




Interoffice Memorandum

August 22, 2024

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

FROM: Tanya Wilson, AICP, Director 
Planning, Environmental, and Development Services
Department

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

SUBJECT: September 10, 2024 Board-Called Public Hearing
Applicant: Sorenson Construction, Inc
BZA Case # VA-24-07-059, July 03, 2024; District 1

Board of Zoning Adjustment (BZA) Case # VA-24-07-059, located at 2608 Midsummer Dr., Windermere, FL 34786, in District 1, is a Board-Called public hearing. The applicant is requesting variances in the R-CE zoning district as follows: 1) To allow a 2,858 sq. ft. attached Accessory Dwelling Unit (ADU) in lieu of a maximum of 1,000 sq. ft. 2) To allow an Accessory Dwelling Unit (ADU) with a separate entrance at the front in lieu of the side or rear.

At the July 3, 2024, BZA hearing, staff recommended denial of the variance requests. There was no one in attendance to speak in favor. There were two in attendance to speak in opposition, stating concerns about the property appearing as a duplex from the street because of the two entries and the size of the proposed ADU. It was noted that four comments were received in support of the requests and no comments were received in opposition. The BZA recommended approval of the variance requests, subject to three standard conditions.

At the July 30, 2024, Board meeting, this item was pulled for a separate public hearing at the request of Commissioner Wilson.

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

August 22, 2024

Board-Called Public Hearing – Sorenson Construction, Inc

Variance

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If you have any questions regarding this matter, please contact Brandy Driggers at (407) 836-5329 or Brandy.Driggers@ocfl.net.

ACTION REQUESTED: Deny the applicant's request; or approve the applicant's request with conditions. District 1

BD/ag

Attachment: Zoning Division Public Hearing Report and BZA Staff Report

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 10, 2024**

The following is a public hearing before the Board of County Commissioners on September 10, 2024 at 2:00 p.m.

APPLICANT: SORENSON CONSTRUCTION, INC.

REQUEST: Variances in the R-CE zoning district as follows:
1) To allow a 2,858 sq. ft. attached Accessory Dwelling Unit (ADU) in lieu of a maximum of 1,000 sq. ft.
2) To allow an Accessory Dwelling Unit (ADU) with a separate entrance at the front of primary structure in lieu of the side or rear.

LOCATION: 2608 Midsummer Dr., Windermere, FL 34786, west side of Midsummer Dr., east side of Lake Down, west of S. Apopka Vineland Rd., east of Maguire Rd., north of Conroy Windermere Rd.

TRACT SIZE: +/- 2.4 acres (+/- 1.1 acres upland)

ZONING: R-CE

DISTRICT: #1

PROPERTIES NOTIFIED: 71

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

Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that four (4) comments were received in favor of the requests, and no comments were received in opposition to the requests.

The applicant discussed the recommendation of denial, noting that the property could be developed with a conforming ADU.

There was no one in attendance to speak in favor of the request. There were two (2) in attendance to speak in opposition to Variance #2, stating concerns about the property appearing as a duplex from the street because of the two entries.

The BZA discussed the requests, determined that the main difference between the residence under construction and the proposed ADU was the addition of cabinetry and appliances, which would not be a measurable impact to surrounding properties and

recommended approval of the Variances by a 3-2 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

BZA HEARING DECISION:

A motion was made by Thomas Moses, seconded by Roberta Walton Johnson and carried to recommend APPROVAL of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (3 in favor: Roberta Walton Johnson, Sonya Shakespeare, Thomas Moses; 2 opposed: Deborah Moskowitz, John Drago; 1 absent: Juan Velez; 1 vacant)

1. Development shall be in accordance with the site plan and elevations dated June 12, 2023, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 3, 2024**

Commission District: **#1**

Case #: **VA-24-07-059**

Case Planner: **Laekin O'Hara (407) 836-5943**
Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): SORENSON CONSTRUCTION, INC.

OWNER(s): MILES BURKE, BARBARA BURKE

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

- 1) To allow a 2,858 sq. ft. attached Accessory Dwelling Unit (ADU) in lieu of a maximum of 1,000 sq. ft.
- 2) To allow an Accessory Dwelling Unit (ADU) with a separate entrance at the front of primary structure in lieu of the side or rear.

