

Orange County Zoning Division

SE-22-07-047

**APPLICANT/ APPELLANT: MCGREGOR LOVE
GROWING MINDS SCHOOL**

March 7, 2023



Background

APPLICANT: MCGREGOR LOVE

CASE: SE-22-07-047

ZONING: R-CE (Rural Country Estate) District

FUTURE LAND USE: LDR (Low Density Residential)

ADDRESS: 8841 Palm Lake Dr., Apopka, FL 32819

LOCATION: North side of Palm Lake Dr., east of S. Apopka
Vineland Rd., west of Dr. Philips Blvd., south of
Conroy Windermere Rd.

TRACT SIZE: 1.7 acres

DISTRICT: 1



Background

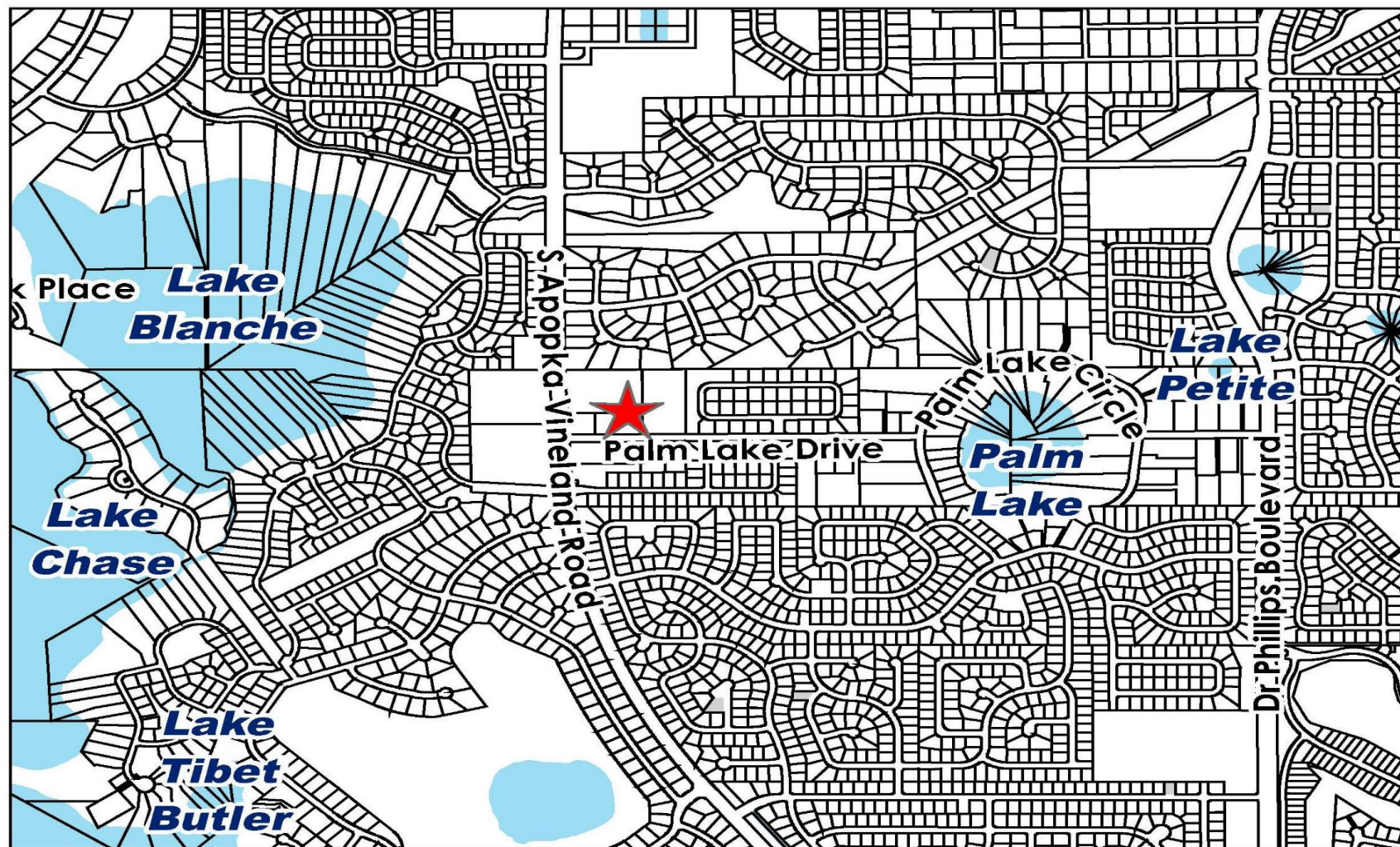
REQUEST:

