



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

May 20, 2020

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

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

BZA Staff

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

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
May 20, 2020**

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

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

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

FOOTNOTES

^a	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
^b	Side setback is 30 feet where adjacent to single-family district.
^c	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
^d	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
^e	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
^f	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
^g	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
^h	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
^j	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
^k	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
^m	Based on gross square feet.

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

VARIANCE CRITERIA:

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

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

SPECIAL EXCEPTION CRITERIA:

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

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

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

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **Taylor Jones**

Case #: **VA-20-07-038**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): JAMES WATTS

OWNER(s): MS. EVA M. LEE

REQUEST: Variances in the R-1A zoning district to allow a pool and pool deck to be located in the front yard of the principal building.

PROPERTY LOCATION: 3303 Lake Margaret Dr., Orlando, FL 32806, north side of Lake Margaret Dr., east of S. Crystal Lake Dr., west of Conway Gardens Rd., south of Lake La Grange

PARCEL ID: 08-23-30-0000-00-009

LOT SIZE: 0.28 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 115

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development shall be in accordance with the site plan dated April 16, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Approval of this variance is only for a pool and deck, as shown on site plan. Any future screen enclosure over the pool deck is not part of this approval, and require a separate variance.

SYNOPSIS: Staff gave a presentation on the case covering the location of the property, the site plan, and photos of the site.

The applicant had nothing to add.

Staff received one (1) correspondence in favor of the application and none in opposition to the application.

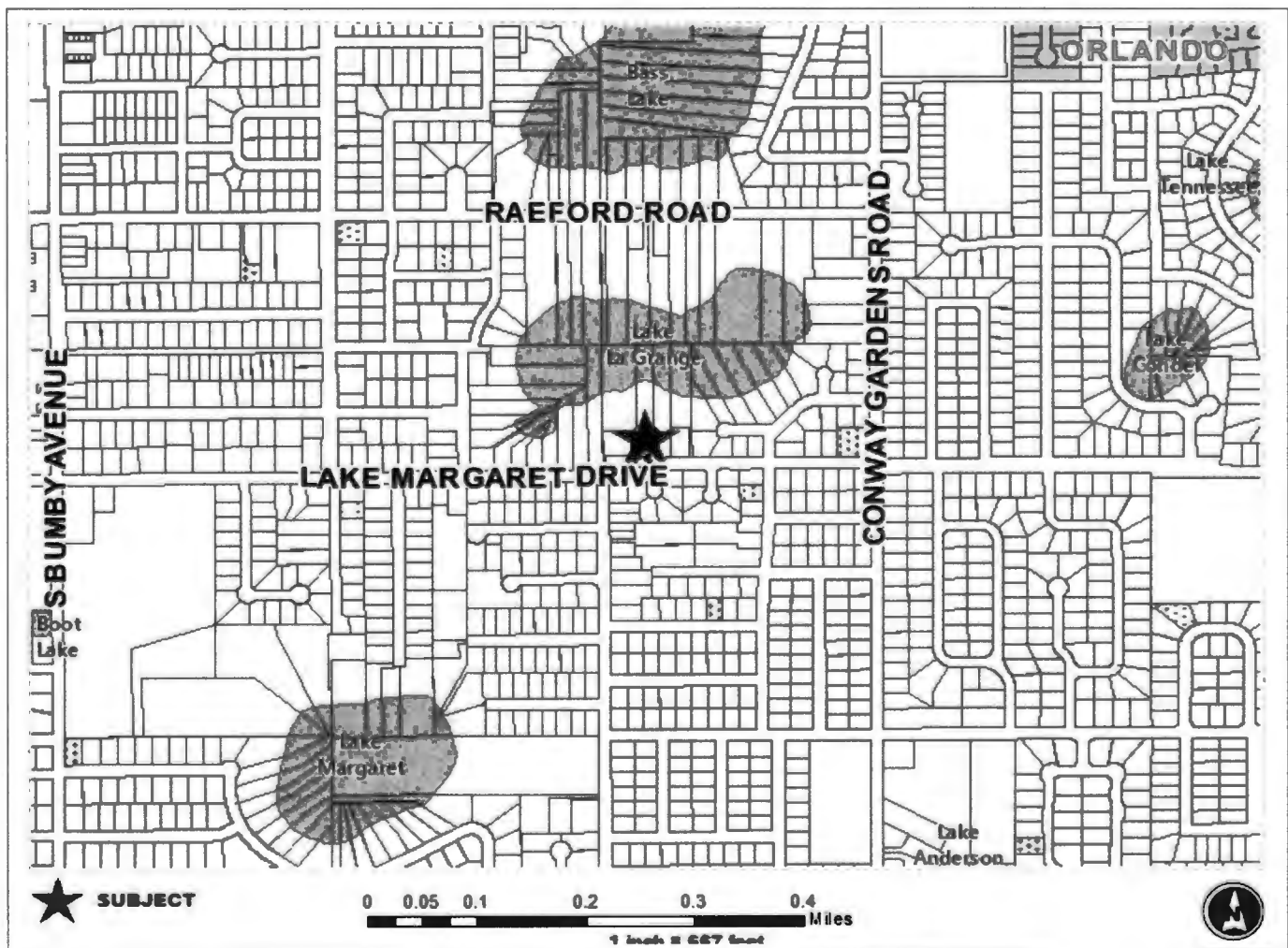
There being no one present to speak in favor or opposition to the request, the public hearing was closed.

The BZA unanimously recommended approval of the variances, subject to the four (4) conditions found in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, which allows single family homes and customary accessory uses on lots that are 7,500 square feet or greater.

The subject property is a .28 acre lot, and was created via an approved Lot Split in 2005. The approved lot split also created the two (2) parcels directly to the east of this parcel. As a condition of approval of the lot split, this lot was not permitted a driveway from Lake Margaret Drive. The subject property must access through an easement located on the abutting parcel, where there is an existing curb cut. There is a 2,470 sq. ft. single family home on the lot, built in 2008.

The applicant is proposing to erect a swimming pool and deck in the front yard of the single family residence. Zoning Code defines the front of a residential lot as all of the property on the narrow width of a lot abutting a street right-of-way. As this lot only abuts one street, Lake Margaret Drive, that portion is the front of the lot. The area of the lot between Lake Margaret Drive and the house would be considered the front yard. Code requires pools to be located in the side or rear yard.

The applicant applied for a building permit in March 2020, showing the pool in the proposed location. Zoning approval was given on the pool location in error, and the permit was issued. It was discovered after permit issuance that the zoning approval was in error, and that approval could not be given without a variance. The applicant was contacted, and a stop work order was placed on the building permit. The applicant had commenced working on the construction of the pool and deck, as a permit had been issued. A substantial portion of the pool construction has been completed, and the applicant is seeking a variance to have the pool in the location that it is partially constructed in.

The pool is to be screened by a 6 ft. tall PVC fence, as this height of fence is permitted in the front yard of residential lots that abut a collector street, which Lake Margaret Drive is classified as.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	75 ft.	78.63 ft.
Min. Lot Size:	7,500 sq. ft.	12,196 sq. ft.

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

	Code Requirement	Proposed
Front	Not allowed in front yard	In front yard, with a 17 ft. setback
Side:	5 ft.	20 ft. (West) / 31 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing drain field and septic tank for this lot are located in the rear yard, making it difficult to locate a pool in the rear yard. There is very little room to build a functional pool in either of the side yards, and still meet the required setbacks. The front yard offers the largest space to erect the pool, without having to impact the septic tank and drain field. The lot split requirement that access to this lot be from the abutting eastern lot impacted the original design of the house. Rather than having the house be oriented toward the front (facing Lake Margaret Drive), the house is oriented to the east, as the driveway is off the abutting parcel to the east. The front yard ultimately acts as a side yard or rear yard, when viewing the house, as the portion facing Lake Margaret Drive is designed to appear as the rear of the house. Additionally, the most immediately adjacent portions of the two abutting parcels to the east and west, (those that would be most affected) are used as driveways, and not developed. This creates a natural buffer between the pool and other dwelling units.

Not Self-Created

The request for a variance is not self-created as a permit was issued and the applicant is limited in terms of placing the pool in a conforming location, due to the location of septic tank and drain field in the rear yard.

No Special Privilege Conferred

Pools are a permitted use in all single-family residential zoning districts, including all of the surrounding lots. While the location of the pool in the front yard of the lot could be construed to be a special privilege not conferred to others, the proposed location of the pool is actually further from Lake Margaret Drive than other lots abutting the same road would be required. Corner lots that have a side street setback abutting Lake Margaret Drive would only require that swimming pools have a setback of 15 ft. from the side street. Lots that have a rear setback abutting Lake Margaret Drive would only require a 5 ft. setback from the street. The applicant is proposing a 17 ft. setback from the same street. Two immediately adjacent corner lots along Lake Margaret Drive have pools that appear to be constructed close to the required 15 ft. setback, and are screened

by at least a 6 ft. wall, the same as this pool will be screened by. Other corner lots along Lake Margaret Drive have pools in rear yards located in similar proximity to the road. Of the 15 closest lots to the east of the subject property that also abut Lake Margaret Drive, 9 of those lots have a smaller pool setback than 17 ft., and are permitted to be screened with a 6 ft. fence. That is demonstrated in the diagram below titled: Aerial view of surrounding lots.

Deprivation of Rights

The location of the drain field and septic tank in the rear yard of the lot deprive the right of the applicant to locate a pool here. Other lots may have a septic tank or drain field located in the front yard, and ample room to locate a pool in the rear yard.

Minimum Possible Variance

The request is the minimum possible variance to allow the applicant to finish the pool construction in the current location. The 17 ft. setback proposed is more than the side street setback requirement of 15 ft., were this considered a side street setback. This setback is also greater than the 5 ft. pool setback for lots that have rear setbacks abutting Lake Margaret Drive.

Purpose and Intent

The pool will be screened by a 6 ft. fence, as well as some existing landscaping, and will not be visible from the road. In relation to the existing house, the pool and fence will appear to be in the side, as the front of the house is oriented to the side of the lot. Approval of the variance will be in harmony with the purpose and intent of the code.

Aerial view of surrounding lots: showing allowable pool setbacks less than 17 ft.



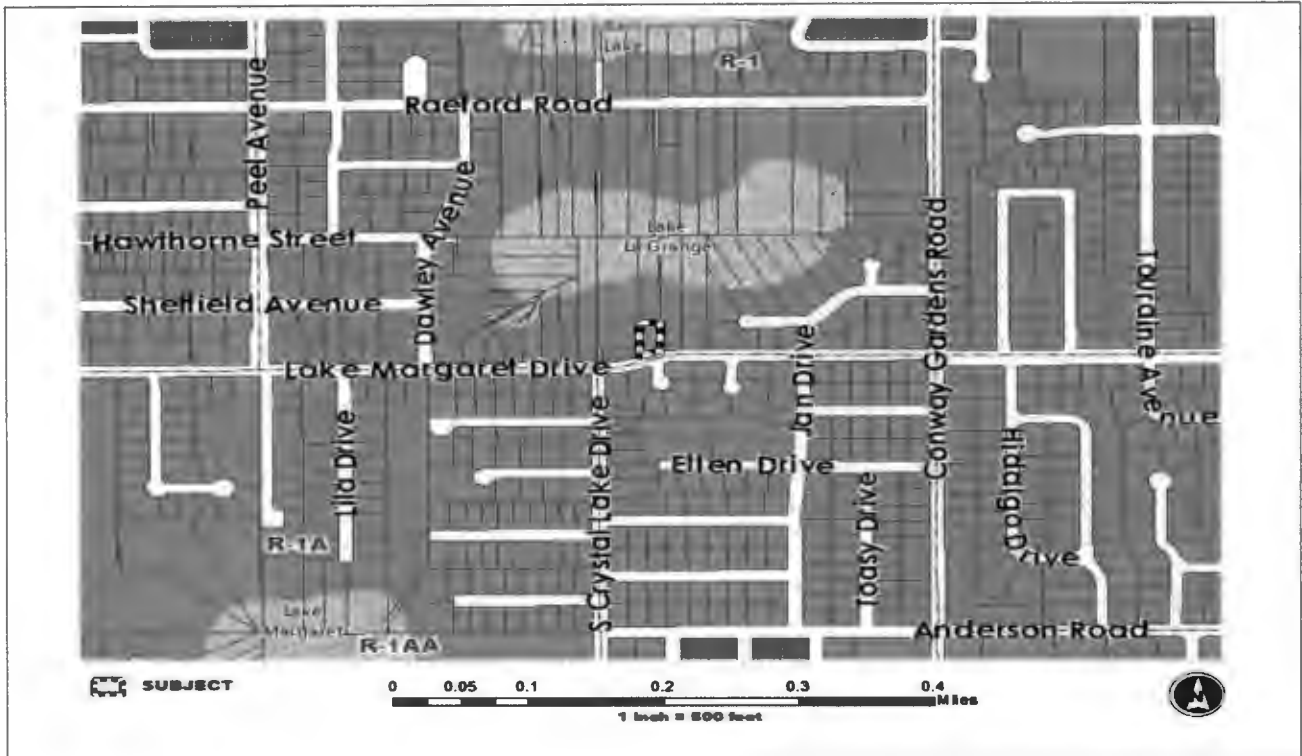
- = Lot permitted to have pools 5 ft. from Lake Margaret Dr. Existing 6 ft. tall fence in place
- = Lot permitted to have pools 15 ft. from Lake Margaret Dr. Existing 6 ft. tall fence in place
- = Lot with existing pool, having minimum 15 ft. setback from Lake Margaret Dr. Existing 6 ft. tall fence in place.

CONDITIONS OF APPROVAL

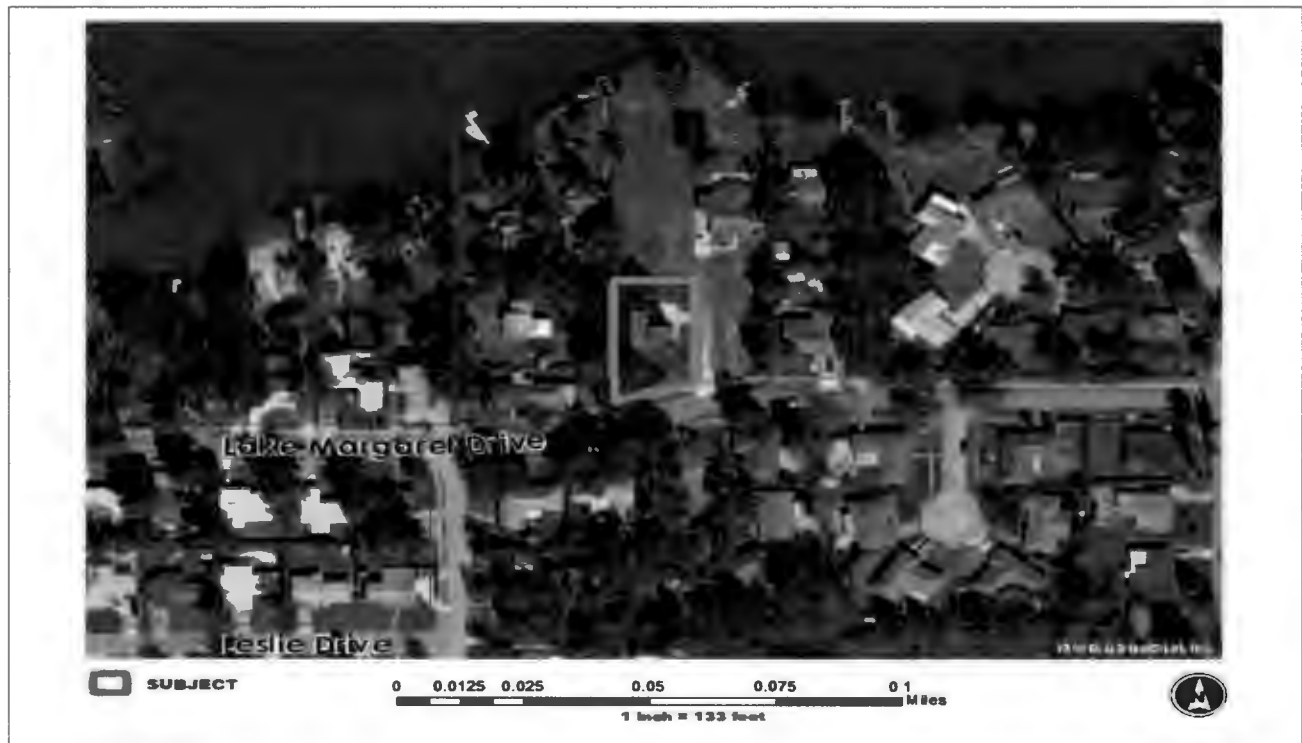
1. Development shall be in accordance with the site plan dated April 16, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Approval of this variance is only for a pool and deck, as shown on site plan. Any future screen enclosure over the pool deck is not part of this approval, and would require a separate variance.

c: James M Watts
2751 Old Winter Garden Rd.
Ocoee, FL 34761

ZONING MAP

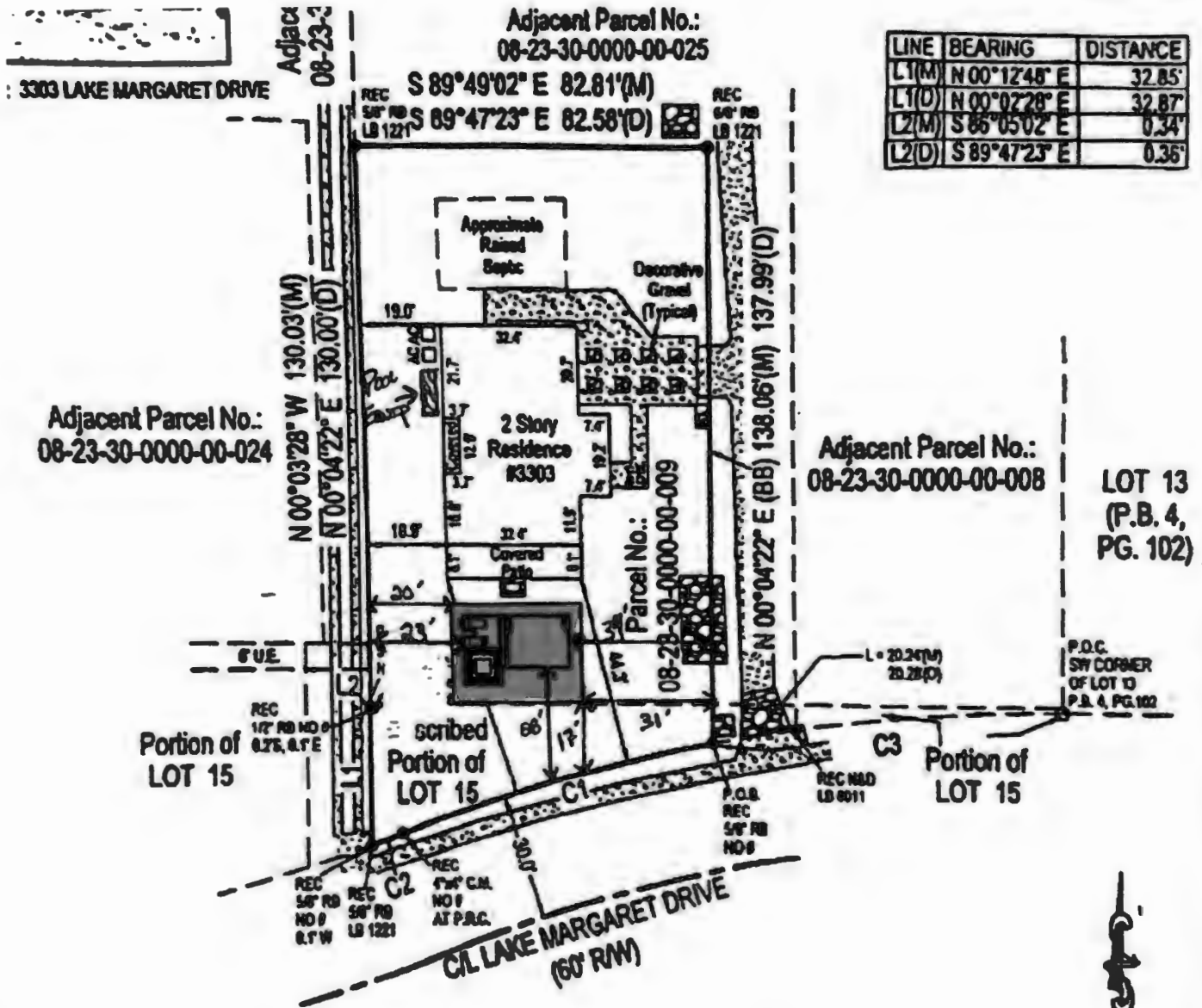


AERIAL MAP



SITE PLAN

LINE	BEARING	DISTANCE
L1(M)	N 00°12'48" E	32.85'
L1(D)	N 00°02'28" E	32.87'
L2(M)	S 86°05'02" E	0.34'
L2(D)	S 89°47'23" E	0.36'



Commencing at the Southeast corner of lot 13, LAKE LAGRANGE MANOR as recorded on Plat Book 4, Records of Orange County, Florida, said point being a point on the Northernly right-of-way line Lake is recorded on Plat Book 4, Page 102, said point also being a curve concave Southerly having a central as 03° 06" and a radius of 430.69 feet; thence from a tangent bearing of North 89 degrees 47' 23" West, by said right-of-way line and arc of said curve a distance of 83.08 feet for a Point of Beginning; thence by right-of-way and the arc of said curve through a central angle of 10 Degrees 27' 35" a distance of 78.63

SITE PHOTOS



Subject property looking northwest from Lake Margaret Drive



Subject property looking northwest from across Lake Margaret Drive

SITE PHOTOS



Subject property looking north from across Lake Margaret Drive



Subject property looking west from sidewalk along Lake Margaret Drive

SITE PHOTOS



Subject pool currently under construction

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **May 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **SE-20-03-003**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): FREEDOM RIDE (AMY DALY)

OWNER(s): RICHARD BOGLE

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

- 1) Special Exception to allow a therapeutic riding center (indoor/outdoor recreation use).
- 2) Variance to allow grass parking for an overflow parking area in lieu of parking on an improved surface.
- 3) Variance to allow grass drive aisles for an overflow parking area in lieu of parking on an improved surface.

PROPERTY LOCATION: 3919 Bay Lake Road, Orlando, Florida 32808, north side of Bay Lake Rd., west of N. John Young Pkwy.

PARCEL ID: 08-22-29-1900-00-490

LOT SIZE: 24.43 acres

NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 904

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development shall be in accordance with the site plan dated March 25, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. Construction plans shall be submitted within 3 years of final action on this application by Orange County or this approval becomes null and void. The site plan shall be updated to reflect all commercial development standards.
5. Hours of operation of the therapeutic riding facility shall be limited to 8:30 a.m. to 5:00 p.m., Monday through Saturday; and, hours for horse care will be 7:00 a.m. to 6:00 p.m. Sunday through Saturday.
6. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations.
7. No outdoor speakers or other audio amplification shall be used on site.
8. No more than two (2) outdoor special events advertised as open to the public 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.
9. The number of horses shall be capped at 20. Any increase shall require additional action by the BZA.
10. Use of the property is limited to an indoor/outdoor recreation use (therapeutic riding center).
11. A site plan that includes the approved wetland line depicted on CAD-19-10-163 must be provided with the site work application.
12. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
13. Development shall comply with Chapter 24 (Landscaping) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.

SYNOPSIS: Staff described the history of the site as a legally nonconforming location for the raising of 15 horses and 15 cows. It was explained that Freedom Ride is currently located at the City of Orlando's Trotter's Park, but due to their lease coming up, they decided to take advantage of a property that is already used for horses and settle there permanently. Staff described the community meeting that was held in February, which was attended by Commissioner Moore, staff, and 12 residents. The consensus among the neighbors was overwhelmingly positive. The residents' main concern was what would be constructed on the perimeter. When staff stated that they would have to install a buffer, which would be opaque to a height of six (6) ft., the general consensus was not to require the buffer. Staff informed the BZA that based on that input; the Zoning Manager indicated she would work with the applicant on an acceptable alternative. The BZA asked if the applicant was

in agreement with limiting the number of special events to two (2). Staff noted that this was all the applicant indicated they needed.

The applicant indicated their agreement with the staff recommendations and all the conditions. They noted that staff had made them aware of some concerns by a nearby resident regarding the trees and the location of the manure storage area. They indicated that the storage area would be screened by a fence and would face inward toward the interior of the site. Regarding the trees, the trees were one factor making the site so attractive. The current location at Trotter's Park has no trees for shade. The trees are an asset which they will preserve to the greatest extent possible. They indicated that a certified arborist had been to the site to evaluate the trees.

There were two people who spoke in favor of the application, one of which, while in support, expressed concern for the location of the manure storage area, tree loss, and the requirement for a 22 ft. wide access drive.

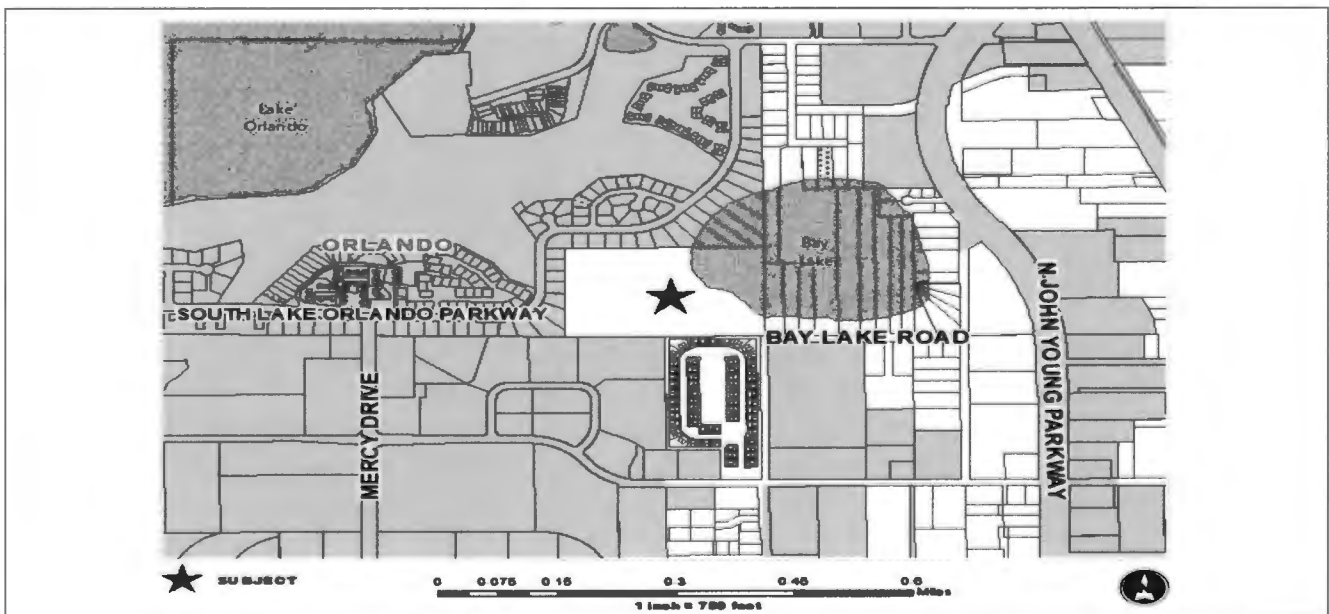
In rebuttal, the applicant noted that they are not opposed to relocating the manure storage area if it will work better with the final design of the site, and they will be doing everything they can to preserve trees. The BZA asked if a limitation to two (2) special events would be sufficient. The applicant indicated that is all they will need.

The BZA concluded that the use would be compatible with the neighborhood, and would be an asset to the community. The BZA unanimously recommended approval of the special exception and the variances subject to the thirteen (13) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	City of Orlando R-1AA/W	City of Orlando I-P/W & County P-D	Bay Lake & R-1A	City of Orlando R-1AA/W
Future Land Use	LDR	City of Orlando Residential Low	City of Orlando Industrial & County MDR	Bay Lake & LDR	City of Orlando Residential Low
Current Use	Ranch	Single family residences	Industrial and Single family residences	Bay Lake and Single family residences	Single family residences

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single Family Dwelling District, which allows single family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater. Certain uses, such as indoor and outdoor recreational facilities, are permitted through the Special Exception process.

The subject property consists of 24.4 acres of land developed as a horse and cattle ranch. The existing residence, which was constructed in 1939, contains 1,567 sq. ft. of gross floor area. In addition to a metal framed horse stable, there are several smaller accessory structures for storage of equipment located on the property, and another large accessory structure on the property, with a total of 3,020 sq. ft. of gross floor space, which includes 820 sq. ft. of finished area. The stable and larger accessory structure, and the smaller accessory structures, are to be demolished to make room for the proposed new barn and arena. The existing residence will be converted into an office for the operation of the riding center.

In September 2002, the owner of the property obtained a letter certifying that the keeping of 15 horses and 15 cows was a lawfully nonconforming use. In December 2003, based on additional information, the prior letter was updated to permit the "keeping, boarding and training" of 15 horses. Approval of this Special Exception request will change the use of the property to a therapeutic recreational use, and as such, remove the legal nonconforming status.

Freedom Ride would like to operate a therapeutic equine riding center on the subject property, which will include personnel and volunteer training, therapeutic riding for children and adults with disabilities, guided therapist riding, wellness therapy, and merit badge programs for boy and girl scouts. The proposal includes a 20,000 sq. ft. covered riding arena which will be open on all sides, and an associated 23,600 sq. ft. barn. The cover letter submitted with the application states that there would ultimately be up to 25 horses, including several miniature horses. At the community meeting held for this project, it was clarified that the barn is designed for up to 20 horses, which is the ultimate number of horses for the next eight (8) to 10 years.

The applicant is currently operating at Trotter's Park, which is a City of Orlando owned equestrian park. Their lease for the use of the facility will be expiring, and they have decided to procure a permanent location.

The facility will be open Monday through Saturday between the hours of 8:30 a.m. and 5:00 p.m. for riding, and daily between the hours of 7:00 a.m. and 6:00 p.m. for horse care. Based on current operations, the applicant estimates that the most riders anticipated at any one time would be 10, and that this would take place between 9:00 a.m. and 4:00 p.m. They estimate that approximately 200 riders a week would be accommodated. The site plan proposes a parking lot consisting of 38 spaces of which eight (8) are handicap parking. Seven (7) ~~spaces~~ additional spaces will be oversized for overflow handicap parking. The code requires that amusement or assembly places without fixed seating must provide one (1) parking space per three (3) patrons, plus one (1) space per employee. With up to 10 riders, and 10 to 12 volunteers and staff per session, each session would require four (4) parking spaces for patrons and 10 to 12 spaces per staff and volunteers for a total of 14 to 16 spaces per session. There is adequate parking to meet code.

For two (2) annual special events, a portion of the pasture southeast of the proposed arena will be used for 46 overflow parking spaces. Due to the fact that they will only be used twice a year, the applicant requests variances to allow the overflow parking area to remain open pasture, as opposed to installing an improved surface as required by code.

The subject property is located within the County's Alternative Mobility Area (AMA). Per Comprehensive Plan Objective T2.3 and Policies T2.3.1 and T2.3.2, developments within an AMA are exempt from transportation concurrency and promote the use of alternative modes of transportation including public transportation, in a safe, convenient, and attractive manner. In this case, there is one (1) bus stop at Mercy Drive and Shader Road, and sidewalks on Eunice Avenue from Bay Lake Road to Shader Road. Most clients will likely arrive by private vehicle. The only means of access to the site will remain the driveway at the intersection of Bay Lake Road and Eunice Avenue. The site will remain fenced along the entire perimeter, and the entrance will remain gated to secure the site after hours.

A community meeting to discuss this application was held at 6:00 p.m. on Thursday, February 27, 2020. In addition to the District 2 County Commissioner, staff, and four (4) members of the Freedom Ride Board of Directors, 12 residents from the abutting area were in attendance. The tone of the meeting was generally positive, with most attendees acknowledging that the proposed use will be similar to what is currently taking place on the property, which is the keeping, boarding, and training of up to 15 horses, and the keeping of up to 15 cows. During the discussion, several residents wanted to know if any improvements were being proposed along the site's perimeter. The applicant's spokesperson noted that the only improvement they intend to install is a second fence to keep the horses and riders away from the perimeter fence. Staff noted the code requires that a "Type C" buffer be installed which requires a 15 ft. buffer yard, and a six (6) ft. tall opaque barrier composed of landscape, berms, fencing, masonry walls, or any combination of these features. There was a general consensus that the opaque barrier was not wanted by the residents.

In 2019, the applicant received approval of a Conservation Area Determination (CAD). A CAD identifies environmentally sensitive areas, such as wetlands, and establishes a buffer to protect those features. The site plan shows the limits of the wetland area, as well as the Normal High Water Elevation, and a review of the approved CAD survey shows that there will be no impacts to the approved CAD boundaries. The Environmental Protection Division (EPD) has requested that the site plan submitted for permitting of the new barn and arena show the boundaries of the conservation area. A condition to address EPD's concerns is included in the recommended conditions.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft. (Arena)
Min. Lot Width:	75 ft.	160 ft.
Min. Lot Size:	7,500 sq. ft.	24+ ac.

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

	Code Requirement	Proposed
Front:	25 ft.	560 ft.
Rear:	30 ft.	451 ft.
Side:	7.5 ft.	254 ft. (Arena to south)/345 (Barn to north)
Sidestreet:	N/A	N/A
NHWE:	50 ft.	65 ft. (Existing residence)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

Recreational facilities are consistent with the Comprehensive Plan through the Special Exception process.

Similar and compatible with the surrounding area

The site is large and the proposed improvements will be centrally located. All new improvements will be located over 100 feet from the nearest property line. The property will remain as compatible with the surrounding area after the improvements are installed as it is today.

Shall not act as a detrimental intrusion into a surrounding area

The proposed riding center will not act as a detrimental intrusion into the surrounding area. The site is large and all proposed improvements will be over 100 feet from the closest property line to the north. The barn and arena will be over 250 feet from the nearest property line to the south. The distance of the barn and arena to the west property line is over 450 feet.

Meet the performance standards of the district

With the granting of the variances to allow the entire overflow parking area to remain completely grass as opposed to grass parking with paved drive aisles, the proposed use will meet the performance standards of the district.

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

The primary impact from the proposed use could be odor. However, the property currently has the ability to keep up to 15 horses and 15 cows. With a commitment by the applicant to cap the number of horses at 20, and

no cows, there will be a net decrease of 10 animals, and the applicant will be using best management practices in maintaining the property and the disposal of waste.

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

The applicant is required to provide a “Type C” buffer to the north, west, and south abutting residential uses. Based on input from the community meeting, the Zoning Manager has agreed to work with the applicant on an alternative to the opaque buffer per Chapter 24 (Landscaping).

VARIANCE CRITERIA

Special Conditions and Circumstances

The applicant is providing adequate parking for normal daily activities. The overflow parking is to be used for special events, such as the Holiday Horse Show, which takes place once a year, and one other event for a total of two (2) special events annually. During these events, the overflow parking would be used to accommodate additional staff, volunteers, and guests. The proposed infrequency of the use is the special circumstance.

No Special Privilege Conferred

It is very common to allow unpaved parking for uses which have less frequent use patterns, such as religious institutions. Due to the fact that there will only be two (2) special events each year, the need for paved parking spaces and drive aisles is not needed. This area will be used as pasture when not in use as parking. Allowing for the parking and drive aisles to remain grass is not conferring a special privilege because of the infrequency of the use.

Deprivation of Rights

Without the variances, the applicant would be required to pave parking and/or drive aisles which will be very infrequently used. This will result in increased impervious surface and increased drainage demands in close proximity to Bay Lake.

Minimum Possible Variance

The granting of a variance for grass parking and drive aisles for special events would be the minimum possible variance needed to meet the applicant’s needs.

Purpose and Intent

Since the applicant is providing adequate improved parking for daily routine activities, allowing infrequently needed parking and drive aisles to remain grass would be in keeping with the purpose and intent of the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 25, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Construction plans shall be submitted within three (3) years of final action on this application by Orange County, or this approval becomes null and void. The site plan shall be updated to reflect all commercial development standards.
5. Hours of Operation of the therapeutic riding facility shall be limited to 8:30 a.m. to 5:00 p.m., Monday through Saturday; and, hours for horse care will be 7:00 a.m. to 6:00 p.m., Sunday through Saturday.
6. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations.
7. No outdoor speakers or other audio amplification shall be used on site.
8. No more than two (2) outdoor special events shall be held 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.
9. The number of horses shall be capped at 20. Any increase shall require additional action by the BZA.
10. Use of the property is limited to a therapeutic riding center (indoor/outdoor recreation use).
11. A site plan that includes the approved wetland line depicted on CAD-19-10-163 must be provided with the site work application.
12. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."

13. Development shall comply with Chapter 24 (Landscaping) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.

Amy Daly for Freedom Ride
1905 Lee Rd.
Orlando, FL 32810



January 27, 2020

Orange County Zoning Division
 201 S. Rosiland Avenue, 1st Floor
 Orlando, Florida 32801

**RE: Freedom Ride at Bay Lake Property
 Special Exception Application to the Board of Zoning Adjustment
 Orange County Commission District 2**

To whom it may concern:

In response to the County's January 23, 2020 email Freedom Ride offers the following supplemental information.

Freedom Ride is requesting a Special Exception to allow for the location of our organization and facilities to move to 3919 Bay Lake Road (subject property). **Freedom Ride has applied for a special exception for a non-conforming use to authorize therapeutic equine riding which includes boarding the horses that are used in the therapeutic riding. The special exception should also authorize operation of office/administrative operations associated with therapeutic equine riding.** The subject property currently has a special exception as a non-conforming use allowing for 15 horses and 15 cows on the 24.44 acre subject property.

The following information is provided to process a Special Exception for Freedom Ride to operate at the Bay Lake Property.

