



Interoffice Memorandum

August 28, 2023

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

FROM: Andres Salcedo, P.E., Acting Director *Andres*
Planning, Environmental, and Development Services
Department

CONTACT PERSON: Ted Kozak, AICP, Chief Planner
Zoning Division
(407) 836-5537

SUBJECT: September 26, 2023 – Appeal Public Hearing
Applicant/Appellant: Nathan Milch for Temple on Hempel,
Kimley-Horn
BZA Case # SE-22-11-118, July 6, 2023; District 1

Board of Zoning Adjustment (BZA) Case # SE-22-11-118, located at 2198 Hempel Avenue, Gotha, FL 34734, in District 1, is an appeal to the Board. The applicant is requesting a special exception in the A-1 zoning district to allow for the construction of an 800 seat 45,000 sq. ft. religious institution.

At the July 6, 2023, BZA hearing, staff recommended denial of the special exception, and the BZA also recommended denial. The applicant subsequently appealed the BZA decision.

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 Board. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Ted Kozak at (407) 836-5537.

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

AS/TK:ag

Attachments: Zoning Division public hearing report, BZA staff report

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 26, 2023**

The following is a public hearing on an appeal before the Board of County Commissioners on September 26, 2023 at 2:00 p.m.

APPLICANT/APPELLANT: NATHAN MILCH FOR TEMPLE ON HEMPEL,
KIMLEY-HORN

REQUEST: Special Exception in the A-1 zoning district to allow
for the construction of an 800 seat 45,000 sq. ft.
religious institution.

LOCATION: 2198 Hempel Avenue, Gotha, FL 34734, west side of
Hempel Ave., east side of S.R. 408, north of Florida's
Turnpike.

TRACT SIZE: +/- 8.37 acres

ZONING: A-1

DISTRICT: #1

PROPERTIES NOTIFIED: 1,236

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 since the size, scale and intensity of the request will be a detriment to the surrounding area and the historic and rural character of the Rural Settlement. Staff noted that twelve (12) comments were received in support, and thirty-two (32) comments were received in opposition.

The applicant team discussed the consistency of the project with the surrounding area, noted the location of the property on the edge of the Rural Settlement next to freeways, and stated that the area is neither rural nor historic. The applicant's representative stated that the proposal is an appropriate and outstanding use of the site and noted the provision of substantial landscaping to buffer the project.

Two (2) in attendance spoke in favor of the request, representing the views of a number in attendance, outlining the values of the facility and how they want to be a part of the community.

Eight (8) in attendance spoke against the request, stating concerns about traffic, stormwater and flooding, and the size and scale of the proposal, and that the use does not belong in a Rural Settlement and will not serve the area.

Transportation Planning described the results of the traffic study and noted that concurrency has been met.

The BZA discussed concerns regarding the size and scale of the proposal, noting that this would be the largest building in the Gotha Rural Settlement, and noted the concerns about the traffic in the area. Also noted was that all proposed non-residential uses are required to serve the residences living within that particular Rural Settlement and that the Comprehensive Plan states that every effort shall be made to preserve Rural Settlements. The BZA further discussed lack of consistency with each of the six (6) Special Exception criteria and unanimously recommended denial of the Special Exception by a 4-0 vote, with two absent and one vacant.

BZA HEARING DECISION:

A motion was made by Thomas Moses, seconded by John Drago and carried to recommend **DENIAL** of the Special Exception request in that the Board finds it does not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest (4 in favor, none opposed, 2 absent, 1 vacant).



JAMES G. WILLARD
PARTNER
Shutts & Bowen LLP
300 South Orange Avenue
Suite 1600
Orlando, Florida 32801
DIRECT (407) 835-6909
FAX (407) 849-7209
EMAIL jwillard@shutts.com

July 12, 2023

VIA HAND DELIVERY

Nick Balevich
Orange County Zoning Division
201 S. Rosalind Avenue - 1st Floor
Orlando, Florida 32801

Re: Appeal of BZA Matter SE-22-11-118

Dear Nick:

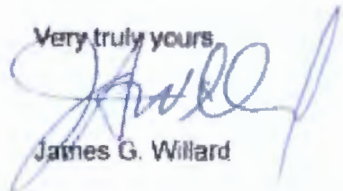
On behalf of the Owner, Katherine E. Ross Groves, Inc., I am filing the enclosed Appeal to the BZA decision of July 6, 2023 denying the Special Exception request.

Enclosed please find:

1. Executed BZA Appeal Application
2. BZA Appeal Justification.
3. My law firm check to the Board of County Commissioners in the amount of \$691.00 for the application fee.

Please advise if you require any further information.

Further, please note that I will be unavailable on Tuesday, September 12 and therefore request that the BCC hearing date for this appeal not be scheduled on that date. Any other BCC hearing date should work.

Very truly yours,

James G. Willard

JGW/amw
Enclosures

cc: Brenda Smith (via email)
Bobby Patel (via email)
Nathan Milch (via email)

(ML:JJK N 20706958 1



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

Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: James G. Willard

Address: 300 S. Orange Avenue, Suite 1600, Orlando, Florida 32801

Email: jwillard@shutts.com Phone #: 407/423-3200

BZA Case # and Applicant: SS-22-11-118 Mason Milch for Temple on Hempel

Date of BZA Hearing: July 6, 2023

Reason for the Appeal (provide a brief summary or attach additional pages of necessary):

Signature of Appellant:  Date: 7/12/23

James G. Willard

STATE OF FLORIDA
 COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 12th day of July, 2023, by James G. Willard who is personally known to me or who has produced _____ as identification and who did/did not take an oath.


