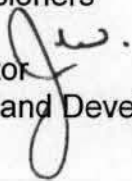




Interoffice Memorandum

DATE September 12, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services
Department 

CONTACT PERSON: **Brandy Driggers, Assistant Manager**
Zoning Division 407-836-5329

SUBJECT: September 24, 2019 – Board Called Hearing
Applicant: Church of Jesus Christ of Latter-Day Saints
BZA Case #SE-19-06-048, August 1, 2019; District 1

Board of Zoning Adjustment (BZA) Case # SE-19-06-048, located at 17000 Davenport Rd., Winter Garden, FL 34787, in District 1, is a Board called public hearing to be heard on September 24, 2019. The applicant is requesting a special exception to allow a religious facility and a variance to allow a spire with a height of fifty-five (55) feet in lieu of thirty-five (35) feet. The variance was originally advertised to allow a spire with a height of sixty-seven (67) feet in lieu of thirty-five (35) feet; however, the application was revised to reduce the height prior to the Board of Zoning Adjustment (BZA) Hearing.

The subject property is located on southwest corner of Davenport Road and Avalon Road.

At the August 1, 2019 BZA hearing, staff recommended approval of the special exception and the variance, as the proposed sanctuary use is compatible with the area and there is another sanctuary to the east across Avalon Road, which also received a special exception approval in 2016. The BZA heard testimony from eight (8) constituents in favor of the request and ten (10) constituents in opposition of the request. The applicant stated that they had made modifications to their plan to address the concerns the neighbors voiced at the community meeting held on Thursday, May 23, 2019, including reducing the height of the spire and installing a fifty (50) foot wide buffer with a five (5) foot tall berm that will sit on top of a six (6) inch vertical curb along the western property line. The BZA recommended approval of the special exception and variance subject to the eleven (11) conditions found in the staff report.

Page Two

September 24, 2019 – Board Called Public Hearing
Church of Jesus Christ of Latter-Day Saints
BZA Case #SE-19-06-048, August 1, 2019; District 1

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Brandy Driggers at 407-836-5329.

ACTION REQUESTED: **Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 1.**

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES
DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 24, 2019**

The following is a public hearing before the Board of County Commissioners on September 24, 2019 at 2:00 p.m.

APPLICANT: CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

REQUEST: Special Exception and Variance in the A-1 zoning district as follows:
1) Special Exception to allow a religious use facility.
2) Variance to allow a spire with a height of 67 ft. in lieu of 35 ft.

LOCATION: 17000 Davenport Rd., Winter Garden, FL 34787, southwest corner of Davenport Road and Avalon Road

TRACT SIZE: 18.24 acres

ZONING: A-1

DISTRICT: #1

PROPERTIES NOTIFIED: 68

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff noted that the proposed structure was a multi-use building allowing for both prayer/meeting session, educational classrooms, civic uses, such as the Boy Scouts, and recreational/gymnasium facilities. Staff noted that a Community Meeting had been held where about fifty (50) people expressed concerns about the impact to the Rural Settlement, the height of the steeple, traffic noise, cut-through traffic, and the size of the building. Transportation planning staff found that there is adequate capacity on the road, and that the site will add minimal PM peak hour trips. Most activities will take place during off-peak traffic hours. Staff revised the condition regarding hours of operation, as it did not believe that this would be appropriate. Use of the property would be regulated by appropriate laws and ordinances. The applicant had made modifications to the plan to accommodate the concerns of neighbors, such as a 50 feet wide, 5 1/2 ft. tall berm to be planted with agreed upon native species. They have also reduced the height of the spire to 55 feet further reducing the amount of variance. Staff noted that they were striking the condition for a fence along the west property line due to the berm. Condition #6 was also modified regulating the number of outdoor special events to reflect that the noise would be regulated by applicable County noise ordinances. Staff concluded by noting that one (1) correspondence in support from one (1) household, and ten (10) from households in opposition had been received. Staff noted that the count was based on households as multiple responses came from the same address.

The applicant went into detail to describe the changes that had been made to attempt to address the concerns of the neighbors. They also compared their proposal to what is existing to the east, which is a sanctuary of over 30,000 sq. ft., and a gymnasium with 12,000 sq. ft. The applicant did express concern over Condition #6. Staff and the applicant exchanged concepts.

In all, eight (8) residents appeared in favor of the request, and ten (10) in opposition. Those in favor cited the more convenient location, the positive impacts it will have, and the opportunity for the members of the Church to do community service. Those in opposition expressed much the same concerns as at the Community Meeting.

The applicant rebutted the objections with the traffic studies and the size of the neighboring place of worship. They also explained the significance of the spire, which is a reflection of many of the beliefs of their faith. Finally, after a brief discussion between the applicant and staff, final wording for Condition #6, was reached. With no one remaining to speak in favor or opposition, the public hearing was closed.

After significant discussion, the BZA concluded that while there are concerns by the neighbors over change, the applicant had made considerable attempts to satisfy the concerns, and that while everything is not yet resolved; there is still time for the two (2) parties to continue working on concerns. A motion to recommend approval of the proposed Special Exception and Variance passed by unanimous vote.