- **Type of activities which will be taking place on the property, i.e., training, open riding hours, etc.;**
 Freedom Ride would like to operate a therapeutic equine riding center on the subject property which will include personnel and volunteer training, therapeutic riding for children and adults with disabilities, guided therapist riding, Wellness therapy and merit badge programs for boy and girl scouts on a property zoned for residential use.
- **Days and hours of operation;**
 The hours of operation – 7:00AM – 6:00PM Horse Care only
 8:30AM – 5:00PM Therapeutic Programs
 Days of operation – Horse Care – Sunday through Saturday
 Programs: Monday through Saturday
 Proposed outdoor activities – Programs primarily in arena and guided trail riding in pastures
 Provided services: therapeutic horseback riding for disabled individuals, mental wellness and US Veterans program (equine therapy)

Special Events - Anticipated special events include:

Event Name	Approximate Event Date	Event duration	Event frequency (Annually, bi-annually, etc.)	Event purpose	Anticipated Attendance
Open House	Sept 20 th -22 nd	2 hours	2 X annually	Intro to facility	30 people
Holiday Horse Show for riders	Dec. 15	3 hours	1 X annually	Celebrate riders	40 people

- **Estimated highest number of participants at any one time, and at what time of day;**
The estimated highest number of participants at any one time for therapeutic riding is 10. The time of day for the estimated highest number of participants will vary depending on staff work schedules, weather, make-up riding sessions, etc. but it will occur anytime between the hours of 9 AM through 4 PM.
- **Estimated number of participants on a daily basis;**
The estimated number of participants on a daily basis will vary from 10 to 30.
- **Number of animals which will be kept on the property;**
The number of animals on the property will not exceed 25.
- **Will all riding take place indoors, or will there be riding in the open air.**
The therapeutic riding will take place in a covered, open area riding arena and on riding paths within the subject property.

Freedom Ride will be demolishing the existing barn structures, metal shed and a metal frame building. Freedom Ride will demolish 3,118.02 square feet as follows:

Metal Shed	85.60 square feet
Wood Frame Horse Stable	257.47 square feet
Metal Farm Horse Stable	1636.08 square feet
Metal Frame Building	621.76 square feet
Covered Metal Horse Stable	517.11 square feet

Freedom Ride understands will apply for the appropriate demolition permit(s) to remove these existing structures.

FREEDOM RIDE AT BAY LAKE PROPERTY

Freedom Ride, a 501 (c) 3 non-profit, is Central Florida's premier PATH, premier accredited therapeutic horseback riding center for individuals with disabilities. We provide therapeutic riding to adults and children four years and older with spina bifida, developmental delays, autism, Down syndrome, muscular dystrophy, cerebral palsy, learning disabilities, brain injury, speech-language disorders and other disabilities. It is also our great privilege to provide U.S. Veterans with horse-based mental health services, including professional PTSD intervention.

Freedom Ride opened its stables in 1998 with one rider and one borrowed horse. Today, Freedom Ride has 13 horses, 100+ volunteers and provides therapeutic riding activities for over 100 local children and adults every



week. Freedom Ride provides therapy to 200+ individuals with disabilities, 100+ mental wellness participants and 300+ US Veterans.

The movement of the horse, the rhythmic side-to-side, forward and backward movement is similar to a human walking. As participants sit atop a horse, their pelvic area, trunk and upper body move in motion to the horse. This stimulation gently relaxes taut muscles and thereby increases range of motion for the rider. As important, being able to participate in an activity like their siblings and able-bodied friends increases self-esteem and confidence.

Freedom Ride is nationally accredited by PATH (Professional Association of Therapeutic Horsemanship), an organization that helps set the standards for therapeutic centers nationwide. All of our instructors are certified through PATH.

Current program activities include:

THERAPEUTIC RIDING CLASSES

Riders in the therapeutic riding classes learn equestrian skills while receiving therapeutic benefits from the horses. All potential participants complete a comprehensive in-take process that includes completion of registration forms, including a physician release form and attending an evaluation.

MENTAL WELLNESS/VETERANS PROGRAM

The Wellness program provides Veterans the opportunity to come together with other Veterans to interact with horses in a way that allows for increasing self-awareness, enhancing coping skills and learning more effective ways to interact and move forward with the community and with loved ones.

VOLUNTEER PROGRAM

Freedom Ride's dedicated volunteer team is the backbone of our organization. Volunteers must be at least 14 years of age and can assist with all aspects of the program, most importantly - working with our clients during their lessons.

Freedom Ride needs assistance seven days a week, operates both morning and afternoons and has a comprehensive intake procedure for new volunteers, which includes verifying references and a basic background check. Once the background check and references are reviewed, the volunteer will attend a two hour orientation.



n Roll and numerous other public events.

COMMUNITY INVOLVEMENT

In addition to our therapeutic classes, Freedom Ride offers "animal therapy" to central Florida nursing homes, hospitals and various facilities by transporting our two mini-horses to area facilities. These miniature size horses encourage participation by offering individuals a time to relax, smile, laugh and enjoy a visit from these non-judging, friendly "therapists!" Freedom Ride also participates in various central Florida events such as the Winter Park Parades, Nathaniel's Hope, Down Syndrome Walk, Autism Now Walk, The Great Outdoors, Spina Bifida Walk

ADDITIONAL PROGRAMS

Girl Scouts and Boy Scouts can earn their badges at Freedom Ride by learning horse care, grooming, feeding and even progress to riding skills. Additionally, schools such as Paragon visit on a weekly basis to encourage their students to develop motor skills, job responsibility, physical strength and even vocational skills to develop possible future employment in the animal care field.



SUCCESS STORIES

People with disabilities, especially children, are keenly and painfully aware that they are not like others, and they can't always do what other people can do. The parents are reminded of this fact every day.

But, once a week for a brief time, Freedom Ride gives them a feeling of accomplishment, confidence, and great joy in the ability to control their own body and that of the horse. They can participate and be a part of something that their siblings and friends might do. The benefits they reap – from improved strength and flexibility to confidence and self-esteem – are remarkable.

Female, age 56, paraplegic due to motor vehicle accident: No feeling below her waist, rider initially began walking slowly on the horse at Freedom Ride with a volunteer leading the horse and two volunteers walking along side her for support. The movement of the horse helped build her balance, core muscles and confidence. She is now riding independently at a walk, trot and occasional canter *"Riding is the only time I really feel physically good. The pain, especially in my ischial, which is my butt cheek, disappears when I get in that saddle and it's a pain I have all other times. Getting on that horse is such an escape and relief and something I look forward to so much ... no one knows how sincere I am. That's why I still believe riding at Freedom Ride is "Heaven on earth!"*

Female, age 11, with cerebral palsy is in a wheelchair with extremely poor head/neck control: Her disability hinders her ability to feed herself and she has difficulty swallowing. It would take 45 minutes to an hour for someone to sit and feed her.

After several weeks of riding she gained strength in her upper body and neck, improving her ability to sit upright for longer periods of time and made swallowing easier. This reduced her feeding time by half, and although this may sound minor, it made a huge impact in her daily routine.



Female, age 14, global developmental delay and selective mutism:

Although she would speak directly to her family members, she did not communicate outside of her 'comfort zone'. It took more than a year for us to see progress but when we did it was amazing. She started by quietly whispering to the horse and gradually began to lean over while riding the horse, whispering single words – whoa, go, trot. One day she

showed up for her riding lesson and immediately began talking to everyone. She knew our names, the horse's names and asked us questions. We were all in awe - her mom was crying. It was emotional for everyone. Mom attributes her relationship with the horses with providing an outlet to safely 'test' her communication skills outside of her family.



Male, age 9, autism and autoimmune disorder with neurological side effects causing both motor and vocal tics (similar to Tourette's syndrome):

His family says the only time the child does not experience tics is when he is riding one of the horses which allows his body to physically relax and his mind to slow down and focus. He is able to enjoy 'stillness' for a brief time. Although he used to be able to play other sports such as baseball and soccer, he now tires very easily. Riding a horse is an activity that he looks forward to all week, providing him with the opportunity to 'be normal' and experience life without uncontrollable muscle movement.

Freedom Ride provides therapeutic horseback riding and related activities to individuals with disabilities in the Central Florida area.

- Established as a 501 (c) 3 in 1998; At Trotter's Park since March 2003. The City of Orlando is planning to expand its recreational ball fields in Trotter's Park. Because of the popularity in the community of Freedom Ride's unique therapy, it has outgrown the acreage available at Trotter's Park.
- Accredited by PATH (Professional Assoc. of Therapeutic Horsemanship); The first premier accredited therapeutic riding center in central Florida
- 13 horses, 2 miniature horses, 100 volunteers and our certified instructors offer riding lessons to over 100 children and adults on a weekly basis
- Freedom Ride is proud to offer our therapeutic services to our Veterans of War, partnering with PATH and the Wounded Warriors program.
- Riders' fees cover only 40% of Freedom Ride's costs; 60% must be obtained through grants, donations, fundraising efforts.



- The benefits of our large therapists (the horses!) include muscle strengthening, balance, improved breathing, digestion, confidence, accomplishment and more.
- Freedom Ride is based on the conviction that we are not bound by our physical limitations...truly, 'horsepower for the spirit!'

BAY LAKE PROPERTY

Freedom Ride has out grown its current location and needs a new location to accommodate the growth. The Bay Lake Property located at 3919 Bay Lake Road, Orlando, Florida 32808 in Sections 8 and 9, Township 22 South, Range 29 East, Orange County, Florida. Freedom Ride is at a crossroads. Our entire facility at Trotter's Park and the \$1.00 per year lease with the City of Orlando is set to expire in 2021. Freedom Ride must acquire and develop a new site and facility to become Freedom Ride's new, permanent home. The Bay Lake Property will provide Freedom Ride the opportunity to increase the amount of acreage for the horses,

provide classes year round with the covered arena and expand services to US Veterans and additional therapeutic services to the community.

Freedom Ride has a mission of becoming the central location to receive individualized therapeutic horseback services in the Central Florida area. By continuing to uphold our values and maximizing the opportunities available to them, the organization will capitalize on our strengths by securing land for use, gaining wider community involvement, increasing financial support, and enriching the lives and experiences of everyone connected to the Freedom Ride Family. The Bay Lake Property will enable Freedom Ride achieve these future goals to expand services and serve more individuals in the community.

Freedom Ride plans to utilize the existing residential home as an administrative building. However, the existing sheds and barns do not meet Freedom Rides requirements and will need to be demolished and replaced with a new barn and covered riding arena. The approximate location and specific dimensions of the existing and proposed structures are located on attachments to this cover letter. Should you require additional information to process this request please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

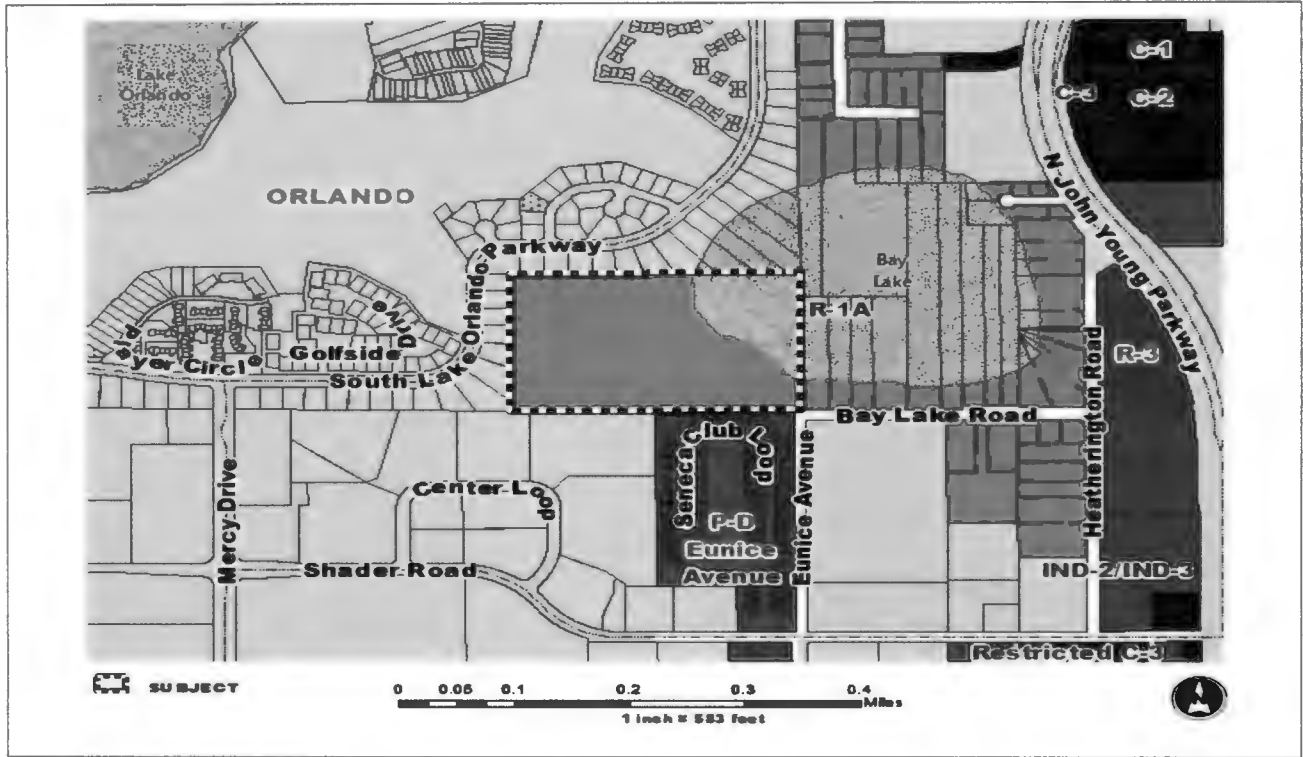
FREEDOM RIDE



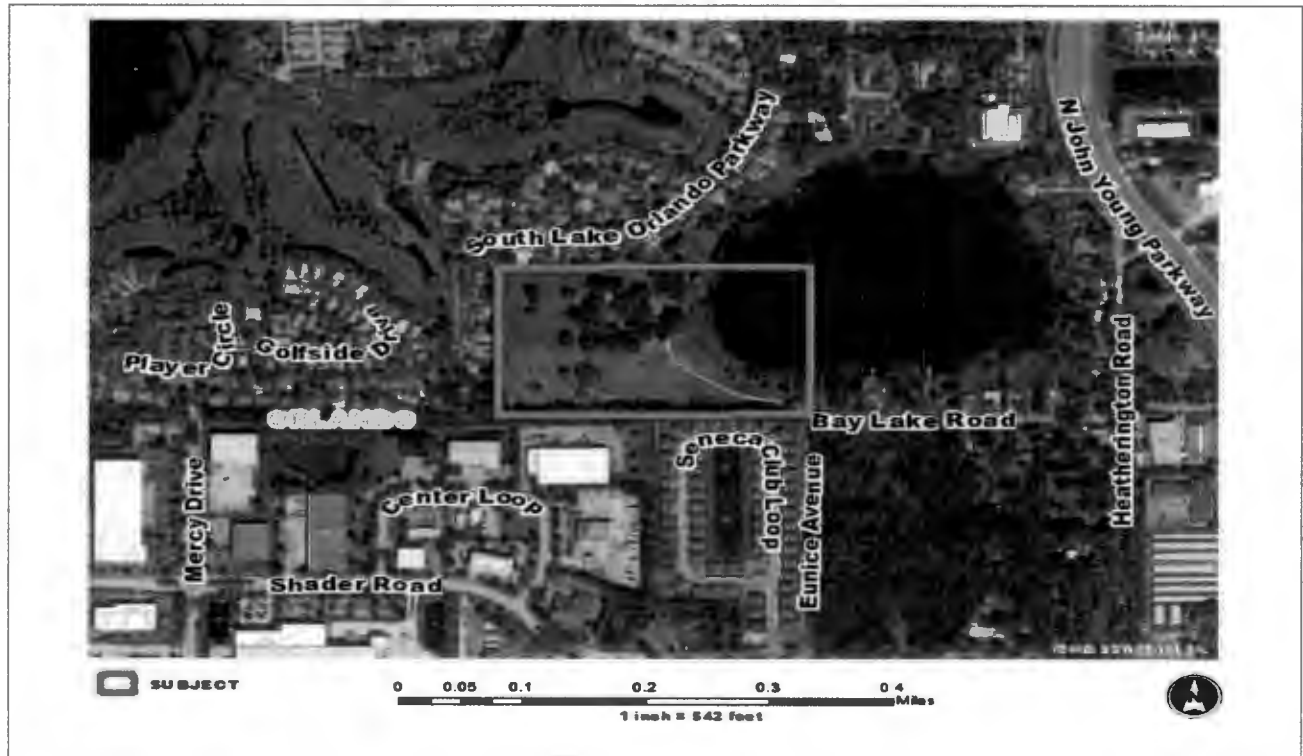
Amy E. Daly

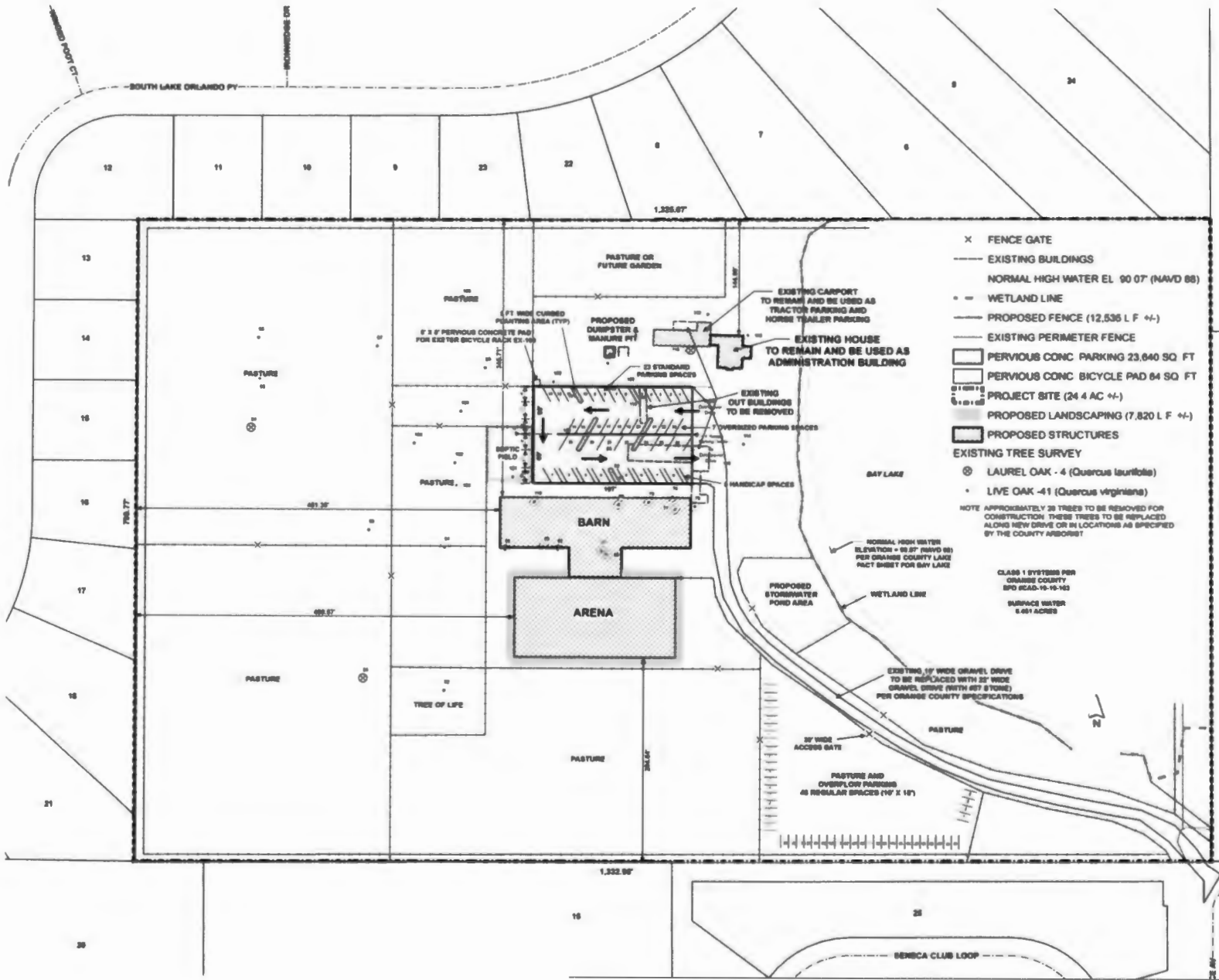
Board of Director, Secretary

ZONING MAP



AERIAL MAP

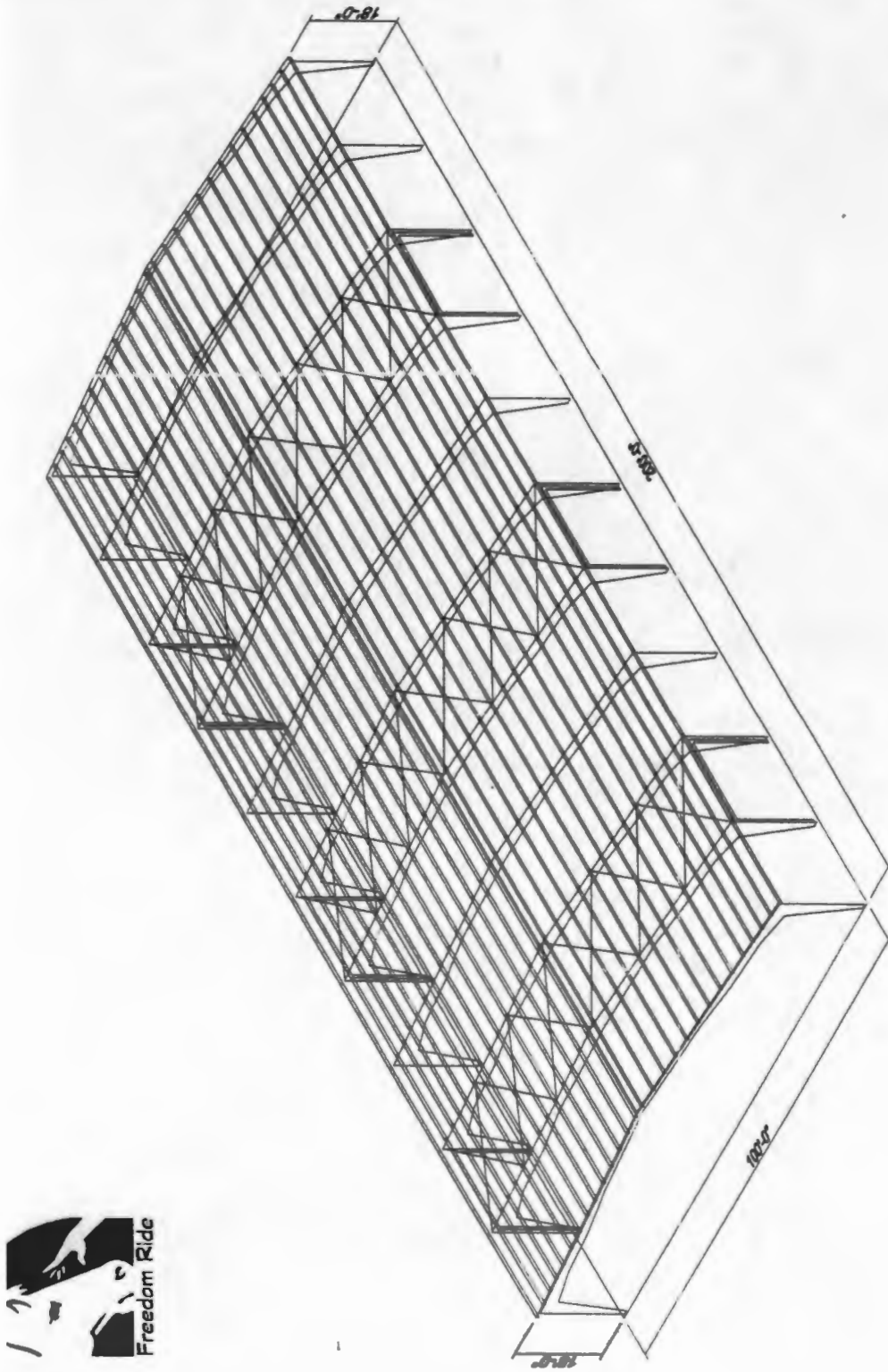




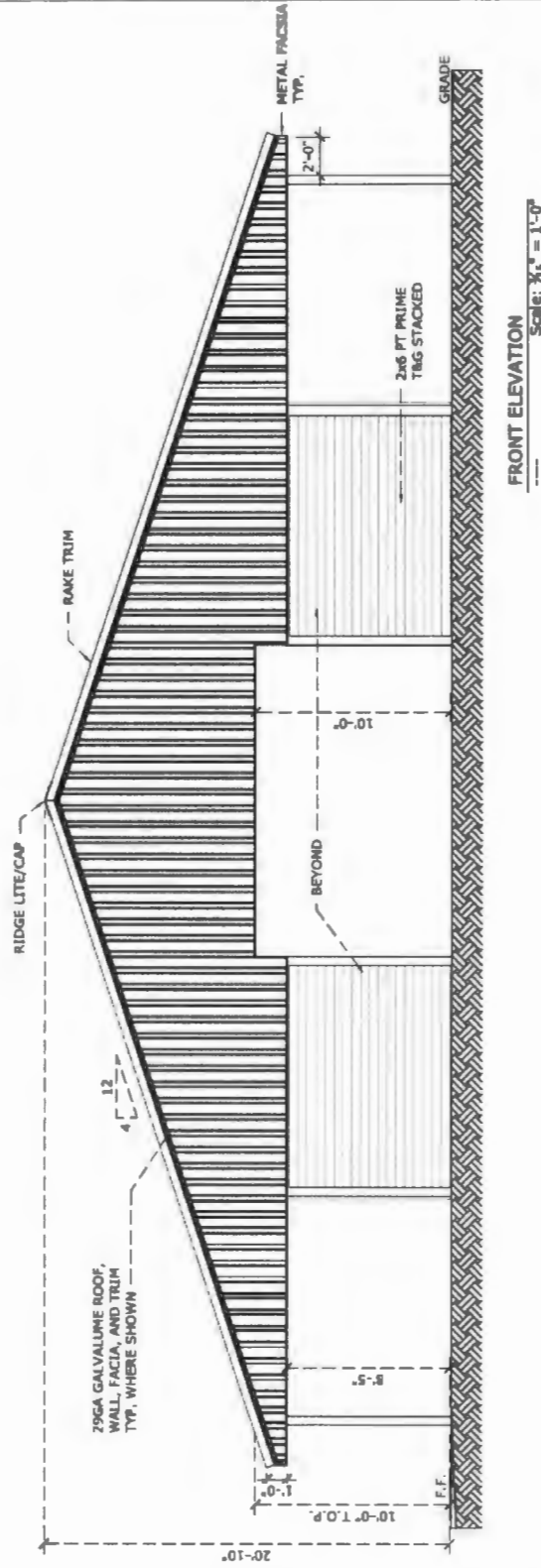
- x FENCE GATE
- EXISTING BUILDINGS
- NORMAL HIGH WATER EL 90.07' (NAVD 88)
- - - WETLAND LINE
- PROPOSED FENCE (12,536 L.F. +/-)
- EXISTING PERIMETER FENCE
- ▭ PVIOUS CONC PARKING 23,640 SQ. FT.
- ▭ PVIOUS CONC BICYCLE PAD 64 SQ. FT.
- ▭ PROJECT SITE (24.4 AC +/-)
- ▭ PROPOSED LANDSCAPING (7,820 L.F. +/-)
- ▭ PROPOSED STRUCTURES
- EXISTING TREE SURVEY
- ⊗ LAUREL OAK - 4 (*Quercus laurifolia*)
- LIVE OAK - 41 (*Quercus virginiana*)
- NOTE APPROXIMATELY 28 TREES TO BE REMOVED FOR CONSTRUCTION. THESE TREES TO BE REPLACED ALONG NEW DRIVE OR IN LOCATIONS AS SPECIFIED BY THE COUNTY ARBORIST.
- CLASS 1 SYSTEMS PER ORANGE COUNTY BFD 8245-15-10-103
- SURFACE WATER 8.69 ACRES

SITE PLAN

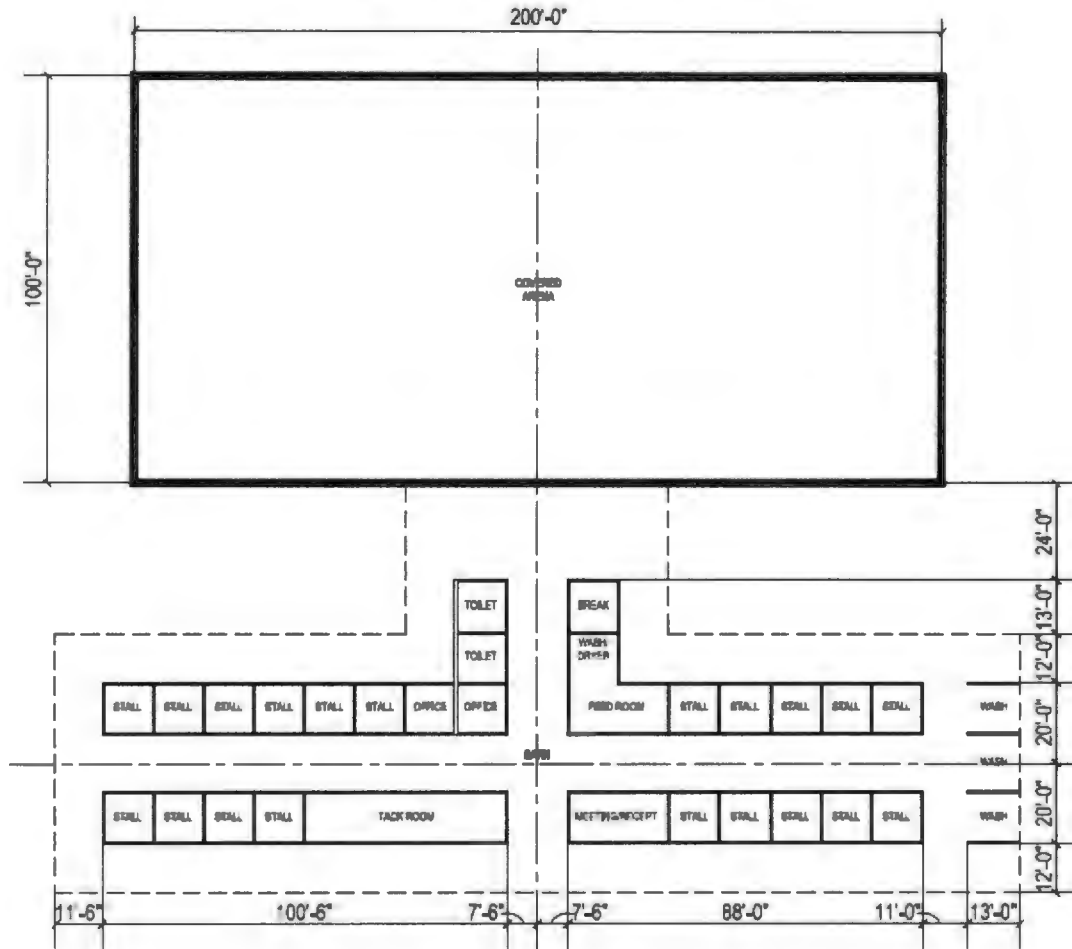
PROPOSED ARENA



PROPOSED BARN



BARN & ARENA FLOOR PLANS



SITE PHOTOS



02/03/2020 14:24

Ranch house and large accessory structure looking north from entrance



02/03/2020 14:25

Approximate location of barn & arena looking west

SITE PHOTOS



Bay Lake looking east



02/03/2020 14:25

Adjacent residences looking northwest

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-03-006**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): **THARPE BELOTE**

OWNER(s): **ALMUT BELOTE and THARPE BELOTE**

REQUEST: Variance in the R-1 zoning district to allow an existing open front porch 16.6 ft. from the front property line in lieu of 20 ft.

Note: This is the result of Code Enforcement action.

PROPERTY LOCATION: 7218 Mott Ave., Orlando, FL 32810, west side of Mott Ave., approximately 250 ft. north of the intersection of Mott Ave. and Edgewater Dr.

PARCEL ID: 32-21-29-0000-00-017

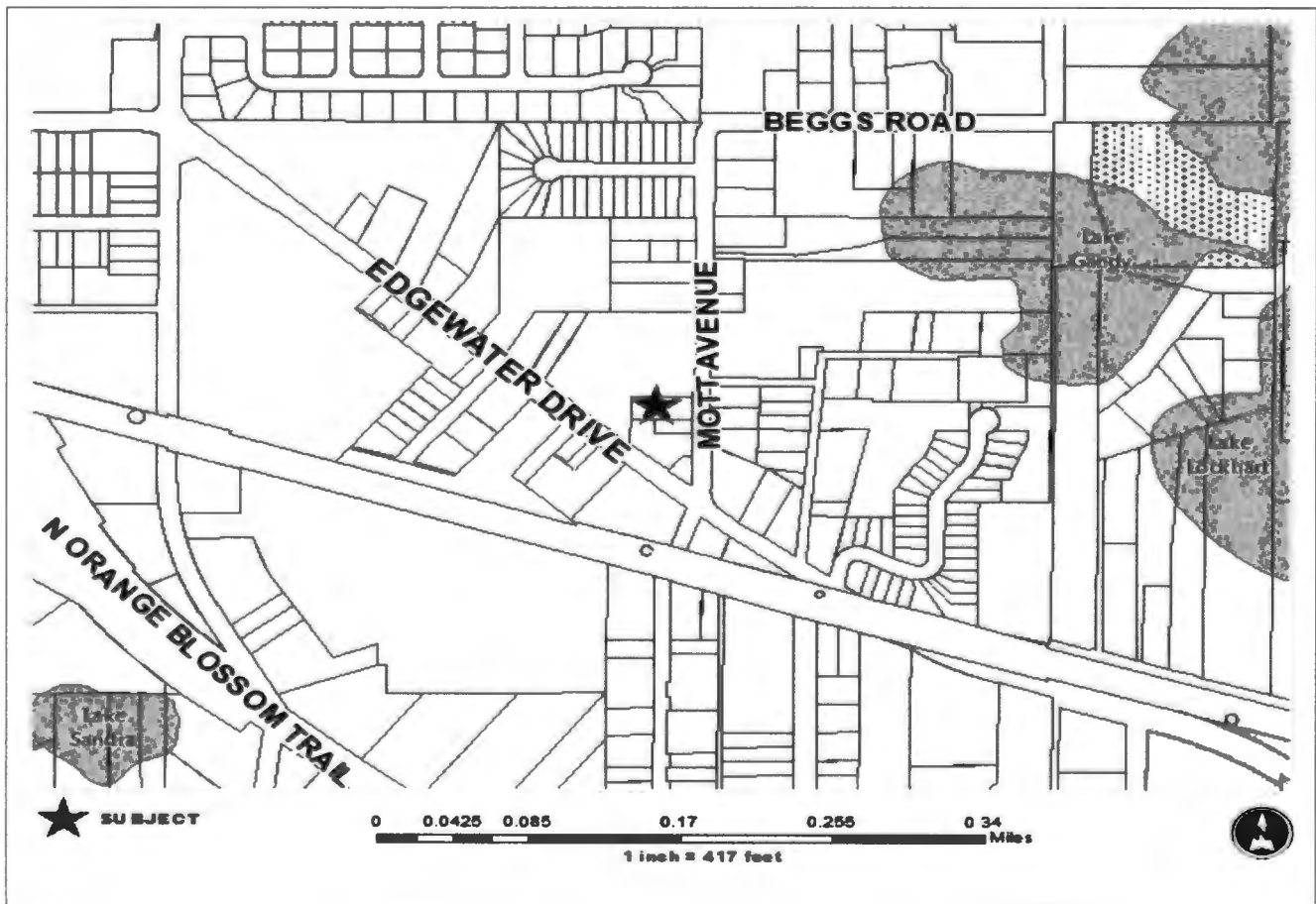
LOT SIZE: 75 ft. x 199 ft. (avg.)/0.328 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 89

THIS CASE WAS CONTINUED TO THE JUNE 4, 2020 BZA MEETING.

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-04-012**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): ROBERT WAYNER

OWNER(s): XIAOMING LENG WAYNER & ROBERT WAYNER

REQUEST: Variances in the R-CE-C zoning district to allow a tennis court as follows:

1) To allow a 5 ft. setback from the east side property line in lieu of 10 ft.

2) To allow a 5 ft. setback from the south rear property line in lieu of 10 ft.

PROPERTY LOCATION: 4291 Isabella Cir., Windermere, Florida, 34786, south side of Isabella Cir., east of McKinnon Rd., north of W. Lake Butler Rd.

PARCEL ID: 12-23-27-1215-00-160

LOT SIZE: 0.735 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 73

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (3 in favor, 2 opposed, and 2 absent):

1. Development shall be in accordance with the site plan dated January 17, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff noted that the applicant wished to have a full size tennis court, and that the applicant had told the builder that they wanted the house built right at the 10 ft. side setback line to ensure a tennis court and a future pool could be placed in the rear yard. However, the builder constructed the home 20 ft. from the side property line. The builder, who builds extensively in the City of Windermere, thought that the side and rear setbacks for tennis courts were five (5) ft., which are the setbacks in the City. Staff explained that the applicant could relocate the court to meet the setbacks, or they could reduce the court by 2 1/2 ft. on each side and each

end to allow it to stay in the proposed location and meet setbacks. Staff noted that as of the prior day, they had received correspondence from nine (9) neighbors in support and two (2) in opposition. However, as of the prior night, additional correspondence was sent via e-mail, which staff did not have an opportunity to plot on a map. That brought the count to ten (10) in support and six (6) in opposition. The opposition did not state any reason.

The applicant noted that they had several letters from neighbors strongly supporting their request. One (1) neighbor purposefully grew a hedge along their common property line to a height of 10 ft. in anticipation of the court. They noted how it was very apparent that the court had always been anticipated by how the court fits perfectly to the shape of the yard. They noted that the National Park Service and a National Recreational Organization each published standards for courts, which recommend the exact design that is being proposed and stated that it is dangerous to reduce the size of the recovery area, as one could run into a pipe supporting the fencing. Regarding relocating the court, it would be right next to an eight (8) ft. tall three paned glass bay window.

There being no one wishing to speak in favor or opposition to the request, the public hearing was closed.

