.

- *The proposed project will include extensive open space area accounting for approximately 70% of the site. In addition, the site design will incorporate various elements to maintain the open space and rural character of the site including increased building setbacks and landscape buffers (above the minimum required), lot layout towards the boundary of the Rural Settlement, and community serving features such as a community park with a community park or community garden.*
 - *The current use of the site is citrus grove. The site consists of limited natural features including some existing vegetation and a depression area in the north portion of the site. The project has been designed to avoid and preserve this natural area including the existing trees and vegetation.*
 - *A new roadway is proposed along the east boundary of the proposed project and will allow for secondary access to the site. This proposed roadway along with the driveway connection to McKinney Road, will alleviate traffic along Rex Drive which is located within the Rural Settlement.*
 - *A Traffic Study is being prepared in conjunction with this application to address impacts to existing roadway facilities and any necessary improvements.*
- FLU6.2.5 – The permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character. Factors to be considered shall include lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses. Density and Floor Area Ratio (FAR) calculation shall be defined as the language specified in Future Land Use Element Policy FLU1.1.2(B)
- *The proposed building square footage of 44,000 sf and FAR of 0.013 is permitted under the existing Rural 1/5 future land use. Features including building location/orientation, open space, and landscaping/buffering have been incorporated to minimize the impact of the proposed project on surrounding development.*

- FLU6.2.13 – Any proposed use within a Rural Settlement intended for the construction of a structure(s) with a Gross Buildable Area of 50,000 square feet (on a cumulative basis) or more or projected to have a weekly trip rate of 10,000 total trips may be considered inappropriate for a Rural Settlement (See conditions A-D).
 - *The proposed building square footage is less than 50,000 sf at 44,000 sf.*
- FLU 6.2.15 – Expansion of existing water and wastewater facilities providing service to Rural Settlements shall be consistent with Conservation Element C1.11.7, Potable Water, Wastewater and Reclaimed Water Element Objectives WAT1.5 and WAT1.6, and applicable Future Land Use Policies. The existing capacity shall not be used as a reason for increased densities within the Rural Settlement. (Added 12/00, Ord. 00-25, Policy 2.1.15)
 - *Adequate wastewater and water facilities are in place across Mckinney Road according to Orange County Utilities.*

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

Surrounding Development Pattern:

	FLU	ZONING	CURRENT USE
NORTH	Rural Settlement 1/5	A-1	Ag Citrus Grove
EAST	Rural Settlement 1/5	A-1	Ag Citrus Grove
SOUTH	Institutional	A-1 / PD	County Utility (Water Conserv II) / Single-Family Residential (Wincey Groves at Hamlin)
WEST	Rural Settlement 1/5	A-1	County Utility (Water Conserv II)

The proposed site is ideally located at the southernmost boundary of the Rural Settlement, adjacent to the Horizon’s West development to the south, and adjacent to existing institutional land uses (Orange County Water Conserv II facility). Additionally, the remainder of the 78 acre parent parcel located to the north and east of the proposed site will act as a buffer to the rural residential uses to the north providing approximately 1,730 ft between the proposed site and the nearest residential property.

Site design features will further ensure compatibility with the surrounding development by restricting primary access to roadways exterior to the Rural Settlement (Mckinney Road), increased building setbacks and landscape buffers (above the minimum required), and lot layout and building location towards the roadway frontage/Rural Settlement boundary.

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

As noted above, the proposed project is compatible with the surrounding County Utility, Ag/Citrus Grove, and Single-Family Residential developments and does not present an intrusion. In fact, the proposed project will serve as a benefit to the surrounding community and rural settlement providing community services including a community park.

Furthermore, the proposed church use, with extensive buffering and open space allotment, serves as a transition from the rural/agricultural uses to the north and the more intensive Horizon's West developments to the south and east.

External impacts that could potentially be generated by the development are being addressed through applicable permitting processes. In conjunction with this application, the following reports/studies will be submitted for review: Traffic Study

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

The proposed project shall meet the requirements of the A-1 zoning and does not include any variance requests for relief from applicable codes.

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 A-1 Zoning District permits numerous land uses characterized by a moderate amount of noise, vibration, dust, odor, and heat production such as emergency generators, agricultural production of crops and livestock, logging, borrow pits/excavation and fill, fertilizer manufacturing and agricultural chemicals manufacturing, parking and storage of dual rear wheel vehicles, commercial solar farms, distribution electric substation, and fire stations.