 Notary Public Signature

Notary Stamp:



SANDRA E. ROWLAND
 Commission # HH-145179
 Expires July 7, 2025
 Board of Notary Public

NOTICE: Per Orange County Code Section 30-45, this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)

Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

See Page 2 of application for the Appeal Submittal Process.

SPECIAL EXCEPTION CASE NO. SE-22-11-118

BZA APPEAL JUSTIFICATION

The BZA erred in not finding that the Applicant met all the Special Exception Criteria entitling its religious use to be allowed on the subject property.

While many issues regarding the impacts of the proposed Hindu Temple were discussed at the BZA hearing, including transportation, stormwater drainage and site design, all were addressed and determined within acceptable service levels and standards required by the County.

The stated rationale for denial by BZA members was that the project did not fit the character of the Gotha Rural Settlement and that the proposed temple building was too large.

The Board relied on the staff report which found compliance with 4 of the 6 elements of the Special Exception Criteria. However, staff did cite the following concerns with 2 other criteria:

1. **SIMILAR AND COMPATIBLE WITH THE SURROUNDING AREA.** Staff's determination of the project's incompatibility compared the proposed religious use only to the existing residential uses within the Gotha Rural Settlement. Staff and BZA failed to give proper weight to:

(i) The location of this site adjacent to the SR 408 Expressway at the intersection with the Florida turnpike (both 8-lane highways); and

(ii) This parcel's adjacency to an existing Jehovah Witness church on the north and a landscape nursery on the south (which happens to be the sole remaining agricultural use within the Gotha Rural Settlement).

Given the actual adjoining uses of expressways, landscape nursery and another church, Applicant maintains that its proposed use is, indeed, compatible with the surrounding area and that reference to "surrounding area" should not be defined as the entire Gotha Rural Settlement – especially since the two-story temple on the western end of the subject parcel will not be visible from ANY location within the entire Gotha Rural Settlement with the exception of the immediately adjacent nonresidential uses.

The staff report also mistakenly stated that "...the majority of the adjacent properties contain single family residential homes..." when, in fact, none of the adjacent properties are single family homes.

Furthermore, FLU 8.2.11 specifically provides that numerous other factors may be considered in determining compatibility and that it does not need to be identical to uses surrounding it. Factors such as design, urban form, physical integration of the project, etc. must all be considered – as Applicant did in its Site Plan submittal for this Special Exception.

2. SHALL NOT ACT AS A DETRIMENTAL INTRUSION INTO A SURROUNDING AREA. The staff report similarly concluded that the Applicant failed to satisfy this criteria by stating:

"The size, scale and intensity of the proposal will be a detrimental intrusion to the surrounding area. The Gotha Rural Settlement is intended to preserve the rural historic character."

For the reasons below, the first sentence above is inaccurate and the second sentence is misleading.

The first sentence ignores the extensive site design and presentation by the Applicant addressing why the size and intensity of the Temple WILL NOT constitute a detrimental intrusion to the surrounding area:

- The temple building is not visible from Hempel Avenue (over 500 foot setback).
- No onsite primary or secondary education.
- No rental of facilities to third parties.
- No commercial daycare.
- No outdoor sports facilities.
- Off peak usage on Saturdays producing minimal transportation impacts
- Sporadic but minimal usage 6 days per week with only 5 major festivals per year.

The sum total of the foregoing characteristics clearly will reduce, if not completely eliminate, detrimental intrusions to the surrounding area. Staff did not adequately consider these design characteristics when evaluating the impacts of the project, especially when compared to alternative permitted development, including residential, which would actually have greater adverse impacts.

The second sentence suggests that the proposed Hindu Temple does NOT "preserve the rural historic character" of the Gotha Rural Settlement. If "preserving the rural historic character" is the defining criteria, what development of any kind, including residential, "preserves the rural historic character"? It is an illusory and unattainable standard that cannot be relied upon as the basis for denial of this Special Exception.

"Historic" is not a standard. It is simply an adjective. Gotha Middle School is not historic. All the new, large and modern residences constructed in the Gotha Rural Settlement are not historic. It is true that every parcel of land has a history but new construction does not create historic buildings.

"Rural" is at least a term more amenable to definition (although the County Code fails to do so). It suggests farming, ranching and large open spaces. When the current Owner purchased this parcel in 1958 it was truly rural with an active citrus grove that was maintained until back-to-back freezes in the late 1980s. There have been no active citrus groves in Gotha for 20 years. The last one was converted to a PD for single family homes on half acre lots directly across Hempel Avenue in the Braemer subdivision. What has occurred in Gotha over the last 20 years is multiple suburban residential developments and the construction of Gotha Middle School accommodating over 1,200 students from areas far beyond the limits of the Gotha Rural Settlement. The expansive residential development has in large part been aided by the extension of County water service throughout Gotha notwithstanding it being outside the County's Urban Service Area.

Conclusion. The subject parcel was unquestionably rural, if not necessarily historic, when the Owner purchased it in 1956 as an orange grove. It is no longer rural and the same can be said for the majority of land within the Gotha Rural Settlement. "Residential" is not the equivalent of "Rural". As orange groves within Gotha have given way to housing, so it is appropriate for this parcel to be put to a more productive use. The Owner maintains that its proximity to the Expressway does not make it appropriate for residential use. However, the proposed Hindu Temple is both appropriate and a use that will minimally impact the surrounding area. For these reasons the County Commission should approve this requested Special Exception.