BZA HEARING DECISION:

A motion was made by Carolyn Karraker, seconded by Wes A. Hodge and unanimously carried to APPROVE the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and further, APPROVED the Variance request in that the Board made a finding that the requirements of Orange County Code Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (unanimous; 4-0 and 3 absent):

1. Development in accordance with the site plan, landscape plan, and elevations dated July 18, 2019 and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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. Construction plans shall be submitted within three (3) years of final approval or this approval becomes null and void.
5. No outdoor speakers or other audio amplification.
6. No more than four (4) advertised outdoor special events open to the general public per calendar year, and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. Noise from all outdoor events will be subject to applicable county noise and nuisance restrictions. 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. Signage shall be in accordance with 31.5-75, Orange County Code.
8. The project shall comply with Article XVI of Chapter 9 and Sec. 38-1099 of the Orange County Code, "Exterior Lighting Standards".
9. Use of the premises shall be subject to applicable laws and County ordinances.
10. The maximum height of the spire shall be 55 ft. and shall not be illuminated.
11. The applicant shall combine parcel ID's 06-23-27-4284-05-170 and 06-23-27-4284-05-180, through the Orange County Property Appraiser's Office.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 1, 2019**

Case Planner: **Dave Nearing**

Case #: **SE-19-06-048**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

OWNER(s): CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

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

- 1) Special Exception to allow a religious use facility.
- 2) Variance to allow a spire with a height of 67 ft. in lieu of 35 ft.

PROPERTY LOCATION: 17000 Davenport Rd., Winter Garden, FL 34787, southwest corner of Davenport Rd. and Avalon Rd.

PARCEL ID: 06-23-27-4284-05-170 & 06-23-27-4284-05-180

LOT SIZE: 18.24 acres

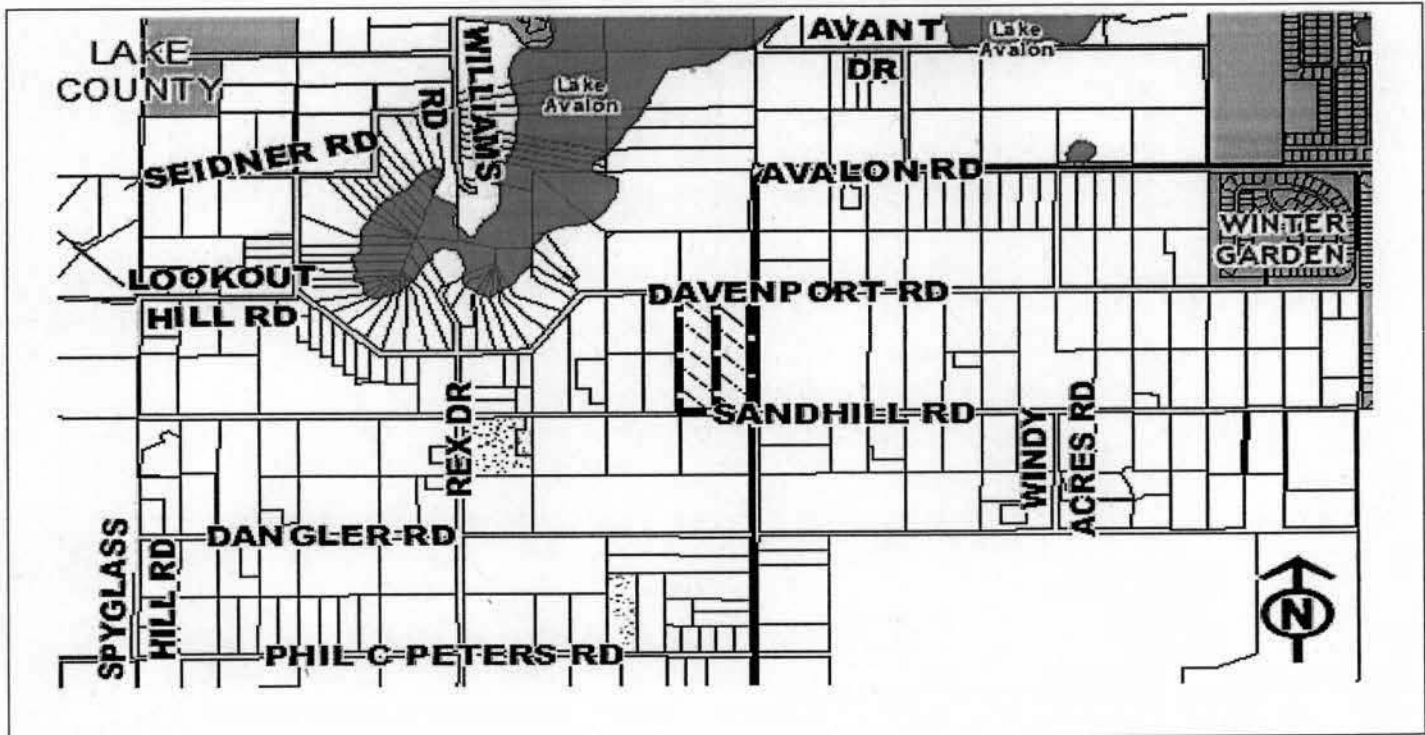
NOTICE AREA: 1,500 FT

NUMBER OF NOTICES: 68

STAFF RECOMMENDATIONS

Approval of the Special Exception and a lesser variance of fifty-five (55) ft., 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 1/5	RS 1/5	RS 1/5	RS 1/5	RS 1/5
Current Use	Vacant Orange Grove	Single-family residence/farm	Nursery	Religious use facility	Single-family residence

BACKGROUND AND ANALYSIS

Description and Context

The property is located in the A-1, Citrus Rural, zoning district, which allows agricultural uses, mobile homes, and single-family residence associated accessory structures on larger lots. Religious institutions proposed in the A-1 zoning district with future land use of Rural Settlement are required to go through the Special Exception process.