PROPERTY LOCATION: 2608 Midsummer Dr., Windermere, FL 34786, west side of Midsummer Dr., east side of Lake Down, west of S. Apopka Vineland Rd., east of Maguire Rd., north of Conroy Windermere Rd.

PARCEL ID: 04-23-28-4406-00-210

LOT SIZE: +/- 2.4 acres (+/- 1.1 acres upland)

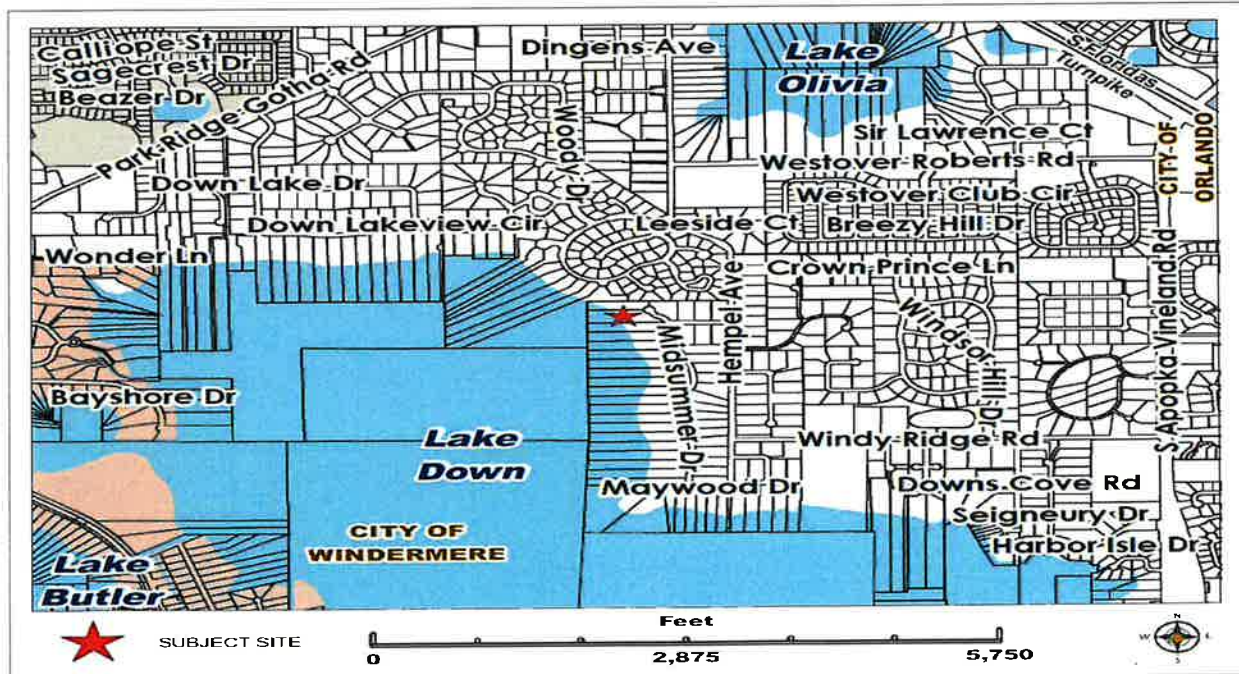
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 71

STAFF RECOMMENDATIONS

Denial. However, should the BZA find that the applicant has satisfied the criteria necessary to grant the Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-1A
Future Land Use	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Vacant / water body

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Rural Country Estate District, which allows for single family development on one (1) acre lots and certain rural uses. The Future Land Use is Rural Settlement 1/1 (RS 1/1), which is consistent with the R-CE zoning district. The rural settlement designation typically impacts such development factors as residential density, location, and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development.

The area around the subject site consists of single-family homes and vacant lots, many of which are lakefront. The subject property is a +/- 2.4 acre lot, of which +/- 1.1 acres is upland, and the remainder is +/- 1.3 acres of Lake Down. The property is currently under construction with a single-family residence (B22022802), boat dock (B24008346), and pool with spa and decking (B23020277). The property was purchased by the current owners in 2021.

The applicant is requesting approval of an attached Accessory Dwelling Unit (ADU). The ADU contains 2,858 gross sq. ft. of living area where a maximum of 1,000 sq. ft. is allowed (Variance #1). The allowable size of an ADU is based on the size of the primary dwelling unit living area, or 1,000 sq. ft., whichever is less. The living area of the primary dwelling is identified on the building permit as 6,967 sq. ft., 50% of which is 3,483.5 sq. ft., greater than the proposed ADU; however, this exceeds the overall 1,000 sq. ft. cap. The ADU also requires Variance #2, as the ADU has a separate entrance at the front of the primary structure where Code requires it be located to the side or rear.