Attached as Exhibit "A" are Conditions of Approval that will insure Applicant's compliance with its representations regarding the project and insure its positive impact on the Gotha community.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received May 30, 2023, as modified by the conditions of approval below, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
6. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.
7. The number of parking spaces shall be reduced to the minimum 282 parking spaces required by code.
8. The access drive aside from Hempel Avenue shall match in width the existing access immediately across Hempel Avenue to the east at Lake Hugh Drive for the Braemer subdivision.
9. The main assembly hall shall be limited to 800 seats.
10. Recommended, replacement, and specimen trees as per Section 15-283(a), greater than 3 inches diameter at breast height (DBH) shall be preserved within areas indicated as perimeter buffers and landscape areas, and the entire site shall be sodded, including the southwest area.
11. At the time of permitting for the proposed facility, the existing curb cut on Hempel Avenue shall be removed and restored to a grass strip.

EXHIBIT "A"

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12. An exclusive northbound left-turn lane shall be designed to the satisfaction of the County traffic division for effective traffic operations at the project driveway, submitted as an E-Project to the county (along with the required surety per Chapter 21-202 and 21-208), installed by the applicant, and issued a Certificate of Completion prior to the issuance of a Certificate of Occupancy on the vertical permit.
13. No renting of facilities to the general public.
14. No onsite public education (excluding congregation religious training).
15. Enhanced vegetative buffer of 12 feet along Hempel Avenue.

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EXHIBIT "A"
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BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 06, 2023**

Commission District: **#1**

Case #: **SE-22-11-118**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): NATHAN MILCH FOR TEMPLE ON HEMPEL

OWNER(s): CATHERINE E ROSS GROVES INC

REQUEST: Special Exception in the A-1 zoning district to allow for the construction of an 800 seat 45,000 sq. ft. religious institution.

PROPERTY LOCATION: 2198 Hempel Avenue, Gotha, FL 34734, west side of Hempel Ave., east side of S.R. 408, north of Florida's Turnpike.

PARCEL ID: 33-22-28-3100-13-300

LOT SIZE: +/- 8.37 acres

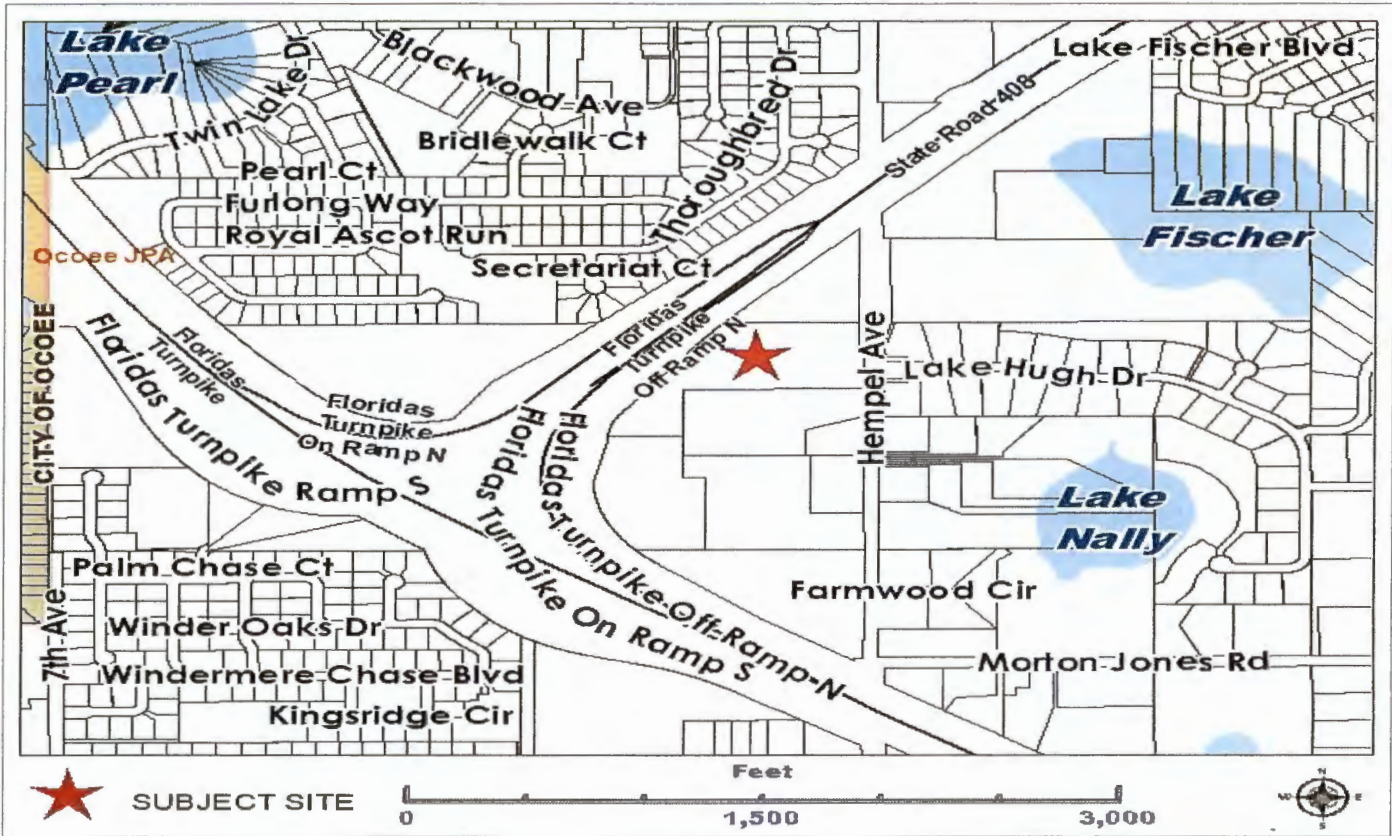
NOTICE AREA: 3,000 ft.