The property is located in the Lake Avalon Rural Settlement and within the Lake Avalon Rural Settlement Commercial Design Overlay District. This overlay district is specific to commercial and office uses, and it has been determined that the overlay guidelines do not apply to an institutional use. The Lake Avalon Rural Settlement is made up of larger residential lots (minimum five (5) acres), nurseries, farms, water treatment facilities and equestrian centers.

The property is comprised of two (2) platted lots (17E and 18E) which were platted in 1949 as part of the Lake Avalon Groves Plat. The applicant is proposing to develop the northernmost 5.72 acres of the site and leave the remaining 12.52 acres vacant to the south.

The applicant is proposing a 16,625 sq. ft. building with a maximum of 576 seats with associated parking spaces, driving aisles, stormwater ponds and landscaping. The project is required 198 parking spaces per code and 222 spaces are provided per the site plan. The proposed building is a one story, 27 ft. tall structure with a spire that is approximately 55 ft. tall, which requires a variance. The original and advertised request was for a 67-foot tall spire. The property is a corner lot with frontage on Avalon Road which is a collector road, Davenport Road which is non-classified residential right-of-way, and Sandhill Road. Transportation Planning has provided a traffic study, which states that the use will generate 113 new daily trips and eight (8) new net PM peak hour trips. The traffic study also states that Avalon Road and Marsh Road (which is located north of the subject property) are at a level of service "C" and have capacity available.

A religious use facility with 250 members and overall building footprint of 34,307 sq. ft. (including the gymnasium) was approved for the property directly to the east across Avalon Rd. in 2005 when a special exception was not required, and later received special exception approval to add a 12,000 sq. ft. gymnasium in February 2016.

A Community Meeting was held on Thursday May 23, 2019 at Whispering Oak Elementary. Staff, the District 1 Commissioner, and approximately 120 residents were in attendance. The residents had concerns regarding traffic, lighting, the height of the spire, the hours of operation, outdoor events and noise.

The applicant met privately with residents in the area and revised their request to appease some of the neighbors' concerns. Those changes include a shorter steeple, increased landscape buffer/berms, relocation of the driveway accessing Davenport Rd., and relocating the septic tank towards the front of the property.

The proposed hours of operation are Sundays from 7:00 a.m. to 4:00 p.m., Tuesday and Wednesdays, from 7:00 p.m. to 9:00 p.m., and occasional activities on Friday/Saturday nights.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. / 45 ft. for spire	27 ft. / 55 ft. for spire
Min. Lot Width:	100 ft.	617 ft.
Min. Lot Size:	.5 acres	18.25 acres

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

	Code Requirement	Proposed
Front:	(Davenport Rd.) 35 ft.	106 ft.
Rear:	50 ft.	1,086 ft.
Side:	10 ft.	357 ft.
Sidestreet:	(Avalon Rd.) 15 ft.	66 ft.
NHWE:	n/a	n/a

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

The use shall be consistent with the Comprehensive Policy Plan.

The Future Land Use is Rural Settlement and with the approval of the Special Exception, the use will be compatible with the Comprehensive Plan.

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

Religious facilities typically support residential communities and provide a place for local residents to congregate and share ideas. The facility will only be open for limited hours during the week and the majority of the activities will take place on Sunday. The property immediately to the east has a larger existing religious use facility. There have also been other non-residential uses allowed in the area.

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

The facility is not a full time use and will not generate any noise or traffic during weekdays. Also, Transportation Planning has indicated this use will not create a large increase in traffic.

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

With the granting of the associated height variance, the application will meet the performance standards in the district.

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

The proposed religious use facility will not be utilized on a full time basis and all of the activities will be held inside the sanctuary. The use will not produce any characteristics that are not allowed in the A-1 district, which allows such things as farms, nurseries, and other agricultural uses.

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 plan provided meets the landscape buffer requirements per Section 24-5 and the applicant will not remove any of the existing trees on the southern portion of the lot. Staff is including a condition of approval, which will require the applicant to install a fence along the west property line, which shall help to block any car headlights from protruding into the nearby residential properties. The applicant has provided a 50-foot wide buffer along the west property line and a 34-foot wide buffer along a portion of the north side.

VARIANCE CRITERIA

Special Conditions and Circumstances

The height variance is required to allow the proposed spire height. The code has a provision to allow church spires a ten (10) foot height extension above the max building height (35 ft.) which would allow up to 45 feet, however the applicant is now requesting 55 ft. The spire represents only about 1% of the total building area and helps to identify the place of worship.

No Special Privilege Conferred

Religious use facilities are typically allowed to have spires or steeples, which protrude higher than the actual structure, and this is typically associated with the architectural design of such facilities. The Church of Latter Day Saints on Reams Road, which is located five miles to the southeast of this location, was approved for a height variance of 67 ft. in 2005.

Minimum Possible Variance

The requested variance is only for a very small portion of the building and the remainder of the structure will meet the height requirement, and staff is recommending a maximum height of 55 feet (the applicant revised their request to match 55 feet. which will be more compatible with the rural settlement.