The issued building permit for the primary dwelling unit currently under construction does not identify this area as an accessory dwelling unit, and just depicts it as additional living area, with a wet bar in place of the kitchen. County Code Section 38-1 definition of a single-family dwelling includes “containing one (1) kitchen”, and Variances are not able to be requested from a definition to allow a second kitchen. As such, the applicant has submitted a request for an accessory dwelling unit, requiring the above referenced Variances in order to allow for the addition of a second kitchen.

The intent and purpose of the ADU code is to allow for the development of ADUs to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. As such, accessory dwelling units do not count towards the maximum density and are charged impact fees at a lower rate than 2 single-family homes and are therefore intentionally meant to be subordinate in relation to the primary home and property, thus the limitation on maximum square footage

and number of bedrooms, as such staff is recommending denial as the plans can be submitted to meet code.

The applicant submitted letters of no objection from three (3) adjacent neighbors located to the north, south, and east, and a letter of approval from the HOA.

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

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	130 ft.	183 ft.
Min. Lot Size:	43,560 sq. ft. (1 acre)	+/- 2.4 acres (+/- 1.1 acres upland)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front (East):	35 ft.	40.33 ft.
Side (North):	10 ft.	35.25 ft.
Side (South):	10 ft.	14.39 ft.
Rear (West):	50 ft.	403.8 ft.
Rear (NHWE):	50 ft.	57.41 ft.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances, as an ADU could be constructed in a conforming size and could provide a shared entry or entry at the side or rear.

Not Self-Created

The request for the Variances is self-created, as the requested variances could be reduced or eliminated.

No Special Privilege Conferred

Granting the Variances as requested will confer special privilege that is denied to other properties in the area.

Deprivation of Rights

The owners are not being deprived of the right to have an ADU on the property, as they could build a size that meets code requirements and a door in a code complaint location.

Minimum Possible Variance

These requests are not the minimum, since there are other alternatives, including the reduction of the size and alternate door location.

Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Code, which is to allow an ADU to be secondary and accessory to the house. As this ADU is interior to the home and is currently permitted

as part of the primary dwelling, the addition of the kitchen will not provide a measurable impact to the surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated June 12 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Robert Sorenson
1331 Green Forest Court, Ste #4
Winter Garden, Florida 34787



1331 Green Forest Court, Ste. #4 - Winter Garden, FL 34787
P.O. Box 623, Gotha, FL 34734
407-905-8190

May 17, 2024

Orange County Board of Zoning Adjustments
201 Rosalind Avenue
Orlando, FL 32801

RE: Multi-Generational home - 2nd kitchen / Oversized ADU / ADU's separate entrance to be located on the front side of primary structure per existing plan.

Variance Request to provide a 2858 s.f. Oversize ADU at the above referenced address in lieu of the maximum 1000 s.f. allowable.

Variance Criteria:

1. **Special Conditions & Circumstances:** The Property appraiser lists this property as 2.49 acres. The proposed home is planned for 14,321 s.f. and with a total A/C area of 9825 s.f. of which the proposed ADU comprises of 2858 s.f. As designed, there will be no appreciable increases in mass of the home as the ADU is located internally and will not add to the overall mass that would affect adjacent properties. The net developable acreage for this home is 1.1 acres above the normal high-water line.
2. **Not Self-Created:** as permitted and is currently under construction, this is a SFR without an ADU. The variance request is one made by the Homeowners to construction a generational home for the aging parents to live with their children's family.
3. **No Special Privilege Conferred:** No special privilege is expected by the homeowner.
4. **Deprivation of Rights:** the sole purpose for this variance request is to construct a generational home and will have no effect on the rights of other properties within this zoning district.
5. **Minimum Possible Variance:** as this will be a full time living unit within a single family residence, space has been provided for the family relative similar to that of a small dwelling unit and is comparable with the balance of the home that the unit exists within and also provides completely separate living conditions that will not adversely affect the main home in terms of privacy/having other friends and relatives visit the family members within the ADU.