NUMBER OF NOTICES: 1,236

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	P-D	S.R. 408
Future Land Use	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	RS 1/1 Gotha Rural Settlement	S.R. 408
Current Use	Portion is Vacant/portion is landscape nursery	Religious facility	Landscape nursery	Single-family residential	S.R. 408

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property is located in the Gotha Rural Settlement. The southern portion appears to be used in conjunction with the landscape nursery on the parcel to the south, and the remaining portion is vacant. Founded as a town in 1885, the Gotha Rural Settlement has approximately 2,000 residents and is identified

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

To the north of the subject site is a religious facility comprised of 2 buildings, each under 6,000 sq. ft. The remaining area is comprised of a groves, nurseries and vacant land to the south, single-family residences to the east, and a freeway to the west. The subject property is an 8.37-acre lot, located in the Town of Gotha Plat, recorded in 1885, and is considered to be a conforming lot of record. The property has been under the current ownership for decades.

The proposal is to allow the construction of an 800 seat, 45,000 sq. ft. building with associated surface parking to house a religious institution on the site. The 2-story building includes an assembly hall, gymnasium, meeting rooms, kitchen and additional associated rooms and spaces. The proposed building meets the minimum building setback and height requirements. The proposed building will be 30 ft. in height, in compliance with the maximum height of 35 ft., and the top of the spire will be 36.2 ft., which is allowed to exceed the maximum building height by 10 ft. under Sec. 38-1506. The flagpoles shown on the building elevations at a height of 38.2 ft. will need to be reduced in height or relocated to meet the height requirement. Vehicular and pedestrian access to the property will be provided from Hempel Avenue to the east. There are existing clusters of trees along Hempel Avenue and along the north property line comprised of Slash Pines and Oaks. The proposed landscaping plan for the project provides an 80 ft. wide buffer at the east property line, along Hempel Avenue. The landscape plan also calls out 10 ft. wide buffers along the remaining property lines with trees and shrubs along the perimeters. None of the existing trees have been identified to remain.

Based on the number of seats, the project requires 282 parking spaces which was calculated using the Orange County Code requirement of 1 parking space per 3 seats for religious institutions (800 seats) totaling 267 required spaces, and 1 parking space per employee for 15 employees totaling 15 required spaces, for a total of 282 required spaces. A total of 312 parking spaces are provided, exceeding the requirement by 30 spaces. The site plan also calls out 24 ft. wide drive aisles and a 63 ft. wide access drive from Hempel Avenue, that includes a 15 ft. wide median.

Upon review of the proposed site plan, there appears to be a significant amount of impervious area being proposed, in addition to a large surface parking lot located in front of the building, between the building and the street. Also proposed is a large rectangular shaped stormwater retention pond adjacent to Hempel Avenue on the northeast corner of the site. The pond and the overall parking layout do not appear to consider the existing trees on the site that provide a natural buffer from the street and the adjacent property. While staff is recommending denial of this request, several conditions of approval are included as an attempt to address some of the concerns mentioned above in regard to reflecting the rural character of the area at least as viewed from the street.

The Planning Division Comprehensive Planning section reviewed the request and determined that the proposal is consistent with Policy FLU8.1.1 (Future Land Use and Zoning Correlation), whereby the subject property is located within the Gotha Rural Settlement and has a Future Land Use Map (FLUM) designation of Rural Settlement 1/1 (RS 1/1) and a corresponding A-1 Zoning classification. In addition, the request is technically consistent with Future Land Use Element Policy FLU 6.2.13 which limits any proposed use within a Rural Settlement to a maximum Gross Building Area of 50,000 square feet and a weekly trip rate of 10,000

trips. As currently proposed, this project includes a total building area of 45,000 square feet, resulting in a floor area ratio (FAR) of 0.12 (also consistent with Policy FLU6.2.12, which limits neighborhood commercial, and office uses in Rural Settlements to a 0.15 FAR).

Consistency with the overall intent of the Comprehensive Plan is also subject to other compatibility provisions. Although compatibility is not solely determined to be a land use that is identical to those that surround it, the design attributes of a project and its physical integration in the broader community may be considered factors (Policy FLU 8.2.11). Finally, Future Land Use Element Policy FLU 6.2.5 states that the permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character, and that factors to be considered shall include lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses.

Staff has concerns about compatibility with the Gotha Rural Settlement, and the inability of the information and plans provided to clearly explain or illustrate how compatibility with the surrounding Gotha Rural Settlement will be achieved. The Gotha Rural Settlement is one of the five rural settlements listed under Comprehensive Plan Policy FLU6.2.2 as part of the County's heritage and states that every effort shall be made to preserve its existing character. Furthermore, non-residential uses within rural settlements are intended to serve the residents of the rural settlement, not attract outside traffic into the rural settlement.

An Orange County Conservation Area Determination CAD-22-10-210 was completed. The CAD identified 0.130 acres of Class III surface waters within the subject property boundaries. The site plan does not show any impacts to the wetlands.

The proposed hours of operation as stated by the applicant are 4:00 p.m. to 8:00 p.m. daily. No outdoor events are proposed.