Purpose and Intent

Approval of this variance will be in harmony with the zoning regulations; the spire will complement the architectural design of the building, and will not be injurious to the neighborhood.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan, landscape plan and elevations dated July 18, 2019 and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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. Construction plans shall be submitted within three (3) years of final approval or this approval becomes null and void.
5. No outdoor speakers or other audio amplification.
6. No more than four (4) outdoor special events per calendar year and the hours of such events shall be limited from 8:00 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. Signage shall be in accordance with 31.5-75, Orange County Code.
8. The project shall comply with Article XVI of Chapter 9 and Sec. 38-1099 of the Orange County Code, "Exterior Lighting Standards".
9. The applicant shall install a six (6) foot high opaque fence along the west property line.
10. The hours of operation shall be limited to 7:00 a.m. to 4:00 p.m. on Sundays and from 7:00 p.m. to 9:00 p.m. Monday through Saturday.
11. The maximum height of the spire shall be 55 ft. and shall not be illuminated.
12. The applicant shall combine parcel ID's 06-23-27-4284-05-170 and 06-23-27-4284-05-180 through the Orange County Property Appraiser's Office.

C: Richard Piacente
1242 SW Pine Island Rd. Suite 42-236
Cape Coral, FL 33991

Mr. Russell Ottenberg
3737 Lake Joyce Dr.
Land O Lakes, FL 34639

PLANNING

November 27, 2018

Mr. Sean Bailey, Chief Planner – BZA Section
Zoning Division
Community, Environmental and Development Services Department
201 S. Rosalind Ave.
Orlando, FL 32801

Re: Special Exception Application
The Church of Jesus Christ of Latter Day Saints
17000 Davenport Road, Winter Garden, FL 34787

Dear Sean,

Attached is one Special Exception application package consisting of the following items:

- Application fee check in the amount of \$1,355.00
- Completed Special Exception Application
- Proposed Site Plan
- Proposed Site Lighting Plan
- Survey (of entire property)
- Floor plan of proposed Church
- Architectural elevations of proposed Church
- Articles of Incorporation
- CD containing PDFs of the above (except check)

The purpose of this Special Exception request is to permit a new Church on the subject property. While the overall property is 18.25 acres (MOL), the project area is limited to the northern 5.72 acres (MOL). The subject property is currently a citrus grove. The development will consist of a single Church building with a footprint of approximately 16,625 s.f., attendant paved parking, a small shed and a dumpster enclosure. Parking lot lighting is also proposed. The Church is proposed to be 27' tall to the ridge of the roofline; the height to the top of the steeple is proposed to be 66'-4".

The Church will have a maximum seating capacity of 576, necessitating 198 parking spaces. 222 parking spaces are provided. Proposed hours and days of operation are as follows:

- Sunday: 7 AM – 4 PM
- Tuesday: 7 PM – 9 PM
- Wednesday: 7 PM – 9 PM

There will also be occasional activities on Friday nights and Saturdays. These are not regularly scheduled activities.

The Church is proposed to have one full access point on Davenport Road and another full access point on Avalon Road. Avalon Road requires a 25' right-of-way reservation for future widening & dedication. This is shown and noted on the Special Exception Site Plan. Water and wastewater

service will be via well and septic. Fire suppression will be provided by an on-site fire tank (as necessary). Stormwater runoff will be accommodated on-site. Buffering and screening will be provided in accordance with Orange County regulations.

Special Exception Criteria:

Following are the special exception criteria prescribed by the County (in *italics*), followed by the justification as to how this application meets each criterion (in **bold**).

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

The subject property lies within the Rural Settlement Area of unincorporated Orange County. The Comprehensive Development Plan allows churches as a Special Exception within this area, subject to meeting certain performance standards such as buffering & screening. The proposed Church meets these performance standards. Consequently, the proposed Church is consistent with the County's Comprehensive Plan Policy.

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

The surrounding area is generally characterized by low density residential and agricultural production. There is another church (Harvest Ministry) approximately 400' east of the subject property on Davenport Road, on the other side of Avalon Road. The proposed Church is an institutional / residential support use. Consequently, the proposed Church is similar to and compatible with the uses in the surrounding area.

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

The Special Exception Site Plan proposes to utilize only a portion of the overall property (5.72 acres MOL out of 18.25 acres MOL). The Church will operate only a few hours out of the week, the majority being on Sunday. Church activities will occur inside the Church building. The limited hours and days of operation combined with the fact all activities will occur inside the Church ensures there will be little or no impact to the surrounding area. Consequently, the proposed Church will not be a detrimental impact to the surrounding area.

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

The proposed Church meets or exceeds the performance standards of the A-1 zoning district (see Special Exception Site Plan).

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 subject property is zoned A-1. The A-1 zoning district provides for a variety of principal permitted uses, including numerous agricultural production uses, that have characteristics such as those listed above that are in excess of those that would be produced by the Church. Furthermore, since the Church will have very limited hours

and days of operation, the noise, vibration, dust, etc. attendant to the Church will be further limited. As a result, the Church will produce less of these types of emissions on fewer days than many of the principal permitted uses currently listed in the A-1 zoning district.