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

- 1) Special Exception to allow for an 8,500 sq. ft. day care center and private school (kindergarten) with 146 students.**
- 2) Variance to allow a south front setback of 10.4 ft. in lieu of 35 ft.**



Location Map

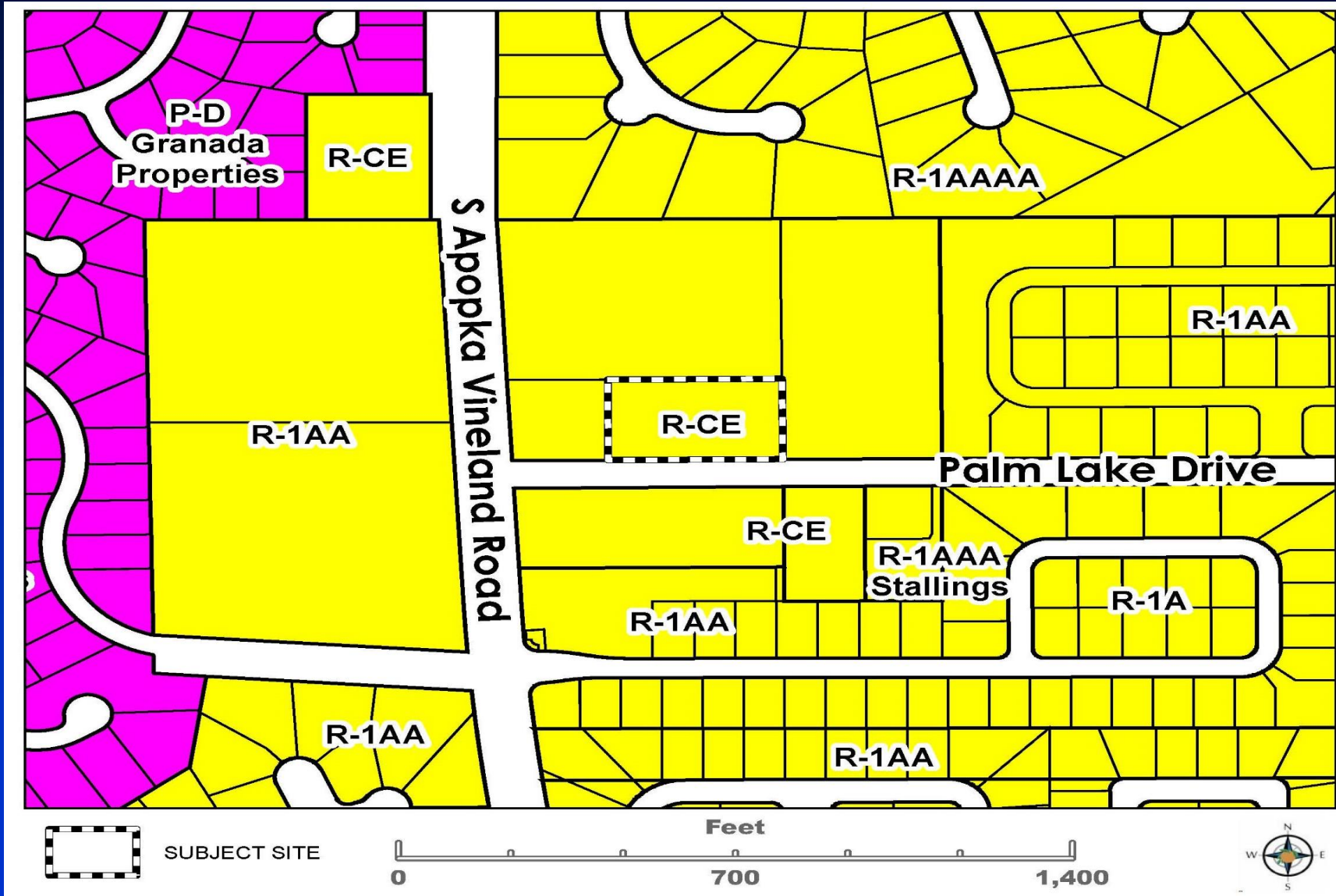


SUBJECT SITE





Zoning Map





Aerial Map



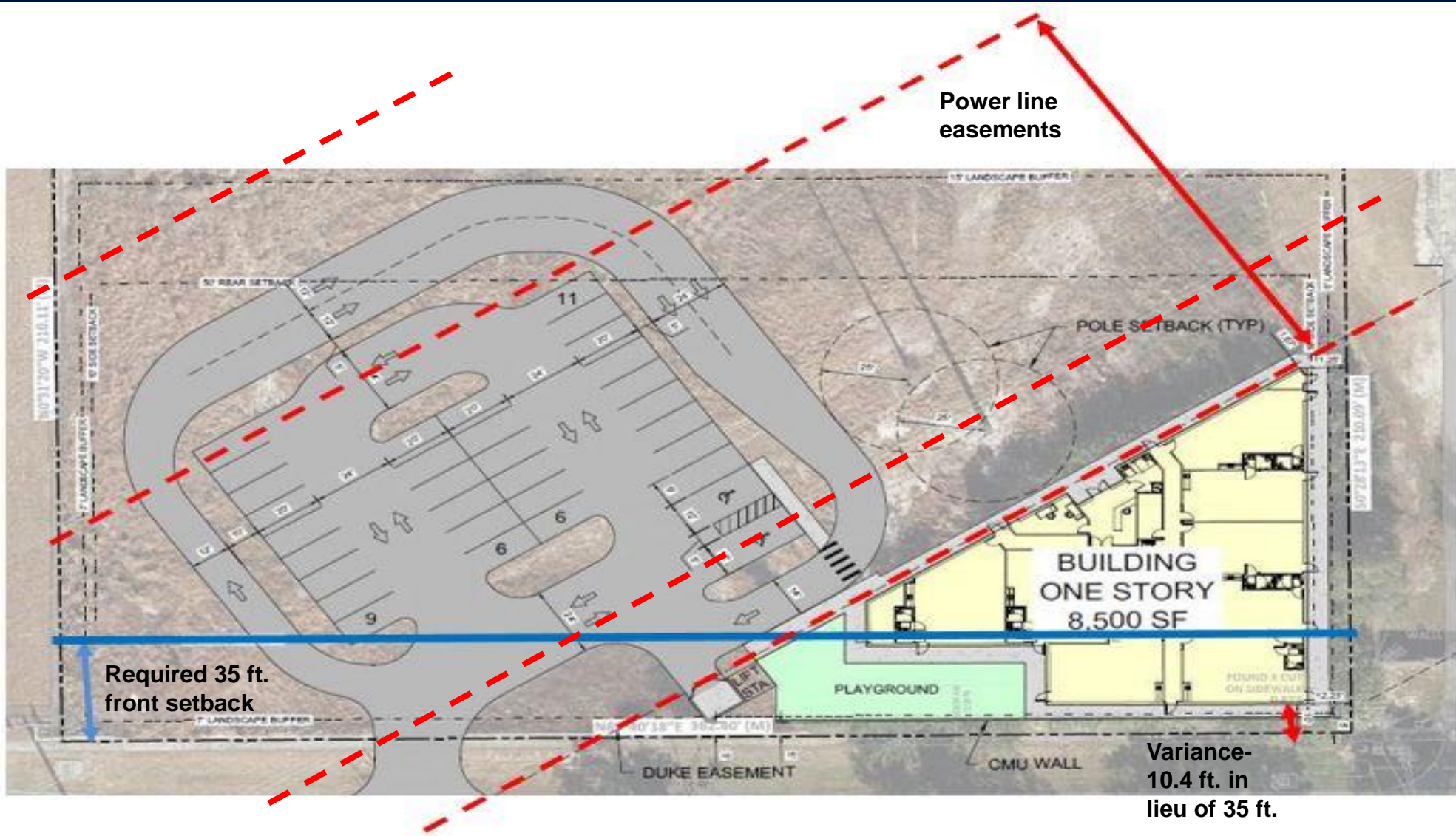
SUBJECT SITE

Feet





Site Plan

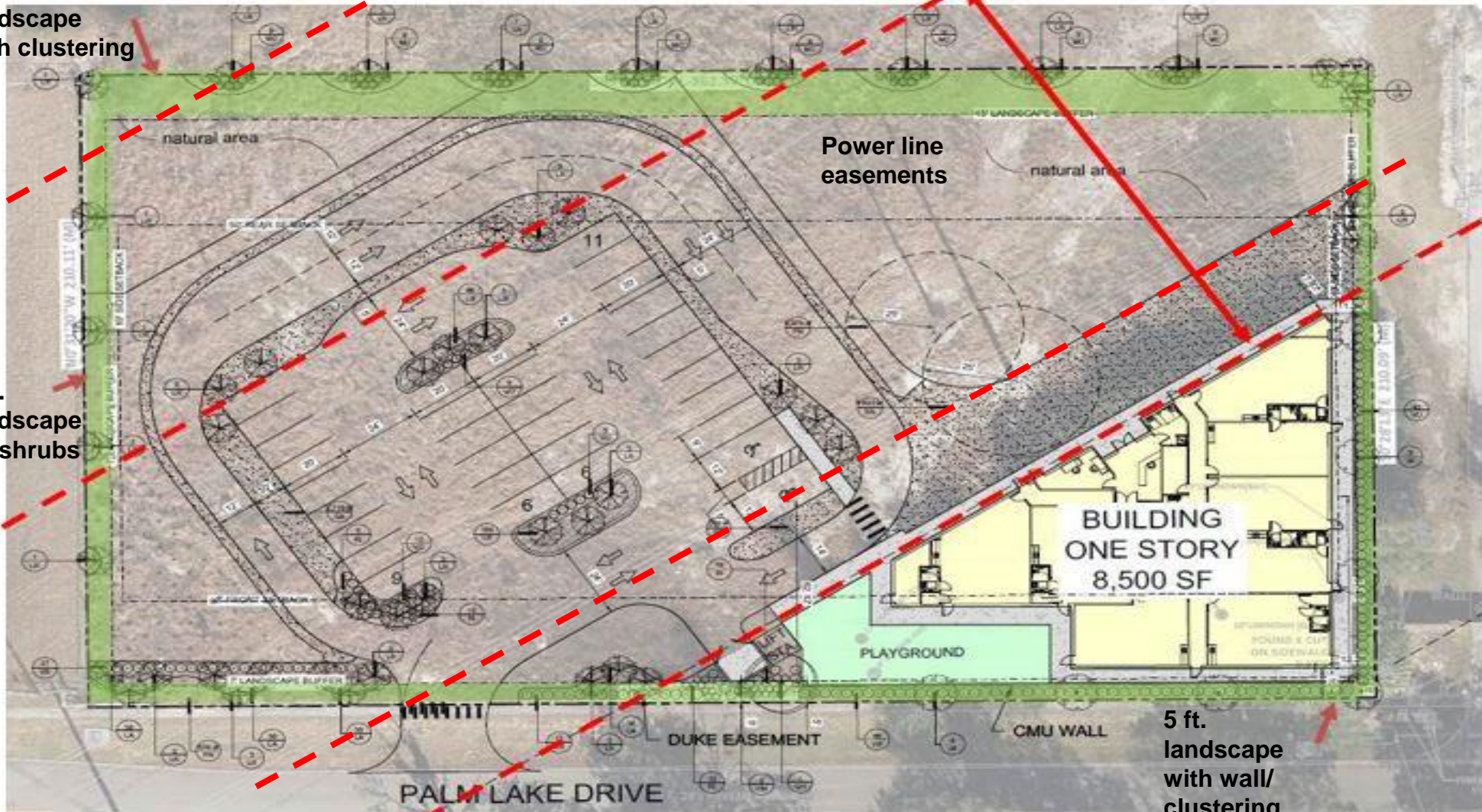




Landscape Plan

15 ft.
landscape
with clustering

7 ft.
landscape
no shrubs



Power line
easements

BUILDING
ONE STORY
8,500 SF

PLAYGROUND

DUKE EASEMENT