The County Transportation Planning Division reviewed a traffic study provided by the applicant and provided comments that a trip generation analysis has been conducted for the proposed temple. Based on the weekday operations of the temple, a total of 22 trips are anticipated with 10 entering and 12 exiting vehicles. The proposed temple will receive few visitors during the weekday. However, on Saturdays, the temple will receive most visitors arriving in the evening. The analysis considered both scenarios to determine its impact on the surrounding roadways and intersections on a typical Saturday and during weekdays. The intersection operational analysis concluded that the intersection of Hempel Avenue & Lake Hugh Drive/Project Driveway is shown to operate with sufficient capacity in all scenarios evaluated. In addition, a microsimulation analysis was performed at the project driveway for the buildout scenarios. The microsimulation showed low delay and vehicle queues of no greater than two vehicles along the major approaches. No deficiencies were identified as a result of the project traffic impact. The need for exclusive left-turn and right-turn lanes at the project driveway was also evaluated. A condition of approval has been added requiring construction of a left turn lane to ensure effective traffic operations at the project driveway.

On Monday, June 12, 2023, a Community Meeting was held at Gotha Middle School to allow for input. The meeting was attended by the applicant, County staff, and 55 attendees. The majority of the attendees spoke negatively about the proposal, stating concerns about drainage, flooding, run off, environmental issues, additional traffic, and preservation of the Rural Settlement, noting that the use will not benefit the residents of the area.

As of the date of this report, one comment has been received in favor of the request, and eight comments

have been received in opposition.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft. (Building) 36.2 ft. (Top of spire) 38.2 ft. (Flagpole-must be relocated)
Min. Lot Width:	100 ft.	394 ft.
Min. Lot Size:	0.5 ac.	8.37 acres

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	420 ft. (East)
Rear:	50 ft.	70 ft. (West)
Side:	10 ft.	146 ft. (North) 42 ft. (South)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan provides that certain uses, such as religious institutions, as conditioned, may be considered and permitted through the Special Exception process. The Planning Division's Comprehensive Planning section has indicated the request is consistent with the technical provisions of Policy FLU 8.1.1 and 6.2.13 of the Rural Settlement, but that an overall finding of consistency with the Comprehensive Plan is contingent upon final determination that the project's final design will not adversely impact the Gotha Rural Settlement's historic rural character.

Similar and compatible with the surrounding area

The size and scale of a proposed religious institution with 800 seats, a single building with 45,000 square feet of building area, 312 paved parking spaces and outdoor play area is not similar and compatible with the development pattern of the surrounding rural settlement. The majority of the adjacent properties contain single-family residential homes, ranging in intensity from 0.5 homes per acre to 1 home per 5 acres, and the religious institution to the north is comprised of two single story buildings with less than 12,000 sq. ft. total.

Shall not act as a detrimental intrusion into a surrounding area

The size, scale and intensity of the proposal will be a detrimental intrusion to the surrounding area. The Gotha Rural Settlement is intended to preserve the rural historic character.

Meet the performance standards of the district

proposed use will meet the performance standards of the district.

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

The proposed activities on the site will not cause more noise, vibration, dust, odor, glare, or heat generation than the majority of uses permitted in the zoning district.

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

The applicant has provided an 80 ft. wide buffer at the east property line, along Hempel Avenue, and 10 ft. wide buffers along the remaining property lines, exceeding the buffer yard width requirements of Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code. The applicant will also be required to preserve regulated and specimen trees and to sod the entire site, including the southwest area of the site.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received May 30, 2023, as modified by the conditions of approval below, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Hours of operation shall be from 4:00 p.m. to 8:00 p.m., daily.
No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
7. An exterior lighting photometric plan compliant with the county's exterior lighting ordinance, and with fixture color temperature of 3,500 K maximum shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted to prohibit off-site light spill.
8. The number of parking spaces shall be reduced to the minimum 282 parking spaces required by code, and the drive aisle widths reduced from 24 ft. to 22 ft., with the layout modified to preserve recommended, replacement, and specimen trees as per Section 15-283(a), greater than 3 inches diameter at breast height (DBH) within and adjacent to areas indicated as perimeter buffers, landscape areas, and the retention area.
9. The access drive aisle from Hempel Avenue shall be reduced to 24 ft. in total width with no center median.
10. The facility shall be limited to 800 seats.
11. Recommended, replacement, and specimen trees as per Section 15-283(a), greater than 3 inches diameter at breast height (DBH) shall be preserved within areas indicated as perimeter buffers and landscape areas, and the entire site shall be sodded, including the southwest area.

12. The site plan shall be modified to move the building east with all of the parking to be to the side of or behind the building.
13. At the time of permitting for the proposed facility, the existing curb cut on Hempel Avenue shall be removed and restored to a grass strip.
14. An exclusive northbound left-turn lane shall be designed to the satisfaction of the County traffic division for effective traffic operations at the project driveway, submitted as an E-Project to the county (along with the required surety per Chapter 21-202 and 21-208), installed by the applicant, and issued a Certificate of Completion prior to the issuance of a Certificate of Occupancy on the vertical permit.

C: Nathan Milch
189 S Orange Ave., Suite 1000
Orlando, Florida, 32801

Kimley»»Horn

DATE: August 30, 2022

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

FROM: Nathan Milch, Planning Analyst
Kimley-Horn & Associates
189 South Orange Ave
Orlando, FL 32801

PROJECT: Temple on Hempel (Parcel ID 282233310013300)
2198 Hempel Ave.
Gotha, FL 34734

Application Summary

1. Applicant and Owner Contact Information:

Applicant

Nathan Milch
Kimley-Horn & Associates
189 S. Orange Avenue, Suite 1000,
Orlando, FL 32801