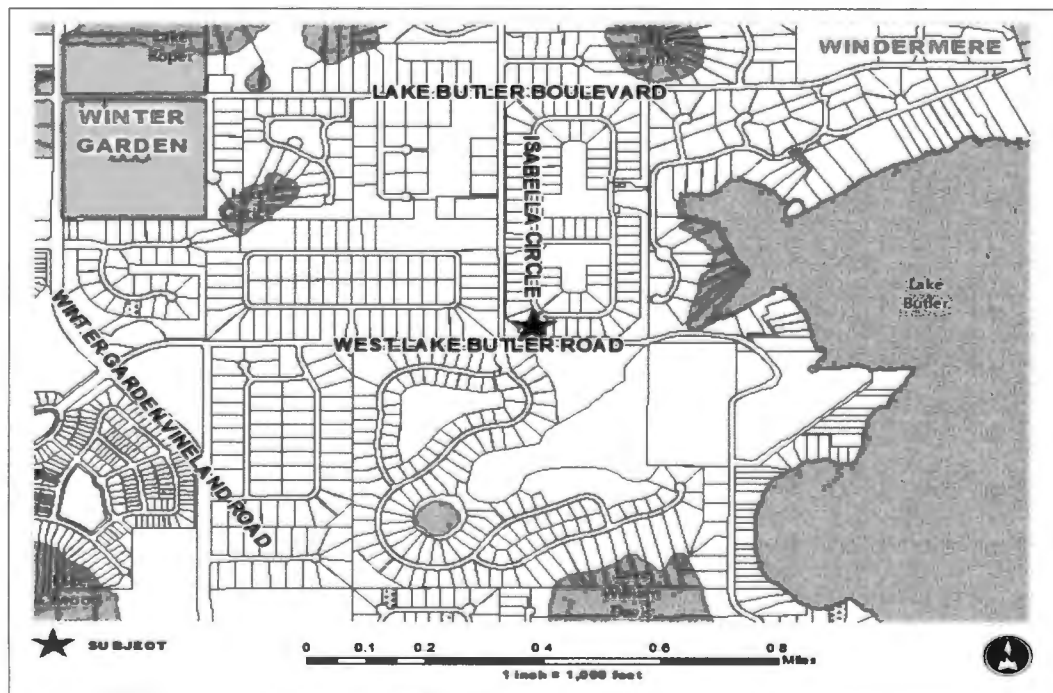
The BZA discussed the location and size of the court. It was noted that relocation may be possible with a sufficient separation distance from the residence. It was also noted that the need for the variance was not self-imposed, as the builder put the house in the wrong place.

The BZA recommended approval of the variance subject to the three (3) conditions in the staff report which passed with a vote of 3-2.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE-C	R-CE-C	R-CE-C & R-CE	R-CE-C	R-CE-C
Future Land Use	RS 1/1	RS 1/1	RS 1/1	RS 1/1	RS 1/1
Current Use	Single Family Residence	Single Family Residence	Landscape Tract and Open Space	Single Family Residence	Single Family Residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-CE-C, Country Estate-Cluster, which allows for single family development on one-half (1/2) acre lots and certain rural uses.

The subject property consists of a .735 acre lot created through the Casabella plat, which was recorded in June 2013. The property was the subject of a rezoning from R-CE and P-D to R-CE-C in May 2006.

The property is developed with a two-story single family residence containing a total of 6,857 sq. ft. of gross floor area, including an integrated three-car garage. The home was built in 2015 by the applicant. The applicant would like to construct a full-size regulation tennis court on the east side of their rear yard.

The applicant has indicated that their builder was supposed to construct the home at the 10 ft. side setback line along the westerly property line to leave sufficient room for the tennis court and a future pool. However, the builder constructed the residence 20 feet from the side property line. In addition to the building location, there was a misunderstanding on the part of the builder regarding what setback tennis courts were to meet. The builder thought that the setback was five (5) feet, as the court was an accessory structure. This would still allow the court to be placed as proposed despite the fact that the home had been built 10 feet closer to the center of the yard than requested by the applicant. The actual setback for a tennis court is 10 feet from all side and rear property lines. The proposed tennis court can meet the setback requirements, but that will place the court approximately three (3) to four (4) feet from the southeast corner of the home.

To the south of the subject property is a landscape tract along the north side of West Lake Butler Road. To the southwest of the rear property line is another landscape tract at the corner of West Lake Butler Road and McKinnon Road. Both tracts contain a six (6) to seven (7) ft. tall masonry wall.

The applicant could reduce the width of the recovery areas on both sides of the court and the depth of the court by 2.5 feet and shift the court. This would meet the setback and keep the court the same distance from the home as the current proposal.

The two (2) most impacted neighbors to the east and west have submitted letters of support, and the HOA has approved the proposal as presented with this application.

District Development Standards

	Code Requirement	Proposed
Max Height:	10 ft. (Fence in side yard)	10 ft. (Fence in side yard)
Min. Lot Width:	100 ft.	100 ft. at front building line
Min. Lot Size:	.5 ac.	.73 ac.

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

	Code Requirement	Proposed
Front:	30 ft. (Residence)	69 ft. (Residence)
Rear:	25 ft. Residence/10 ft. (Tennis court)	50 ft. Residence/5ft. (Tennis court)
Side:	10 ft. (Residence and tennis court)	20 ft. west & 31 ft. east (Residence)/5 ft. east (Tennis court)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

While the lot has a unique shape, there is sufficient room to move the court, as designed, closer to the home to meet the setback. The applicant could also reduce the width and depth of the court to achieve the required setbacks.

Not Self-Created

The applicant would like a full size regulation tennis court. However, with a shift of the court five (5) feet to the west, or a small reduction in the recovery area on both sides the depth of the court, the setbacks could be met.

No Special Privilege Conferred

Granting the variance would confer a special privilege that would be denied to others who have the ability to meet code.

Deprivation of Rights

If the variance is not granted, the applicant can still construct the proposed tennis court, either closer to the home or at a slightly reduced size.

Minimum Possible Variance

Since it is possible to relocate or reduce the size of the court, this is not the minimum variance needed.

Purpose and Intent

The purpose of the increased setback is to locate a use which could potentially produce greater levels of noise, and potential intrusion from stray balls, into neighboring properties. The reduced setbacks will increase the likelihood of these impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated January 17, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

c: Robert Wayner
4291 Isabella Cir.
Windermere, FL 34786

January 15, 2020

Robert F. Wayner, MD
4291 Isabella Circle
Windermere, FL 34786
949-306-1891

RE: Application of Variance to rear and side setbacks Lot 16, Casabella At Windermere,
Parcel ID# 12-23-27-1215-00160

Dear Board,

My name is Robert F. Wayner, MD. We purchased a home in Windermere. The home is a brand-new home constructed by Toll Brothers. The home and lot were purchased after Toll Brothers provided drawings specifying which model home (Allegra) and lot would be able to fit a standard residential tennis court. Additional money was paid for this specifically arranged lot and home placement. The setbacks used by Toll Brothers for the drawings provided by Toll and the sale of the to-be built home was five feet for both rear and side setbacks. The fit was perfectly planned and agreed to as part of the sale.

In addition, when the actual final placement of the home was submitted to the County for permits, the home was moved by Toll Brothers ten feet further towards the planned tennis court with the assumption that the court would be placed with the five-foot setbacks.

Please see the original Toll Brothers crude drawing for purposes of selling the home and lot. The setbacks are five feet and the house placed ten feet from the property line.

When the home was completed, it was time to plan the tennis court. I was SHOCKED when I was told by zoning and planning that the actual unincorporated Orange County setback for tennis courts is ten feet!!!! The adjacent Village of Windermere has a five-foot setback for the very same structure.

The house had already been moved and constructed ten feet closer and this could not be changed after the fact. Having the side and rear setbacks at ten feet wrecks the positioning of the tennis court. This places the tennis court less than five feet from the master bedroom window. With the court being a post-tension concrete pad, the construction would touch the foundation of our new home to accommodate the necessary cables and posts. Regular yard equipment may not fit between the court and house. This entire situation is a planning disaster.

Please understand that the lot, court placement and home placement were all placed originally exactly as needed to fit all of the structures. These special circumstances exist on the only lot which can fit a tennis court. The purchase was contingent on this carefully placed court so that no conflicts would exist or be created for buildings, pathways and drainage of the water through the special channels designed when the lot and home were

built. Please review the surveyor drawings to see how everything fits perfectly exactly as it is drawn.

Toll Brothers, as the developer, planned this whole house with the assurance that the setbacks in Windermere were five feet. They even moved the house over ten feet with this erroneous information! The HOA Board has been controlled by Toll and to this day many Toll Brothers representatives still believe that I do not need a variance. This misrepresentation and sale of the the home as planned was and is not my fault. I did not create this hardship.

The rear yard is bordered by a wall that extends up to ten feet. There are no homes behind and adjacent to my property. The neighbors have no objection and are enthusiastic about having the tennis court built. The variance would provide no special privilege with no other nearby lots even capable of fitting a 120' x 60' tennis court. Within the boundaries of the zoning district, the island of land called the Town of Windermere, has five-foot setbacks.

The literal interpretation of the zoning setback rules deprives me the ability to comfortably fit a carefully planned house and tennis court in the space provided for it. If the variance is not granted, the court would impinge on the master bedroom window and constrict a pathway to move across the rear yard. There was never a planned violation of the setback requirements by me. I feel that I would be deprived the ability to have a lifelong dream of a backyard tennis court. Our community does not and never will have a tennis court.

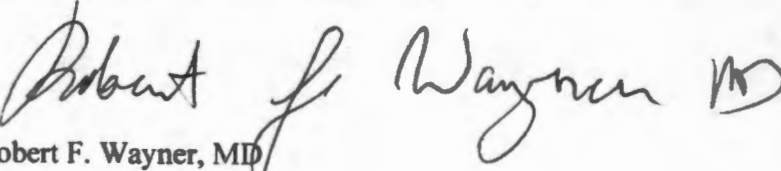
The variance is the minimum necessary to fit the court as planned for the proper practical function of the back yard. Only tennis courts have such a setback. Noisy pool equipment, screen enclosures, patios and other backyard features do not have a ten-foot setback. The rear yard border is a tall wall with no outside the neighborhood view or exposure of the court.

Considering the provided drawings, anyone can see the intent of the requested variance. The proposed variance will allow the tennis court to fit like a glove with the surrounding lot line. No one will be affected or harmed by the granting of this variance. The court is shielded from neighboring communities. The variance will allow proper backyard aesthetic flow and appearance. The terrain as planned allows for proper water drainage. The adjacent neighbors have no objection and actually support the exact placement of the court as drawn. Toll Brothers and the HOA Board enthusiastically support the variance. Toll Brothers has admitted to their mistake.

Please grant this sorely needed variance for rear and side setbacks. No one at all will be injured by this variance. The neighbors support it. The HOA supports it. The neighborhood is surrounded by a tall wall. The variance is harmless yet allows so much to restore the original promise and use of this carefully planned lot and home combination.

If you have any questions concerning my application, please feel free to contact me at 949-306-1891 or drwayner@me.com.

Thank you all very much for your time and consideration,


Robert F. Wayner, MD

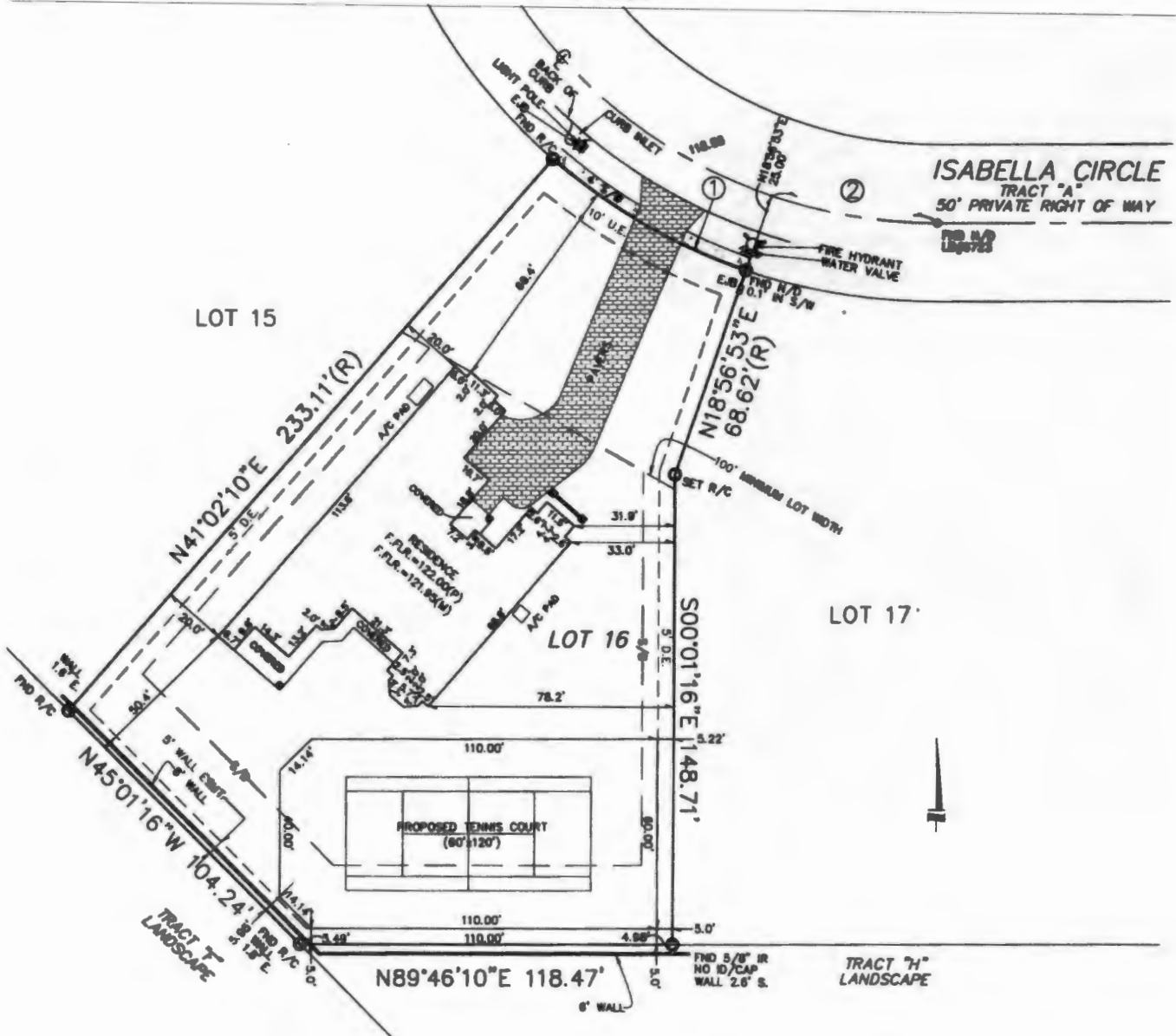
ZONING MAP



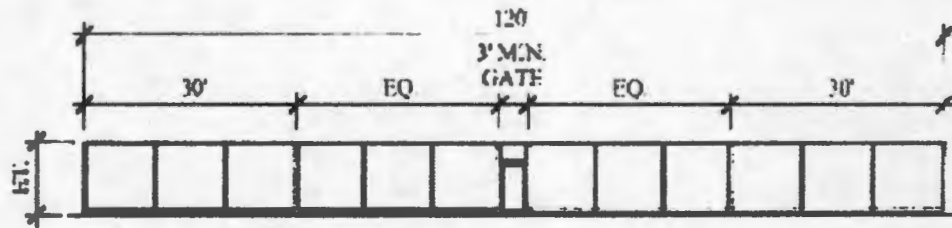
AERIAL MAP



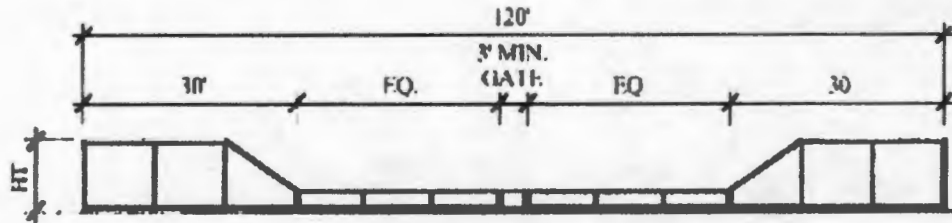
SITE PLAN



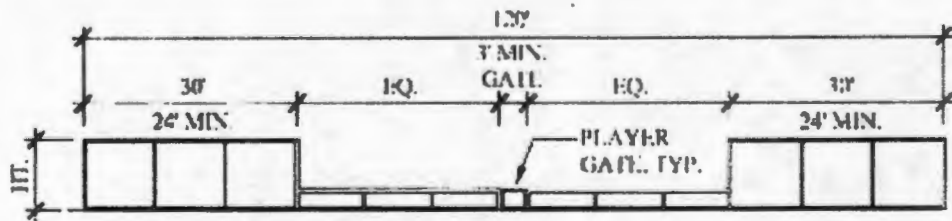
FENCE ELEVATIONS



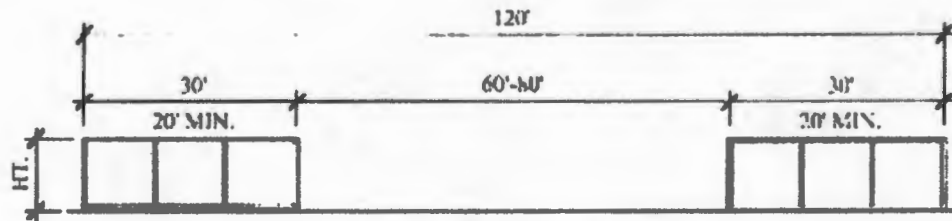
FULL HEIGHT SIDE FENCE



SIDE FENCE WITH TAPERED DROP MIDDLE



SIDE FENCE WITH DROPPED MIDDLE



SIDE FENCE W/ OPEN MIDDLE

NOTE: HT - FENCE HEIGHT VARIES BY SURFACE TYPE.

- | | |
|----------|---|
| 10' MIN. | ASPHALT AND CONCRETE |
| 8' MIN. | CLAY, FAST DRY, & SAND-FILLED TURF |
| 5' MIN. | NATURAL GRASS |
| 3' MIN. | PREFERRED HEIGHT FOR VIEWING INTO COURT |

TYPICAL SIDE FENCE ELEVATIONS

NOT TO SCALE

SITE PHOTOS



Subject property looking southwest



Area of proposed tennis court, looking south toward W. Lake Butler Road

SITE PHOTOS



Rear yard looking west toward McKinnon Rd.



West side yard which was to have been 10 ft. wide rather than 20 ft.

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **SE-20-04-015**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): GARRETT MYERS

OWNER(s): MEYERS REVOCABLE TRUST

REQUEST: Special Exception in the A-2 zoning district to allow a cumulative total of 3,629 sq. ft. of accessory structures in lieu of 3,000 sq. ft.

PROPERTY LOCATION: 4822 Oak Hill St., Apopka, FL 32712, south side of Oak Hill St., approximately 650 ft. east of Round Lake Road

PARCEL ID: 02-20-27-7752-00-031

LOT SIZE: 630 ft. x 327 ft./4.52 acres

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 39

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (unanimous; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan dated February 6, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of a permit for the new accessory structure, the applicant shall obtain and complete demolition permits for the four (4) existing accessory structures located northwest of the existing residence.

SYNOPSIS: Staff explained that the subject property was located in a very rural area where larger structures are not uncommon. Staff noted that over 1,100 sq. ft. of existing accessory floor area would be demolished and replaced with the new 2,400 sq. ft. structure. All required setbacks are being exceeded, and that the site, which is used for residential purposes will not generate any more noise, odor, glare or heat than it currently is.

The applicant indicated their agreement with the staff recommendation and conditions.

There being no one to speak in favor or opposition to this request, the public hearing was closed.

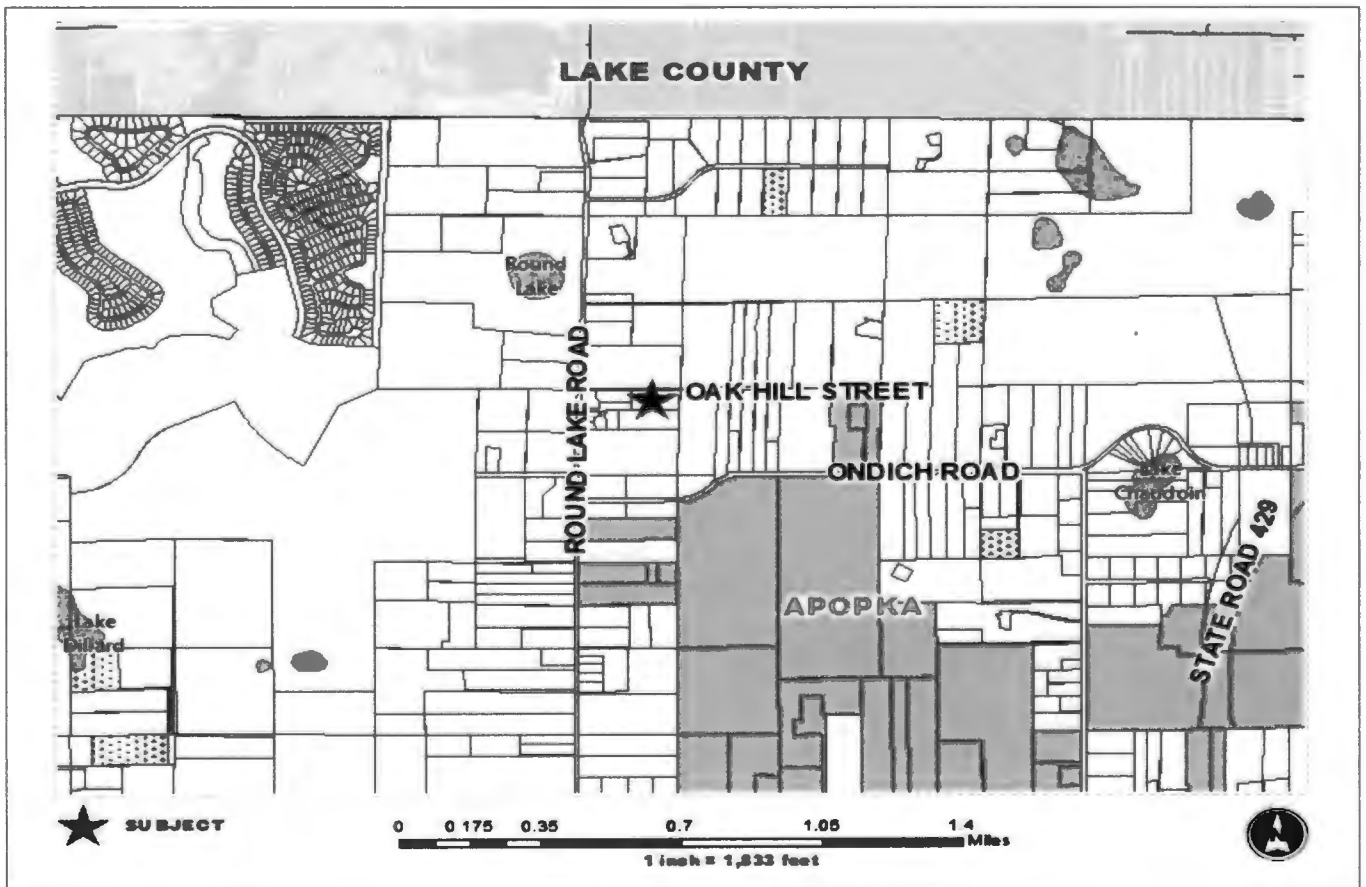
The BZA concluded that the proposed structure would be compatible with the rural nature of the area, and would be an asset to the area.

The BZA unanimously recommended approval of the special exception subject to the four (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	A-2	A-2	A-1	A-1	A-2
Future Land Use	R	R	R	R	R
Current Use	Residential	Pasture	Agricultural	Pasture	Agricultural

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural District, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. The maximum total accessory structure square footage permitted by right is 3,000 sq. ft. However, detached accessory structures located in agricultural zoning districts on a parcel greater than two (2) acres may exceed 3,000 sq. ft. through the Special Exception process subject to additional conditions. Those conditions are:

- No detached accessory structure shall exceed five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height; and
- These detached accessory structures shall be set back as follows:
 - Front 50 ft.
 - Side/side street 25 ft.
 - Rear 35 ft.
 - Normal high water elevation 50 ft.

The subject property consists of 4.52 acres of land. In January 1971, the property was rezoned from A-1, Citrus Rural District to A-2, Farmland Rural District. The property was created by a lot split which was approved in April 1998. The applicant purchased the property in February 2015.

The subject property is developed with a 3,921 sq. ft. residence. To the southwest of the residence is a 360 sq. ft. pool house and in-ground swimming pool. There are also three (3) accessory structures to the northwest of the residence. One is an existing garage containing 1,114 sq. ft. of enclosed floor space and an attached 200 sq. ft. lean-to structure that is open on two (2) sides. There is also a 200 sq. ft. storage shed and a 240 sq. ft. carport south of the garage. On the far west side of the property is an 864 sq. ft. stable for the applicant's horses.

The applicant is proposing to construct a new 2,400 sq. ft. metal storage building with 1,500 sq. ft. of fully enclosed storage and a 900 sq. ft. carport open on three (3) sides. The applicant will be demolishing the existing 1,114 sq. ft. garage, 200 sq. ft. lean-to, 200 sq. ft. storage shed, and 240 sq. ft. carport to make room for the new building, which will be located where those structures stood.

The character of the area is very rural. Large structures in conjunction with agricultural operations are located to the north, northeast, east, south, southwest, and west of the subject property. The proposed structure will be in character with the area.

Due to the size of the subject property, the new building will be 168 feet from Oak Hill St., 120 feet from the east property line, 128 feet from the south property line, and 430 feet from the west property line. The properties to the east, south, and west are all bona fide agricultural operations.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. (New structure)	14 ft.
Min. Lot Width:	100 ft.	638 ft.
Min. Lot Size:	1/2 acre	4.52 acre

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

	Code Requirement	Proposed
Front:	35 ft.	163 ft. (New structure)
Rear:	50 ft.	128 ft. (New structure)
Side:	10 ft.	120 ft. east/430 ft. west .(New structure)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The current Future Land Use (FLU) of the property is R, Rural, and the zoning is A-2. The zoning and FLU are consistent. The character of agricultural areas includes the installation of larger structures, such as that proposed by the applicant.

Similar and compatible with the surrounding area

Many of the surrounding properties are developed with greenhouses, which cover thousands of sq. ft. of their property. The proposed use will be compatible with the surrounding area.

Shall not act as a detrimental intrusion into a surrounding area

The primary use for the proposed structure is storage of vehicles and equipment such as a tractor and mower attachment. The primary use of the property is residential. The proposed use will not act as a detrimental intrusion into this agriculturally oriented area.

Meet the performance standards of the district

The applicant requires no variances to install the proposed structure and the proposed structure will meet the additional requirements for a special exception.

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

Since the intended use of the new structure is storage, it should not generate any more noise, vibration, dust, odor glare or heat than the adjacent agricultural operations, or the existing accessory structures being removed to make room for the new structure.

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

The property is used primarily for residential purposes, therefore landscaping is not required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated February 6, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of a permit for the new accessory structure, the applicant shall obtain and complete demolition permits for the four (4) existing accessory structures located northwest of the existing residence.

c: Garrett Meyers
C/O Garrett Gardner Myers Trustee
4822 Oak Hill St
Apopka, FL 32712

Garrett G. Myers

4822 Oak Hill St.

Apopka, FL 32712

gmsport4@yahoo.com

407-718-3007

To Whom It May Concern,

My name is Garrett G. Myers. I am married to Crystal L. Myers and we have two daughters. My family and I currently reside at 4822 Oak Hill St. Apopka, FL 32712. We are planning to demolish existing structures on our property and replace them with a single structure. Currently there are two buildings and a small carport in the center-right of our 4.53-acre property. The largest building is a 30.6ft by 36.4ft wooden frame with metal siding and roof (Refer to "B" on Before drawing). The other building is a 12ft by 20ft wooden frame with metal siding and roof (Refer to "C" on Before drawing). The carport is a 10ft by 26FT wooden frame with metal roof (Refer to "D" on Before drawing). I am proposing complete removal of these buildings and replacing them with a 30ft by 50ft all metal building, with an attached 30ft by 30ft metal carport. This new structure will be constructed in approximately the same location of the current buildings (Refer to "F" on AFTER drawing). The new building will be located approximately 170 feet from the North property line and approximately 90 feet from the East property line. The estimated size of the entire new structure is 30'Dx80'Wx13'H. According to Orange County code, I am allowed up to 3,000 sqft of accessory structures. With the new structure and existing structures (Stables/Barn and Pool House), total approximate accessory square footage for the whole property is 3,628.5.

$$3,628.5\text{sqft} = (\text{New Structure } s) + (\text{Stables}) + (\text{Pool House}) = (30' \times 80') + (36' \times 24') + (24.3' \times 15')$$

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

This building will be utilized for storage of tractor, tractor attachments, utility terrain vehicle (UTV or side-by-side), animal feed (such as hay or grain) and any other tools required to maintain the property. The building 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.

The all metal building is similar in size and construction of surrounding properties buildings.

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

The new building is replacing older rundown buildings of similar size and location. New building does not affect any surrounding areas, and is being utilized to maintain property and farm animals.

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

The new building meets all codes and regulations set down by Orange County, excluding square footage requirements, for which this Special Exceptions Request is being submitted.

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

The new building is replacing older rundown buildings of similar size and location and is similar in size and construction of surrounding area. New building does not affect any surrounding areas, and is being utilized to maintain property and farm animals.

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.

Meets all Orange County Code.

Sincerely,

Garrett Myers and Family

Garrett G. Myers

4822 Oak Hill St.
Apopka, FL 32712
gmsport4@yahoo.com
407-718-3007

Note: BEFORE and AFTER drawings are detailed views of the proposed accessory structure location.

Existing Structures and Usage:

- Two Story Residence:
 - Primary living quarters
 - Refer to "A" on AFTER drawing
- One Story Pool House:
 - Area to change/prepare for pool
 - Storage for towels and pool accessories
 - Refer to "E" on AFTER drawing
- One Story Garage:
 - Stores equipment to maintain property.
 - i.e. Utility Terrain Vehicle (UTV), riding lawn mower and other equipment.
 - Refer to "B" on AFTER drawing
- Metal Shed:
 - Stores tractor and tractor attachments.
 - Refer to "C" on AFTER drawing
- Carport:
 - Stores boat/trailer.
 - Refer to "D" on AFTER drawing
- Stable/Barn:
 - Stores Equine and their tack.
 - Refer to HSM Survey

Proposed Structure and Usage:

- One Story Building:
 - Stores tractor, tractor attachments, utility terrain vehicle (UTV or side-by-side), animal feed (such as hay or grain) and any other tools required to maintain the property.
 - Refer to "F" on After drawing

Site Plan:

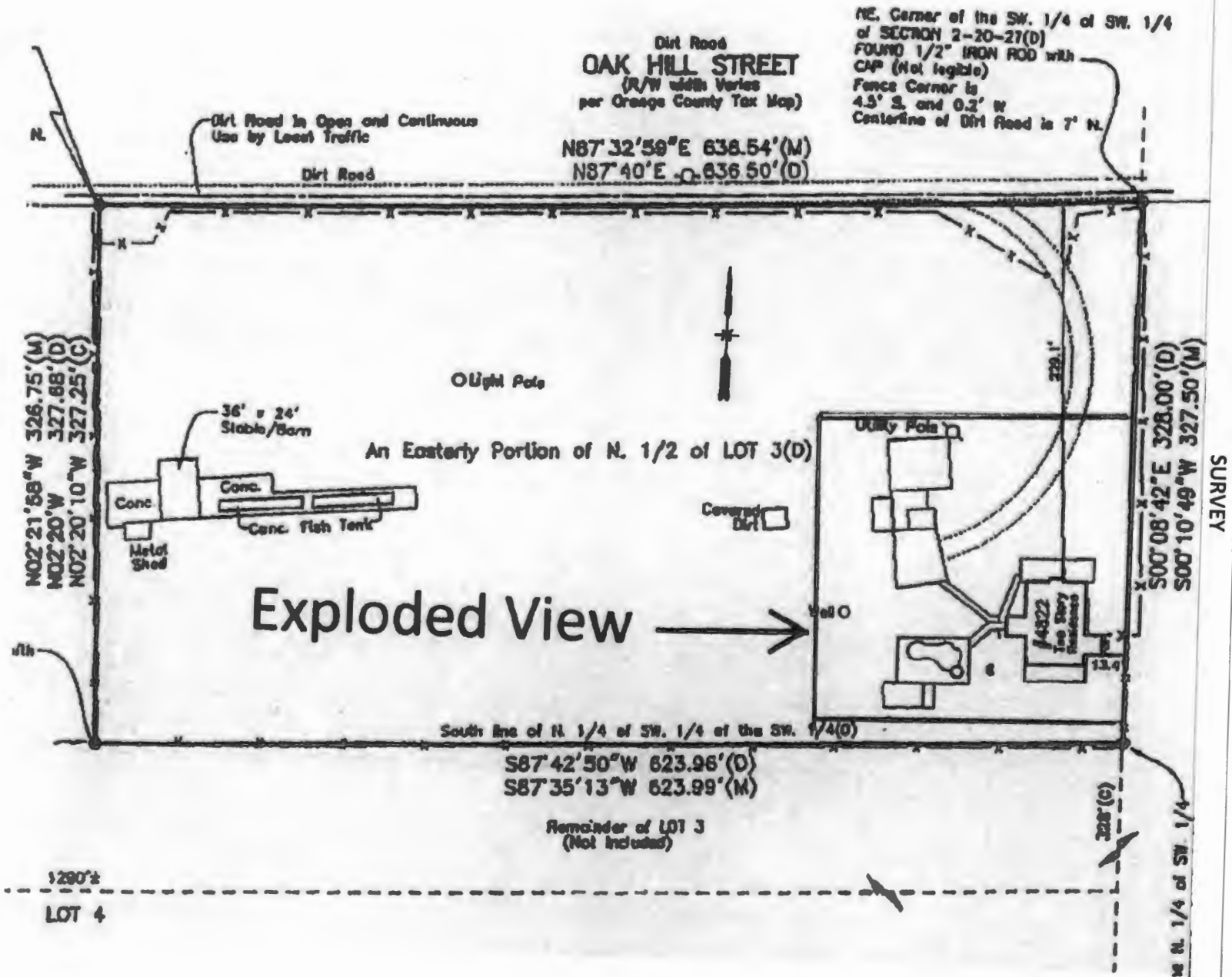
- Removal of existing structures.
- Construct a new structure with minimal impact to surrounding areas in approximately the same location of the existing structures.
- Refer to AFTER drawing

ZONING MAP

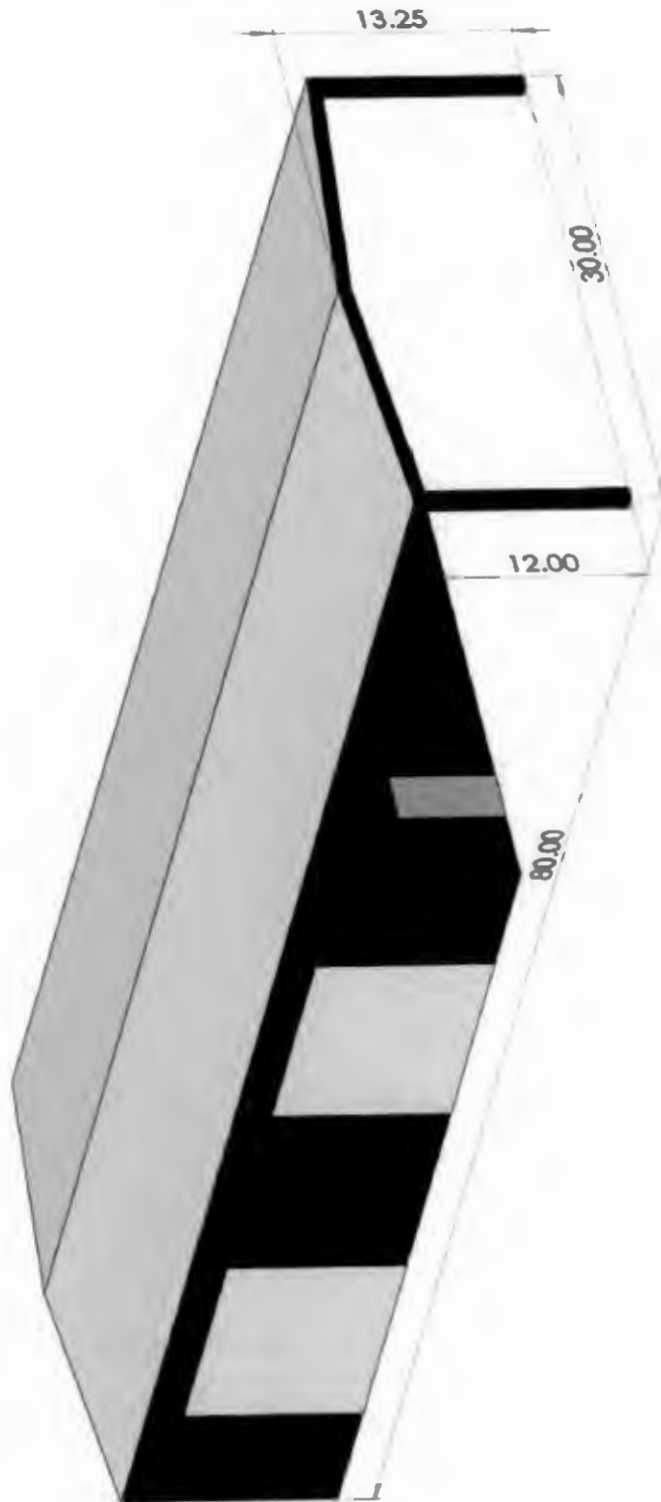


AERIAL MAP

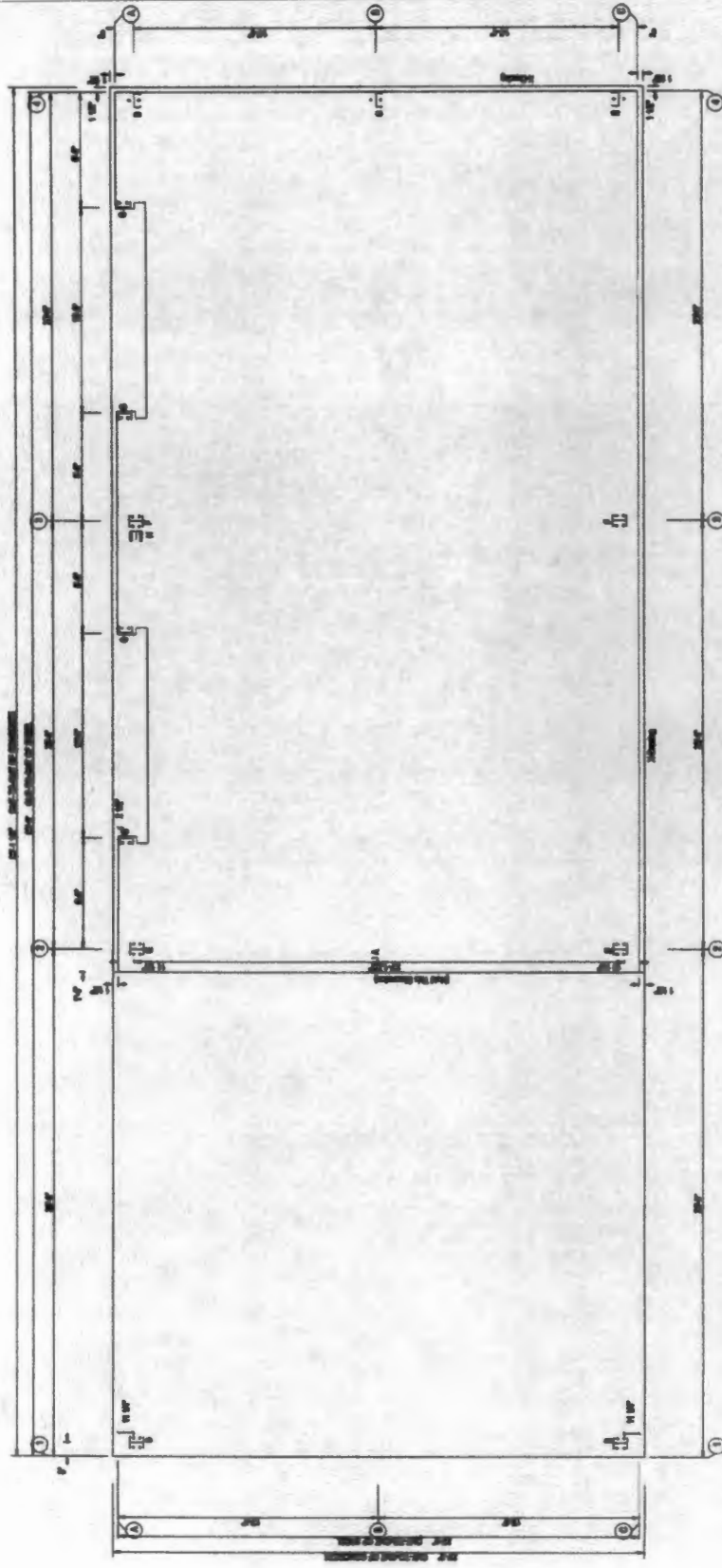




RENDERING



FLOOR PLAN



SITE PHOTOS



Residence looking south



Existing garage to be removed, looking west

SITE PHOTOS



Garage, shed and, lean-to structures to be removed, looking north



Existing stable looking west

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-04-017**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): SOLANGE DAO

OWNER(s): DELTA KILO ACQUISITIONS LLC

REQUEST: Variance in the IND-2/IND-3 zoning district to allow for construction of 7 industrial buildings with a 15 ft. (east) setback from a residential zoning district in lieu of an increased setback of 60 ft.