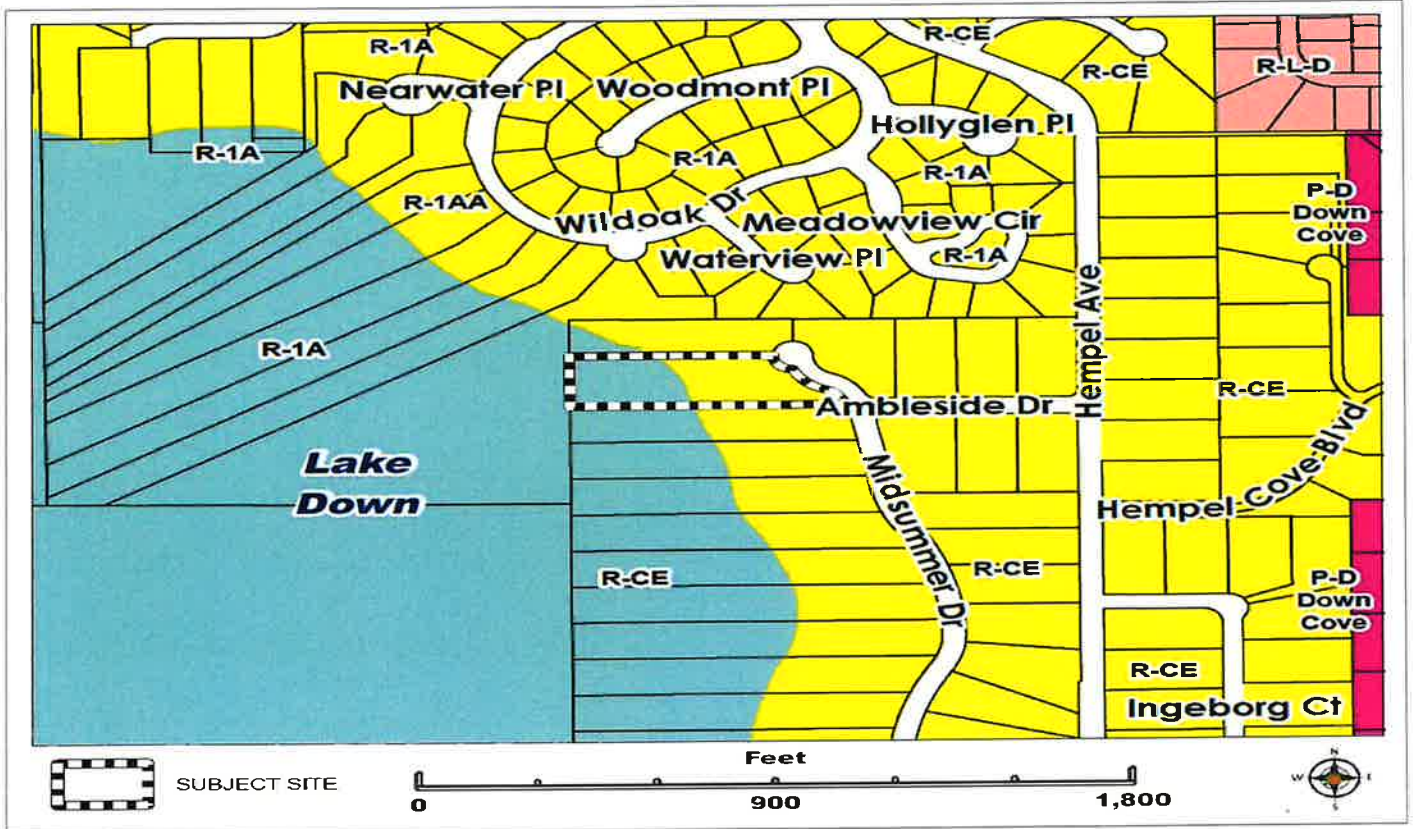
6. **Purpose & Intent:** as designed, the ADU is a harmonious living unity contained within a large Single-Family Residence in such a way that the increased size will not have any effect on adjacent or other properties within the zoning district or will the increase size be detrimental to the welfare of the general public.