Owner

CATHERINE E ROSS GROVES INC
2198 Hempel Ave
Gotha, FL 34734

2. Property Location

2189 Hempel Avenue, Gotha, FL 34734. Located northwest of the intersection of Hempel Ave and Lake Hugh Drive.

3. Parcel ID Number

33-22-28-3100-13-300

4. Size

8.42 AC (Per Survey from Leading Edge Land Services, Inc. dated May 23, 2022)

5. Existing Use

Agricultural Greenhouse/Storage

6. Proposed Use

Temple (Place of Worship)

7. Project Details

- a. Building Size: 45,000 sq ft
- b. Building Height: 30 ft
- c. Number of Buildings: 1 building
- d. Number of Seats: 800 seats
- e. Number of Members / Weekly Attendees: up to 800 members
- f. Number of Employees: On volunteer basis
- g. Days/Hours of Operation: 4pm-8pm
- h. Provided Services: Religious place of worship,
No school-based activities
- i. Outdoor Events/Activities: No outdoor events: only outdoor
play areas, children play structure,
volleyball court and basketball
court

Special Exception Justification Statement

The subject property is currently zoned A-1 with a future land use of RS 1/1 (Rural Settlement). Within the A-1 zoning district, a temple is an allowable use by Special Exception, hence the need for this application. Please refer to the justification below for responses to the special exception request criteria.

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

The subject property has a Future Land Use Designation of Rural 1/1 (RS 1/1) within the Gotha Rural Settlement. The RS 1/1 land use is intended for agricultural uses that maintain the existing rural character of the Rural Settlement area. The property directly north of the subject property is currently a place of worship with the same zoning of A-1 and future land use of RS 1/1. There are numerous existing places of worship located within the Gotha Rural Settlement. Further, various design elements have been incorporated into the site plan to preserve the existing rural character.

Additionally, the project is consistent with the following Comprehensive Plan policies:

FLU6.2.5 - The permitted densities and intensities of land use within the Rural Settlements shall maintain their rural character. Factors to be considered shall include lot size, open space and views, tree canopy, building location and orientation, and compatibility with existing land uses. Density and Floor Area Ratio (FAR) calculation shall be defined as the language specified in Future Land Use Element Policy FLU1.1.2(B).

Response: The proposed building square footage is 45,000 square feet with a FAR of .12, which is allowable under the existing Rural 1/1 future land use. The site has been designed to minimize potential impacts on surrounding development, taking consideration of factors listed above.

FLU6.2.13 - Any proposed use within a Rural Settlement intended for the construction of a structure(s) with a Gross Buildable Area of 50,000 square feet (on a cumulative basis) or more or projected to have a weekly trip rate of 10,000 total trips may be considered inappropriate for a Rural Settlement if the following conditions exist

- A. The proposed use is located in a Rural Settlement that has maintained a rural and historic character, consistent with the intent of Rural Settlements;*
- B. It is determined that the proposed use(s) by size, massing, and traffic, will unduly impact the historic and rural character of the Rural Settlement;*
- C. The use, as determined by a market study, is primarily intended for those whose daily life activities do not occur within the Rural Settlement; and*
- D. It is not demonstrated that other potential sites were evaluated as being suitable. (Amended 11/17, Ord. 2017-19)*

Response: The proposed building square footage is less than 50,000 square feet.

FLU6.2.15 - Expansion of existing water and wastewater facilities providing service to Rural Settlements shall be consistent with Conservation Element C1.11.7, Potable Water, Wastewater and Reclaimed Water Element Objectives WAT1.5 and WAT1.6, and applicable Future Land Use Policies. The existing capacity shall not be used as a reason for increased densities within the Rural Settlement. (Added 12/00, Ord. 00-25, Policy 2.1.15)

Response: Water and wastewater facilities are located within proximity to the property.

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

	Zoning	FLU	Current Use
North	A-1	RS 1/1	Congregation
East	P-D	RS 1/1	Single-family Residential
South	A-1	RS 1/1	Landscape Nursery
West	N/A	N/A	408 Expressway

The proposed Temple is located in the northwestern corner of the Gotha Rural Settlement, adjacent to the 408 Expressway, adjacent to an existing place of worship and adjacent to a landscape nursery. Hempel Avenue will act as a buffer to the residential uses to the east.

Site design and conformance with code requirements will further ensure compatibility with the surrounding area.

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

As discussed above, the proposed Temple is compatible with the surrounding uses and will not act as a detriment or intrusion. The Temple will in turn benefit the surrounding community and rural settlement, being that the use has a much lesser impact than a majority of the uses currently permitted in A-1, as discussed in response 5 below.

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

The proposed Temple shall meet A-1 zoning district requires and does not include any variance requests for relief from applicable codes.