PROPERTY LOCATION: 6682 Hoffner Ave., Orlando, FL 32822, south side of Hoffner Ave., north side a Seminole Ave., approximately .3 miles west of S. Goldenrod Rd.

PARCEL ID: 14-23-30-5240-13-012

LOT SIZE: 187 ft. x 634 ft./5.45 acres

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 142

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6-0 and 1 absent):

1. Development shall be in accordance with the architecture and site plan dated April 16, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
5. Noise shall be regulated by Chapter 15, Orange County Code "Environmental Control", specifically Article V "Noise Pollution."
6. The applicant shall provide a "Type B" buffer along the east property line.

SYNOPSIS: Staff noted that even though the property to the east is zoned A-2, it is used for residential purposes. Therefore, an increased setback of 60 ft. versus 15 ft. is required. In addition, there is a need for a Type B buffer requiring a 25 ft. buffer area that cannot be used for anything other than landscaping. The applicant is developing essentially from scratch, and has not attempted to use any other design techniques such as the use of multi-story buildings. Staff explained that the applicant intended to request waivers to the Type B buffer; however, the Zoning Manager had noted that there was insufficient justification to grant a waiver. Staff stated that it had received one (1) letter in support of the application from the residence to the east, and one in opposition from a property approximately 1/4 mile away.

The applicant gave a presentation, noting that the property was slightly over 180 ft. wide, so a 60 ft. setback would deprive them of nearly 1/3 of their site. They also noted that the cell tower on the adjacent property was permitted as a commercial use, and the property owner is realizing a good profit from the lease to the tower owner. That fact caused the applicant to assume that the property was being used commercially.

There being no one wishing to speak in favor or opposition, the public hearing was closed.

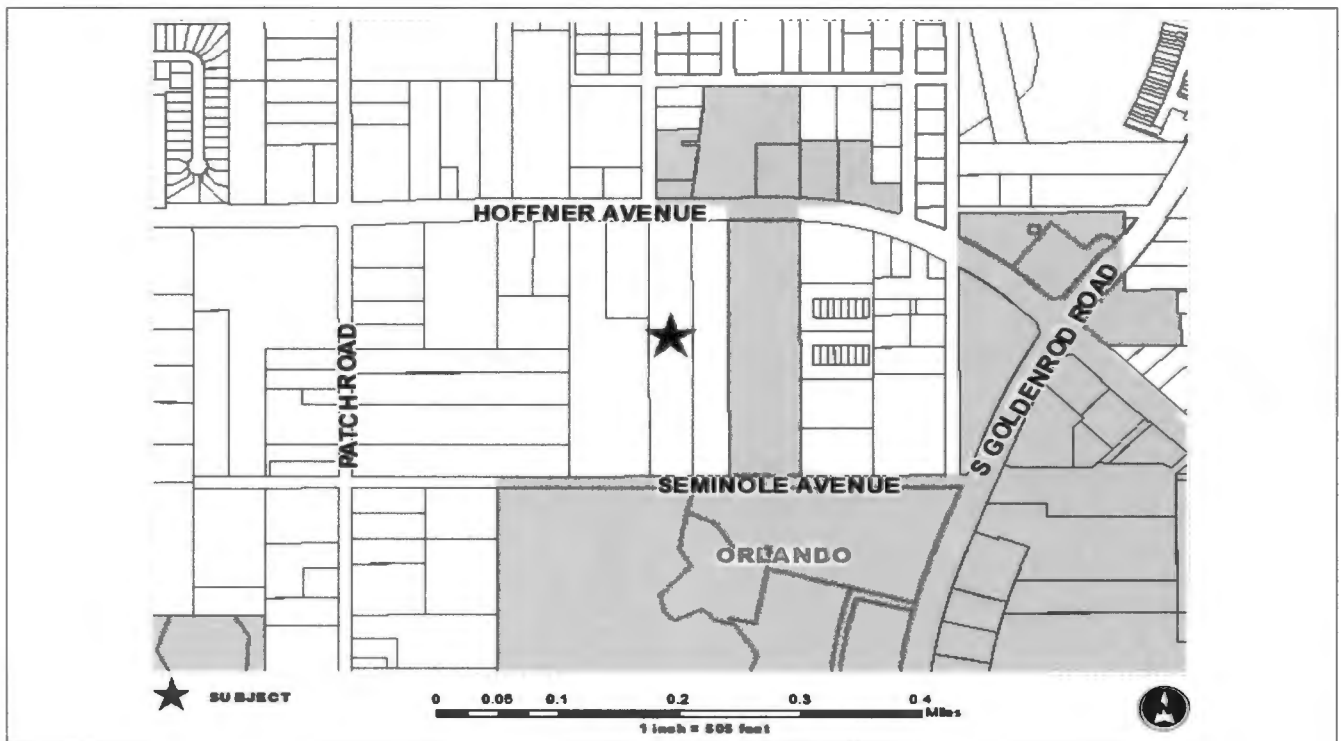
The BZA concluded that the loss of nearly 1/3 of the site due to a property which will one day be zoned industrial, was a true hardship and special condition.

The BZA unanimously recommended approval of the variance subject to the six (6) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, should the BZA conclude that the applicant has satisfied the criteria necessary to approve the requested variance, it is recommended that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	IND-2/IND-3	City of Orlando MU-1/AN	City of Orlando PD/AN	A-2	IND-2/IND-3
Future Land Use	IND	City of Orlando MUC-MCE	City of Orlando Conservation	IND	IND
Current Use	Plant Nursery	Mobile Home	Vacant	Single Family Residence, Mobile Home & Cell Tower	Industrial and Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is zoned IND-2/IND-3, Industrial Park District which allows for warehousing, manufacturing, and certain retail uses.

The subject property consists of 5.45 acres of land composed of the west half of two (2) lots and the eastern half of an abandoned right-of-way. The property is part of the Los Terranos plat, which was recorded in January 1928. Because the property has frontage on two (2) rights-of-way the property is considered a double frontage lot. However, while Seminole Avenue is a dedicated right-of-way, it remains unopen and is not maintained by the County. In 2006, the subject property was rezoned from A-2 to IND-2/IND-3 with the condition that pole signs and billboards were prohibited.

The subject property is developed with a 902 sq. ft. structure constructed in 1961, which was originally constructed as a single family residence and then converted to an office for a commercial nursery. The applicant intends to develop the property with seven (7) industrial buildings, each containing 9,940 sq. ft. of floor area for a cumulative total of 69,580 sq. ft. of floor area. The first building nearest Hoffner Avenue (Building 1), will have four (4) bays facing Hoffner Avenue and three (3) bays on the rear elevation of the building. The other six (6) six buildings will each have six (6) bays, three (3) on the front and three (3) on the rear.

The adjacent property to the east is developed with a 3,006 sq. ft. single family residence constructed in 1940, and a 756 sq. ft. mobile home which, according the Property Appraiser's data, was installed in 1969. In addition, there is a 120 ft. tall cell tower installed in late 2006.

While the required side yard setback in the IND-2/IND-3 zoning district is 15 feet, the code requires an increased setback of 60 feet when it abuts a residential zoning district. The property to the east is zoned A-2, which is considered a residential zoning district, as residential is allowed. The only improvements permitted in the increased buffer are fences, walls, and parking. There are to be no buildings or activity areas in the increased setback area.

In addition to the increased setback, the subject property is to have a "Type B" buffer where it abuts a property with a residential use. A "Type B" buffer requires a buffer yard of 25 feet and a completely opaque screen six

(6) feet in height which can consist of any combination of masonry walls, berms, and planted and existing vegetation. The buffer yard cannot be used for vehicular use areas, such as parking, storage or buildings.

Landscape requirements of Chapter 24 allow the Zoning Manager to grant decreases where the application to a specific site would result in practical difficulty or physical hardship. The applicant intends to obtain the variance to the 60 ft. increased setback from the property to the east, and request that the Zoning Manager waive the buffer yard width. The Zoning Manager has already indicated that there is not sufficient justification to waive the buffer yard width for the redevelopment of this site. For this reason, if the BZA finds sufficient justification to grant the variance to the increased setback, the applicant will still need to redesign the site to comply with the buffer yard requirements. They will need to reduce the building size, reconfigure the buildings, or use multiple story buildings in order to comply with the buffering requirements.

The applicant did obtain a letter of no objection to the variance request from the owner of the property to the east. That property has a Future Land Use of IND, Industrial, and is expected to ultimately be developed for some industrial use. However, until the property's zoning is changed, the required setback of 60 feet is required.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	26 ft.
Min. Lot Width:	N/A	187 ft.
Min. Lot Size:	N/A	5.46 ac.

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

	Code Requirement	Proposed
Front (Hoffner Ave.):	60 ft. (Major Road Setback)	81 ft.
Front (Seminole Ave.):	25 ft.	261 ft.
Side:	15 ft. (60 ft. if adjacent to residential zoning)	15 ft.(East)/28 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Because this is new construction, the applicant has the ability to design the site using alternatives, such as differently configured building layouts, or using multi-story buildings, or a reduced development program to comply with the performance standards of the district, such as setbacks.

Not Self-Created

This is a self-created hardship, as the proposal is for a complete redevelopment of the site. There is no reason why a proposed industrial use could not be designed to meet code.

No Special Privilege Conferred

Granting the variance will allow the applicant to forgo the same performance standards required of other industrially zoned property adjacent to residential zoning in similar situations. This would confer a special privilege.

Deprivation of Rights

Denying the variance will not deny the applicant of all viable use of the site. They may not be able to obtain the same floor area as the current design provides, however, they will still have a developable site.

Minimum Possible Variance

The applicant has not submitted any alternative design scenarios to attempt to meet or reduce the amount of variance needed. A variance to forgo 75% of the required setback is considered excessive.

Purpose and Intent

The purpose for increased setbacks is to protect residential uses from the effects of more intensely used property. While the applicant is currently planning on having all activity on the property located indoors, there are uses permitted in the IND-2/IND-3 zoning district which generate negative effects such as noise, dust, and odor which would negatively impact the residential to the east.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the architecture and site plan dated April 16, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
5. Noise shall be regulated by Chapter 15, Orange County Code "Environmental Control", specifically Article V "Noise Pollution."

6. The applicant shall provide a "Type B" buffer along the east property line.

c: Solange Dao
1110 E. Marks St.
Orlando, FL 32803



1110 East Marks Street
Orlando, FL 32803-4018
USA

PH: 407.898.6872
FX: 407.898.3778
www.daoconsultants.com

February 11, 2020

Board of Zoning Adjustment
201 S. Rosalind Ave
Orlando, FL 32801

Reference: Narrative Letter to Submit Variance Request on
Section 39-981(12)

Dear BZA:

Thank you for giving us the platform to request this variance. My client's parcel is zoned I-2/I-3. He currently runs a landscape business from this location. This business has occupied this site for over 30 years.

The adjacent east parcel is zoned A-2, classified as a residential use. Per Section 39-981 (12): *An increased setback not less than sixty (60) feet in width shall be provided along each I-2/I-3 industrial district boundary line which abuts any residential zoning district*

Since we are redeveloping the lot for better use of the land, Section 39-981(12) is being enforced on this new development.

We are asking for a variance to reduce 60-ft setback to be reduced 15-ft per the criteria below:

- 1) **Special Condition and Circumstances**
My client's parcel is 187-ft wide. With Section 39-981(12) 60-ft setback from a residential use, the setback requirement renders 32% of his lot as undevelopable. The narrow lot width makes a providing 60-ft setback a large hardship. Another constraint on this lot is the FDOT improvements of Hoffner Ave (SR-15) have established the driveway aprons. The west apron aligns with the FDOT median opening. We have laid out the new development to allow truck access from Hoffner Ave. via the driveway aligned with the median opening. This forced our buildings to have a layout towards the east line to allow the best maneuvering of vehicles.
- 2) **Not Self-Created**
The lot size is an existing condition. FDOT established the median access into this parcel aligned with the west entrance. These are the conditions we are working with to make the best possible use of the land.
- 3) **No Special Privilege Conferred**
The FLU for our neighboring parcel is I-2/I-3. Parcels with Industrial zoning are allowed 15-ft setbacks, and 15% open space. We are proposing 15-ft setback with 30% open space.

4) Deprivation of Rights

Losing 30% of this parcel is a large hardship and severely limits this owners right to development in I-2/I-3 zoning. The demand for warehouse business units in close proximity to the airport, downtown Orlando, and tollways is being met minimally. My client's ability to fill the demand is severely diminished with the 60-ft setback.

5) Minimum Possible Variance

As we stated the access roadway was determined by FDOT with the median cut. The access driveway to the west side of the lot makes 45-ft of the lot reserved for pavement and landscape buffer. We are asking the same setback distance allowed at I-2/I-3 parcels adjacent to A-2 lots. We also propose to plant a dense bamboo hedge to create a fast growing opaque screen at this lot line.

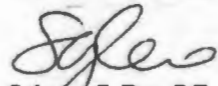
6) Purpose and Intent

The intent of the FLU is to develop clusters of similar uses, and evolve the development of the County. The A-2 zoning is being replaced in this area by I-2/I-3 per the FLU. The adjacent east lot has begun to convert to an Industrial Use with the leasing of a portion of their land for a cellular tower.

We thank the Board of Zoning Adjustment for their time and consideration of our case for this code variance.

Sincerely,

DAO CONSULTANTS, INC.



Solange C. Dao, P.E.

OFFICIAL



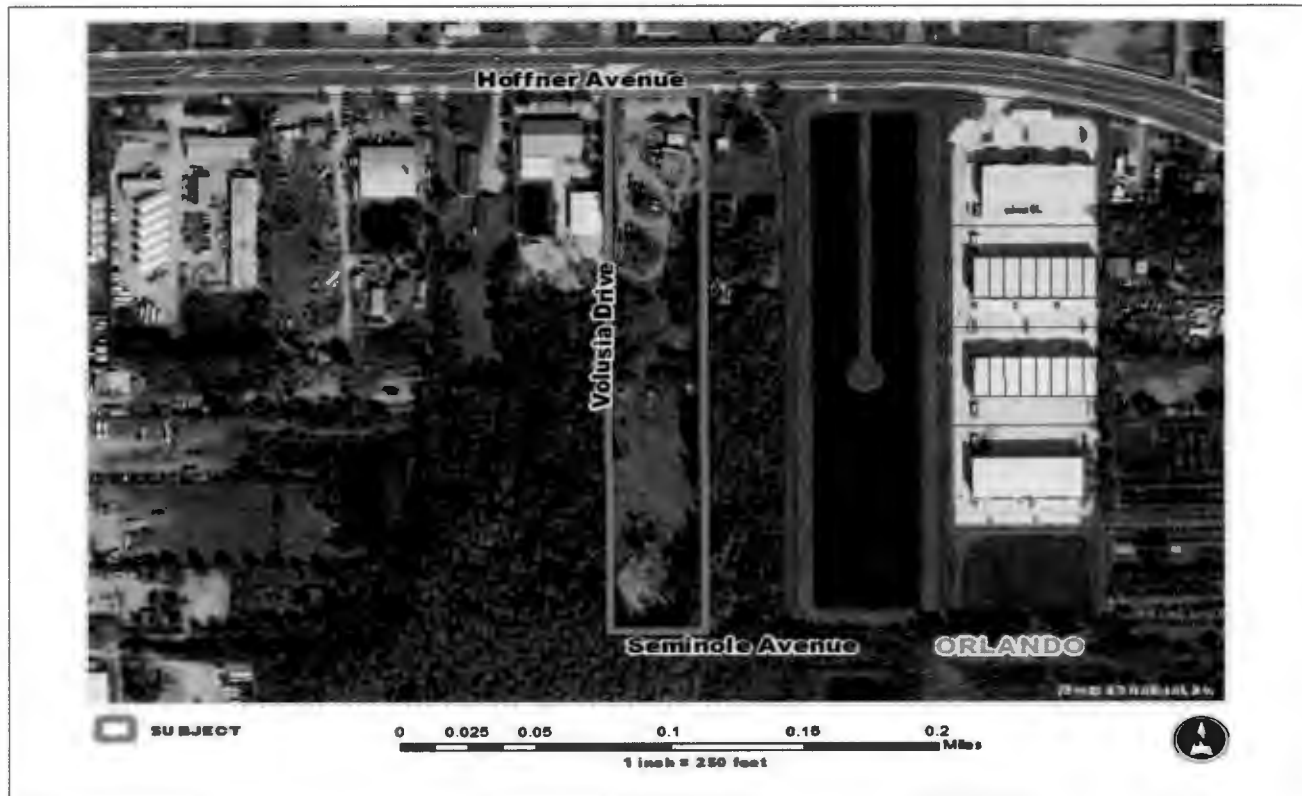
ENGINEERING FIRM

1996-2004

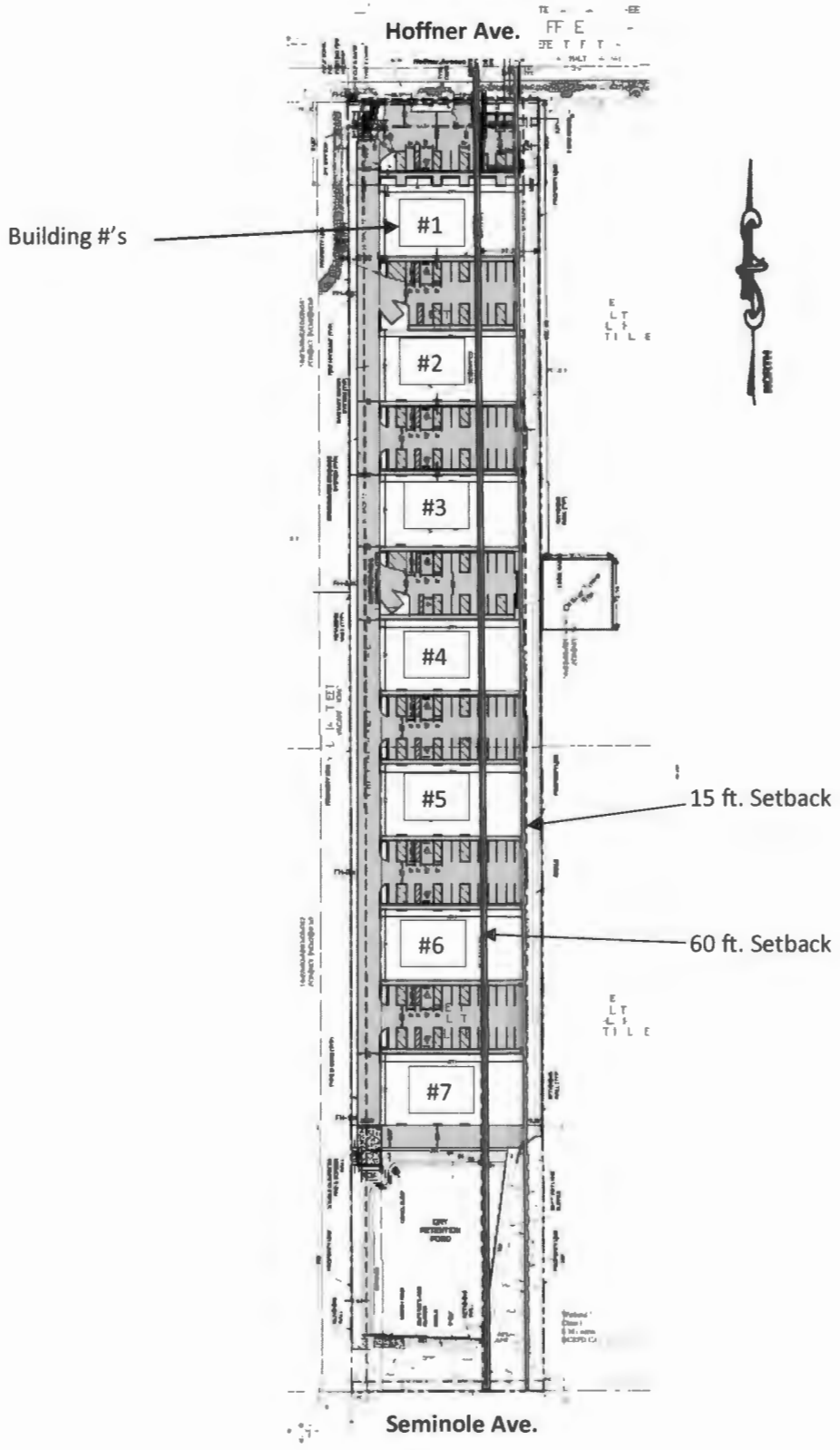
ZONING MAP



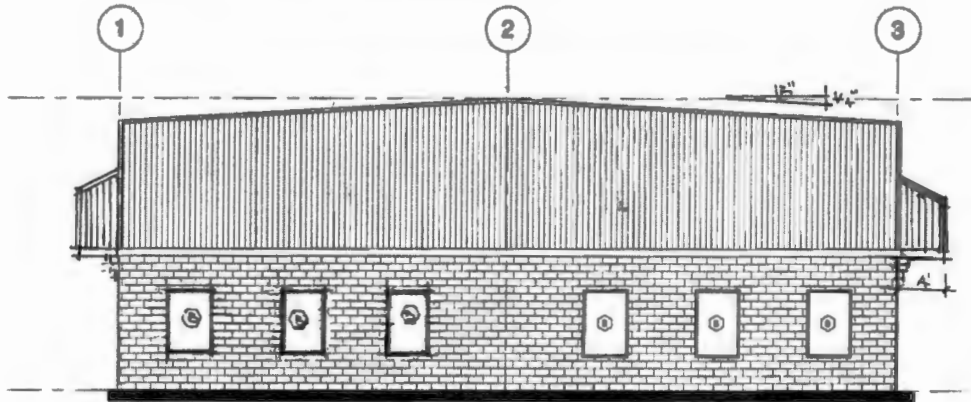
AERIAL MAP



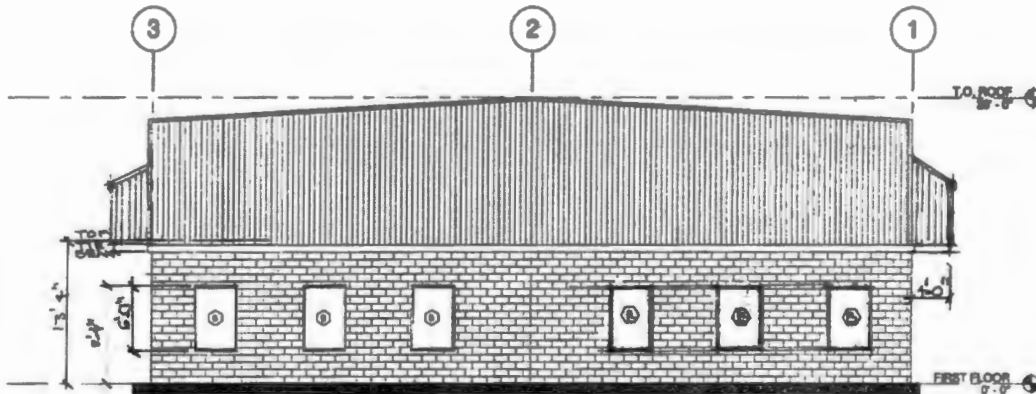
SITE PLAN



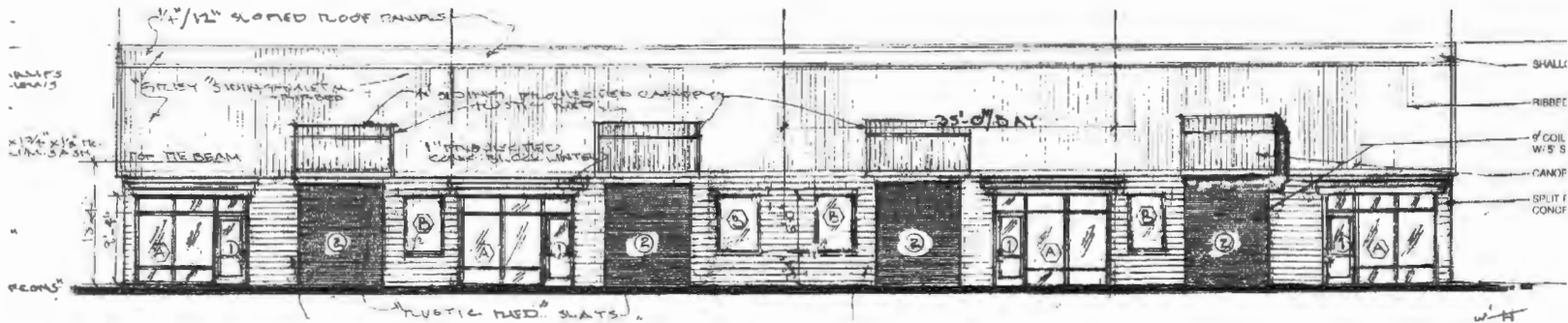
END ELEVATIONS (ALL BUILDINGS)



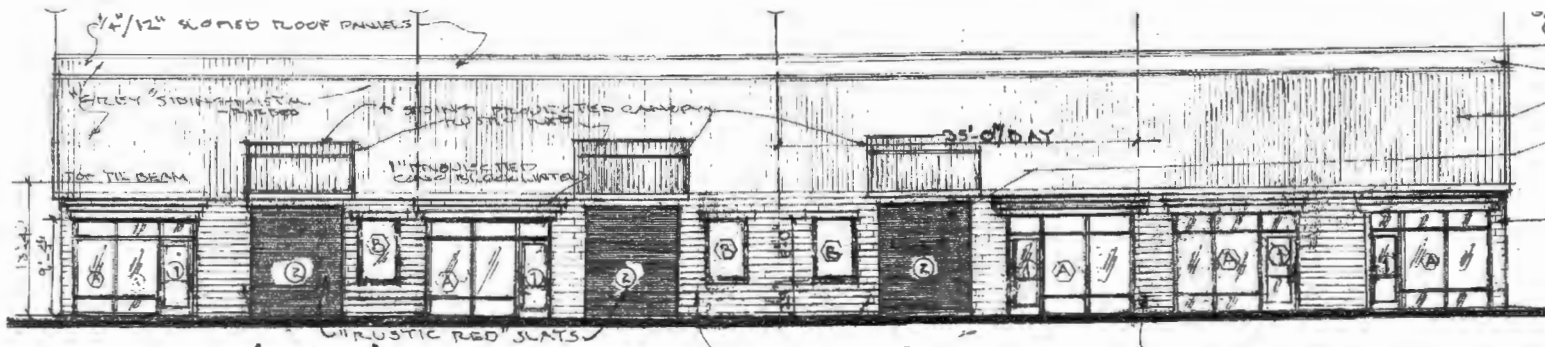
3 EAST ELEVATION
1/8" = 1'-0"



4 WEST ELEVATION
1/8" = 1'-0"



FRONT ELEVATION (BUILDING #1)



REAR ELEVATION (BUILDING #1)/FRONT & REAR ELEVATIONS (BUILDINGS 2-7)

FRONT/REAR ELEVATION

SITE PHOTOS



Existing office building for nursery, looking southeast



Site work yard with adjacent cell tower in background, looking southeast

SITE PHOTOS



Adjacent business abutting west side of site, looking southwest



Adjacent residentially zoned property to east, looking south

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-05-019**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): FRANKLIN MUNOZ

OWNER(s): FRANKLIN MUNOZ

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

1) To allow the existing residence to be located 6 ft. from the side (south) setback in lieu of 7.5 ft.

2) To allow an addition with a side (south) setback of 0 ft. in lieu of 7.5 ft.

Note: This is the result of Code Enforcement action.

PROPERTY LOCATION: 8120 Gondola Drive, Orlando, Florida, 32809, west side of Gondola Dr. on the east shore of Bearhead Lake, north of McCoy Rd., and east of S. Orange Ave.

PARCEL ID: 25-23-29-0000-00-071

LOT SIZE: 75 ft. x 774 ft./1.33 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 44

DECISION: Recommended **APPROVAL** of the Variance request #1, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; and, **DENIAL** of the Variance request #2, in that there was no hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan dated March 6, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff explained that the home was built prior to zoning, which could explain the reduced setback for the existing home. Staff stated that the applicant purchased the home in 2019, and that the family occupying it is a member of their family. That family member constructed the improvements without the applicant's knowledge and without permits. The Code Enforcement Board heard the case and found the owner in violation. Staff stated that the property owner to the south submitted a letter of support, and they had received one (1) correspondence in opposition. Staff noted that there was a 15 ft. drainage tract between the subject property and the property to the south.

The applicant acknowledged that their relative had made a mistake and they would like to keep the deck as is.

There being no one wishing to speak in favor or opposition, the public hearing was closed.

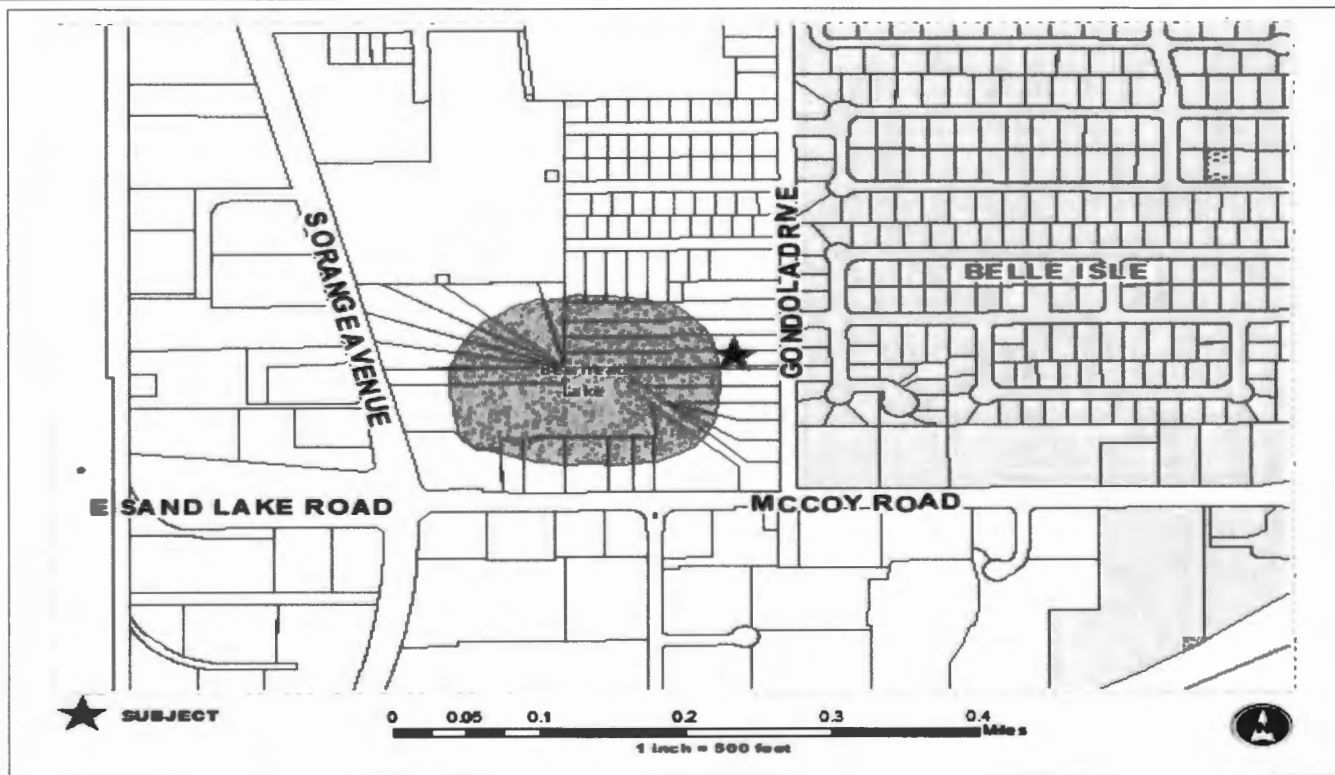
The BZA concluded that Variance #1 was warranted, however, Variance #2 was not.

The BZA unanimously recommended approval of Variance #1, subject to the three (3) conditions in the staff report and denial of Variance #2.

STAFF RECOMMENDATIONS

Approval of Variance #1, subject to conditions 1 through 3 of the staff report, and denial of Variance #2; however, should the BZA find that the applicant has met the criteria for granting Variance #2, staff recommends that such approval be subject to additional conditions 4 and 5 in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	City of Belle Isle	Bearhead Lake
Future Land Use	LMDR	LMDR	LMDR	City of Belle Isle	Bearhead Lake
Current Use	Single family residence	Single family residence	Vacant & single family residence	Single family residence	Bearhead Lake

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single Family Dwelling District, which allows single family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater in size.

The subject property consists of a 1.33 acre parcel of unplatted property, with approximately .9 acres being submerged lands. The property is improved with a 1,921 sq. ft. home and an in-ground pool. The home was built in 1954, and has an integrated one-car garage. The applicant purchased the property in July 2019.

Based on a review of historic aerial photography, it appears that the home was constructed in its current location three (3) years before zoning was instituted in Orange County.

The subject property is occupied by a family member of the applicant. Without the applicant's knowledge, the family member erected a six ft. tall fence along the south property line, and an attached 668+ sq. ft. covered deck to the home. All of the work was completed without permits. The covered deck is substantial and could have been built to meet code.

In September 2019, the applicant was cited by code enforcement for work performed without a permit. The case went before the Code Enforcement Board in January 2020. The Board found the applicant guilty. In February 2020, the applicant obtained a permit for the fence (F20003581).

The applicant submitted a permit for a covered deck (B19020364) in November 2019, but the side yard setback was not met with the as-built survey. As a result, the applicant has applied for a variance to allow it to remain.

The application package included a letter of support from the neighboring property owner to the south. However, that neighbor's property does not actually abut the subject property. There is a 15 ft. wide drainage tract parcel of land owned by Orange County extending from Gondola Drive to Bearhead Lake directly south of the subject site.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12 ft.
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	1.33 acres

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

	Code Requirement	Proposed
Front:	20 ft.	44 ft.
Rear:	25 ft.	446 ft. to submerged rear property line
Side:	7.5 ft.	6 ft. (House) 0 ft. (Deck)
NHWE:	25 ft.	114 ft.

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

Regarding Variance #1, the special circumstance is the fact that the home predates zoning. With regard to Variance #2, for the side setback of the deck, if the applicant had applied for a permit prior to construction, they would have been made aware of the required setback and could have designed it to meet code.

Not Self-Created

The applicant purchased the property in July 2019. The home was built in 1954. Variance #1 is not self-created. The improvements associated with Variance #2 were constructed without a permit. Variance #2 is self-created.

No Special Privilege Conferred

No special privilege will be conferred by granting Variance #1, as the house predates zoning and setbacks. However, the improvement covered by Variance #2, would confer a special privilege which would be denied by staff for others attempting to make similar improvements.

Deprivation of Rights

If Variance #1 is not granted, the existing residence will remain a nonconforming structure, failing to meet the side setback. Denying Variance #2 will result in the need to alter the deck to comply with setbacks.

Minimum Possible Variance

Variance #1 is the minimum possible variance. Since the deck can be modified to comply with the setback, the request of a 100% variance is excessive.

Purpose and Intent

The purpose and intent of setbacks is to ensure adequate separation, light, and air between properties. Variance #1, will meet the purpose and intent of the code; however, Variance #2 does not.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 6, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

If the Board recommends approval of Variance #2, the following additional conditions are recommended:

4. The applicant shall obtain a permit for the attached covered porch within 180 days of final action on this application by Orange County, or this approval becomes null and void.
5. A totally opaque barrier, a minimum of six (6) ft. in height, shall be maintained along the south property line in accordance with Sec. 38-1408, "Fences and walls", until such time as the porch is removed.

c: Franklin Munoz
1307 Susannah Blvd.
Orlando, FL 32803

COVER LETTER

**M&V Exterior and Investment, LLC.
1307 Susannah Blvd.
Orlando, FL 32803**

March 3, 2020

To Whom It May Concern:

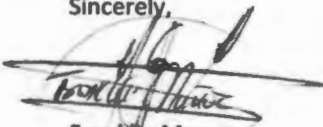
This letter is to request approval for a variance on property 8120 Gondola Dr., Orlando, FL 32809 of 684 square feet wood porch in the back of the property which was built under code requirements with Florida materials approval. The mentioned porch was built without a permit, but after receiving a violation letter from the county I hired a General Contractor to continue with the zoning and building process. The General Contractor submitted permit # B19020364 in order to get zoning approval, but unfortunately the county found a deficient on the setbacks of the zoning district.