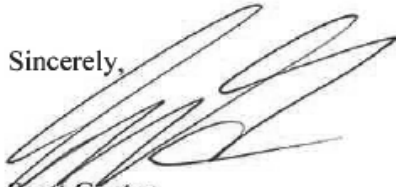
As to the characteristics detailed above, the proposed church use will have a lesser impact than a majority of the currently permitted uses. Additionally, any impacts that may result from the proposed use will be mitigated through the use of landscape buffering and building/recreation area setbacks, beyond what is required by code.

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

The proposed project will provide landscaping that will meet and exceed Orange County Code Section 24-5 and does not include any variance requests.

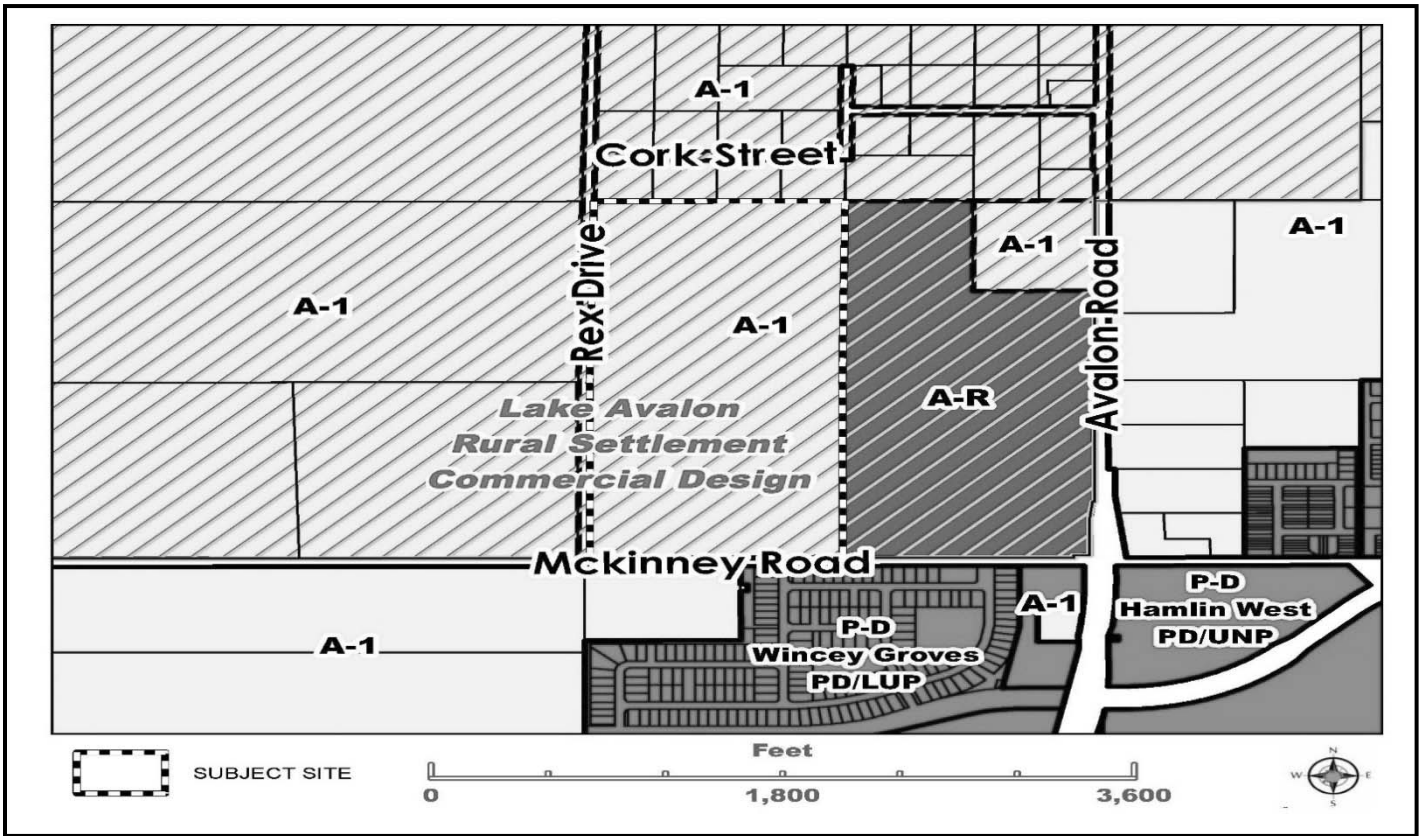
If you should have any questions, please feel free to contact me.