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

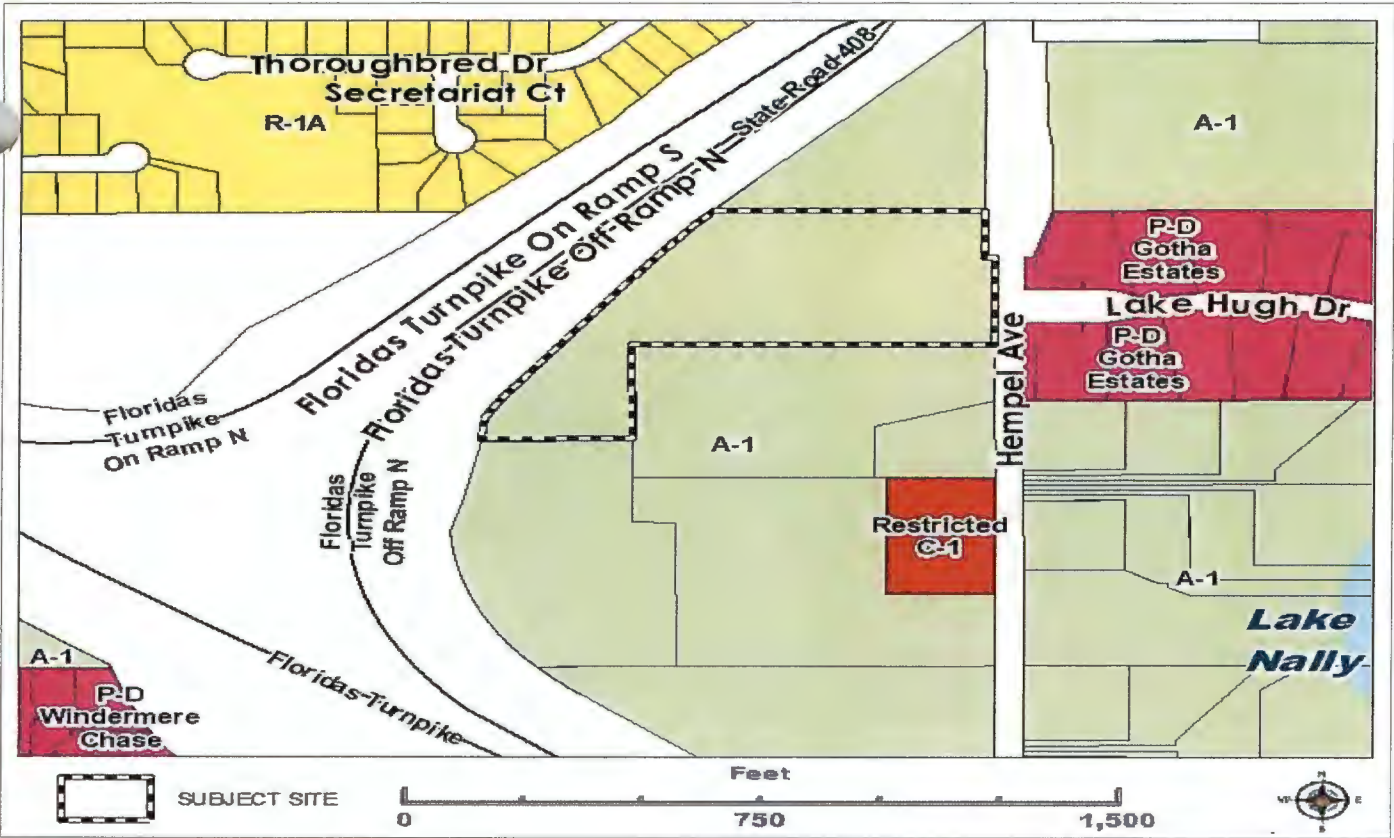
The A-1 zoning district currently permits a number of land uses that can be characterized by a moderate amount of noise, vibration, dust, odor and heat production such as emergency generators, agricultural production of crops & livestock, logging, borrow pits/excavation and fill, fertilizer manufacturing and agricultural chemicals manufacturing, parking and storage of dual rear wheel vehicles, commercial solar farms, distribution for electric substations and fire stations.

The proposed Temple will have a much lesser impact than a majority of the currently permitted uses listed above. The proposed Temple will also provide the required mitigative landscaping, buffering and setbacks that will further minimize potential impacts.

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

The proposed project will provide landscaping that will meet the requirements of Orange County Section 34-5 and does not include any variance requests.