This letter provides justification for how the proposal meets the six standards for variance approval as outlined below. Variance Criteria:

- 1. Special Conditions and Circumstances-** Brother built without my knowledge and without permits. I would never build without permits and meeting requirements.
- 2. Not Self-Created-** It was built without my knowledge or permission.
- 3. No Special Privilege Conferred-** Others have similar additions. I am just trying to get permits to make it right.
- 4. Deprivation of Rights-** Without variance I will have to make substantial structural changes.
- 5. Minimum Possible Variance-** I am not requesting to encroach any further.
- 6. Purpose and Intent-** I will not encroach anymore onto neighbor's property. Neighbor has given letter of support which is attached.

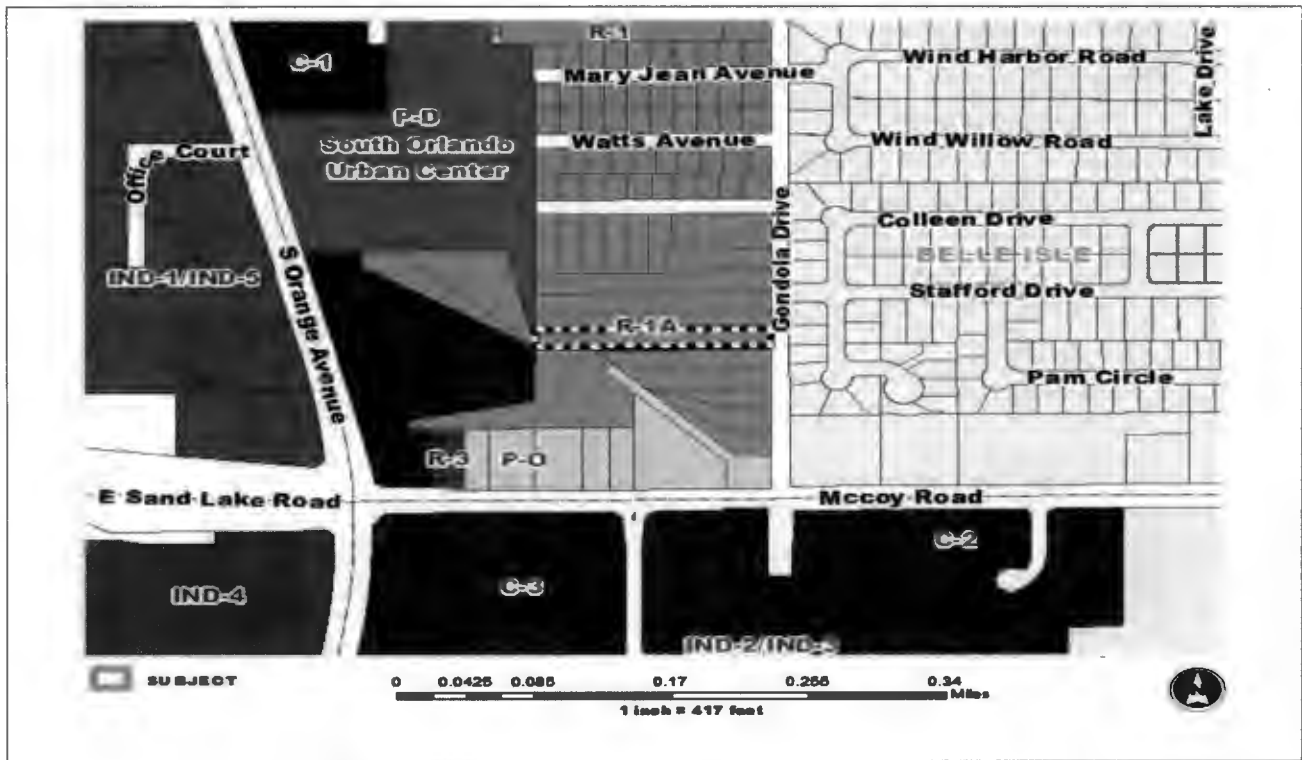
If you have any questions regarding this matter, please feel free to contact me at 407-492-9698.

Sincerely,

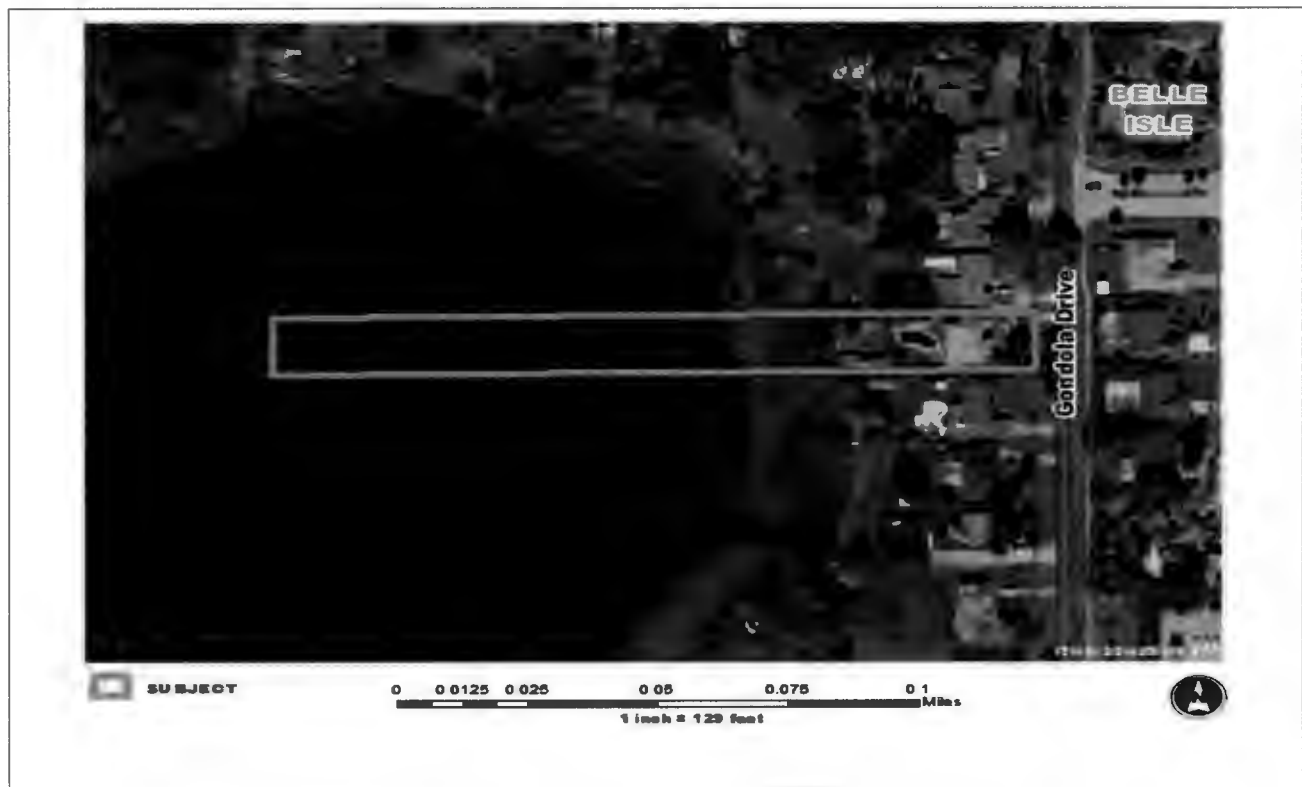


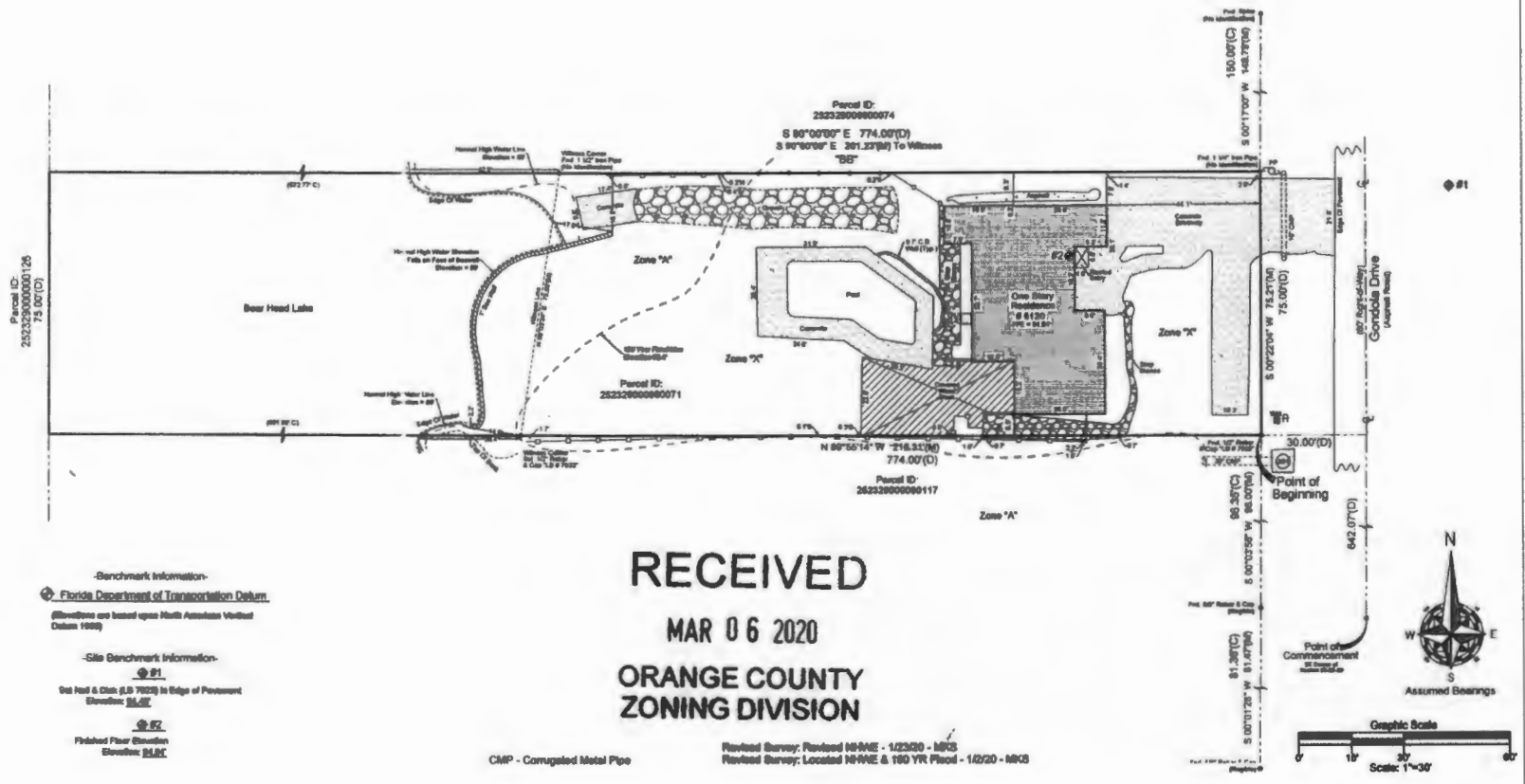
**Franklin Munoz
PRESIDENT/OWNER**

ZONING MAP



AERIAL MAP





RECEIVED
MAR 06 2020
ORANGE COUNTY
ZONING DIVISION

SURVEY

SITE PHOTOS



Subject property looking west



Roof of attached porch looking west

SITE PHOTOS



Porch along south property line looking east



Porch looking east

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **SE-20-05-020**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): CHURCH OF GOD AT CHRISTMAS

OWNER(s): J.D. SIMMONS, PASTOR

REQUEST: Special Exception in the A-2 zoning district to permit a cumulative total of 5,307 sq. ft. of accessory structure in lieu of 3,000 sq. ft.

PROPERTY LOCATION: 24313 E. Colonial Dr., Christmas, FL 32709, north side of E. Colonial Dr., approximately .3 miles east of Taylor Creek Rd.

PARCEL ID: 34-22-33-0000-00-016

LOT SIZE: 250 ft. x 1,220 ft./6.98 acres

NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 47

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (unanimous; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan dated March 9, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Construction plans shall be submitted within three (3) years or this approval becomes null and void.

5. Prior to issuance of a permit for the construction of the basketball court canopy, the applicant shall obtain a demolition permit and final inspection for the existing shed located along the west property line.
6. Prior to issuance of a permit for the basketball canopy, the applicant shall submit a building permit for the unpermitted 8 ft. x 10 ft. shed located in the center of the site north of the mobile home and addition, or a demolition permit to remove the shed. A final inspection for the shed or demolition shall be completed prior to the final inspection for the canopy.
7. The applicant shall comply with Chapter 24 (Landscaping) except where conflicts exist. In the event there is a conflict between Chapter 24 and the site plan, the provisions of Chapter 24 shall prevail.
8. The applicant shall submit a permit for the basketball court slab prior to the permit for the basketball court canopy.

SYNOPSIS: Staff explained that the church, which has been at that location since 1975, poured a slab for a basketball court, and now wishes to construct a 60 ft. x 60 ft. canopy over it to make it an all-weather court for the youth of the area. Because the church did not think it needed a permit for the slab and did not obtain one staff stated that a condition requiring a permit for the slab was included in the conditions recommended by staff. Staff explained that the applicant will also need to permit several other accessory structures and demolish an old shed on the west property line. Staff explained that since the church's property is agriculturally zoned, and the Future Land Use is rural, the church did not need a special exception to be established. However, it did obtain a special exception in 1975 to place a mobile home for a night watchman on the property. The site has dense vegetation along the east and west property lines, and the canopy will be over 200 ft. from E. Colonial Dr. There will be as many as 35 children at the court, which will be supervised by 9 or 10 adults at all times.

The applicant noted their agreement with the staff recommendation and conditions. A fellow pastor of the church expressed their support, and noted how the canopy will make it easier to facilitate play for the youth of the area.

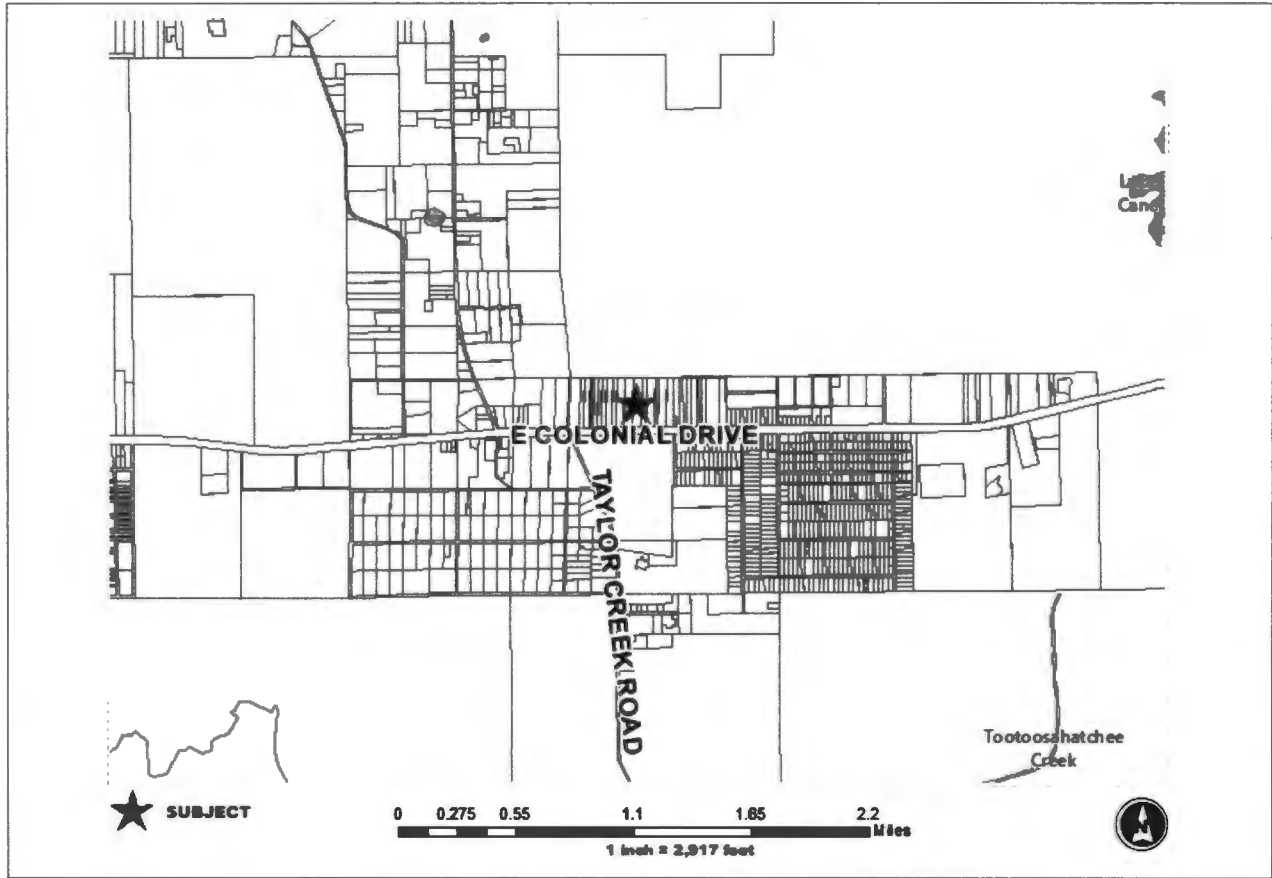
Three people spoke in favor of the application, and there was no one in opposition.

The BZA concluded that the proposal will be an asset to the community, and will be compatible with the neighborhood and unanimously recommended approval of the special exception subject to the eight (8) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	PR/OS	R	R	R
Current Use	Religious institution	St Johns River Water Mgt. Dist. Conservation/Recreation Area	Agricultural	Single family residence	Single family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. Because the property is zoned A-2, and has a Future Land Use (FLU) of R, Rural, religious institutions are permitted by right.

The subject property is 6.98 acres, of which approximately the north 60% is heavily wooded. The approximately southern 40% is developed with a 6,160 sq. ft. sanctuary, a 1,402 sq. ft. mobile home, a 50 ft. x 50 ft. slab for a basketball court, and a gravel parking area. There is also a 5 ft. x 5 ft. pump house, an 8 ft. x 10 ft. shed, a 10 ft. x 20 ft. shed (B16900149) and 12 ft. x 16 ft. shed with a 10 ft. x 10 ft. lean-to on the north and west side of the structure. The 12 ft. x 16 ft. shed and lean-tos are proposed to be removed.

In September 1975, the applicant obtained a variance (#26) to place a mobile home on the property for living purposes for a night watchman. In September 2013, the applicant obtained a building permit (B13009036) for construction of an addition to the mobile home. According to the applicant, the mobile home is still habitable but unoccupied.

In July 2006, the applicant obtained a variance to allow an enlarged ground sign with up to 120 sq. ft. of copy area in lieu of the 32 sq. ft. permitted by code. The BZA concluded that the variance was warranted due to the size of the right-of-way, the speed of traffic on E. Colonial Drive, and the fact that the property sits below the road elevation. The sign was installed in 2018 (B18015449).

Based on aerial photography, the basketball court was constructed around 2011 without a permit.

The applicant intends to place a 60 ft. x 60 ft. canopy over the existing slab to allow for an all-weather basketball court. The canopy will be metal and open on all four sides. The intended hours of operation are from after school to dusk during the school year, and from 10:00 a.m. to 7:00 p.m. during the summer months. The court will not be lit for nighttime play.

It is expected that there will be as many as 35 children during the play period, accompanied by 9 or 10 volunteers. While it is not known how many parking spaces are on the site, a field visit shows that the majority the area in front of the sanctuary (approximately 170 ft. x 140 ft.) is improved with stone for parking. According to the applicant, there are typically between 90 and 100 persons at a service, which would require between 31 and 34 spaces. In addition to the parking, the applicant will also shuttle children to the site using a bus which they own and operate.

Because the 1,402 sq. ft. mobile home was initially approved for use by a night watchman, and now sits vacant, it is not a principle use of the site and is counted as accessory floor area. When combined with the proposed 3,600 sq. ft. canopy for the basketball court, pump house, and two other sheds that are to remain, the site will have a total of 5,307 sq. ft. of accessory floor area. The site is permitted to have an amount of accessory floor area equal to 10% of the total lot area up to 3,000 sq. ft. If the site is zoned agricultural, and has at least two (2) acres of usable land area, the owner can apply for a Special Exception to exceed the 3,000 sq. ft. cap provided that no single structure is larger than 5,000 sq. ft. of floor area, nor over 35 ft. in height. The structures must also meet more restrictive setbacks of: 50 ft. from the front property line; 25 ft. from the side property lines; and, 35 ft. from the rear property line. The largest single structure will be the 3,600 sq. ft. canopy, which will only be slightly over 25 ft. in height, and no accessory structure will be closer than 32 ft. to any side property line. The canopy will be no closer than 230 ft. to front property line.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. (Accessory structures per Special Exception requirements)	25 ft.
Min. Lot Width:	100 ft.	250 ft.
Min. Lot Size:	1/2 ac.	6.98 ac.

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

	Code Requirement	Proposed
Front:	50 ft. (Accessory structure per Special Exception requirements)	230 ft. (Covered court)
Rear:	35 ft. (Accessory structure per Special Exception requirements)	927 ft. (Covered court)
Side:	25 ft. (Accessory structure per Special Exception requirements)	50 ft. (east)/145 ft. (west) (Covered court)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

Religious institutions with a FLU of R, Rural, and a zoning of either A-1 or A-2 are permitted by right, making the primary use of the property consistent with the Comprehensive Plan. Accessory uses, such as recreational uses are traditional ancillary uses to these institutions.

Similar and compatible with the surrounding area

This area of Orange County is very rural in nature. Larger structures, such as barns, stables, etc. are commonly found in such areas. Given the size of the site and the vegetative buffer that exists, the canopy will not be out of character with the area.

Shall not act as a detrimental intrusion into a surrounding area

Adding a canopy to an existing outdoor use will not act as a detrimental intrusion. The existing vegetative buffer will screen it from the sides, and it is set back over 200 ft. from the street.

Meet the performance standards of the district

The proposed canopy satisfies all of the criteria for the granting of a Special Exception, including the more stringent setbacks, square footage limitations, and the height.

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

The addition of a canopy to an existing use will not increase the production of noise, vibration, dust, odor, glare, or the production of heat.

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

The landscape code requires one canopy tree every 40 ft. with a three (3) ft. hedge along the east property line adjacent to the basketball court. The property line is heavily vegetated and the existing vegetation may be used.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 9, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Construction plans shall be submitted within three (3) years or this approval becomes null and void.
5. Prior to issuance of a permit for the construction of the basketball court canopy, the applicant shall obtain a demolition permit and final inspection for the existing shed located along the west property line.
6. Prior to issuance of a permit for the basketball court canopy, the applicant shall submit a building permit for the unpermitted 8 ft. x 10 ft. shed located in the center of the site north of the mobile home and addition, or a demolition permit to remove the shed. A final inspection for the shed or demolition permit shall be completed prior to the final inspection for the canopy.
7. The applicant shall comply with Chapter 24 (Landscaping) except where conflicts exist. In the event there is a conflict between Chapter 24 and the site plan, the provisions of Chapter 24 shall prevail.
8. The applicant shall submit a permit for the basketball court slab prior to the permit for the basketball court canopy.

c: J.D. Simmons, Pastor
PO Box 301
Christmas, FL 32709



March 9, 2020

BZA – Special Exception Request

From: Christmas Church of God
Permit # B19917250

Following is the information requested as “REQUIRED DOCUMENTATION”

The “Purpose” of our request is to place a roof over an existing outside basketball concrete court. The roof height will be 20 feet and will cover 3600 square feet (i.e. 60’ X 60’).

The desired effect of the roof is to provide shade for the children and youth to play basketball. We anticipate that approximately 35 children will be the maximum using it at any given time.

There are no plans to use the court for any tournaments. There are 72 parking spaces available to the court at any given time. The majority of the parking spaces are gravel with a few on grass.

There will be no bleachers available. The court will be used as play time only. The children and youth who will be on the court will be brought by bus for the most part to the church.

Currently the court is situated just west of the church facility.

Having read the six criteria required by the BZA and exploring the same on the Orange County Comprehensive Planning site we conclude:

1. Our project is consistent with the comprehensive policy plan.
2. Our project is similar and compatible with the surrounding area and is consistent with the pattern of surrounding development.
3. Our project does not act as a detrimental intrusion into a surrounding area.
4. Our project meets the standards of our district.

Christmas Church Of God

Page 2

5. Our project will be exactly the same in noise, vibration, dust, odor, glare, heat producing, and other characteristics with uses currently permitted in the zoning district.
6. Our project has sufficient buffers in trees and distance in accordance with section 24-5 of the Orange County Code.

The shelter will be used primarily in the daytime. There will be no doors of entry or walls. The shelter will be totally open on all sides. We propose no lighting at present as the shelter will be for daylight use only. The proposed use will be from after school to dusk and in summer from 10 am to 7 pm. No trees will be felled and there will be no need for landscaping or fencing.

We will not require any permanent seating as the shelter is to provide shade only on hot days for the children.

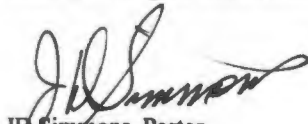
A personal note regarding the request for your approval.

Our church is a very small church in the midst of a very poor community of Orange County. Many of the children we pick up and bring to church live in exceptional circumstances. Again, many of them come from homes filled with drugs, alcohol, and very little discipline.

Our volunteers work lovingly to help them see a better way. We have dedicated the most of our very limited resources to get food, clothes, and educational assistance for the children. Some are in dance; some in band (we provide for instruments); some in sports; and some are tutored. We tell them about how the Lord can help them be the kind of person they can be proud of.

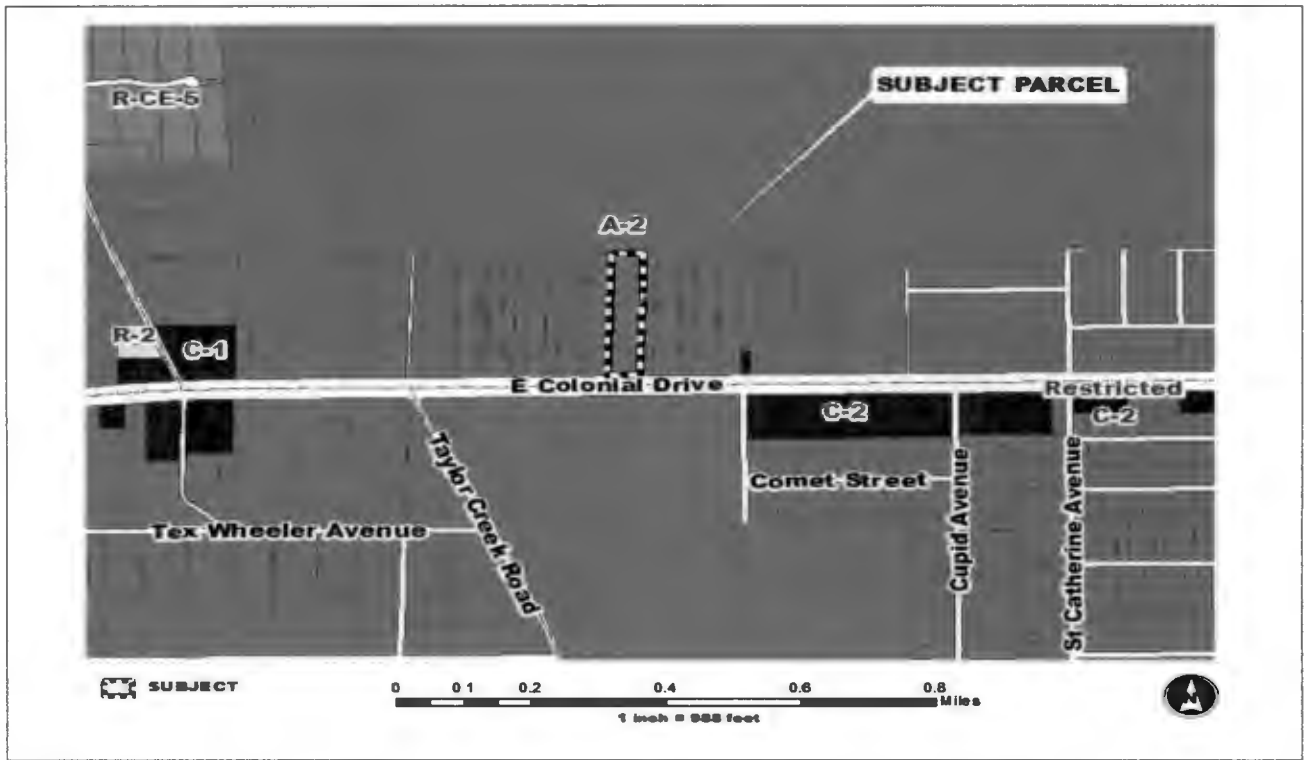
The steel for the shelter was donated by a wonderful friend of the mission of the church to the children. Mr. Dean Sims of Sims Crane donated the building. Mr. Bobby Knost of Ironworkers 808 has agreed to erect the building. We are so blessed to have good people join us in our mission to help care for our precious children.

Thank you for your kind consideration of our project.

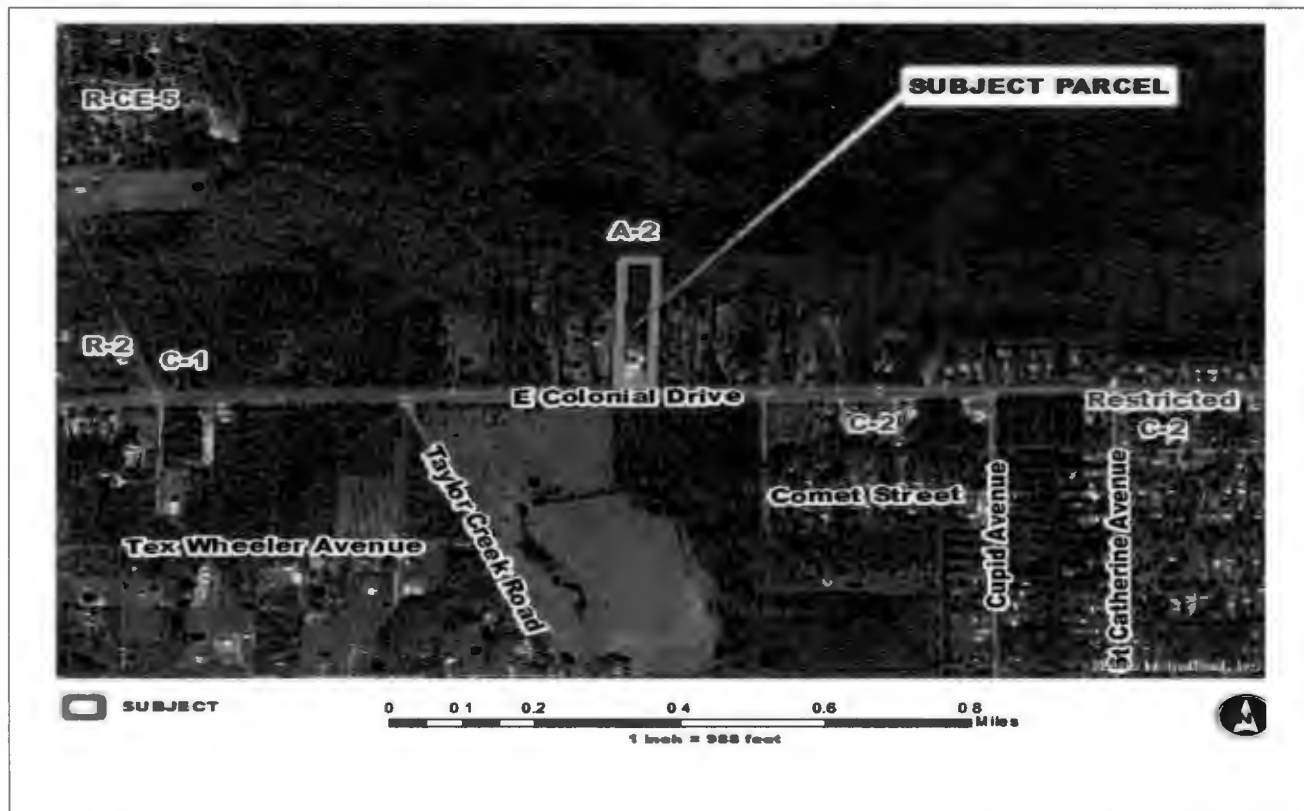


JD Simmons, Pastor
Christmas Church of God

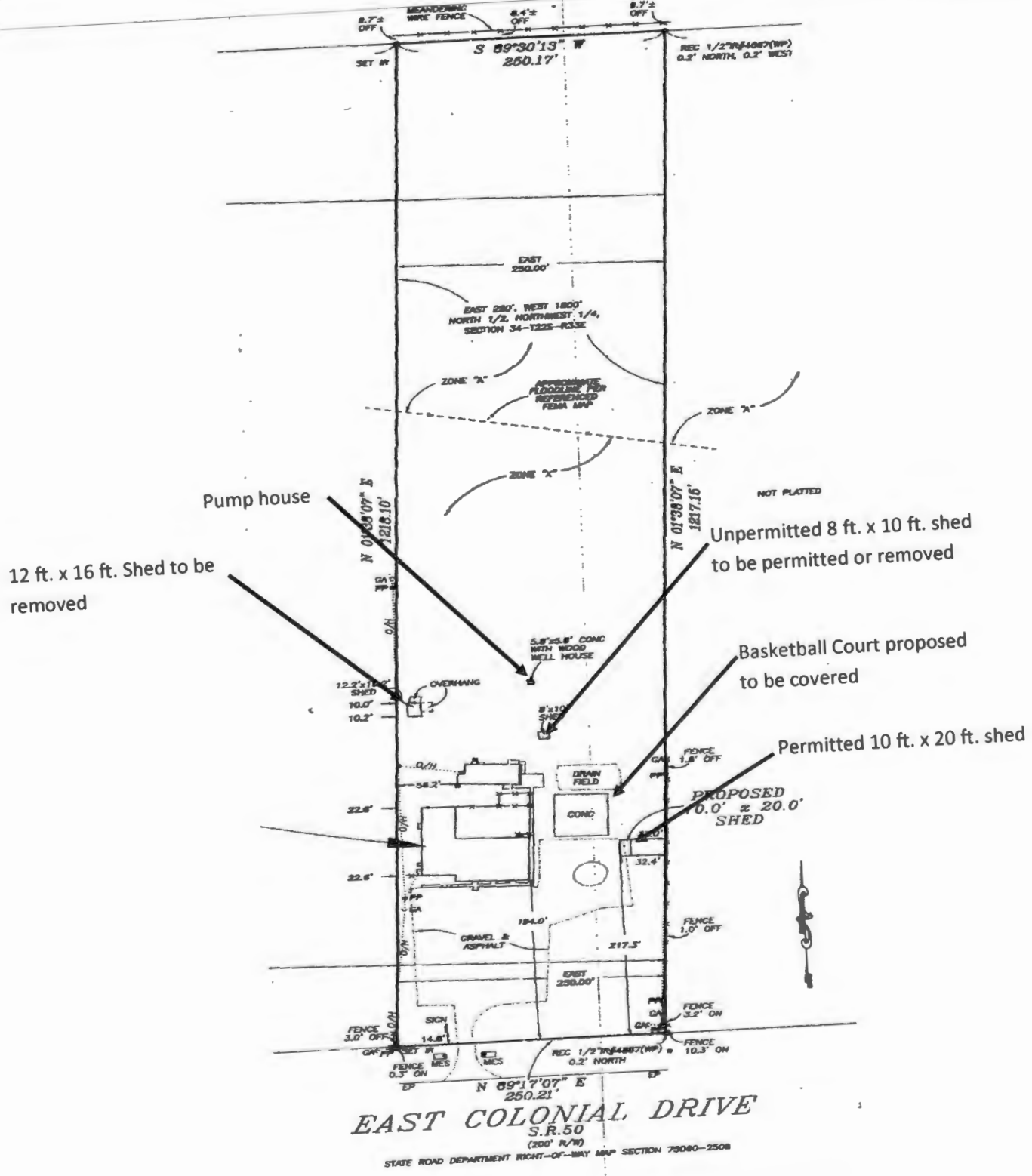
ZONING MAP



AERIAL MAP



SURVEY



12 ft. x 16 ft. Shed to be removed

Pump house

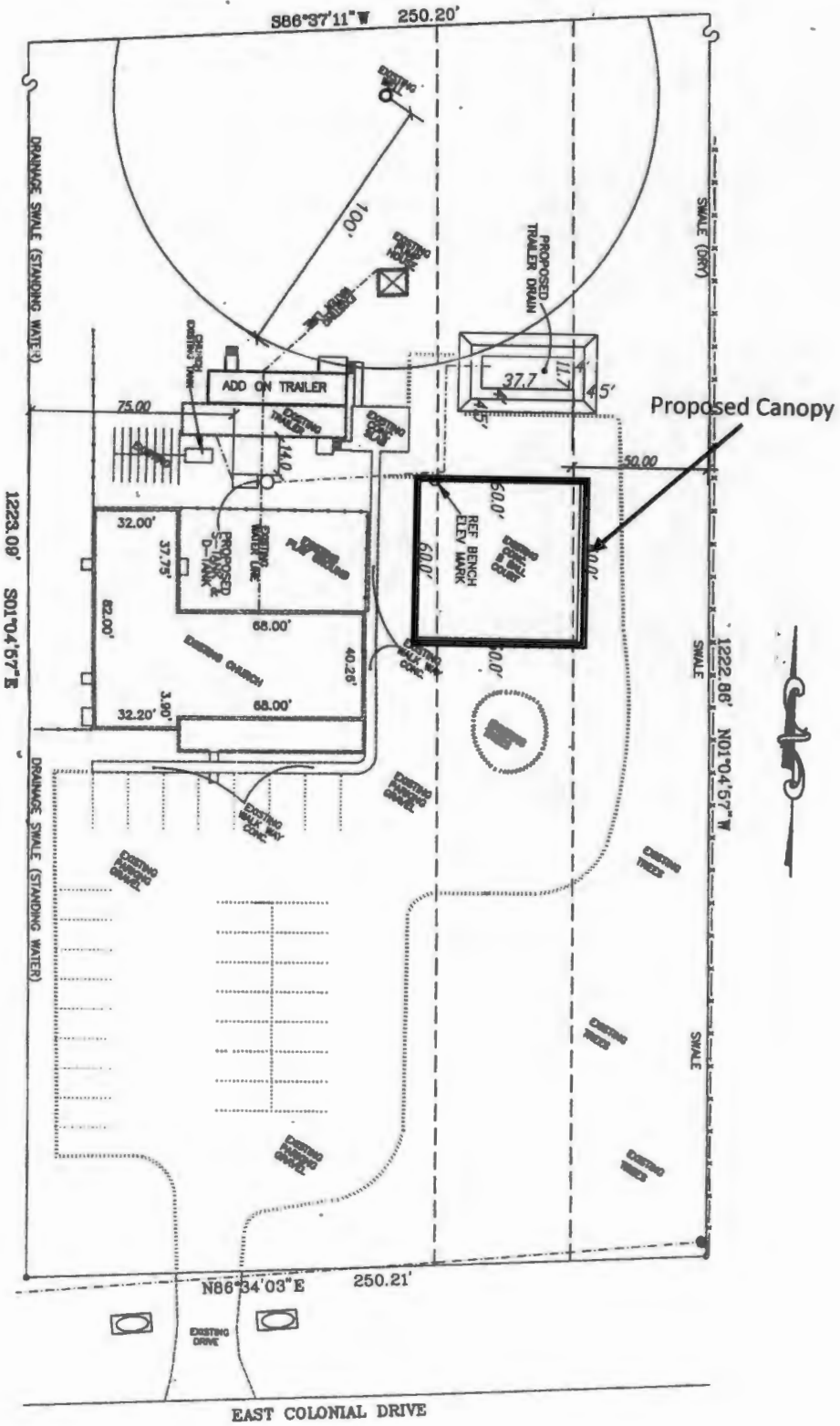
Unpermitted 8 ft. x 10 ft. shed to be permitted or removed