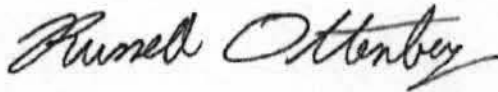
6. *Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.*

Landscape buffer yards are in accordance with Section 24-5 of the Orange County Code. Required buffering and landscaping was confirmed with Sean Bailey prior to preparation of the Special Exception Site Plan.

If you have any questions regarding this matter, do not hesitate to contact me.

Sincerely,

Planeng, Inc.

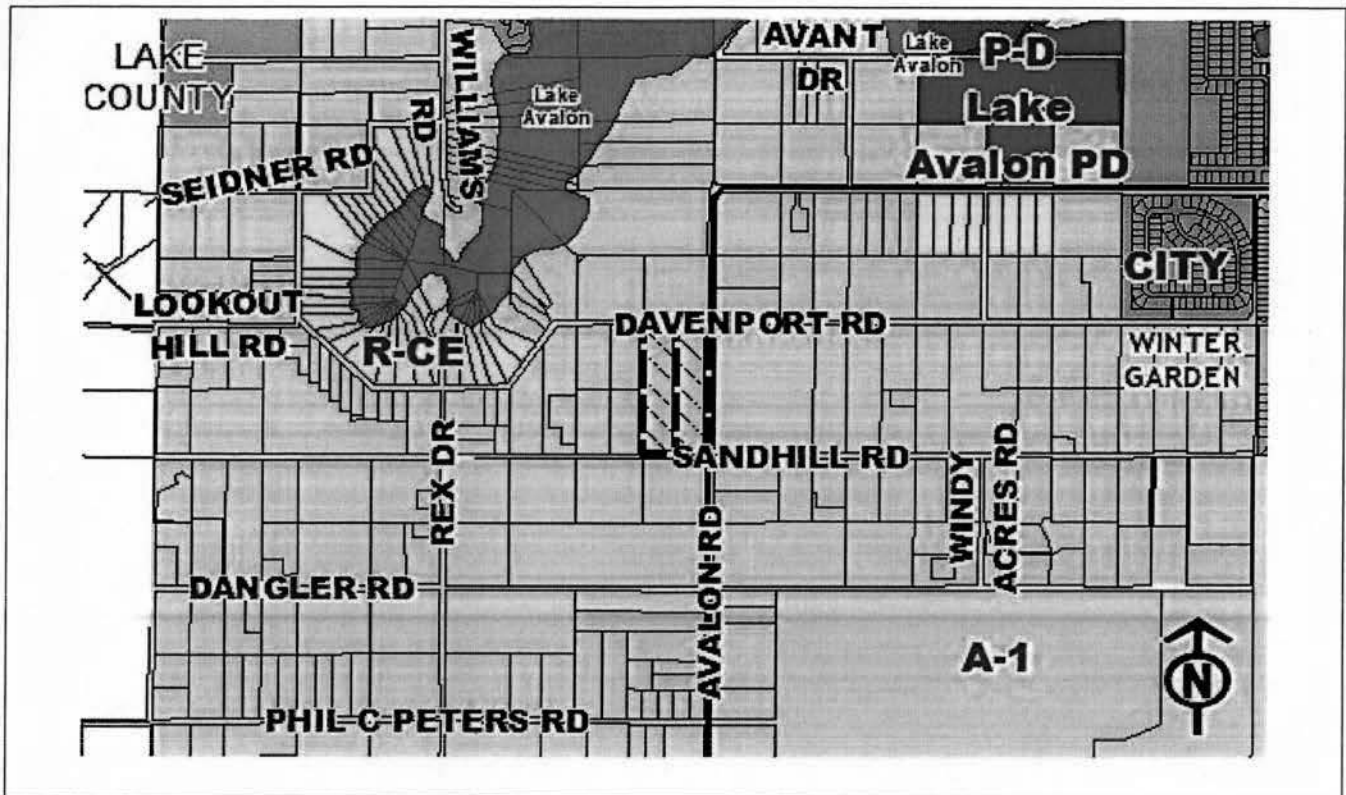


Russell Ottenberg
Vice President

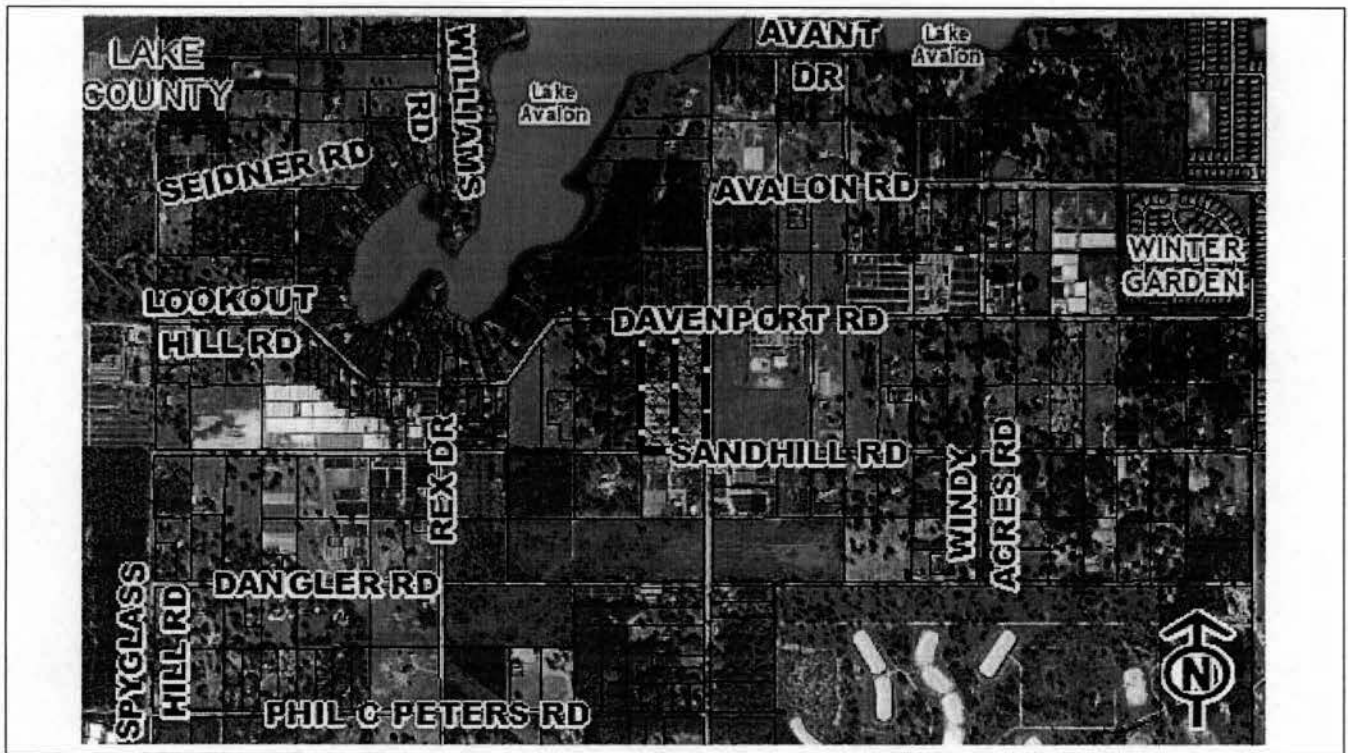
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Attachments