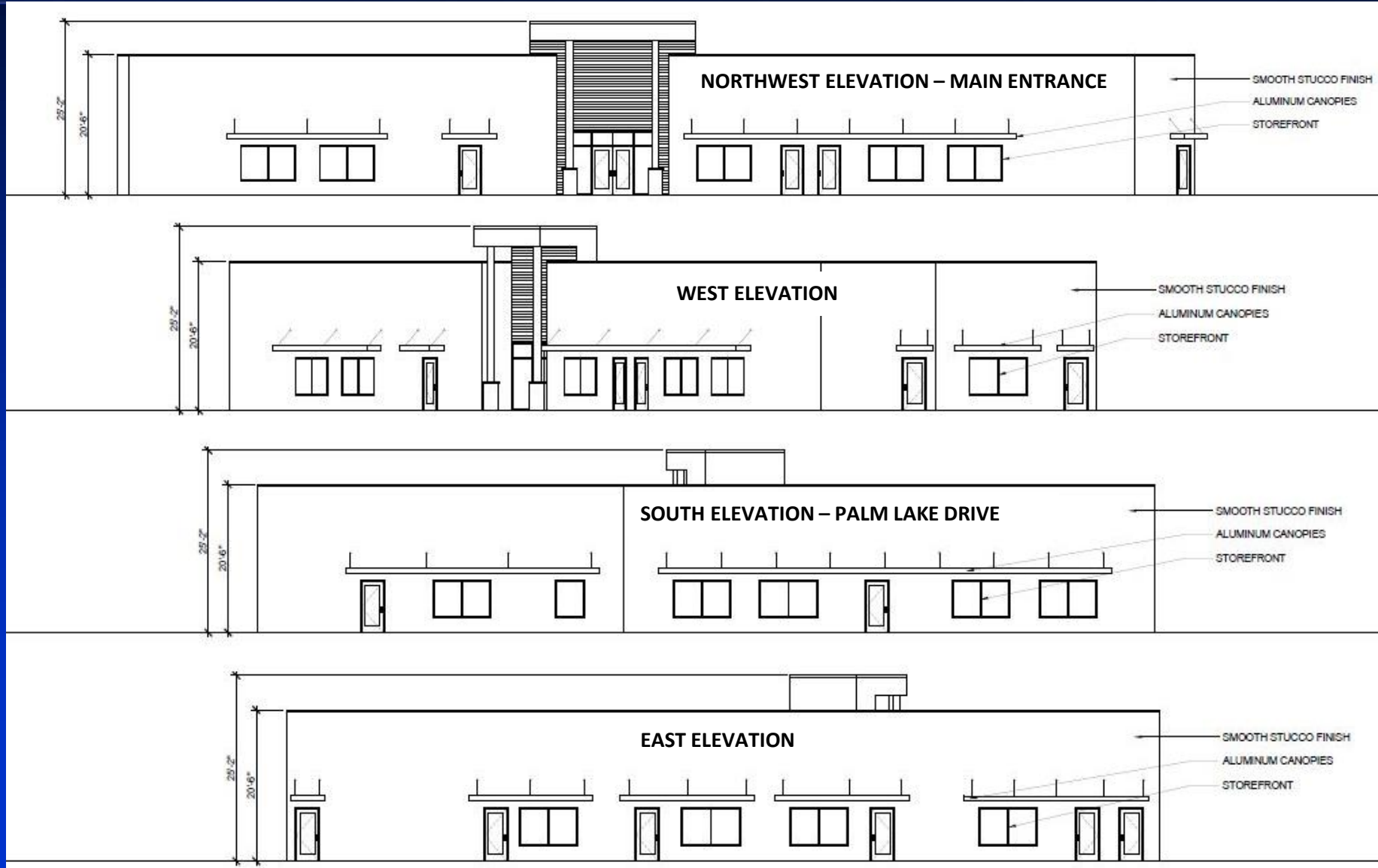
CMU WALL

PALM LAKE DRIVE

5 ft.
landscape
with wall/
clustering



Elevations





Site Photograph

Facing property from Palm Lake Drive





Site Photograph

Facing north towards proposed location of building





Site Photograph

At southwest corner of property from Palm Lake Drive





Site Photograph

Facing south towards proposed building at east property line





Site Photograph

Retention pond facing east from S. Apopka Vineland Rd.





Staff Findings and Analysis

- **Currently vacant**
- **Private schools and daycares allowed in all agricultural and single-family residential zoning districts, with Special Exception**