Basketball Court proposed to be covered

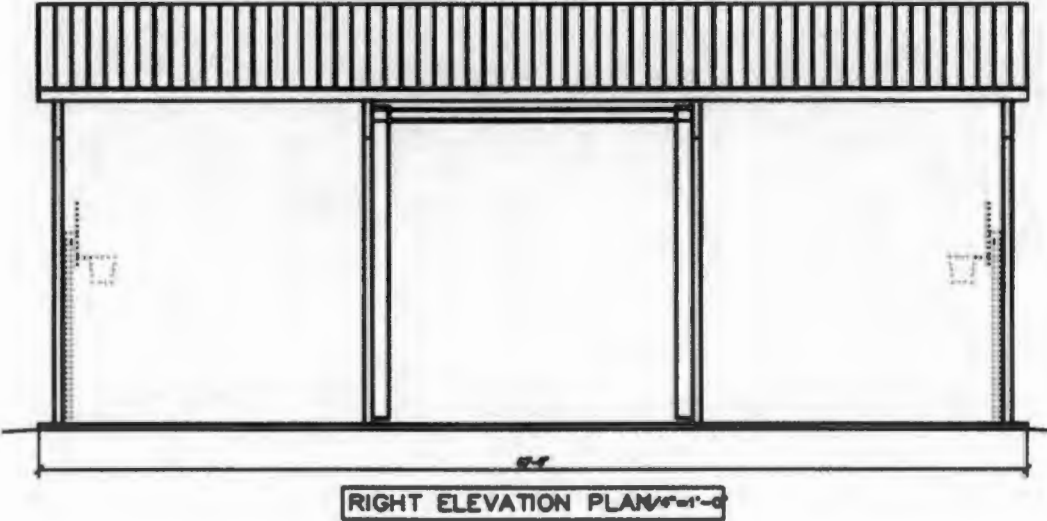
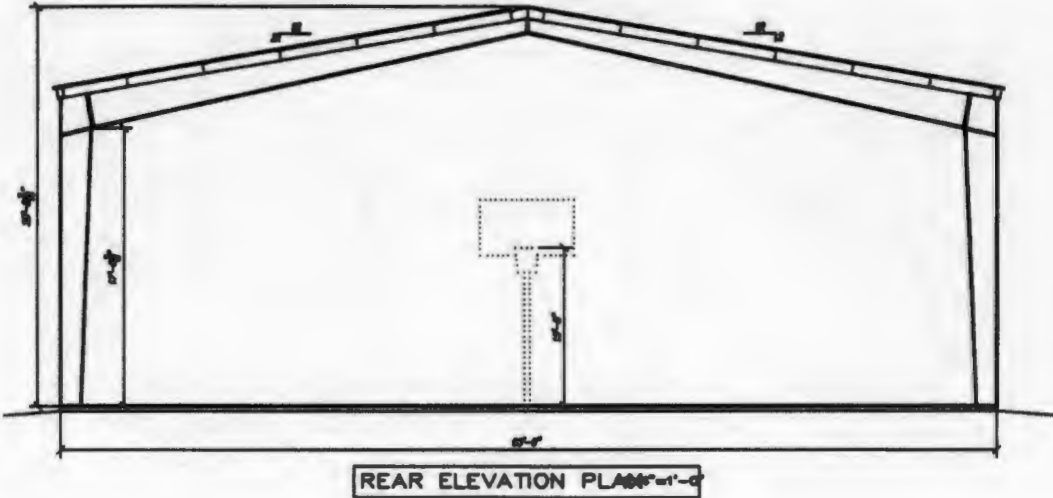
Permitted 10 ft. x 20 ft. shed

PROPOSED 10.0' x 20.0' SHED

PARTIAL SURVEY/DETAILS



ELEVATION



SITE PHOTOS



Existing sanctuary looking north



Existing basketball court looking northwest

SITE PHOTOS



Basketball court looking north, unpermitted shed to left



Former night watchman's quarters and parsonage looking south

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-05-023**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): JIM DOLFI

OWNER(s): JIM DOLFI & OKSANA DOLFI

REQUEST: Variances in the P-D zoning district to allow a screen enclosure as follows:

- 1) To be set back 0.5 ft. from the east side lot line in lieu of 5 ft.
- 2) To be set back 0.5 ft. from the west side lot line in lieu of 5 ft.

PROPERTY LOCATION: 10431 Belfry Circle, Orlando, Florida, 32832, north side of Belfry Cir., east of Narcoossee Rd.

PARCEL ID: 29-24-31-2244-00-250

LOT SIZE: 30 ft. x 100 ft./ .068 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 107

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development shall be in accordance with the site plan dated March 10, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The screen enclosure shall not be enclosed.

SYNOPSIS: Staff noted that previously, an interpretation of the code allowed interior townhouse lots to construct screen enclosures along the entire rear of the house, as interior townhouse lots have 0 foot side setbacks. However, since the code does not differentiate between single family detached and attached, the new interpretation is that if an enclosure goes into the rear setback, which it is permitted to do, it must adhere

to the five (5) ft. side setback requirement. Staff noted that a review of aerial photography from 2019 revealed that there were 38 enclosures encroaching in the 20 ft. setback that extended entirely or nearly entirely across the rear of the homes, and the majority were constructed with valid permits. Staff recommended that the applicant be granted the side setback variance, but that the enclosure be located not any closer than 15 ft. to the rear property line. Staff noted it had received two (2) correspondence in support, and none in opposition. In addition, the HOA approved the enclosure as submitted.

The applicant noted that they were simply trying to build what their neighbors already had. They felt increasing the setback from the rear property line from 10 ft. to 15 ft. would be a significant loss to the area of the screen enclosure.

There being no one wishing to speak in favor or opposition to the request, the public hearing was closed.

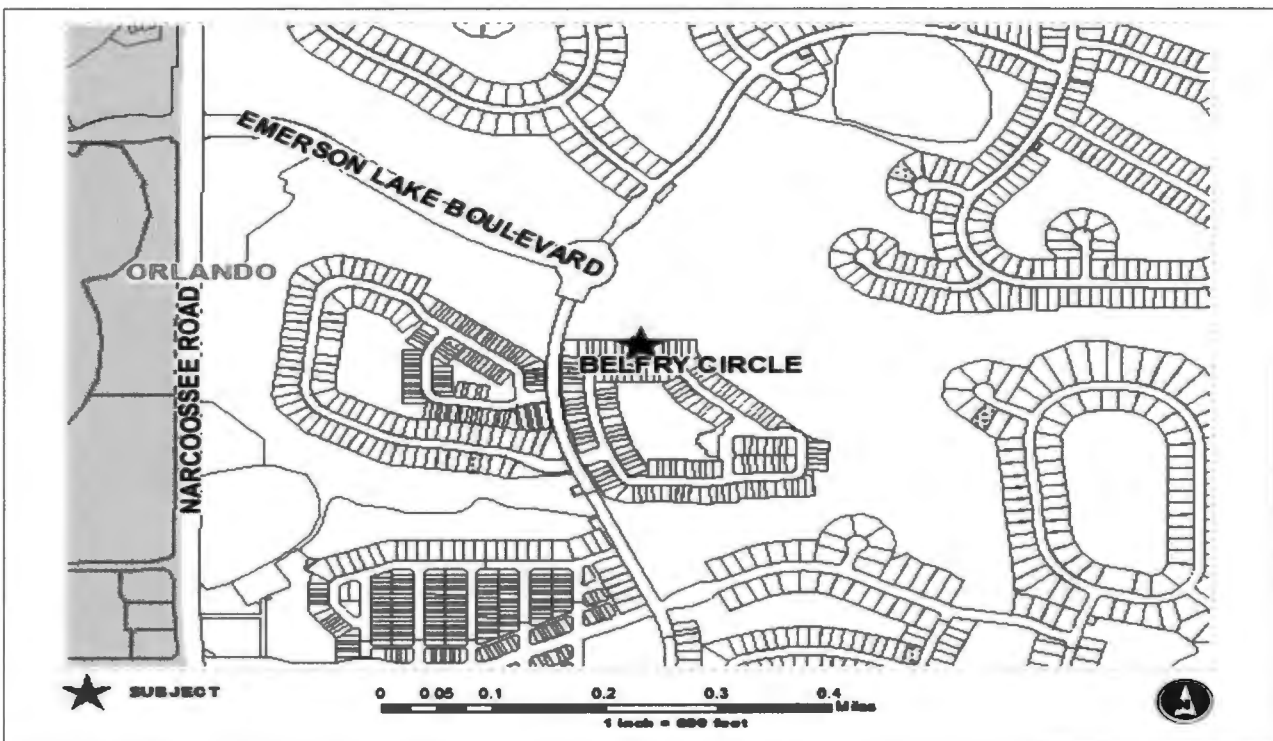
The BZA concluded that the fact that there were so many enclosures in this community similar or identical to what the applicant was proposing clearly showed the applicant was not requesting any special consideration.

The BZA recommended approval of the variances subject to four (4) of the conditions in the staff report and removed condition #5, as the applicant requested, which would have required the screen enclosure to have a 15 ft. setback in lieu of the proposed 10 ft. setback on their site plan.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	P-D	P-D	P-D
Future Land Use	P-D (Mixed Use)	P-D (Mixed Use)	P-D (Mixed Use)	P-D (Mixed Use)	P-D (Mixed Use)
Current Use	Townhouse	Golf Course Parking Lot	Townhouse	Townhouse	Townhouse

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in a P-D Planned Development District, and is in the Eagle Creek P-D. This P-D allows a variety of uses including single-family, multi-family, recreational, and commercial.

The subject property consists of a 30 ft. wide x 100 ft. deep interior townhouse lot, created through the Eagle Creek Phase 1C - Village E plat, which was recorded in October 2006. . The townhome buildings along the north side of Belfry Circle in this development all back up to a parking lot for the adjacent golf course.

The subject property is developed with a two-story townhouse with 2,563 sq. ft. of floor area, including an integrated two-car garage. The home was constructed in 2010. The applicant purchased the home in 2013, and is the original owner.

The applicant is requesting to build an 18.8 ft. x 29 ft. screen enclosure that is 11 ft. 11 in. tall onto the rear of the existing townhome. The proposed setbacks are 0.5 ft. from both side property lines and 10 feet from the rear property line, which necessitated the variance request for the side yard setbacks.

The side yard setbacks for an interior principal structure in this PD is 0 ft., and the rear yard setback is 20 ft. However, per Section 38-79 (84), screen enclosures in a residential area within a planned development shall not be located closer than 5 ft. from the side or rear property lines. The code for screen enclosures does not differentiate between single family detached homes with greater side yard setbacks and townhomes, which typically have 0 ft. side setbacks for interior lots.

Past practice in reviewing requests for screen enclosures on townhome lots was to allow a screen enclosure attached to an interior townhouse unit to meet the principal structure setbacks of 0 ft., while also being allowed to meet the rear yard setbacks of 5 ft. for screen enclosures, essentially picking and choosing the code sections that most benefited the project.

Because the previous practice is not supported by code, staff is now applying the relative setback standards to these requests. The Zoning Manager has determined that a screen enclosure either meet all of the principal structure setbacks (0 ft. side and 20 ft. rear) or meet all of the screen enclosure setback requirements (5 ft. side and rear).

The applicant notes that there are other homes in the Eagle Creek townhouse community with screen enclosures similar to or identical to that which they propose. Staff performed a cursory review of the aerial photography from 2019, which is the most recent available. As of that point in time, staff observed a total of 38 screen enclosures which clearly encroach into the 20 ft. rear setback and extend completely or nearly across the entire length of the home. There are a total of 140 units in this community.

The applicant's home has a setback of 28.7 ft. from the rear property line. Based on the Zoning Manager's determination, they could construct a screen enclosure 30 ft. wide x 8 ft. deep and meet the principal structure setbacks, or a screen enclosure 20 ft. wide x 23.7 ft. deep and meet the screen enclosure setbacks. The applicant is requesting a 29 ft. x 18.8 ft. screen enclosure at 0.5 ft. from the side property lines and 10 ft. from the rear property line. The required five (5) ft. side setback on the west would result in one side wall obstructing a sliding glass door and east side setback of 5 ft. may obstruct a window.

The HOA has submitted a letter of approval for the proposed slab and screen enclosure.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. (3 stories)	28 ft. (House)/12 ft. (Screen enclosure)
Min. Lot Width:	25 ft.	30 ft.
Min. Lot Size:	N/A	N/A

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

	Code Requirement	Proposed
Front:	20 ft. (House)	25 ft. (House)
Rear:	20 ft. (House)/5 ft. (Screen enclosure)	28 ft. (Principal structure)/10 ft. (Screen Enclosure)
Side:	0 ft. (Principal structure)/5 ft. (Screen enclosure)	0 ft. (Principal structure)/0.5 ft. (Screen enclosure)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition and circumstance is the physical design of the applicant's home. To comply with the required side setbacks would result in obstructing a sliding door and a window. In addition, the limited depth of a screen enclosure complying with the principal structure rear setback will result in an enclosure with limited functionality.

Not Self-Created

The applicant did not design the home. Installing a screen enclosure meeting the five (5) ft. side setbacks would obstruct a door and window.

No Special Privilege Conferred

Allowing a screen enclosure with 0.5 ft. setbacks would not confer a special privilege as others have similar structures the same width of the townhouse.

Deprivation of Rights

Because the required side setbacks will result in an obstruction to the sliding door for access from the home to the rear yard, the applicant would have to exit their residence to the open yard, and enter the screen enclosure from the outside, versus walking from their home directly into the enclosure, therefore this would deprive the applicant of rights commonly enjoyed by others.

Minimum Possible Variance

The applicant designed the screen enclosure to accommodate the design of the rear of the home to account for the location of the sliding door and window as well as the A/C compressor. The variance for the width is the minimum. Staff recommends as a condition of approval a greater rear setback of 15 ft., to allow for a fully functional depth of 13 ft. while still providing light and air in the rear yard that would otherwise be accommodated by 5 ft. side and rear yard setbacks for a screen room.

Purpose and Intent

One of the purposes of zoning is to ensure that property is designed to ensure there is adequate circulation of light and air. With the condition to limit the location of the screen room within the rear yard while allowing for it in the side yard setbacks will meet the purpose and intent of the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 10, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The screen enclosure shall not be enclosed.
5. The screen enclosure shall be set back a minimum of 15 ft. from the rear property line.

c: Jim Dolfi
10431 Belfry Cir.
Orlando, FL 32832

COVER LETTER

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

March 9, 2020

To Whom It May Concern,

This variance request is for a domed screen enclosure at 10431 Belfry Circle, Orlando. The reason for this request is to build into the five-foot setback at this property. The proposed total square footage of this screen enclosure 545 square feet. The screen enclosure will be 6 inches on the left and right side and 10 feet one inch in the rear setback. The proposed height of the screen enclosure will be nine to twelve feet. The side setbacks are five feet. We are asking for four feet six inches into the setback.

This request meets the variance criteria as follows:

1. **Special Conditions and Circumstances:** This will allow this enclosure to be aligned with the edge of the property and avoid obstacles.
2. **Not Self-Created:** The applicant did not create this hardship. By bringing in a five-foot setback the screen wall would be in the middle of the sliding glass door from the kitchen on the right side. On the left side this would isolate the air conditioning which would create a maintenance issue.
3. **No Special Privilege Conferred:** The applicant understands that this variance is only for this enclosure variance request.
4. **Deprivation of Rights:** Denial of this request would deprive the applicant of his rights to have the enclosure built in the same manner as the adjacent properties.
5. **Minimum Possible Variance:** This applicant would need a minimum variance of four feet six inches into the setback. This would position the enclosure six inches in from the property line.
6. **Purpose and Intent:** The purpose is to coincide with the other screen enclosures that are already built in this same manner.

We appreciate your consideration of this variance request.

Sincerely,

Jim and Oksana Dolfi

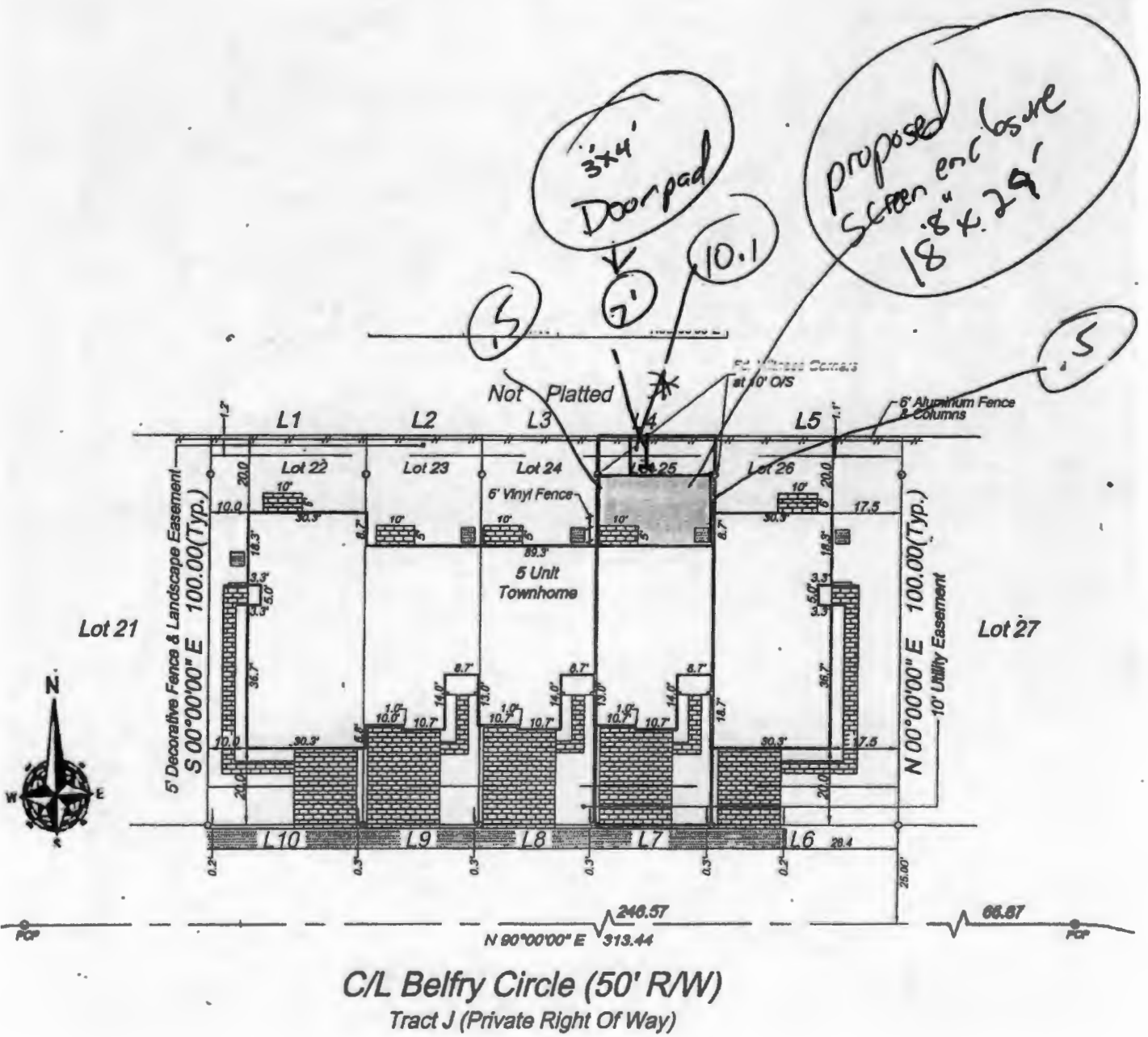
ZONING MAP



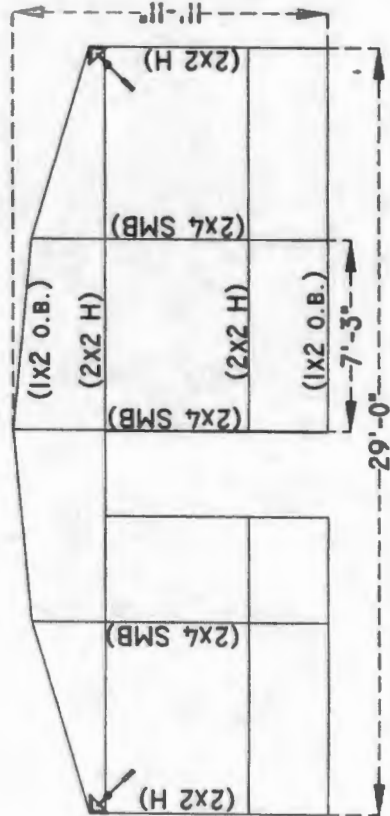
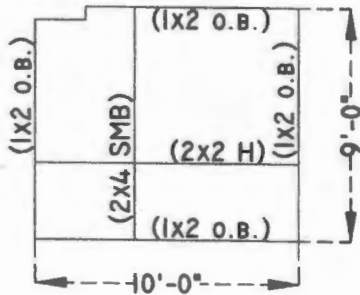
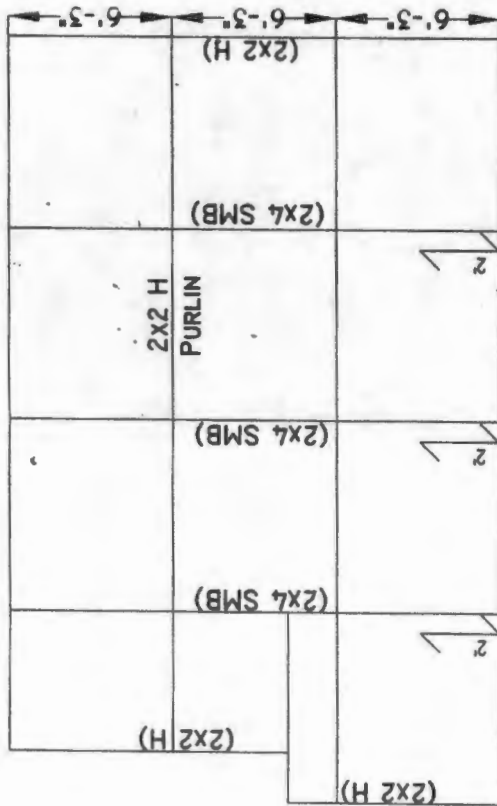
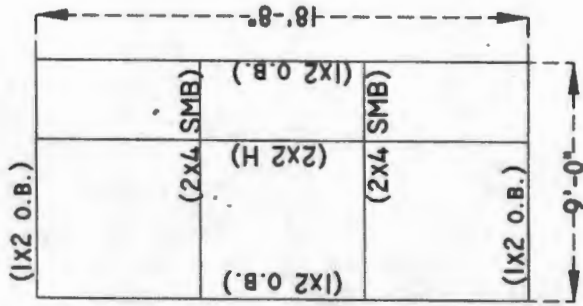
AERIAL MAP



SITE PLAN



ELEVATIONS



SITE PHOTOS



Subject property looking north



Proposed screen enclosure footprint outlined in white looking southeast

SITE PHOTOS



Proposed screen enclosure location looking southwest



Existing screen enclosure on end unit of same building looking east

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-05-024**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): **PATRICK HERNANDEZ**

OWNER(s): **PATRICK HERNANDEZ & TIFFANY HERNANDEZ**

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

- 1) To allow the existing house to remain 44 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.
- 2) To install a pool 43 ft. from the NHWE in lieu of 50 ft.
- 3) To install a pool deck 42 ft. from the NHWE in lieu of 50 ft.

PROPERTY LOCATION: **12104 McKinnon Rd., Windermere, FL 34786, south side of McKinnon Rd., north shore of Lake Crescent, approximately 0.2 miles west of Windermere Rd.**

PARCEL ID: **01-23-27-0000-00-023**

LOT SIZE: **0.955 acres**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **136**

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development shall be in accordance with the site plan dated March 11, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the pool is no closer than 43 ft. and the pool deck is no closer than 42 feet, from the Normal High Water Elevation of Lake Crescent.

SYNOPSIS: Staff explained that the property was rezoned from R-1 or R-1A to R-CE in 1966. Due to the shallowness of the lot, the rear setback would not be the standard 50 ft., but rather 20 or 25 ft. if the property was still zoned either of those districts, and no variance would be needed. However, since it was rezoned to R-CE, the rear setback is 50 ft. Staff explained that the applicant was not attempting to encroach beyond the existing rear building line of the residence; however, since the shoreline moves northeast as it extends east, the deck and pool have a lesser setback than the house. Staff concluded that they had received one (1) correspondence in support, and one in opposition.

The applicant stated their agreement with the staff recommendations and all of the conditions. A representative of the pool company noted that the property was unique and tight.

There being no one wishing to speak in favor or opposition to this request, the public hearing was closed.

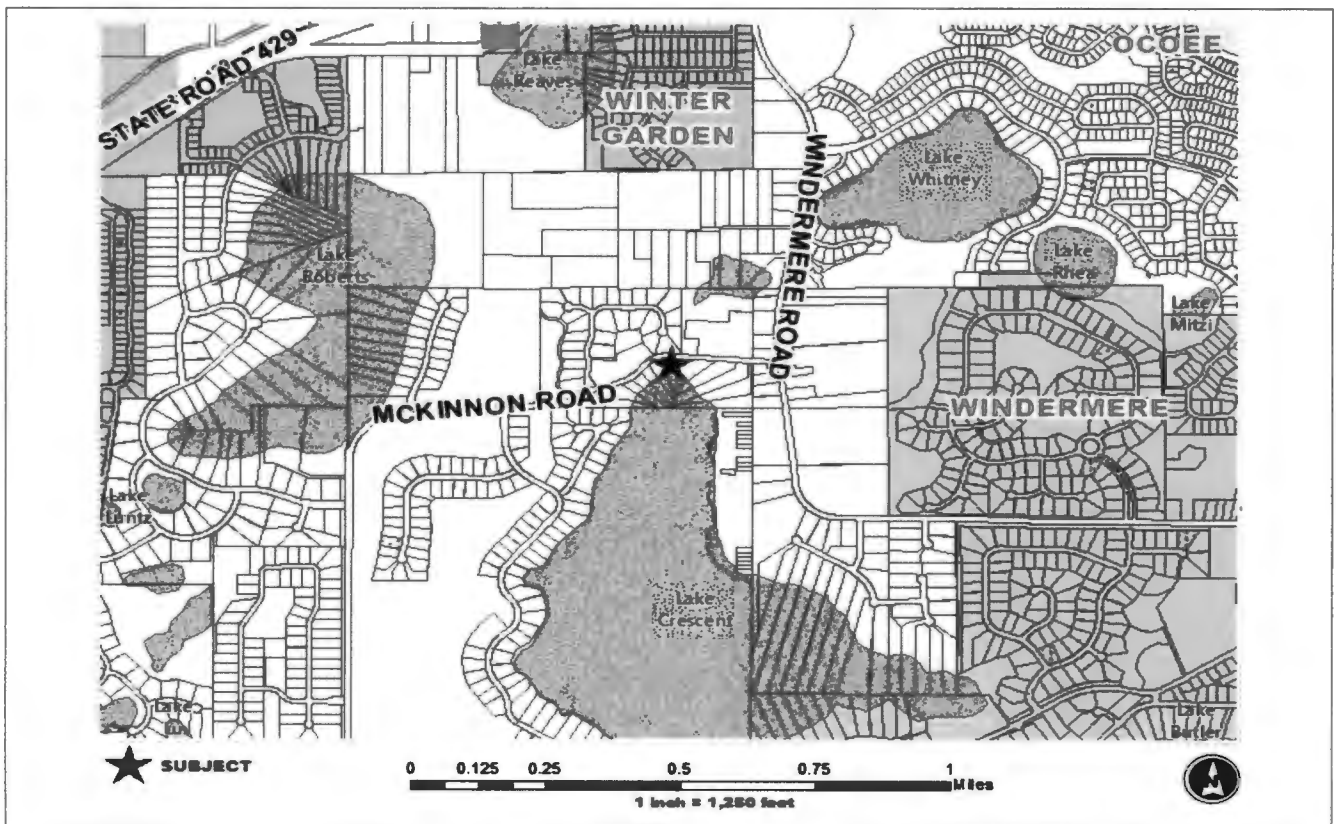
The BZA concluded that due to the shape of the property and the shallowness of the lot, and the fact that they are attempting to keep the variance to the minimum, the variance was warranted.

The BZA unanimously recommended approval of the variances subject to the four (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	R-CE	R-CE-C	Lake Crescent	R-CE	R-CE
Future Land Use	RS 1/1	RS 1/1	Lake Crescent	RS 1/1	RS 1/1
Current Use	Single Family Residence	Single Family Residence	Lake Crescent	Single Family Residence	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-CE, Rural Country Estate, which allows for single family development on one (1) acre lots and certain rural uses.

The subject property consists of a .96 acre unplatted parcel of land, with approximately .4 acres submerged. The property was part of a County initiated rezoning performed in 1966, which administratively changed the property from A-1, R-1 or R-1A to R-CE.

The subject property is located in the West Windermere Rural Settlement. Rural settlements are areas of the County with a unique character, which the residents of that area wish to preserve. There are limited nonresidential uses which may locate in a rural settlement and the general character of the area is larger lot single family development. Being located in a rural settlement generally has little impact on the development of an existing single family parcel or lot.

The property is developed with a 5,347 sq. ft. residence with an integrated two-car garage, constructed in 1974. The applicant purchased the property in June 2016.

The residence currently sits 44 ft. from the Normal High Water Elevation (NHWE). The applicant is proposing to construct an in-ground pool and associated deck which will follow the rear building line of the existing residence. Because of the angle of the shoreline and design of the home, the pool will be 43 ft. and the deck will be 42 ft. from the NHWE.

If the property were previously zoned R-1 or R-1A, and it had not been rezoned, then the rear setback would be either 20 ft. for R-1, or 25 ft. for R-1A. The mandatory 50 ft. setback does not apply to unplatted parcels. In such cases, the setback from the NHWE reverts to the rear setback for the zoning district in which it is located. Since the property was rezoned to R-CE, the rear setback is 50 ft.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft. (House)
Min. Lot Width:	130 ft.	172.74 ft.
Min. Lot Size:	1 acre	.96 acres

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

	Code Requirement	Proposed
Front:	35 ft.	38.65 ft. (House)
Rear:	50 ft.	44 ft. (House)/43 ft. (Pool)/42 ft. (Pool deck)
Side:	10 ft.	19 ft. (Residence to west)/30.5 ft. (Pool deck to east)
NHWE:	50 ft.	44 ft. (House)/43 ft. (Pool)/42 ft. (Pool deck)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to this property are the shallowness of the lot, the angle at which the home was constructed on the property, and the angle of the shoreline and NHWE. The distance from the front property line to the NHWE line on the east side of the lot is only 120 ft. The front of the house on the east side of the lot is 38.65 ft. The NHWE line angles toward the north as the line proceeds east. The applicant is following the existing rear building line, which is currently only 44 ft. from the NHWE with a decreasing distance as it proceeds east.

Not Self-Created

The home was built in 1974, and the applicant is proposing the location to be setback in line with the house.

No Special Privilege Conferred

Granting the variances will not confer a special privilege on the applicant. They are attempting to follow the existing rear building line of the home. Due to the shape of the lot and the placement of the house in relation to the NHWE, the variances could not be avoided without reducing the size of the pool or relocating it.

Deprivation of Rights

The applicant is attempting to follow the rear building line of the home, which is currently 44 ft. from the NHWE with a decreasing separation distance as it proceeds east. Without the variances, the pool would have to be reconfigured and reduced in size.

Minimum Possible Variance

The applicant is not attempting to extend the pool and deck beyond the existing rear building line of the home. This is the minimum variance necessary to allow use of that building line. Most of the area where the pool is proposed is currently paved.

Purpose and Intent

The applicant is not significantly increasing the amount of new impervious surface in the rear yard. The majority of the rear yard remains free of improvements and open to above.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 11, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the pool is no closer than 43 ft., and the pool deck is no closer than 42 feet, from the Normal High Water Elevation of Lake Crescent.

c: Patrick Hernandez
12104 McKinnon Rd.
Windermere, FL 34786

COVER LETTER

March 11, 2020

Orange County Building Division
201 S. Rosalind Ave.
Orlando, Fla. 32801

Ref: 12104 McKinnon Road
01-23-27-0000-00-023
Windermere, Fla.

To whom it may concern:

Please accept this letter as a request for a 10 foot variance to the existing required rear setback of 50 feet to the Normal High Water Elevation (NHWE).

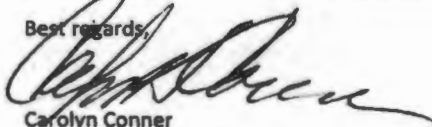
Variance Criteria:

1. **Special Conditions and Circumstances-** The existing house is located 44' from the NHWE. The proposed pool and deck will be located as follows. Pool 43 feet from NHWE and deck 42 feet from NHWE. Therefore, in order to accommodate the pool and deck as drawn, a variance is necessary.
2. **Not Self-Created-** The house and property were purchased four years ago. (unaware of regulations for pool setbacks)
3. **No Special Privilege Conferred-** There are several pools/pool decks in the immediate area that do not meet the 50 foot setback. In fact, adjacent property was just granted a variance to only meet a 25 foot setback.
4. **Deprivation of Rights-** The proposed pool and deck will match rear building line.
5. **Minimum Possible Variance-** The pool and deck will have an approximate 550 S.F. coverage area. There is still sufficient area of the property for other uses.
6. **Purpose and Intent-** The addition of this pool and deck will only enhance the value of this property and the surrounding properties

Included in the required supporting documents are the survey indicating the location of the proposed pool and deck with a 42 foot setback to the NHWE. Also included is a detailed rendering of the proposed pool and deck. The rear elevation of the pool deck as shown, will be engineered at +/- 24 inches.

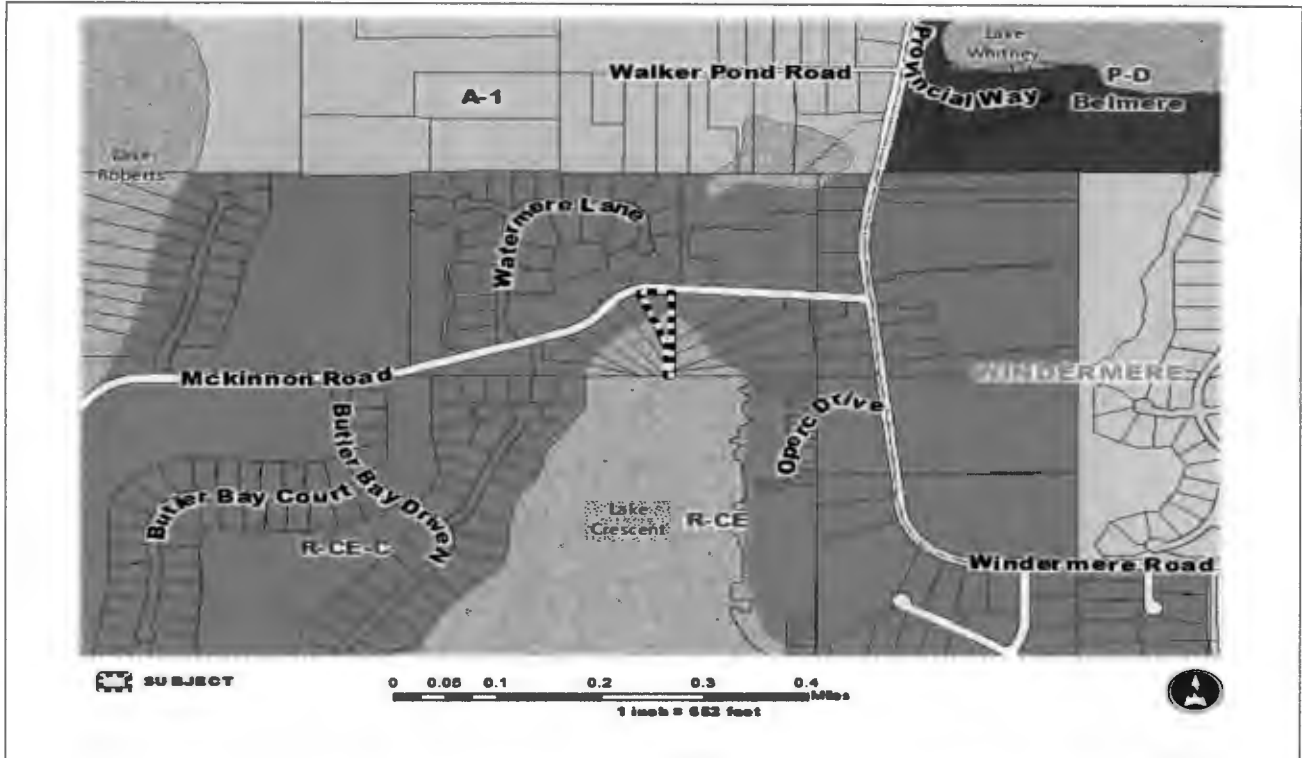
Thanking you in advance for your consideration in this matter.