Sincerely,

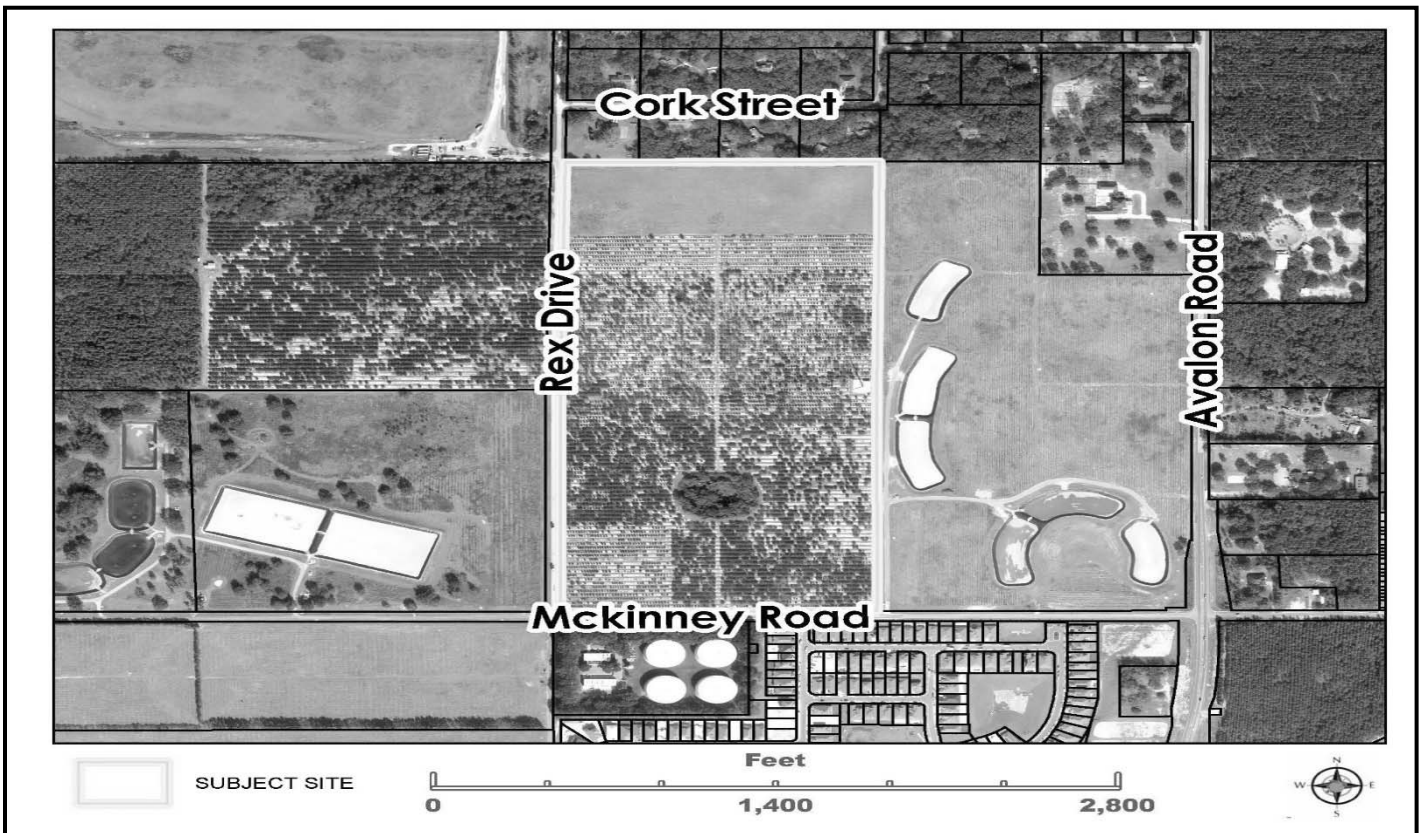


Scott Gentry
Principal