Respectfully Submitted

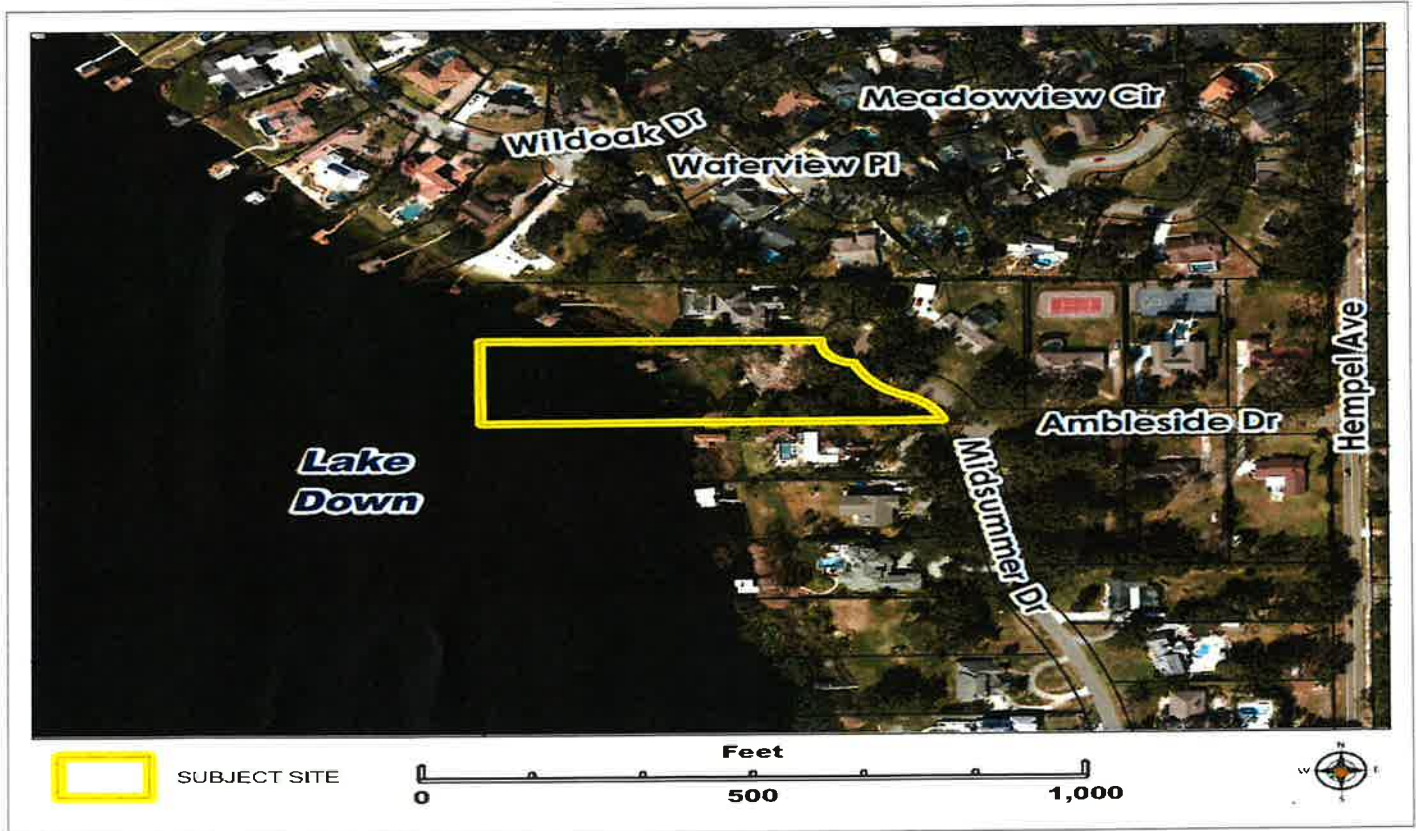
Robert Sorenson

Robert Sorenson
General Contractor/Agent for the Homeowner.