ZONING MAP

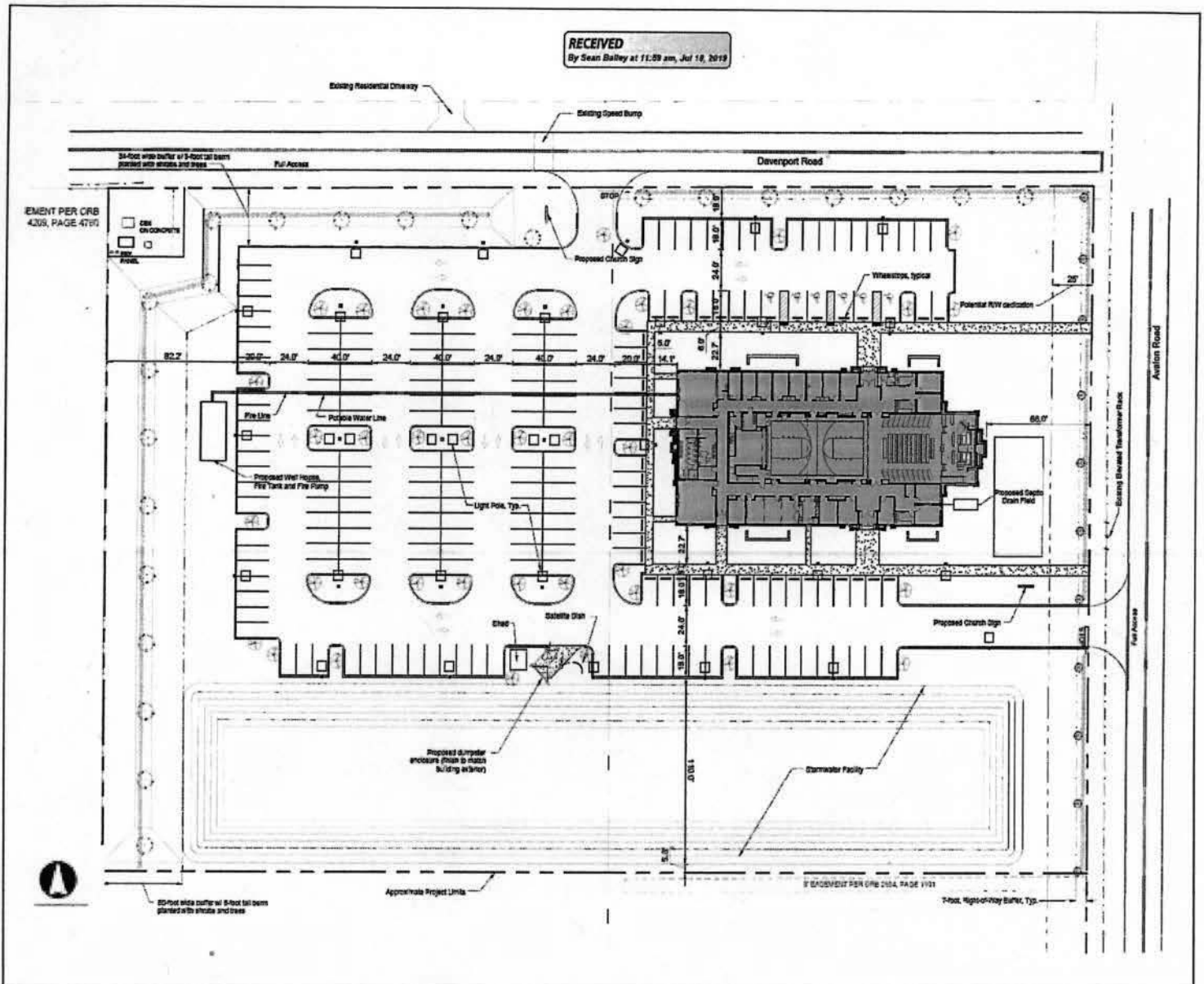


AERIAL MAP

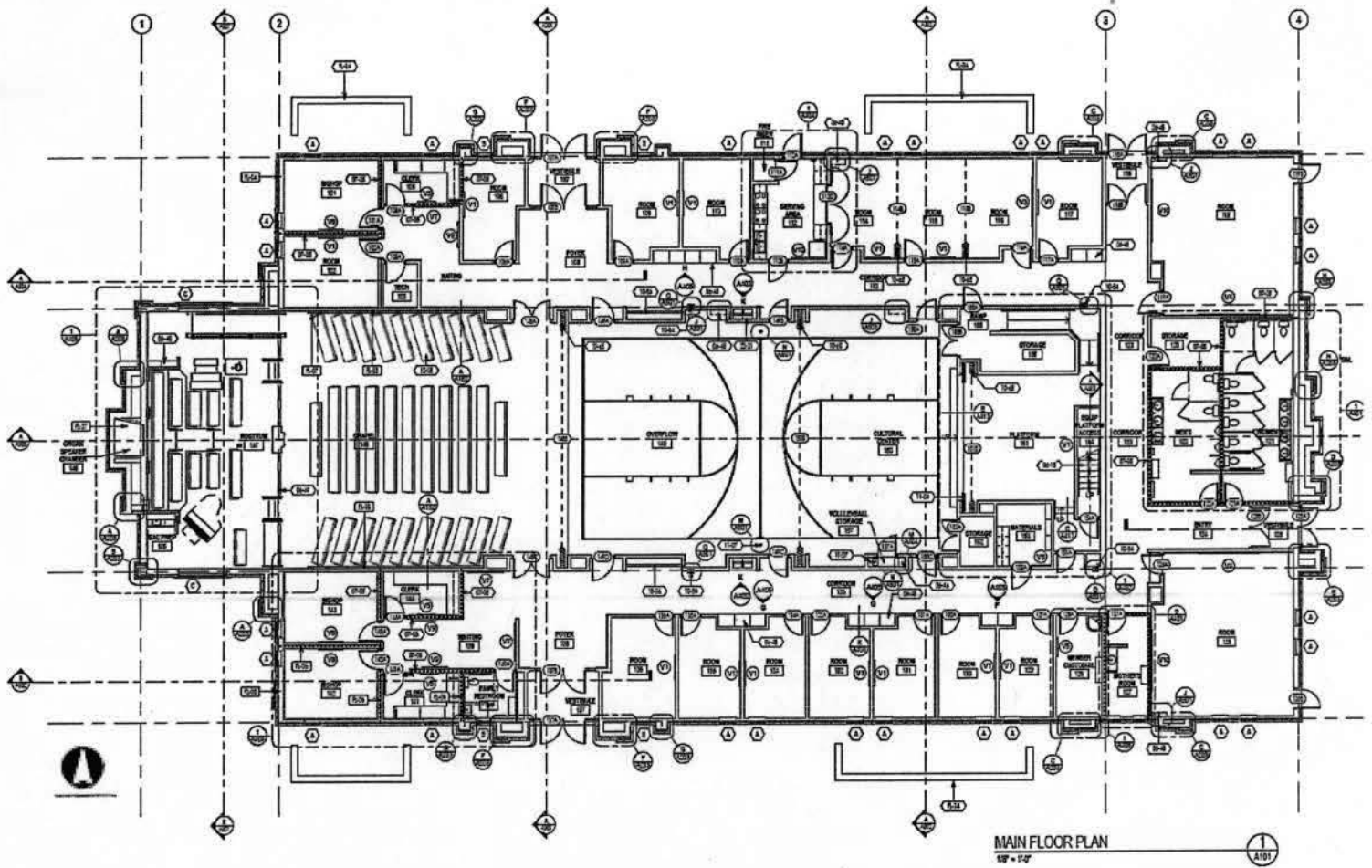


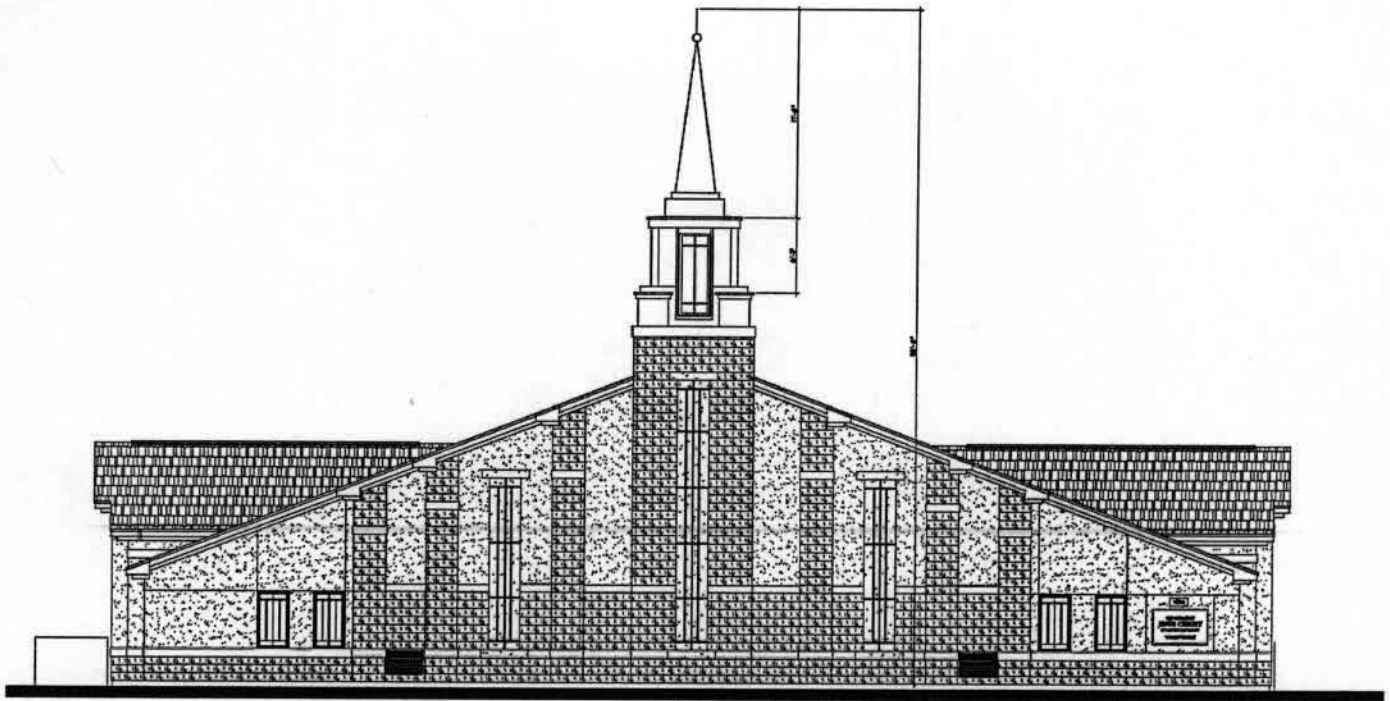
SITE PLAN

RECEIVED