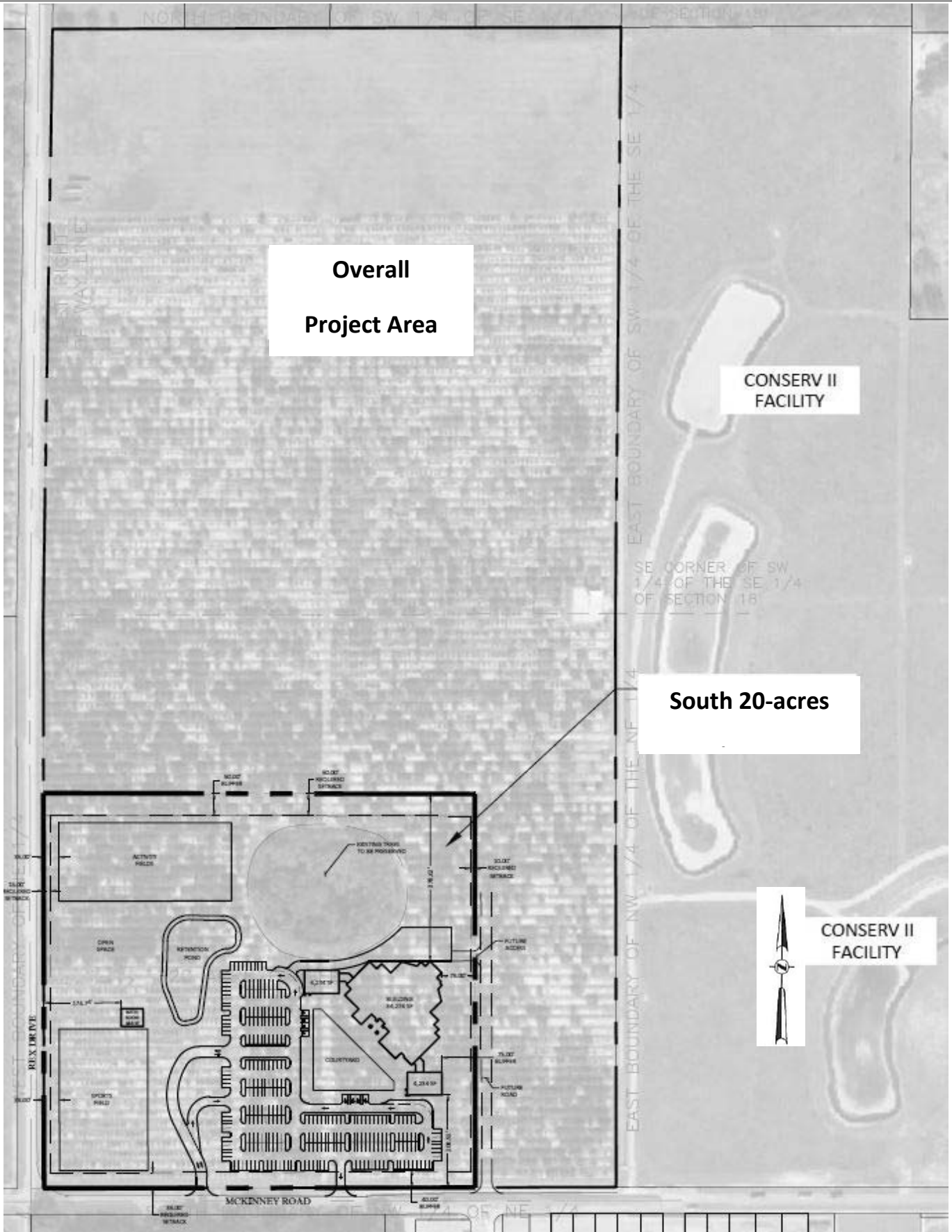
ZONING MAP



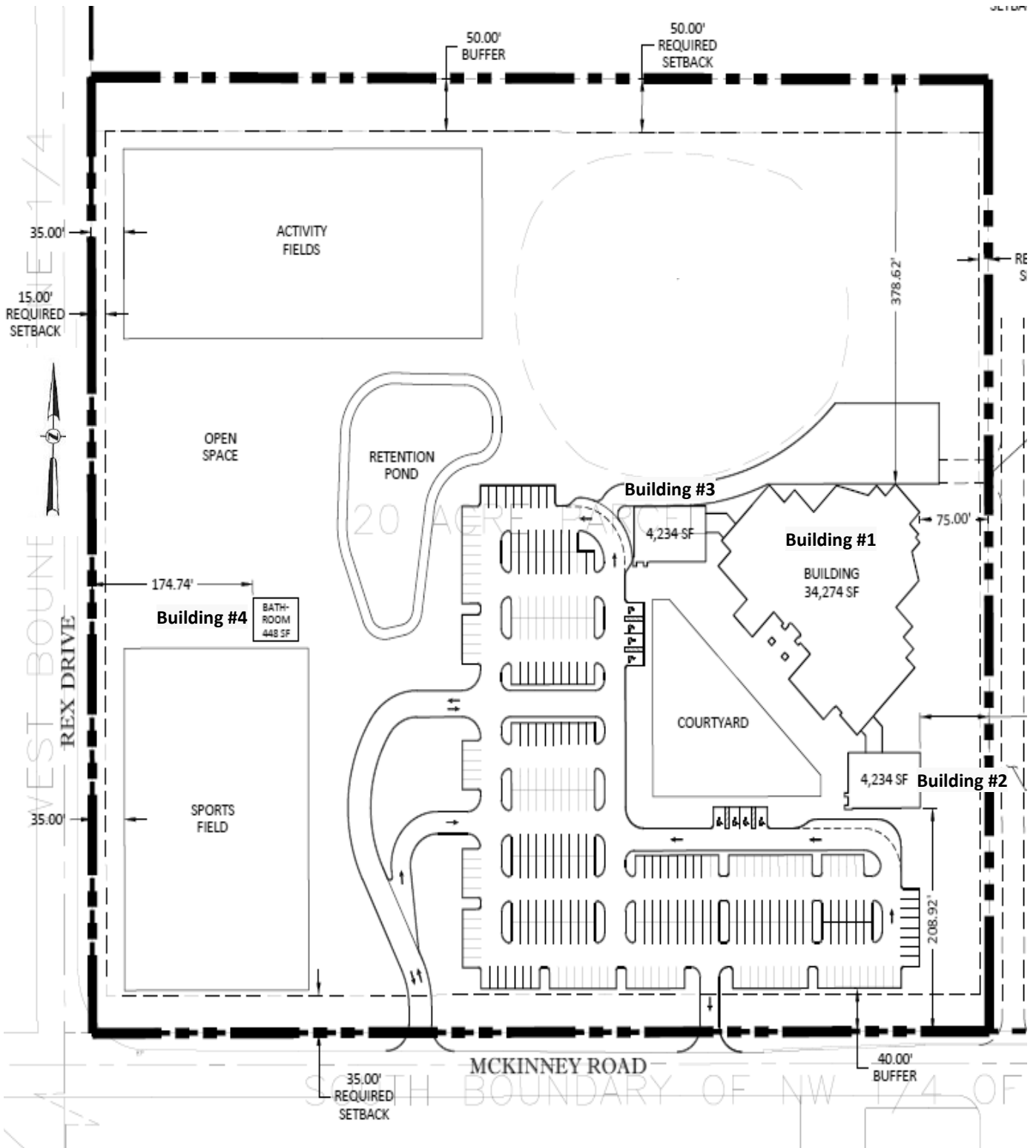
AERIAL MAP