Best regards,



Carolyn Conner
Agent for Patrick and Tiffany Hernandez
12104 McKinnon Road

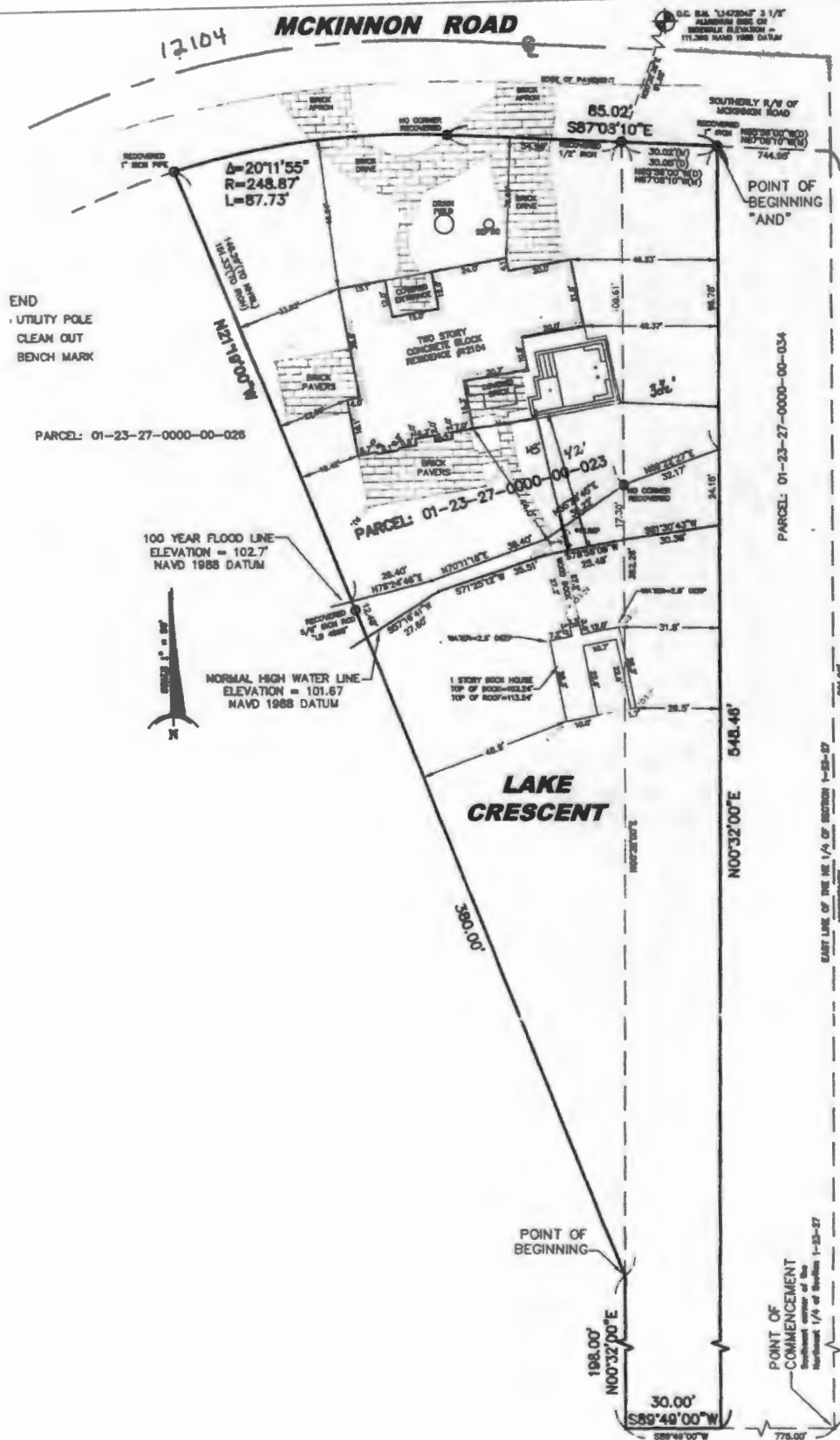
ZONING MAP



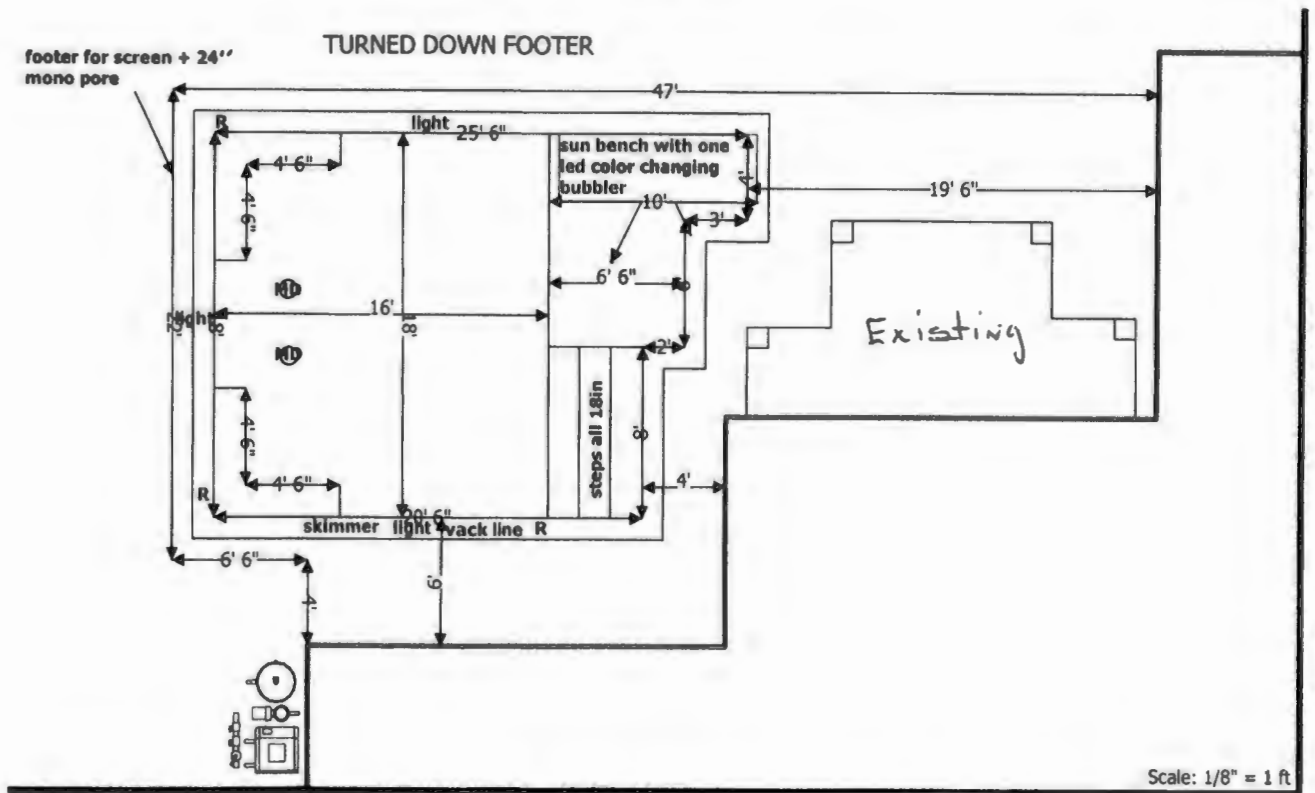
AERIAL MAP



SITE PLAN



POOL DESIGN DETAILS



SITE PHOTOS



Subject property looking south



Rear yard looking southwest

SITE PHOTOS



Rear yard looking northwest



Rear yard looking west

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-04-016**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): WINDERMERE ASSISTED LIVING FACILITY
OWNER(s): KIDANE SABA GEBRETINSAE and TEFAMARIAM BAHTA
REQUEST: Variance in the P-D zoning district to allow a separation distance of 43 ft. between two (2) community residential homes with six (6) or fewer residents in lieu of 1,000 ft.

PROPERTY LOCATION: 7047 Nobleton Dr., Windermere, FL 34786, northeast corner of Nobleton Dr. and Penshurst Ln., approximately 300 ft. northwest of Overstreet Rd.

PARCEL ID: 24-23-27-5427-01-630

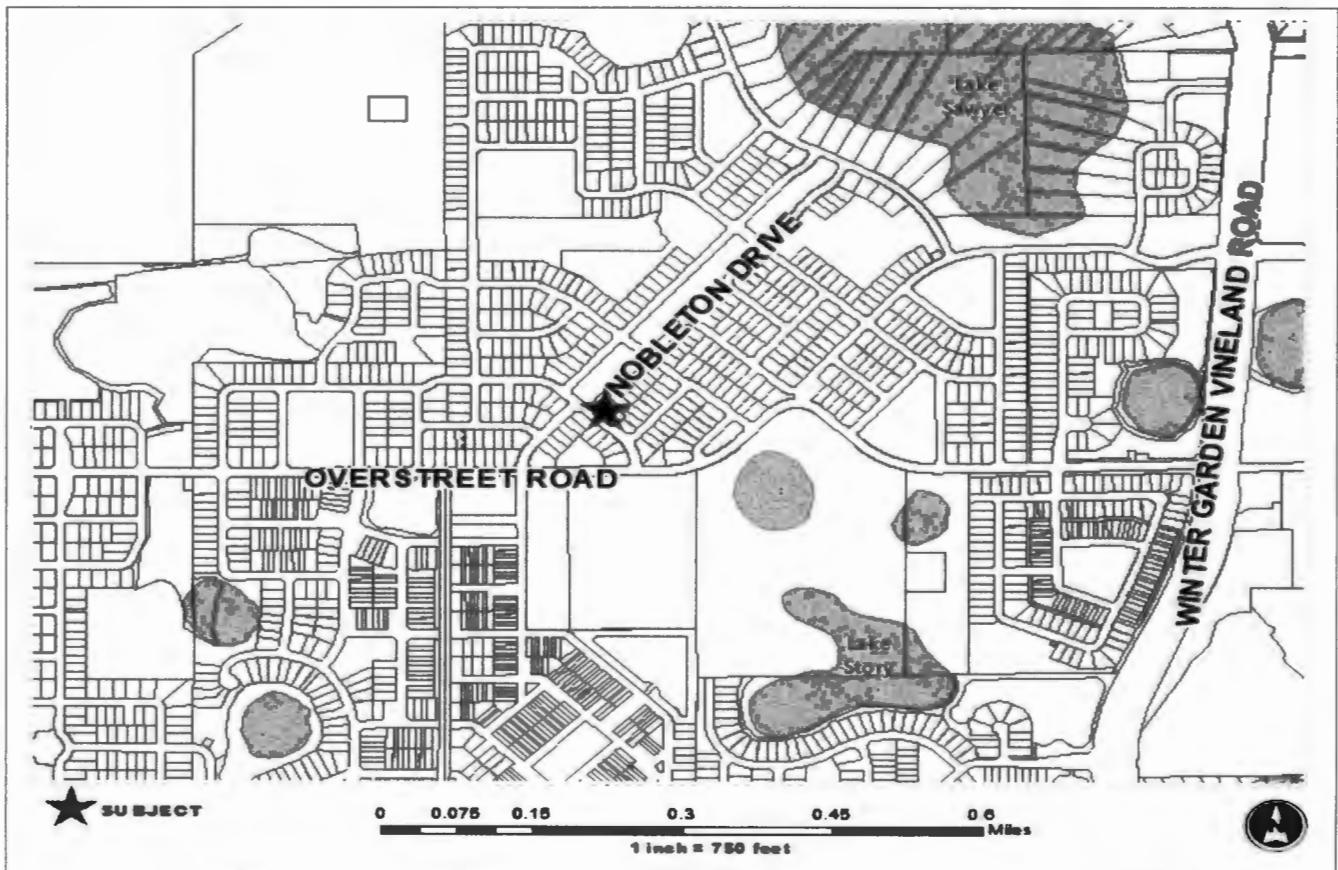
LOT SIZE: 60 ft. x 120 ft. (avg.)/.16 acres

NOTICE AREA: 600 FT

NUMBER OF NOTICES: 176

**THIS CASE WAS WITHDRAWN ON MAY 18, 2020 BY THE APPLICANT VIA EMAIL
PRIOR TO THE MAY 20, 2020 BZA MEETING.**

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-02-163**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): **LUIS MORALE**

OWNER(s): **GLORIA VELEZ**

REQUEST: Variance in the R-1 zoning district to allow an existing Accessory Dwelling Unit (ADU) 2 ft. from the east side property line in lieu of 6 ft.

Note: This is the result of a Code Enforcement action.

PROPERTY LOCATION: 4045 Castlegate Drive, Orlando, Florida, 32839, north side of Castlegate Dr., west of S. John Young Pkwy., north of W. Oak Ridge Rd.

PARCEL ID: 20-23-29-1162-01-160

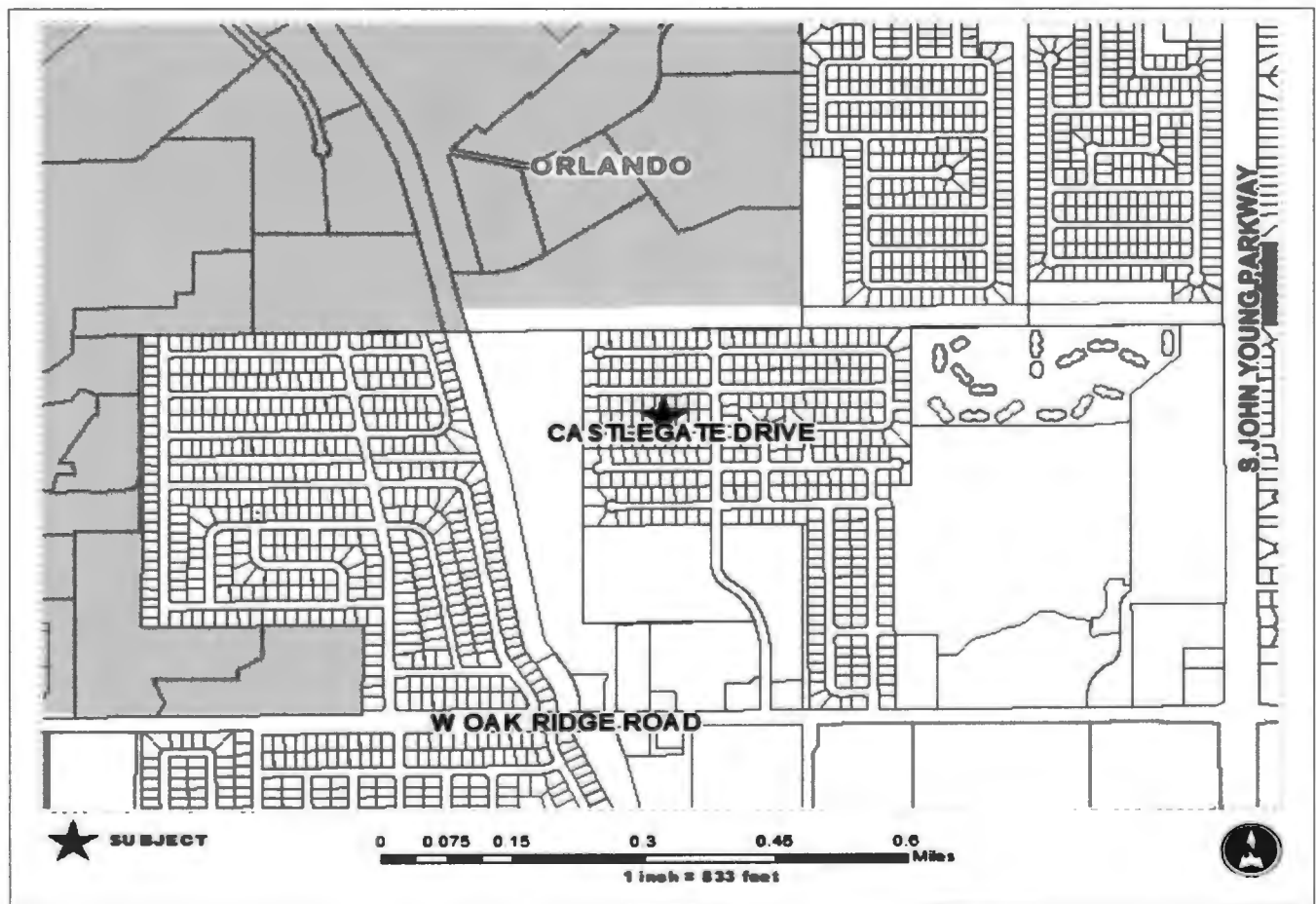
LOT SIZE: 65 ft. x 105 ft./0.156 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 147

THIS CASE WAS CONTINUED TO THE JUNE 4, 2020 BZA MEETING.

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-04-014**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): JAMES THOMAS

OWNER(s): JAMES T THOMAS

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

1) To allow an existing 6 ft. high fence to remain within the front setback in lieu of 4 ft.

2) To allow a 6 ft. fence within the clear view triangle area for the driveway.

Note: This is the result of a Code Enforcement action.

PROPERTY LOCATION: 1316 Grayson Drive, Orlando, Florida, 32825, west side of Grayson Dr., south of E. Colonial Dr., west of Rouse Rd.

PARCEL ID: 20-22-31-6348-01-044

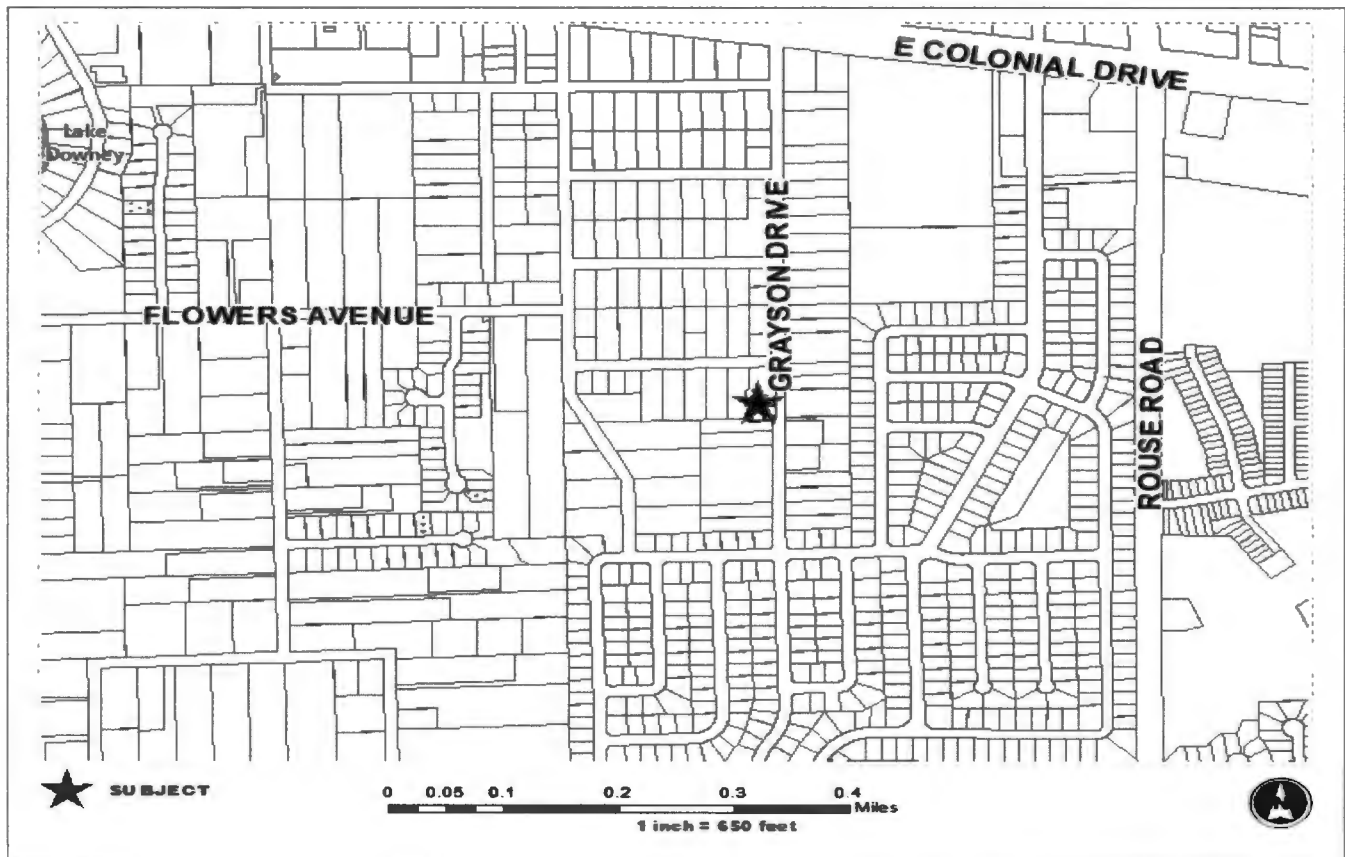
LOT SIZE: 100 ft. x 143 ft./0.33 acres

NOTICE AREA: 500 FT

NUMBER OF NOTICES: 80

THIS CASE WAS CONTINUED TO THE JUNE 4, 2020 BZA MEETING.

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-05-022**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): **MAROON FINE HOMES, INC. (WILLIAM MAROON)**

OWNER(s): **JAMES ALAN ZIMMERMAN, KATHY MARIE ZIMMERMAN**

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

1) To install a pool deck 10.25 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.

2) To install a pool 14.17 ft. from the NHWE in lieu of 35 ft.

PROPERTY LOCATION: **9210 Bay Point Drive, Orlando, Florida, 32819, west side of Bay Point Dr., east shore of Lake Tibet Butler, west of S. Apopka Vineland Rd.**

PARCEL ID: **28-23-28-0600-00-290**

LOT SIZE: **0.575 acres**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **51**

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development in accordance with the site plan dated March 10, 2020 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. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the pool is no closer than 14.17 feet, and deck is no closer than 10.25 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.

SYNOPSIS: Staff gave a presentation on the case covering the location of the property, the site plan, and photos of the site.

The applicant had nothing to add.

The BZA noted the previous variances granted in the area.

Staff received two (2) correspondence in favor of the application, and one (1) in opposition to the application.

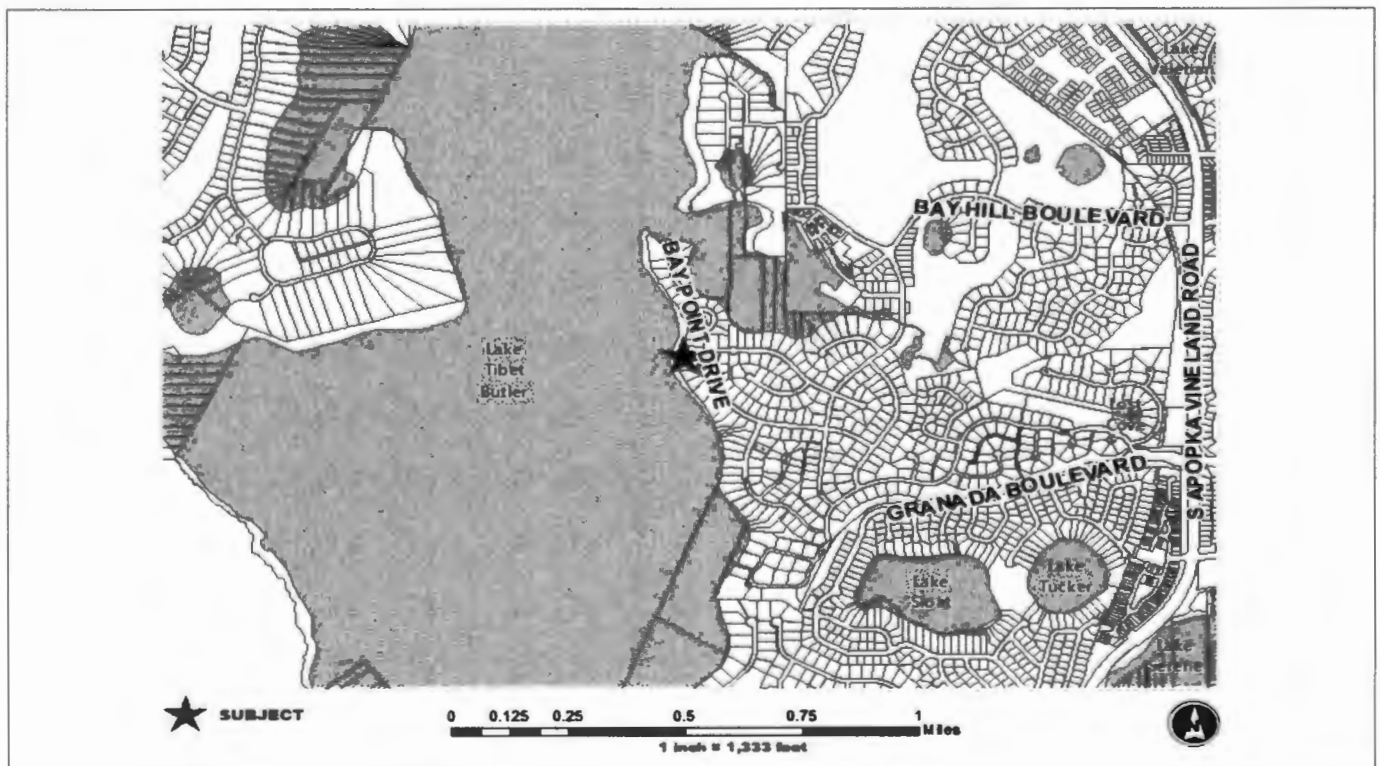
There being no one present to speak in favor or opposition to the request, the public hearing was closed.

The BZA unanimously recommended approval of the variances, subject to the four (4) conditions found in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	R	R	R	LDR	Lake Tibet Butler
Current Use	Single family residence	Single family residence	Single family residence	Single family residence	Lake Tibet Butler

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The area consists of single family homes, most of which are lakefront. The subject property is a 0.58 acre lot that was platted in 1978, as part of the Bay Point plat. It is considered to be a conforming lot of record. The existing home on the property was demolished in 2018, and a 5,912 sq. ft. single family home is currently under construction on the property. The property also contains a boat dock that was constructed in 1999.

In 1988, the BZA denied a variance to allow the rear setback of the house to be at 33 ft. in lieu of 50 ft. from the Normal High Water Elevation (NHWE). The applicant appealed this decision to the Board of County Commissioners, who granted the variance to allow a 35 ft. rear setback. The single family home is currently being constructed with a rear setback of 35.1 ft. from the NHWE.

In 1998, a variance (VA-98-10-002) was also approved to allow a pool to be located 25 ft. from the NHWE in lieu of 35 ft. Said pool was built in 1999. This does not apply to the current case, as the current request is greater than the previous approval.

The applicant is requesting variances to install a pool, and deck, 10.25 ft. and 14.17 ft. respectively, from the NHWE, in lieu of 35 ft. All setbacks for the home (including the rear setback per variance from the NHWE) are being met, thus the home is only 35.1 ft. from the NHWE where 35 ft. is required for the pool and deck, or any other accessory structures, essentially eliminating the ability to place anything in the rear yard without a variance.

Both adjacent neighbors have signed letters in favor of this variance.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	85 ft.	100 ft.
Min. Lot Size:	10,000 sq. ft.	25,052 sq. ft.

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

	Code Requirement	Proposed
Front:	30 ft. house	60 ft. house
Rear:	Variance allowing 35 ft. for house	35.1 ft. house
Side:	5 ft. (pool/deck)	10 ft. (north), 10.9 ft. (south)
NHWE:	35 ft.	10.25 ft. deck/14.17 ft. pool

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

After complying with the house setbacks permitted by the 1988 variance, the applicant is proposing to install the pool in the only location available in the rear yard.

No Special Privilege Conferred

The majority of homes in the area have pools. Given the location of the house on the property at 35.1 ft. from the NHWE, the request is the only way to allow a pool/deck on the property.

Deprivation of Rights

Literal interpretation of the code will deprive the applicant of the right to have a pool/deck on the property.

Minimum Possible Variance

This is the minimum possible variance to allow the applicant to construct the swimming pool.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan dated March 10, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager’s review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the pool is no closer than 14.17 feet, and deck is no closer than 10.25 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.

c: William Maroon
1400 W. Fairbanks Ave.
Winter Park, FL 32789



March 6, 2020

Request for Variance on behalf of:
James Zimmermann
9210 Bay Point Drive
Orlando, FL 32819

This submittal packages includes the following documents:

1. Application – Board of Zoning Adjustment.
2. Signed & sealed survey with NHWL noted.
3. Proposed site plan showing setback that necessitates this variance request. On 11” x 14” paper as requested.
4. Letter of support from the Bay Point Property Owner’s Association.
5. Letter of support from the neighbor located at 9216 Bay Point Drive (left of subject)
6. Letter of support from the neighbor located at 9202 Bay Point Drive (right of subject)
7. Power of Attorney authorizing Justin Hatchitt to submit this package.
8. County approved Site Plan and Grading Plan

I am submitting this application on behalf of the homeowner Jim Zimmermann. We request the following:

- Pool setback to be an average of 15.71’ (14.17 right & 17.25 left)
- Pool deck setback to be an average of 13.46’ (10.25 right & 16.67 left)
- The existing setback is 35’

the pool area does not exceed 29” from finished grade. Therefore, it will not require a railing and will not obstruct the neighbor’s views.

The pool is of Gunite construction and the deck is constructed of sand-set Travertine deck pavers. PVC drainage pipes will be used to control water flow into the properly designed retention ponds.

1. Special conditions and circumstances:

The shoreline is irregular, the seawall was constructed for a home that has been demolished. Due to the age of the community there are large inconsistencies in the setbacks allowed and variances granted. Please note that a similar variance was granted on 2/6/2020 with the pool deck distance of 11’-0” from the NHWL and the pool 13’-6” from the NHWL due to special conditions of the lot.

2. This is not a self-created condition.

The project was planned with the assistance of a landscape architect to meet retention and impervious requirements. When we submitted for the building permit, it was requested by the County that we not show the pool & pool deck as they would be on separate permits. We requested that it was important for us to show the pool, pool deck and planters as they are an integral part of the drainage, impervious and retention calculations. To satisfy the County we noted on the site plan that the pool and pool



deck would be issued on separate permit. Without this information on our site plan, it would be impossible to calculate the impervious ratios, retention and drainage requirements of the overall project. This has now become an issue, as we were not advised the plan that we proposed was not acceptable. It was our intent to provide a thorough and complete permit submittal.

The homeowner has spent in excess of \$75,000 prior to construction to dewater and demuck (with proper permitting) remove 700 yards of unstable soils and replaced with fill that will properly support the proposed structures.

3. No special privilege conferred from this request because many other property owners, in the same community, have been approved similar variances.

4. The deprivation is created by not having a pool and pool deck to enjoy, as do most other property owners in the community. This may create a financial loss for resale purposes (32 of 34 constructed homes have pools)

5. The minimum possible variance has been requested. Planning criteria included:

- Creating a home that would be harmonious with the community
- Planning for enough room for safety.
- Maximizing the sun for heating purposes, by locating the pool further from the home and east west shadow line that diminishes hours in each day for heating, increasing the natural heating time and decreasing fuel consumption.
- The original site plan, showing pool and deck location, was approved by the County. Placement became an issue, after the house was about 50% completed.
- Building Permit B19011138 & Wall Permit B20003195

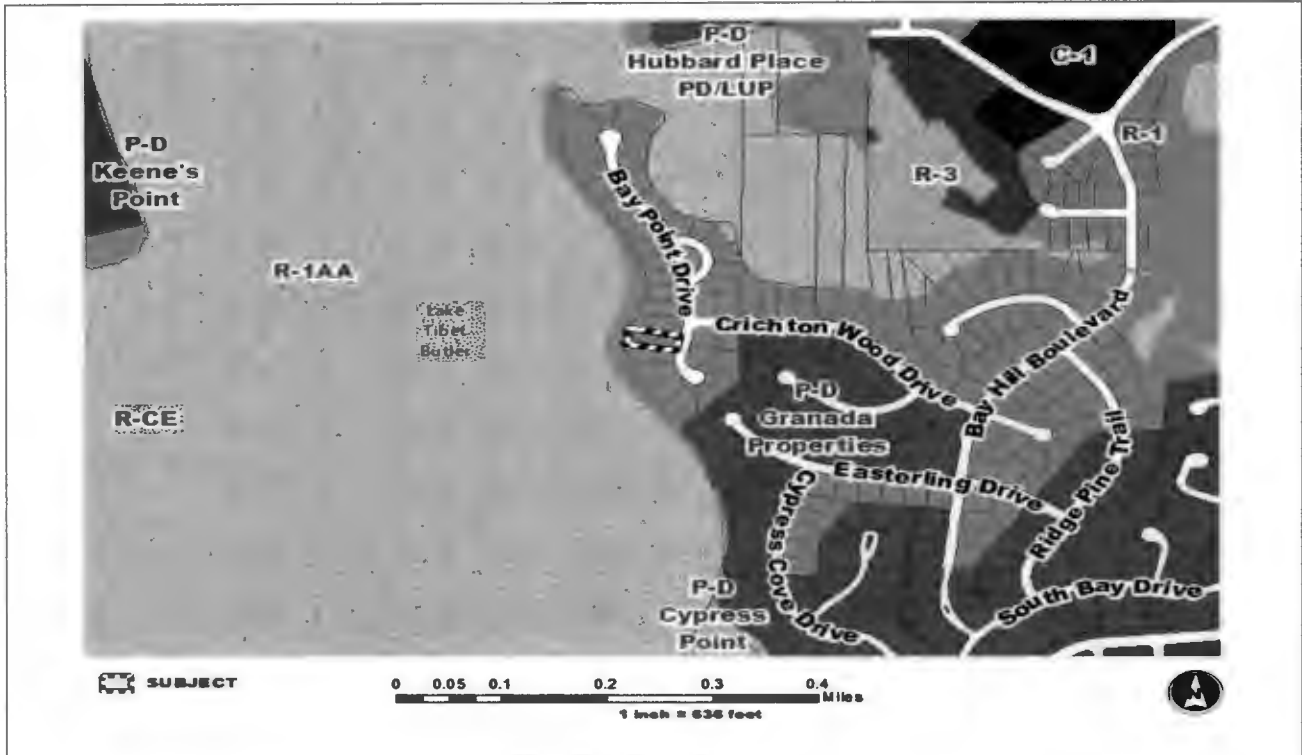
6. We wish to keep this project in harmony with the community, the proposed improvements do not impede any site lines as it does not exceed 30" in height. This design was formulated to eliminating the need for railings that impede views. We designed the project with proper retention.

There are numerous homes with comparable setbacks from the NHWL.

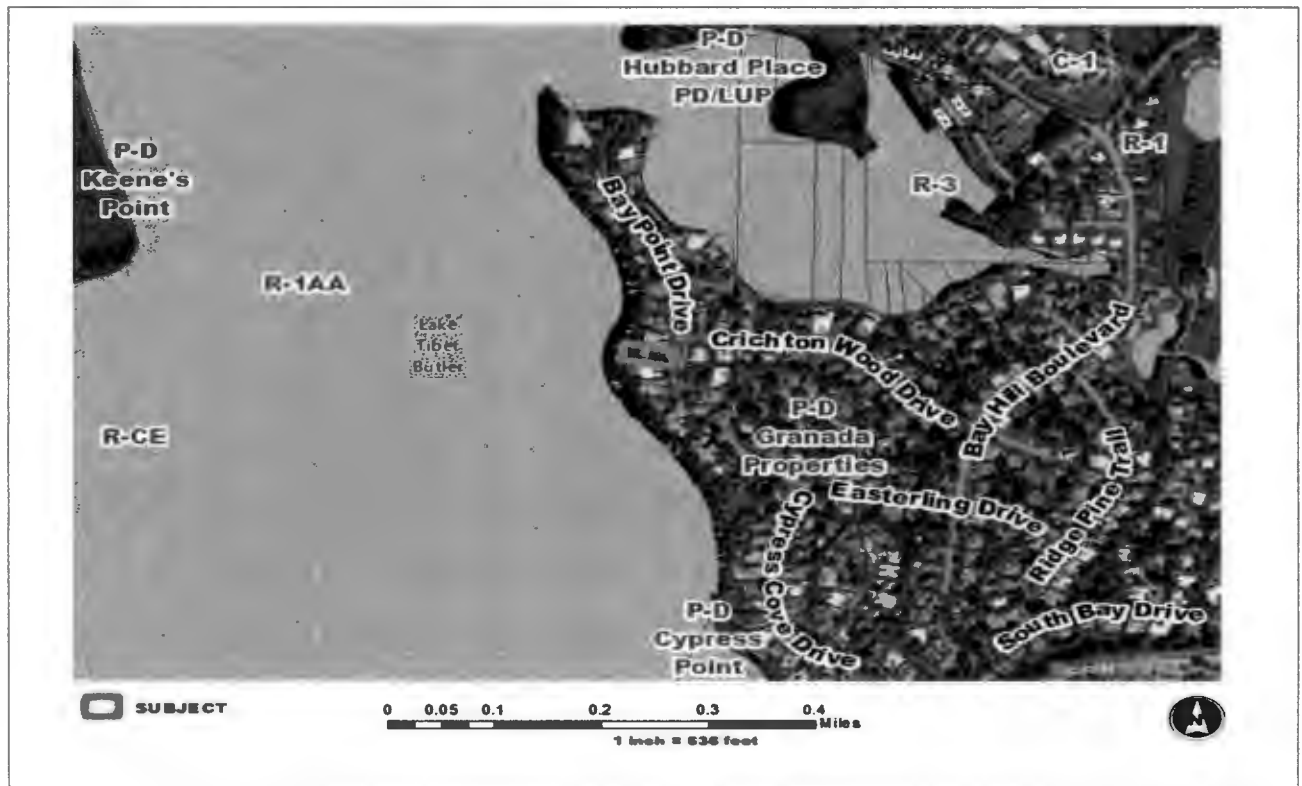
Respectfully submitted,

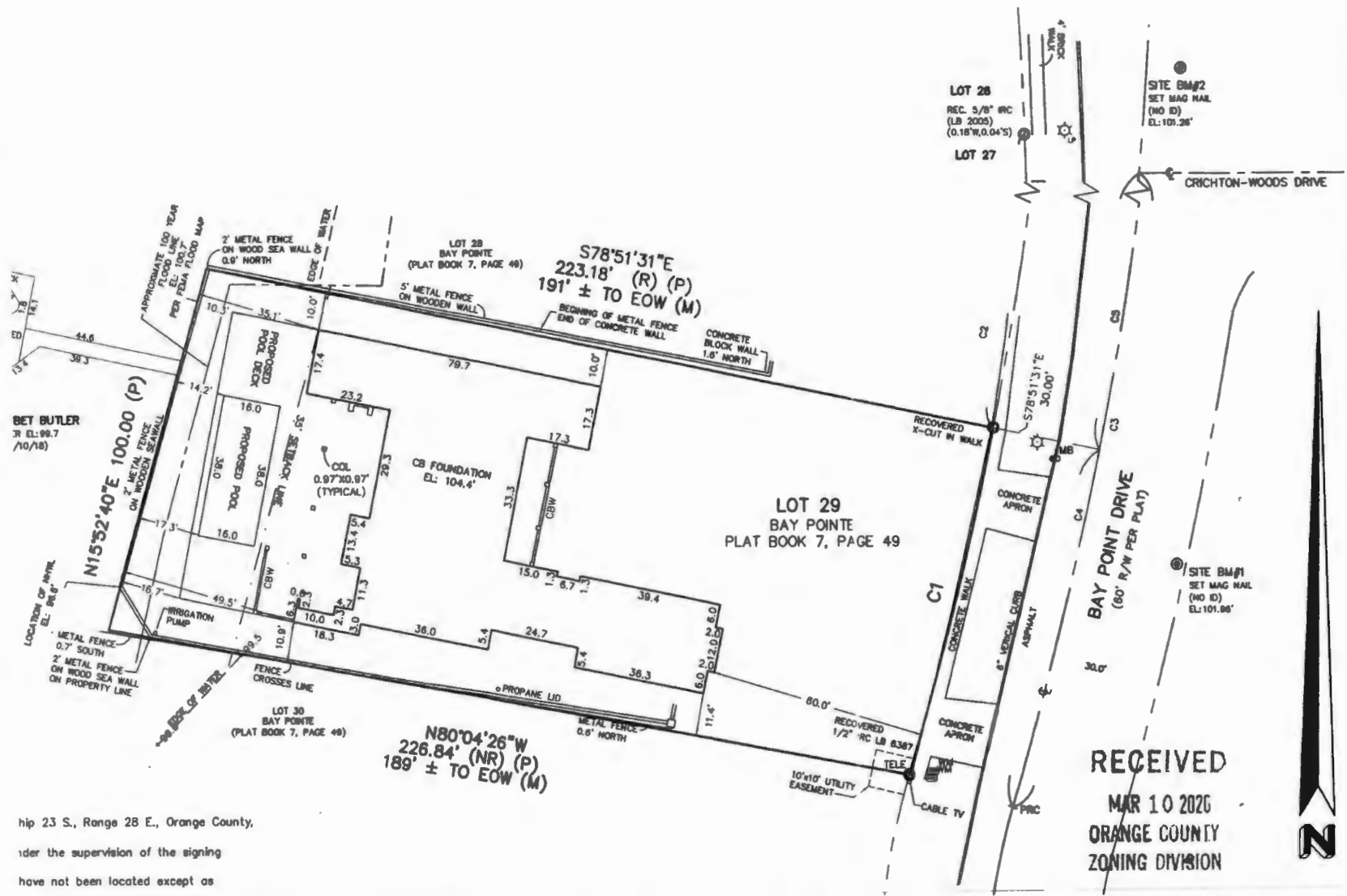
William S. Maroon
President
Maroon Fine Homes, Inc.