- **Adjacent to Duke Energy substation to the east, County retention to the west, church to the north**
- **Power line easement through the center of the property**
- **Ingress/ egress to Palm Lake Drive to the south**
- **Proposed day care center and private school (kindergarten)**
 - **Cumulative total 146 students (73 day care center, 73 private school)**
 - **Hours of operation between 7:30 am and 5:30 pm, daily**
 - **8,500 sq. ft. building**
 - **24 parking spaces**



Staff Findings and Analysis

- Meets setback requirements to the north, east and west
- Requesting 10.4 ft. front setback to south in lieu of 35 ft. (Variance)
- Building could be reduced in size to meet setback requirements
- Traffic study and detailed operational analysis provided
- Transportation Planning
 - Proposed site plan along with the modified conga line as reviewed by County staff has adequate on-site queuing to accommodate the drop-off/pickup of students
 - The proposed driveway is not expected to have significant queues to obstruct through traffic movements on Palm Lake Drive



Staff Findings and Analysis

- **Proposed Landscape Plan requires some deviations for landscaping**
 - Cluster of trees and shrubs
 - 5-foot landscape strip with 6 ft. high wall adjacent to Palm Lake Drive
 - 15 ft. wide landscape buffers - north, east and west, meets Code
- **Per Sec. 24-3 (h), the Zoning Manager is authorized to grant deviations**
 - Further discussion with Duke and applicant will be needed to finalize the landscaping



Public Feedback

- **Community Meeting on December 5, 2022**
- **Attended by the applicant, County staff, and 138 persons**
- **Many residents in attendance spoke against**
- **Comments:**
 - Inconsistency with area
 - Traffic impacts and speeding; Onsite drop-off and stacking issues
 - Noise and size of operations
 - Negative impacts to property values; Visual intrusion to Palm Lake Dr.
 - Future expansion
 - Hours of operation