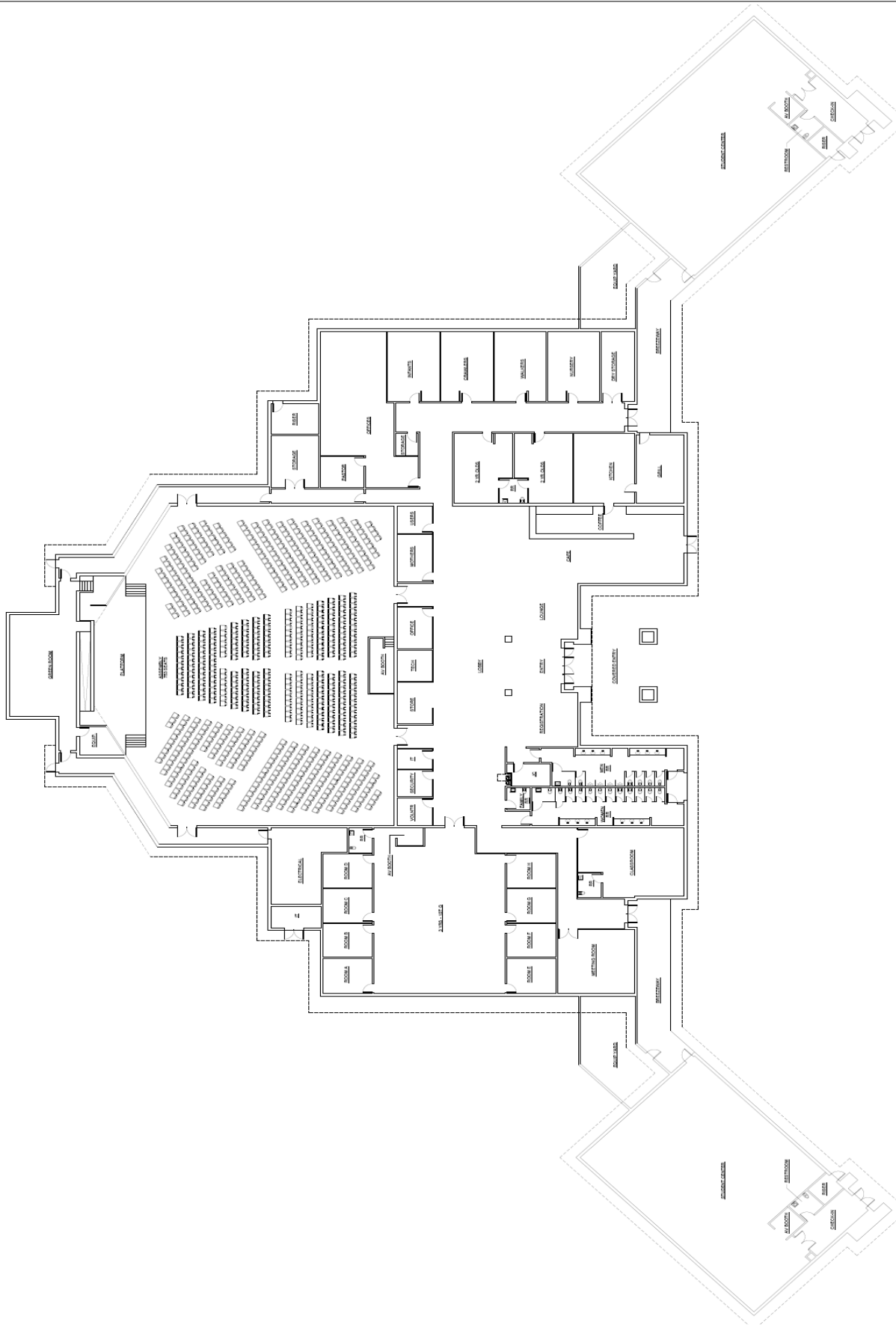
OVERALL SITE PLAN 77.79 ACRES



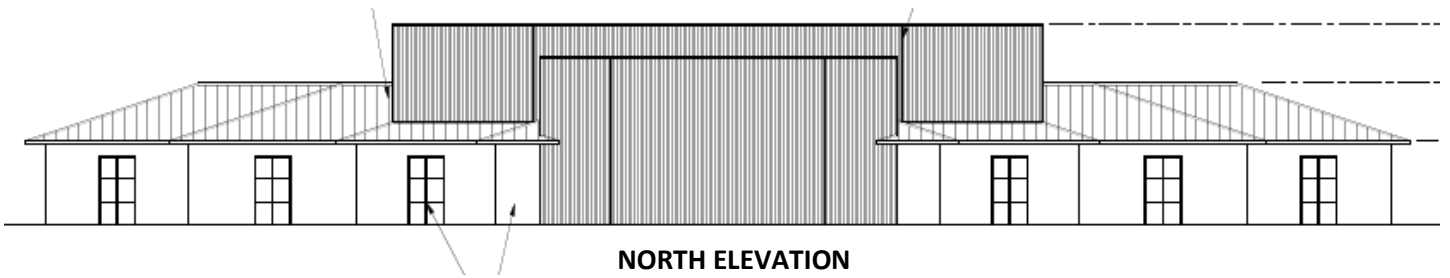