ZONING MAP



AERIAL MAP





SITE PLAN

RECEIVED
MAR 10 2020
ORANGE COUNTY
ZONING DIVISION

hip 23 S., Range 28 E., Orange County,
under the supervision of the signing
party have not been located except as
otherwise noted.
the line of Lot 27; bearing N85°56'48\"/>

REVISIONS	
Rev. <u>ADD PROPOSED POOL</u>	Date: <u>3/9/20</u>
Rev. <u>REMOVED APPROXIMATE</u>	Date: <u>2/12/20</u>
Rev. <u>FOUNDATION</u>	Date: <u>9/16/19</u>
Rev. <u>BUILDING STAKE OUT</u>	Date: <u>8/13/19</u>
Rev. <u>100 YEAR FLOOD LINE</u>	Date: <u>06/27/19</u>

HLSM, LLC
Henrich-Luke-Swaggerty-Menard
Professional Surveyors & Mappers
Licensed Business No. 7276

302 Live Oaks Boulevard
Casselberry, Florida 32717
P. (407) 647-7346
F. (407) 982-7116
Survey@HLSM.US

Job No: K-156
Field Date: 8-10-18
Drawn By: RM
Field By: WKP/GR
Scale: 1"=30'

THIS SURVEY MAP AND REPORT ON THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL GRESSED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

William F. Menard
Date: _____
Professional Surveyor & Mapper
Florida Registration #5625

SITE PHOTOS



Front from Bay Point Dr.



Rear yard pool location

SITE PHOTOS



Rear yard pool location

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 20, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-02-158**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): **KIM FISCHER**

OWNER(s): **HWP PARTNERS LLLP**

REQUEST: **Variances in the C-3 zoning district as follows:**

- 1) To allow for a lot split resulting in a 2.92 ft. north side setback in lieu of 5 ft. for existing Bldg. "G".
- 2) To allow for existing Bldg. "G" to remain with an 8.67 ft. west rear setback in lieu of 15 ft.
- 3) To allow for a lot split resulting in a 3.86 ft. north side setback in lieu of 5 ft. for existing Bldg. "F".
- 4) To allow for existing Bldg. "F" to remain with a 4.82 ft. north side setback in lieu of 5 ft.
- 5) To allow for existing Bldg. "H" to remain with a 10.04 ft. west rear setback lieu of 15 ft.
- 6) To allow for a lot split resulting in a 2.92 ft. north side setback in lieu of 5 ft. for existing Bldg. "D".
- 7) To allow for a 5 ft. south rear setback in lieu of 15 ft. for future buildings on proposed lot 3.

Variances in the I-4 zoning district as follows:

- 8) To allow for existing Bldg. "C" to remain with a 7.48 ft. south side setback in lieu of 25 ft.
- 9) To allow for existing Bldg. "C" to remain with a 9.85 ft. west rear setback in lieu of 10 ft.
- 10) To allow for existing Bldg. "C" to remain with an 11.88 ft. east side setback in lieu of 25 ft.
- 11) To allow for existing Bldg. "B" to remain with a 24 ft. north side setback in lieu of 25 ft.

Variance in the C-1 zoning district as follows:

- 12) To allow for a 5 ft. south rear setback in lieu of 20 ft. for future buildings on proposed lot 2.

PROPERTY LOCATION: **3500 Aloma Avenue, Winter Park, Florida, 32792, south side of Aloma Ave., west of N. Forsyth Rd.**

PARCEL ID: **03-22-30-0000-00-030**

LOT SIZE: **8.48 acres**

NOTICE AREA: **600 ft.**

NUMBER OF NOTICES: **190**

DECISION: Recommended **APPROVAL** of Variance requests #1-6 and #8-11 and modified approval of variances #7 and #12 to allow for a 10 ft. rear yard setback in lieu of the 5 ft. that was requested, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (3 in favor, 2 opposed, and 2 absent):

1. Development in accordance with the site plan dated March 10, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The lot split shall be finalized within 2 years of final action on this application by Orange County, or variances # 1, 3, 6, 7, and 12 will be null and void.

SYNOPSIS: Staff gave a presentation on the case covering the location of the property, the site plan, development proposal, and photos of the site.

The applicant stated that they had wanted to use the zoning line for the new property line, and that they had modified Lot 3 to have the same setback as the existing lot and lot 2.

The BZA questioned the 5 foot rear setback request for the proposed new lots, when 10 feet was previously proposed. The BZA discussed whether the 5 foot setback would set a precedent to allow for other variances on vacant lots without any documents or plans being submitted to back such requests for new lots. The BZA felt that the lot is unique, and they want to be consistent with existing building setbacks, and want to make a reasonable compromise for development. The BZA felt that a 10 foot rear setback request was more reasonable than 5 feet.

Staff received no correspondence in favor or in opposition to the application.

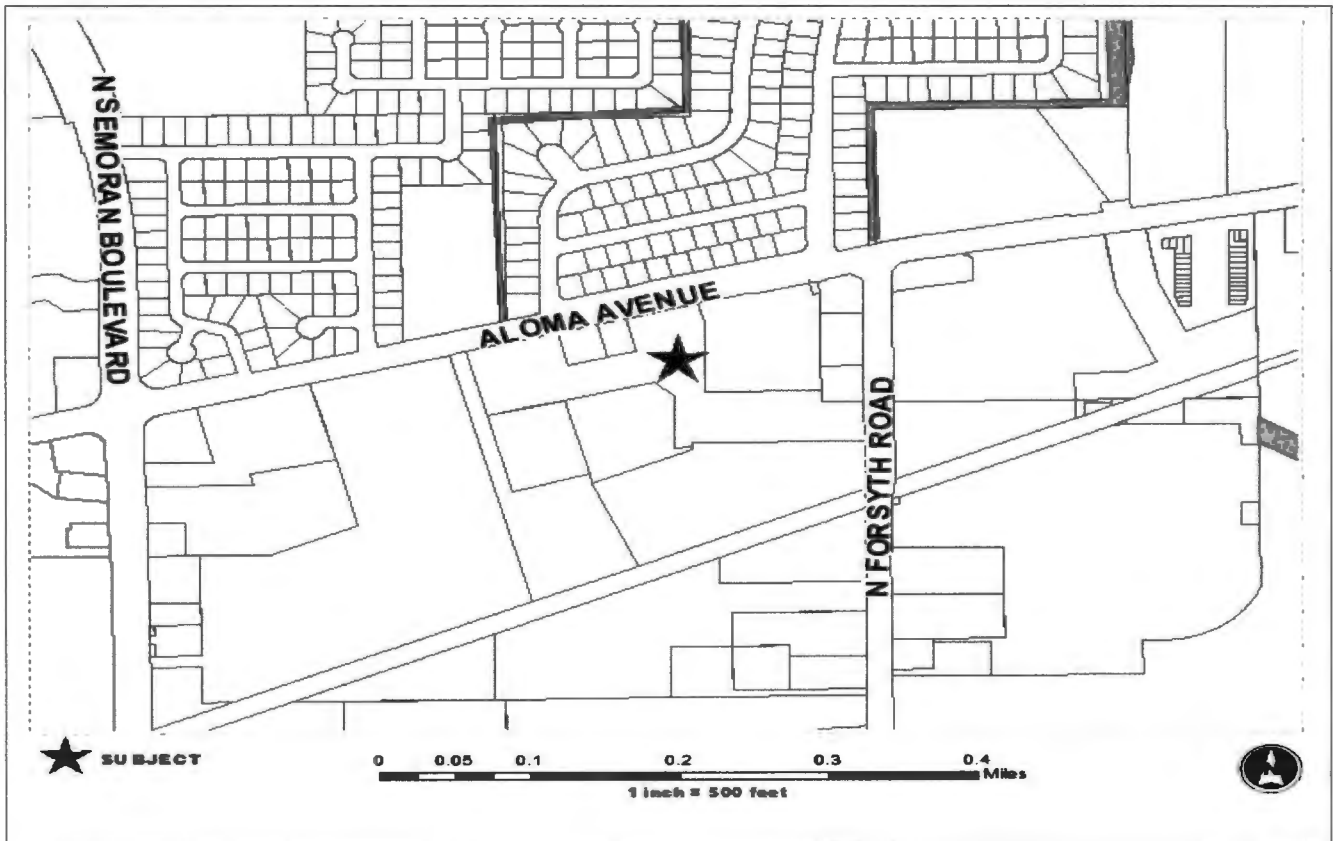
There being no one present to speak in favor or opposition to the request, the public hearing was closed.

The BZA recommended approval of the requested variances, subject to a modified approval for request # 7, granting a 10 ft. south rear setback in lieu of 15 ft. for future buildings on proposed lot 3, and subject to a modified approval for request # 12, granting a 10 ft. south rear setback in lieu of 20 ft. for future buildings on proposed lot 2. The motion passed with a 3-2 vote, subject to the four (4) conditions found in the staff report.

STAFF RECOMMENDATIONS

Denial of variances 1, 3, 6, 7, and 12, and approval of variances 2, 4, 5, 8, 9, 10, and 11 subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	C-1/C-3/IND-4	C-1, R-1A	IND-4	C-2, I-4	I-2/I-3, R-3
Future Land Use	C	C, LDR	IND	C, IND	IND
Current Use	Retail/Warehousing	Religious use, Retail, single family residential	Manufacturing	Retail	Warehousing, Multifamily

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The northwest portion of the property is located in the C-1 Retail Commercial district, which allows for restaurants, retail stores, offices, churches, and various other indoor commercial businesses. The center and northeast portion of the property is located in the C-3, Wholesale Commercial district. The C-3 district allows more intense commercial activity including automotive repair/sales and certain outdoor uses. The southeast portion of the property is located in the I-4, Heavy Industrial District which allows the most intense industrial uses, including the processing of bulk materials, manufacturing and open storage of materials.

The area consists of commercial, industrial and multifamily development south of Aloma Avenue, and single family homes and a church, north of Aloma Avenue. The subject property is an 8.48 acre lot that consists of a combination of 7 lots. There are 9 commercial/industrial buildings on the property that were constructed between 1974 and 1980 totaling 32,300 sq. ft. The applicant purchased the property in 2007.

The applicant is requesting setback variances to allow existing buildings B, C, F, G and H to remain. The applicant is also proposing a 2 lot split to create 2 new lots fronting on Aloma Avenue that would result in the need for 3 additional variances, and is requesting 2 additional variances to the rear yard setback on the 2 new proposed lots. No development plans have been submitted for either of the 2 proposed lots, illustrating the need for the rear yard setback variances on these vacant rectangular lots.

Staff was able to locate building permits from 1978 for buildings D, E, F, G, H and I, but was unable to determine if they were in compliance with the setback regulations at that time.

The BZA heard a request for this case on March 5, 2020, at which time the case was continued to the next BZA meeting, to allow the applicant to revise the request to ask for lesser variances. Since that time, the applicant has moved the proposed lot line for new lot 3 2.92 ft. north, which eliminates the previous variance request for a 4.82 ft. north side setback in lieu of 5 ft. for Bldg. "E", and reduces the request for Bldg. "D" to a 2.92 ft. variance in lieu of 5 ft. (when 0 ft. was previously requested). Also the variance requests for the future buildings on proposed lot 2 and 3 have been modified from the original request of 10 ft. to 5 ft. each, although the proposed lot line has not changed for lot 2.

STAFF FINDINGS

VARIANCE CRITERIA for Approval of Variances # 2, 4, 5, 8, 9, 10, and 11

Special Conditions and Circumstances

The subject property is uniquely shaped, and the buildings are all existing.

No Special Privilege Conferred

The buildings on the property are all existing. The requests are the only way to allow them to remain.

Deprivation of Rights

Literal interpretation of the code will deprive this applicant of the right to keep existing buildings in existing locations.

Minimum Possible Variance

These are the minimum possible variances to allow the existing buildings to remain.

Purpose and Intent

Approval of the requests will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood.

VARIANCE CRITERIA for Denial of variances # 1, 3, 6, 7, and 12**Special Conditions and Circumstances**

There are no special conditions and circumstances, as the request is to create two (2) new lots and to reduce setbacks on each proposed lot for buildings and site layouts that have yet to be designed. These variances would not be necessary without the creation of the lots, and development plans have not been submitted demonstrating special conditions and circumstances as to why the required setbacks cannot be met on vacant rectangular shaped lots.

Not Self-Created

The need for the variances is entirely self-created, due to the request to create two (2) new lots. If the split was not proposed, these variances would not be needed. Request # 7 and 12 to grant reduced setbacks for vacant lots is entirely self-created, as any new development has to meet code standards, and there has been no documentation submitted showing these proposed lots would be undevelopable without the reduced setbacks.

No Special Privilege Conferred

Approval of the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district that are required to meet the setbacks and would set a precedent of allowing variances on vacant lots.

Deprivation of Rights

The applicant is not being deprived of the right to utilize the property, or to expand in a conforming manner.

Minimum Possible Variance

These are not the minimum possible variances to allow the requested setbacks on the property. The lots are not required to be split, and any new development should be designed to meet code.

Purpose and Intent

Approval of this request will not be in harmony with the purpose and intent of the Zoning Regulations and could be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan dated March 10, 2020, to be amended to remove the proposed new lots, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The lot split shall be finalized within 2 years of final action on this application by Orange County, or variances # 1, 3, 6, 7, and 12 will be null and void.

c: Alex Borsoi
1011 N. Wymore Rd.
Winter Park, FL 32789

C: Kim Fischer
1614 White Dove Dr.
Winter Springs, FL 32708

Variance Request 3500 Aloma Ave

This request is to allow reduced setbacks in order for the property to be subdivided. The current owner acquired the property in 1987, with 9 buildings built in the 70's. A 10th building was added in 1998.

Variances in the C-3 Zoning District as follows:

- 1) Bldg. "G": 2.92 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 2) Bldg. "G": 8.67 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 3) Bldg. "F": 3.86 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 4) Bldg. "F": 4.82 ft. side setback in lieu of 5 ft. (North) EXISTING
- 5) Bldg. "E": 4.82 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 6) Bldg. "H": 10.04 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 7) Bldg. "D": 2.92 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT

Variances in the I-4 Zoning District as follows:

- 8) Bldg. "C": 7.48 ft. side setback in lieu of 25 ft. (South) EXISTING
- 9) Bldg. "C": 9.85 ft. rear setback in lieu of 10 ft. (West) EXISTING
- 10) Bldg. "C": 11.88 ft. side setback in lieu of 25 ft. (East) EXISTING
- 11) Bldg. "B": 24 ft. side setback in lieu of 25 ft. (North) EXISTING

Future Buildings in C-1 Zoning District

- 12) 5 ft rear setback in lieu of 20' (south) PROPOSED for SPLIT

Future Buildings in C-3 Zoning District

- 12) 5 ft rear setback in lieu of 15' (south) PROPOSED for SPLIT

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 existing buildings were built in the 70's and are existing, the existing building are currently within 0' of the property line. The new lots would align with the current zoning designation and would also align with the adjacent property line located between proposed lots 2 and 3

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 circumstance is existing for a portion of the buildings. The buildings were built in the 70's and the applicant purchased the existing buildings in the late 80's. The proposed lots 2 and 3 would continue with the existing setbacks and align the zoning.

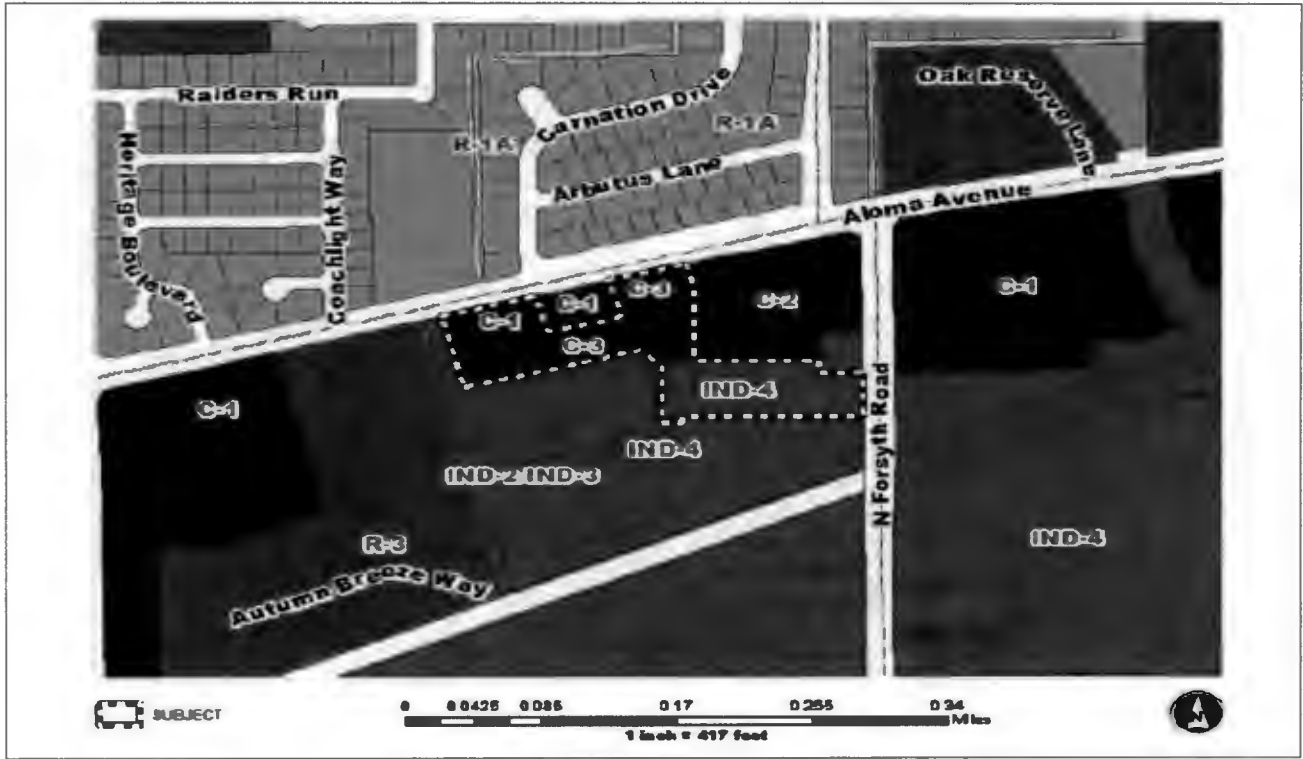
3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district. The buildings and subsequent setbacks are existing.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection. The current setback from the existing building to the existing property line is less than 1'. This would continue with the proposed created lot lines for lots 2 and 3. Any future buildings would be a setback of 10' from the newly created lot line.

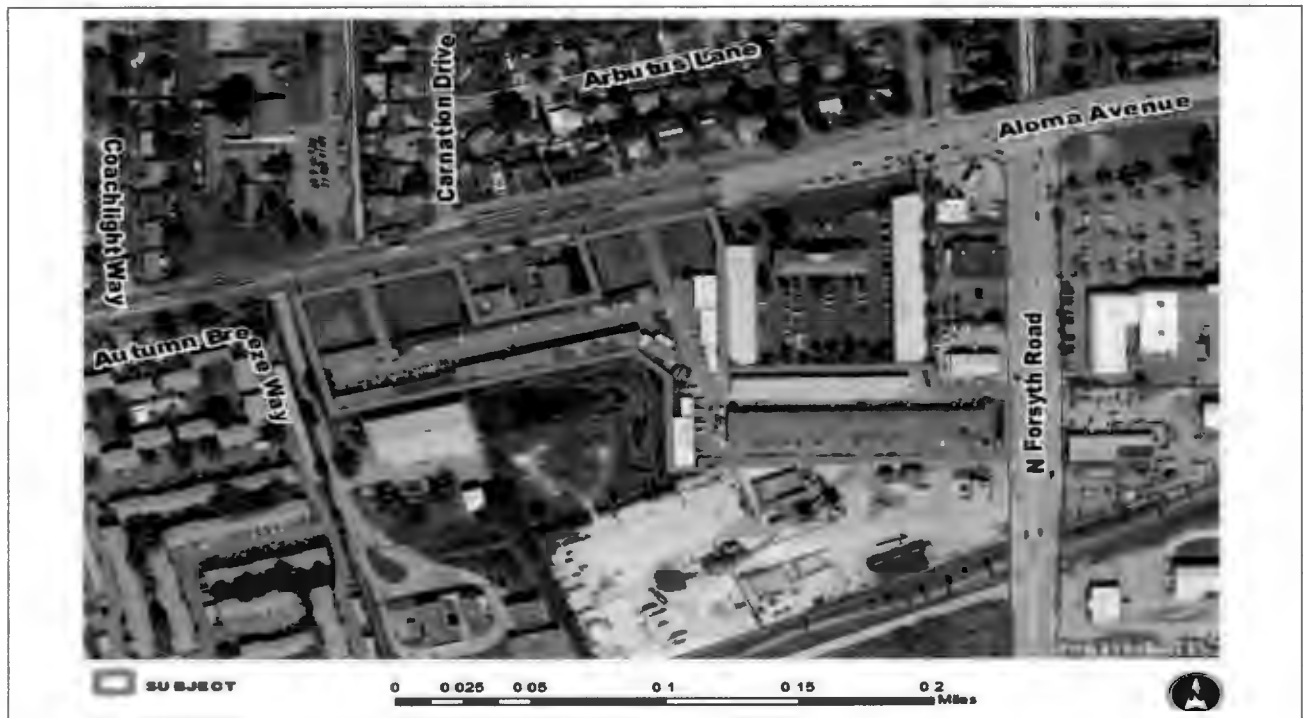
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure. The setback variance is for the existing setbacks to the existing property lines. The newly created 2 lots would be in conformance with the surrounding area and with the zoning lines.

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. Existing setback currently exists with adjacent property

ZONING MAP



AERIAL MAP



ZONING	REQUIRED SETBACKS
C-1 <input type="checkbox"/>	FRONT 70' FROM CL SIDE 0' REAR 20'
C-3 <input type="checkbox"/>	70' FROM CL 5' 15'
IND-4 <input type="checkbox"/>	35' 25' 10'

LOT 1 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG A		48'		45'
BLDG B	24'			36'
BLDG C		7.48'	9.85'	11.88'
BLDG D	0"			9.5'
BLDG E	4.82"			
BLDG F	4.82"			
BLDG G	2.92"		8.67'	
BLDG H		9.52'	10.04'	
BLDG I				21.4'

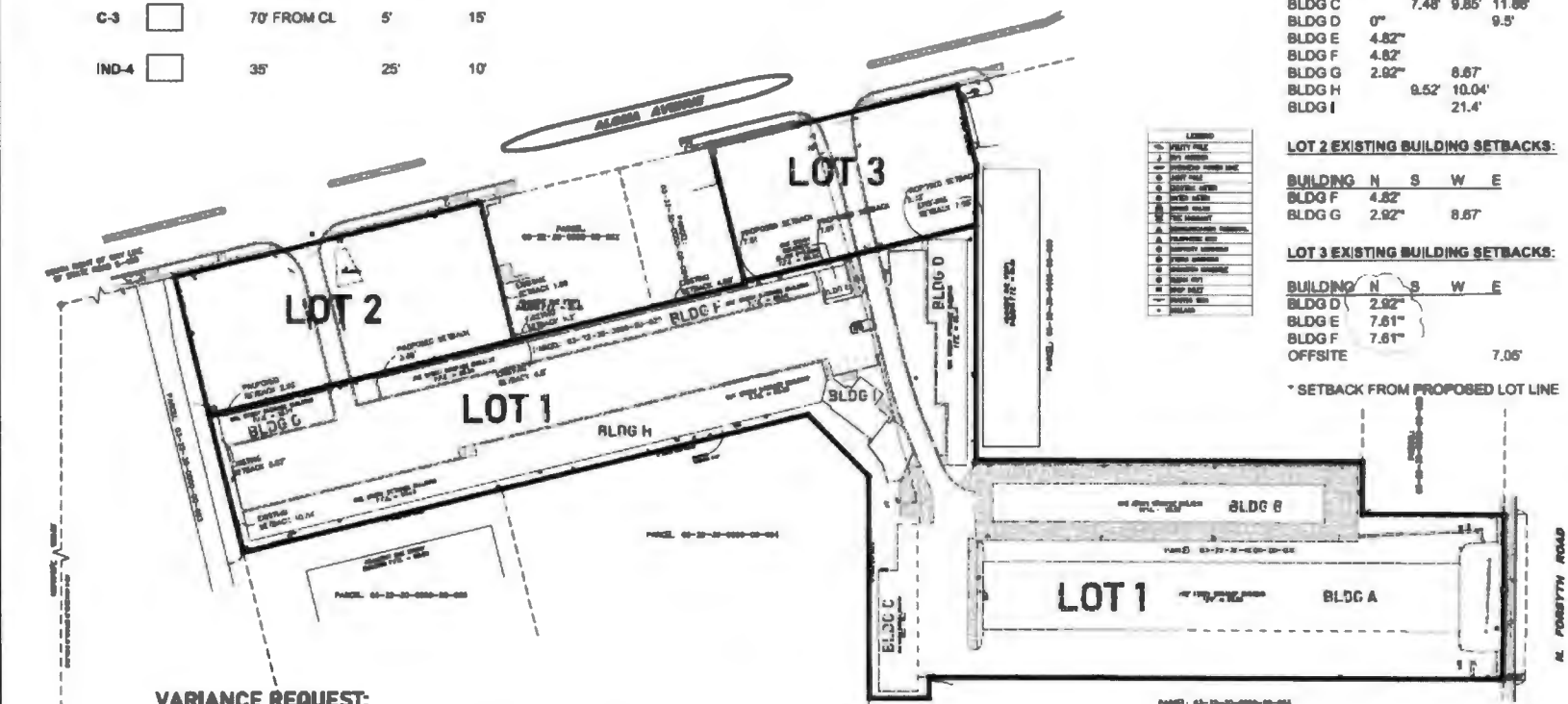
LOT 2 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG F	4.82"			
BLDG G	2.92"		8.67'	

LOT 3 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG D	2.92"			
BLDG E	7.61"			
BLDG F	7.61"			
OFFSITE				7.05'

* SETBACK FROM PROPOSED LOT LINE



VARIANCE REQUEST:

C-1/C-3 ZONING

- 1) Bldg. "G": 2.92 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 2) Bldg. "G": 8.67 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 3) Bldg. "F": 3.86 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 4) Bldg. "F": 4.82 ft. side setback in lieu of 5 ft. (North) EXISTING
- 5) Bldg. "E": 4.82 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 6) Bldg. "H": 10.04 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 7) Bldg. "D": 2.92 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT

I-4 ZONING

- 8) Bldg. "C": 7.48 ft. side setback in lieu of 25 ft. (South) EXISTING
- 9) Bldg. "C": 9.85 ft. rear setback in lieu of 10 ft. (West) EXISTING
- 10) Bldg. "C": 11.88 ft. side setback in lieu of 25 ft. (East) EXISTING
- 11) Bldg. "B": 24 ft. side setback in lieu of 25 ft. (North) EXISTING

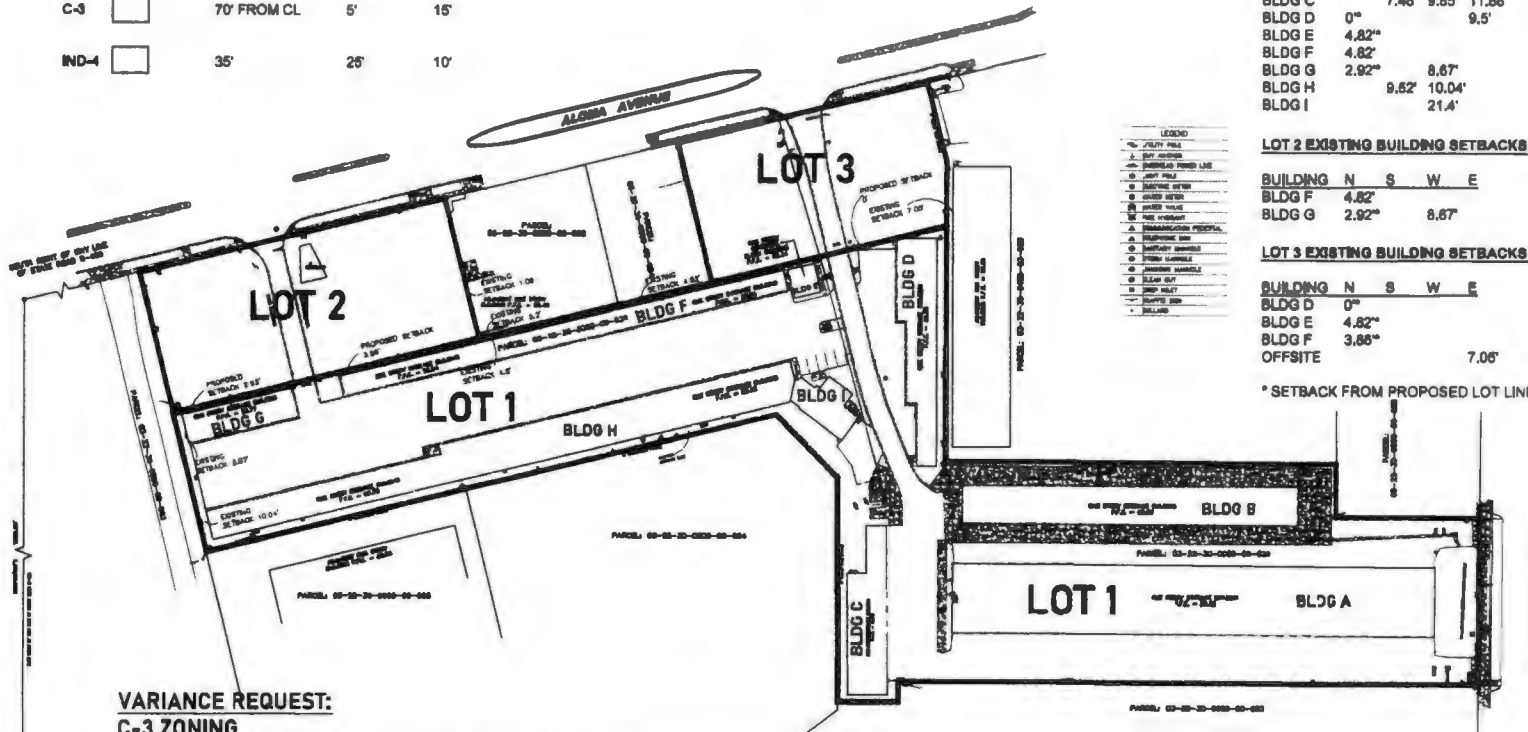
FUTURE BUILDINGS

- 12) 5 FT REAR (SOUTH) SETBACK IN LIEU OF 20' (C-1) OR 15' (C-3) FOR LOTS 2 AND 3

PROPOSED LOT SPLIT

- LOT 1 = 280,942 SF
- LOT 2 = 49,815 SF
- LOT 3 = 38,746 SF

ZONING	REQUIRED SETBACKS
C-1 <input type="checkbox"/>	FRONT 70' FROM CL SIDE 0' REAR 20'
C-3 <input type="checkbox"/>	70' FROM CL 5' 15'
IND-4 <input type="checkbox"/>	35' 25' 10'



LOT 1 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG A		49'		45'
BLDG B	24'			39'
BLDG C		7.48'	9.85'	11.88'
BLDG D	0"			9.5'
BLDG E	4.82"			
BLDG F	4.82"			
BLDG G	2.92"		8.67'	
BLDG H		9.52'	10.04'	
BLDG I				21.4'

LOT 2 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG F	4.82"			
BLDG G	2.92"		8.67'	

LOT 3 EXISTING BUILDING SETBACKS:

BUILDING	N	S	W	E
BLDG D	0"			
BLDG E	4.82"			
BLDG F	3.86"			
OFFSITE				7.06'

* SETBACK FROM PROPOSED LOT LINE

VARIANCE REQUEST:

C-3 ZONING

- 1) Bldg. "G": 2.92 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 2) Bldg. "G": 8.67 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 3) Bldg. "F": 3.86 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 4) Bldg. "F": 4.82 ft. side setback in lieu of 5 ft. (West) EXISTING
- 5) Bldg. "E": 4.82 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT
- 6) Bldg. "H": 10.04 ft. rear setback in lieu of 15 ft. (West) EXISTING
- 7) Bldg. "D": 0 ft. side setback in lieu of 5 ft. (North) PROPOSED for SPLIT

I-4 ZONING

- 8) Bldg. "C": 7.48 ft. side setback in lieu of 25 ft. (South) EXISTING
- 9) Bldg. "C": 9.85 ft. rear setback in lieu of 10 ft. (West) EXISTING
- 10) Bldg. "C": 11.88 ft. side setback in lieu of 25 ft. (East) EXISTING
- 11) Bldg. "B": 24 ft. side setback in lieu of 25 ft. (North) EXISTING

FUTURE BUILDINGS

- 12) 10 FT REAR SETBACK IN LIEU OF 20' (SOUTH) PROPOSED FOR SPLIT

PROPOSED LOT SPLIT

- LOT 1 = 280,241 SF
- LOT 2 = 49, 815 SF
- LOT 3 = 39,447 SF

RECEIVED

**JAN 30 2020
ORANGE COUNTY**

SITE PHOTOS



Variance #12; Proposed Lot 2 from Aloma Avenue with Approximate Proposed Property Line in Red



Variance #7; Proposed Lot 3 from Aloma Avenue with Approximate Proposed Property Line in Red

SITE PHOTOS



Variance #11; Bldg. B Existing 24 ft. Side Setback in Lieu of 25 ft.



Variance #11; Bldg. B Existing 24 ft. Side Setback in Lieu of 25 ft.

SITE PHOTOS



Variance #8; Bldg. C Existing 7.48 ft. Side Setback in Lieu of 25 ft.



Variance #9; Bldg. C Existing 9.85 ft. Rear Setback in Lieu of 10 ft.

SITE PHOTOS



Variance #10; Bldg. C Existing 11.88 ft. Side Setback in Lieu of 25 ft.



Variance #6; Bldg. D Proposed 2.92 ft. Side Setback in Lieu of 5 ft. Resulting From Creation of Proposed Lot 3 Proposed Property Line in Red

SITE PHOTOS



**Variance #3; Bldg. F Proposed 3.86 ft. Side Setback In Lieu of 5 ft. Resulting From Creation of Proposed Lot 2
Proposed Property Line in Red**



**Variance #1; Bldg. G Proposed 2.92 ft. Side Setback In Lieu of 5 ft. Resulting From Creation of Proposed Lot 2
Proposed Property Line in Red**

SITE PHOTOS



Variance #2; Bldg. G Existing 8.67 ft. Rear Setback in Lieu of 15 ft. Looking South



Variance #2; Bldg. G Existing 8.67 ft. Rear Setback in Lieu of 15 ft. Looking North

SITE PHOTOS



Variance #5; Bldg. H Existing 10.04 ft. Rear Setback in Lieu of 15 ft. Looking South



Variance #5; Bldg. H Existing 10.04 ft. Rear Setback in Lieu of 15 ft. Looking North



BOARD OF ZONING ADJUSTMENT