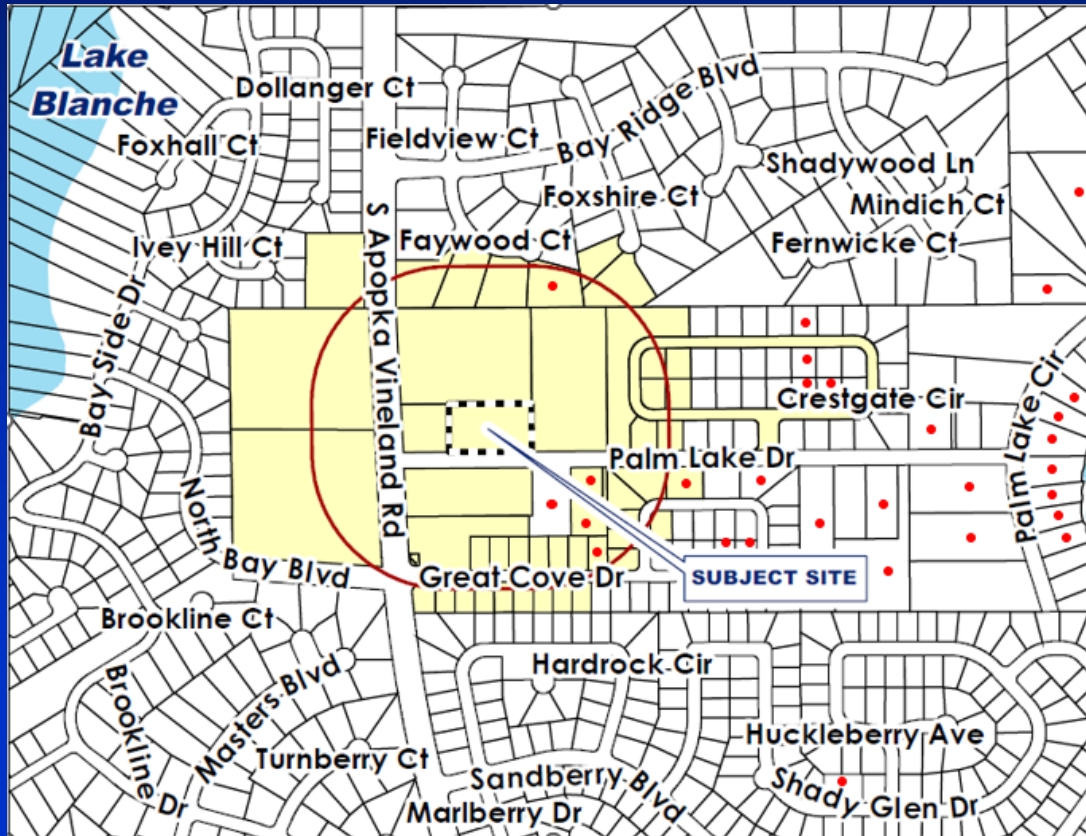
Staff Recommendation

- Staff recommended approval of the special exception as it is compatible with the surrounding area, the improvements would not be a detrimental intrusion, and will meet landscape requirements;
- Staff recommended denial of the variance request as there are no special conditions and circumstances, the need is self-created, the request would grant special privilege, there would not be deprivation of rights and the variance is not the minimum possible as the building size could be reduced to meet the setback.



Public Feedback

- Staff mailed a total of 54 notices to adjacent property owners in a 600 ft. radius
 - Staff received 71 correspondences in favor of this request, none mapped
 - Staff received 140 correspondences in opposition to this request, 30 mapped





Special Exception Criteria

Section 38-78, Orange County Code

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 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**



Variance Criteria

Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for 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 property and which are not applicable to other properties
2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant
3. No Special Privilege Conferred - Approval will not confer on the applicant any special privilege
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
5. Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood



BZA Findings

- **The BZA concluded that the use was not consistent with the Comprehensive Plan, not similar and compatible with the development pattern of the surrounding area, and would be a detrimental intrusion; Further, the Variance would confer special privilege and was not the minimum necessary and recommended denial of the Special Exception and Variance.**



Requested Action

- Deny the applicant's request; or
- Approve the applicant's request with conditions



Conditions of Approval

- 1. Development shall be in accordance with the site plan, landscape plan and elevations dated November 18, 2022, except as modified to meet the front yard setback, 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.**



Conditions of Approval

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 7:30 a.m. to 5:30 p.m., daily.
6. The number of children for the day care shall not exceed 73 and the number of students for the private school shall not exceed 73, for a cumulative total of 146 children.
7. Landscaping shall be in accordance with Chapter 24 (Landscaping, Buffering and Open Space).



Floor Plan