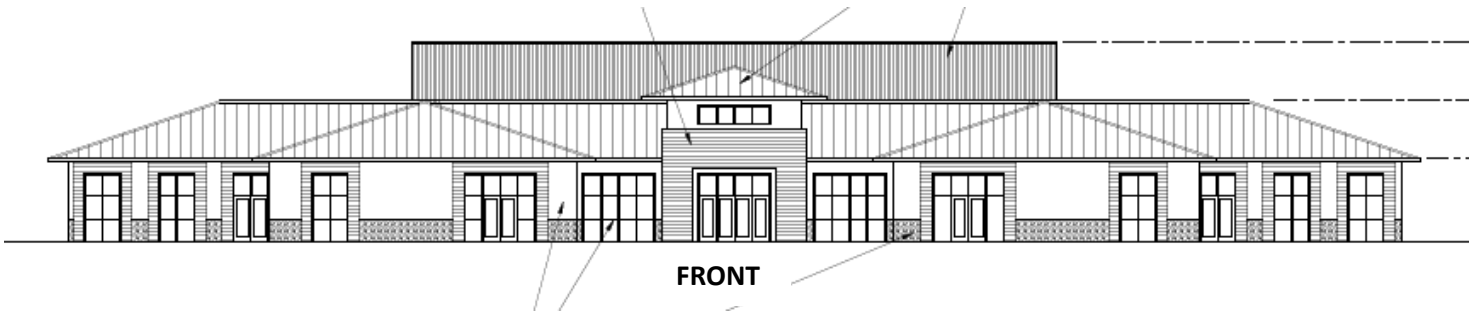
ZOOMED IN SITE PLAN - 20 ACRES