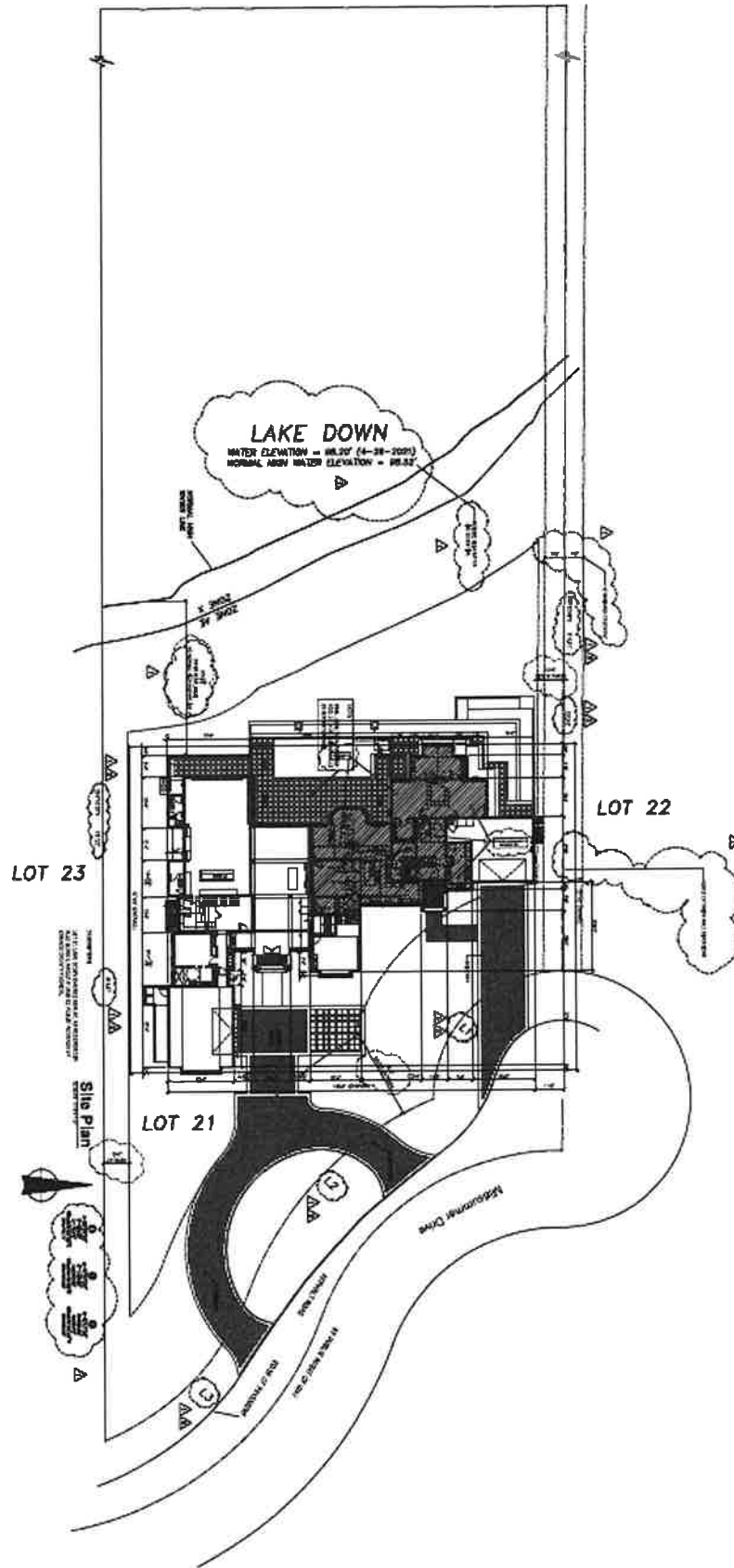
ZONING MAP



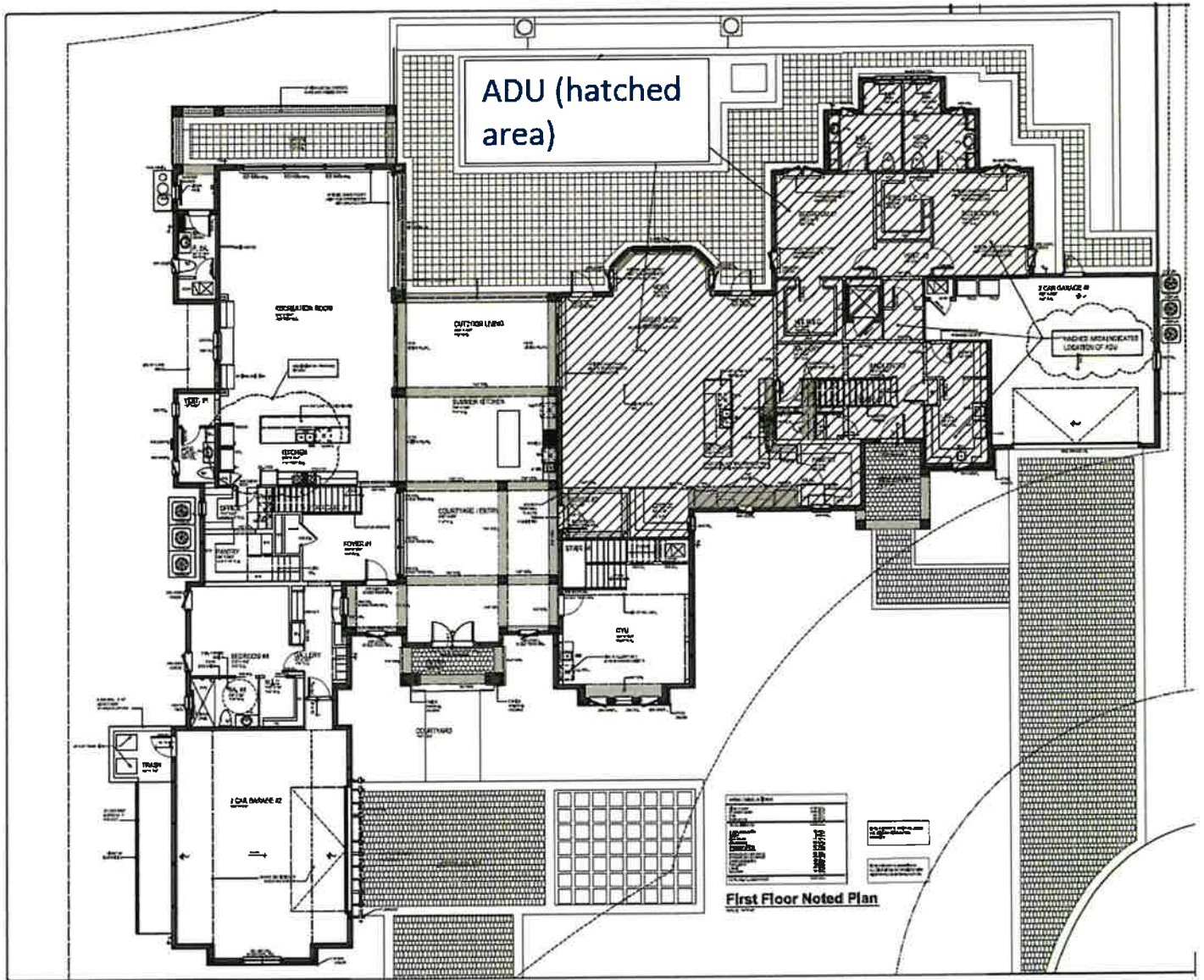
AERIAL MAP



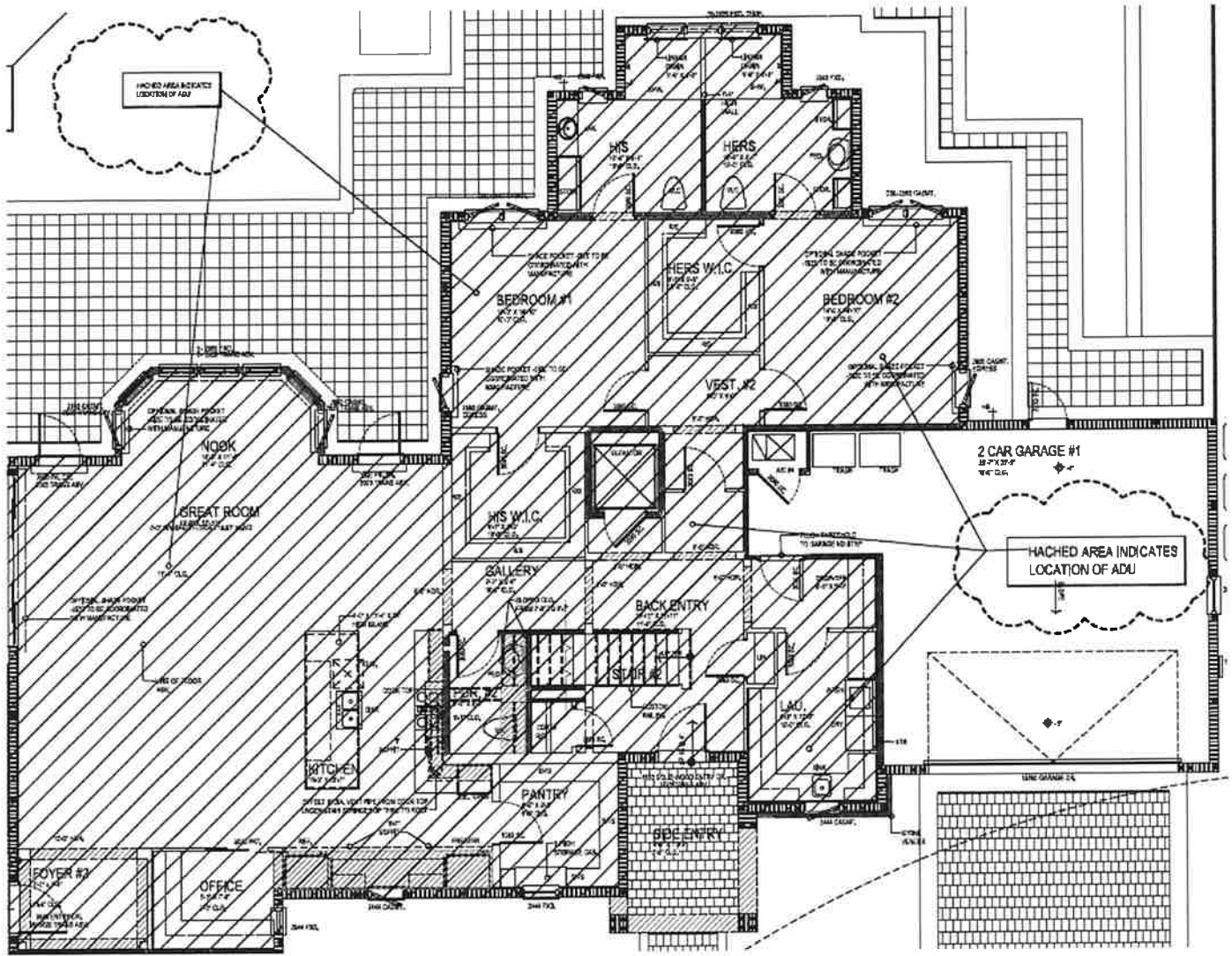
SITE PLAN



OVERALL FLOOR PLAN (FIRST FLOOR)