By Sean Bailey at 11:59 am, Jul 18, 2019

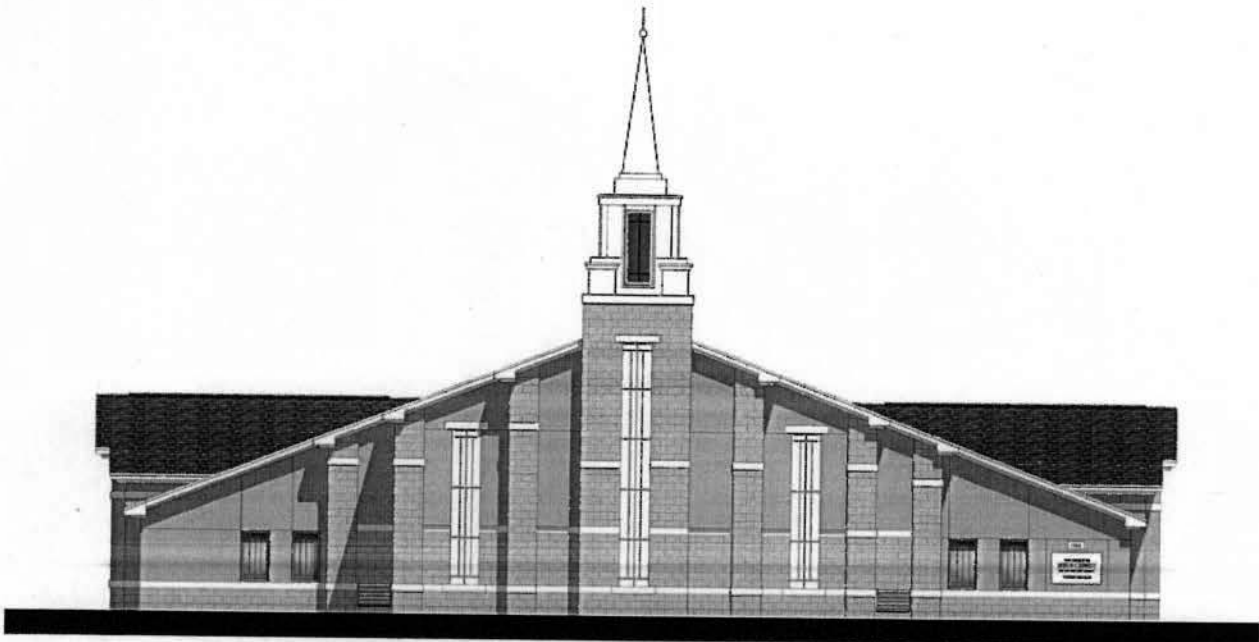


FLOOR PLAN





EAST ELEVATION



EAST ELEVATION



WEST ELEVATION



Existing site conditions



Intersection of Avalon Rd. and Davenport Rd. looking from the subject property



Existing Religious use facility located on the east side of Avalon Rd.



Single-family home to the north



Single-family home to the west