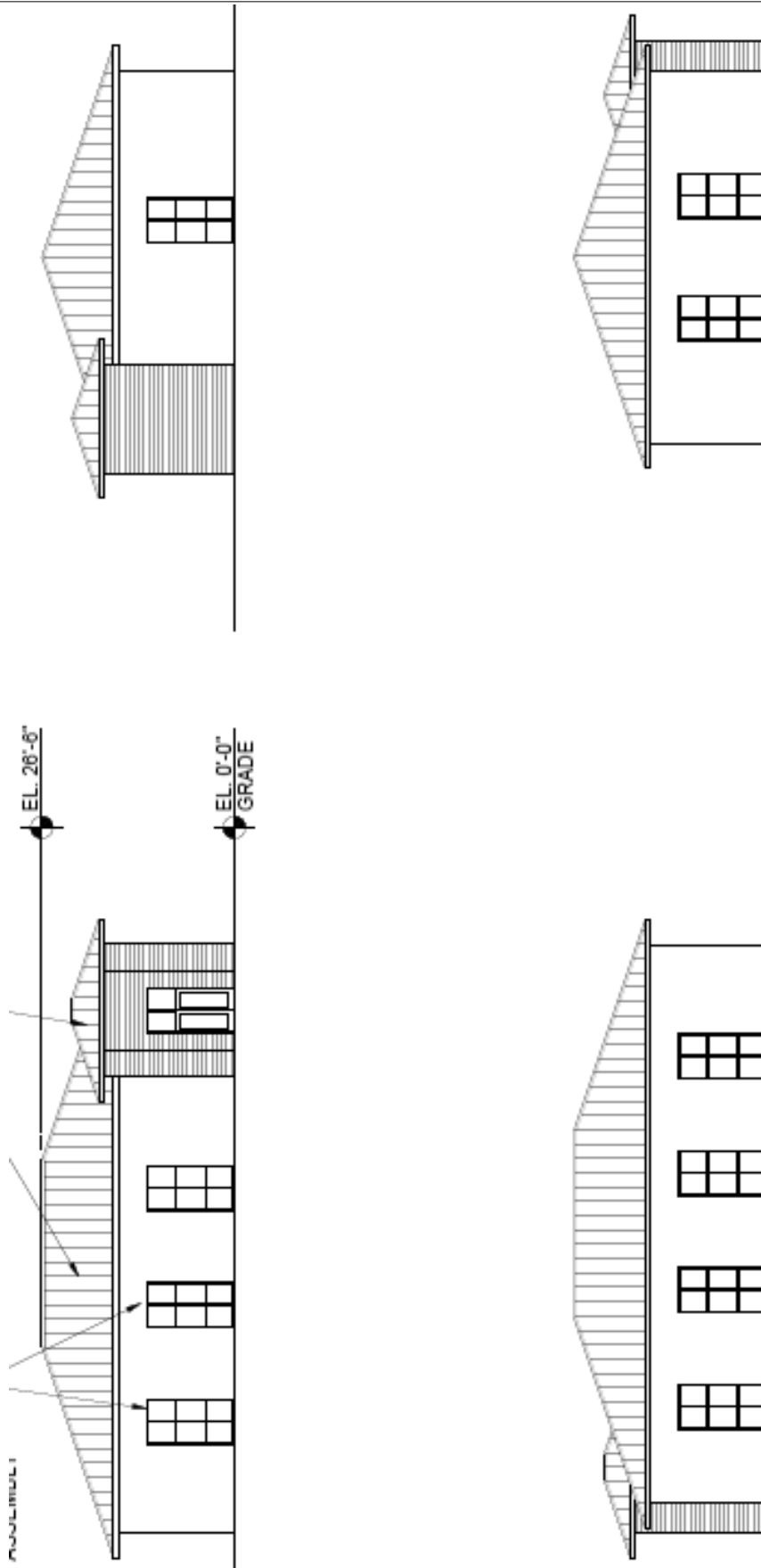
FLOOR PLAN – MAIN BUILDING #1 AND BUILDINGS #2 and 3