ADU FLOOR PLAN



ELEVATIONS



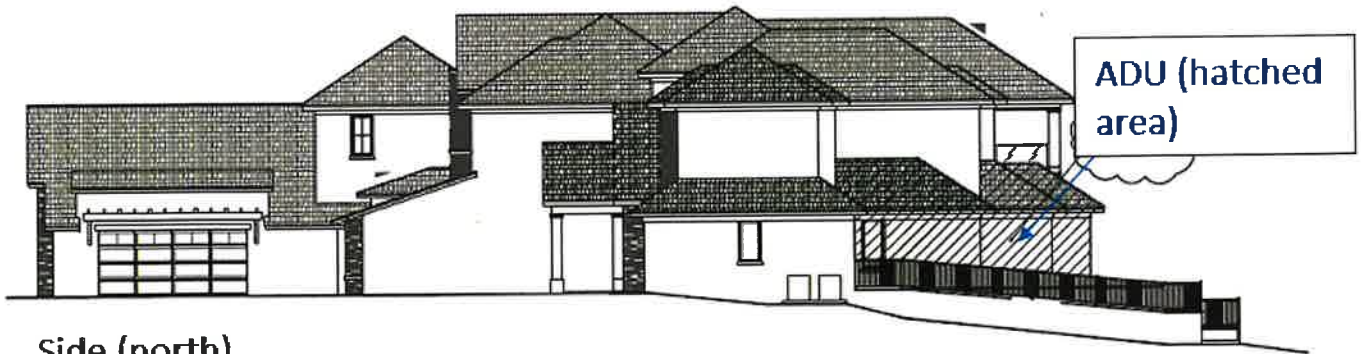
Front (east)

ADU (hatched area)

ADU entry



Rear (west)



Side (north)

ADU (hatched area)

SITE PHOTOS



Facing the front façade, proposed ADU to right



Facing west towards front of building

SITE PHOTOS



Rear ADU walls, facing north



OC Property Appraiser Birdseye view showing adjacent properties