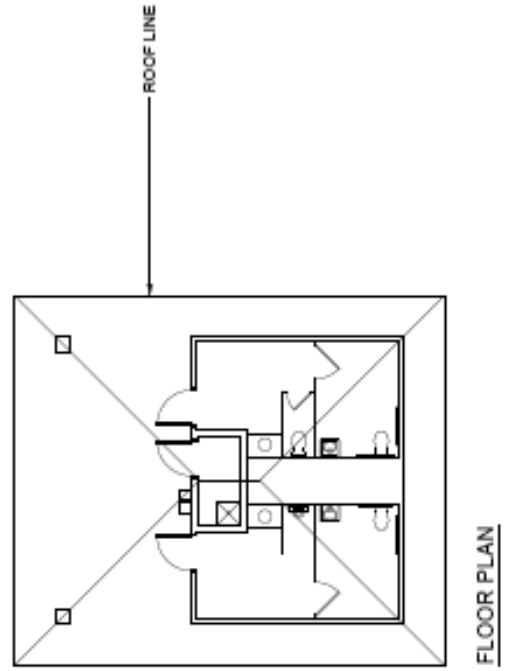
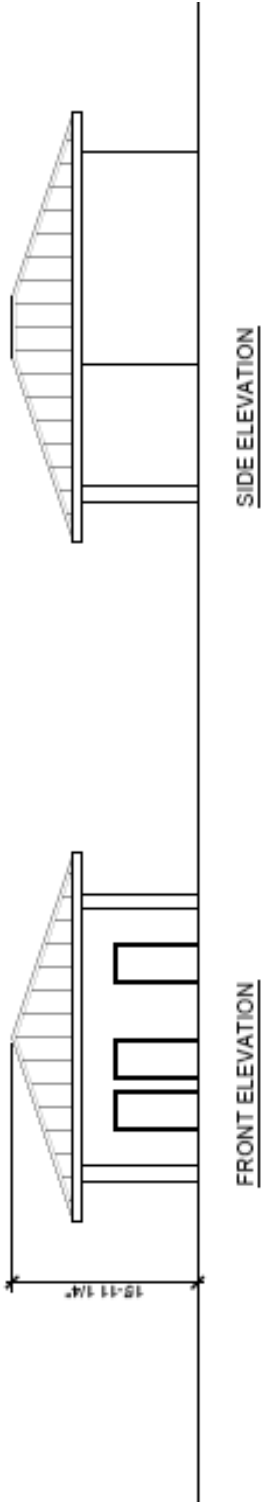
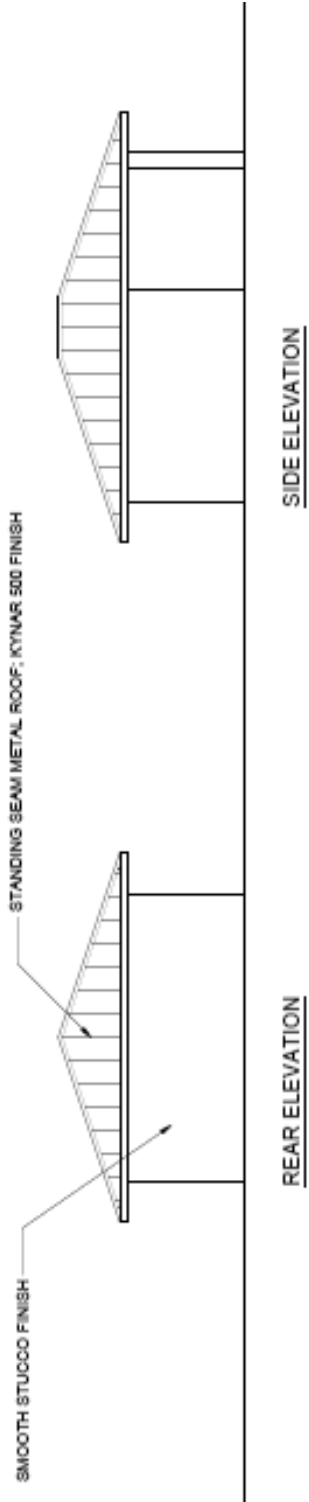
ELEVATIONS – MAIN BUILDING #1



ELEVATIONS – BUILDINGS #2 and 3



ELEVATIONS AND FLOOR PLAN – SPORTSFIELD BATHROOM BUILDING #4



SITE PHOTOS



Property from McKinney Rd. facing north



Property from Rex Dr. facing east at intersection of McKinney Rd. and Rex Dr.



BOARD OF ZONING ADJUSTMENT
201 S. Rosalind Ave.
Orlando, FL 32801