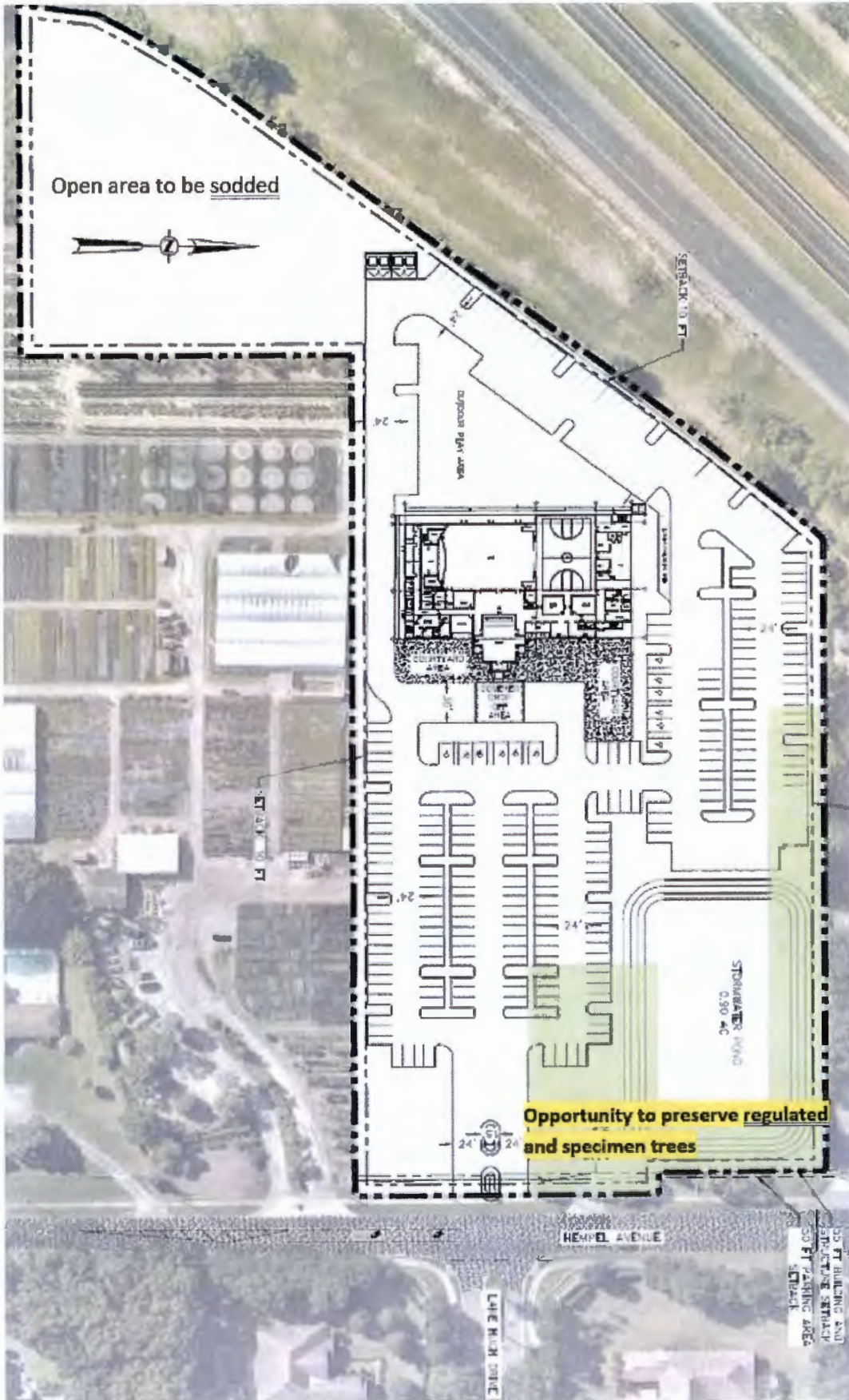
ZONING MAP



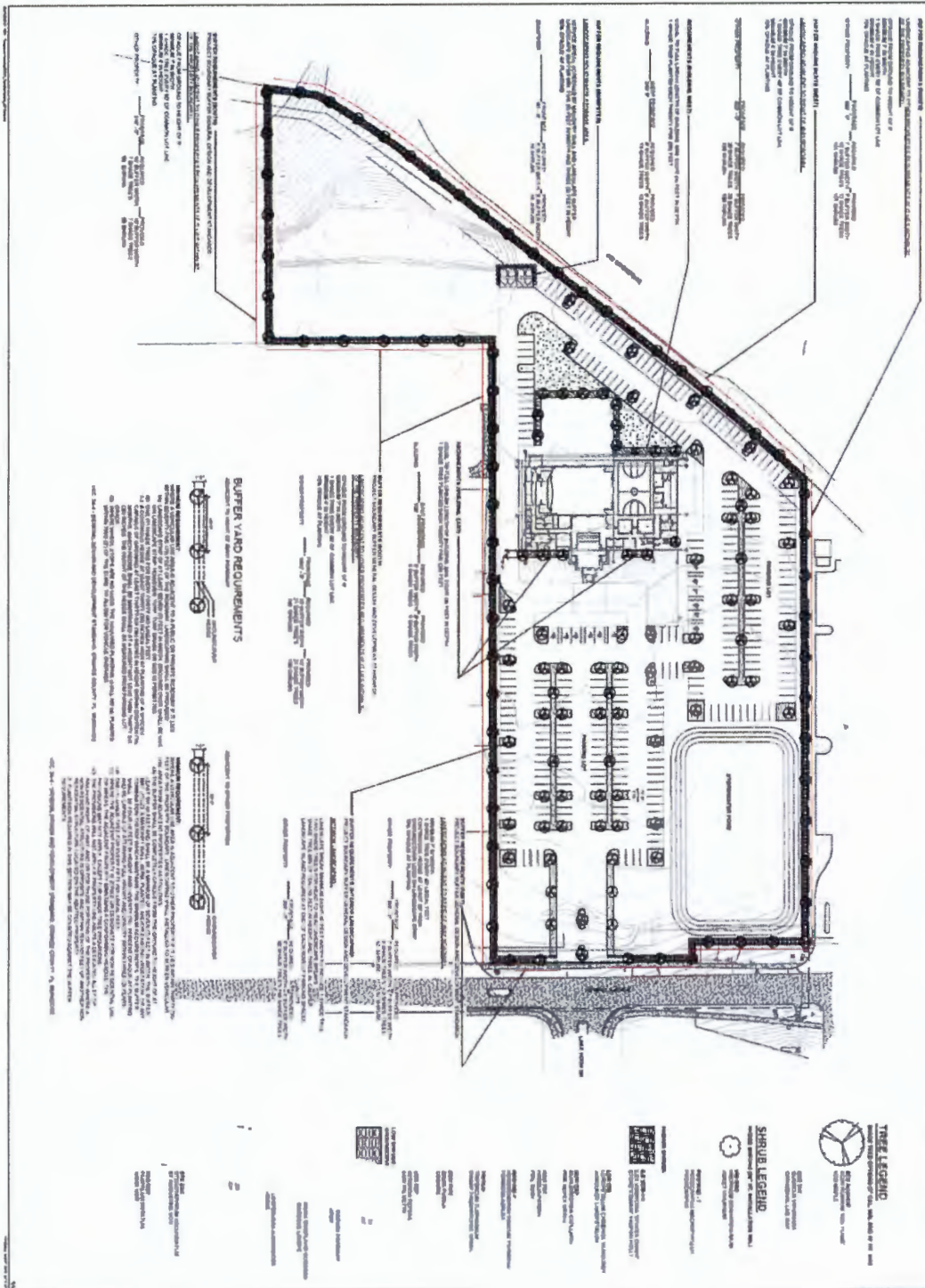
AERIAL MAP



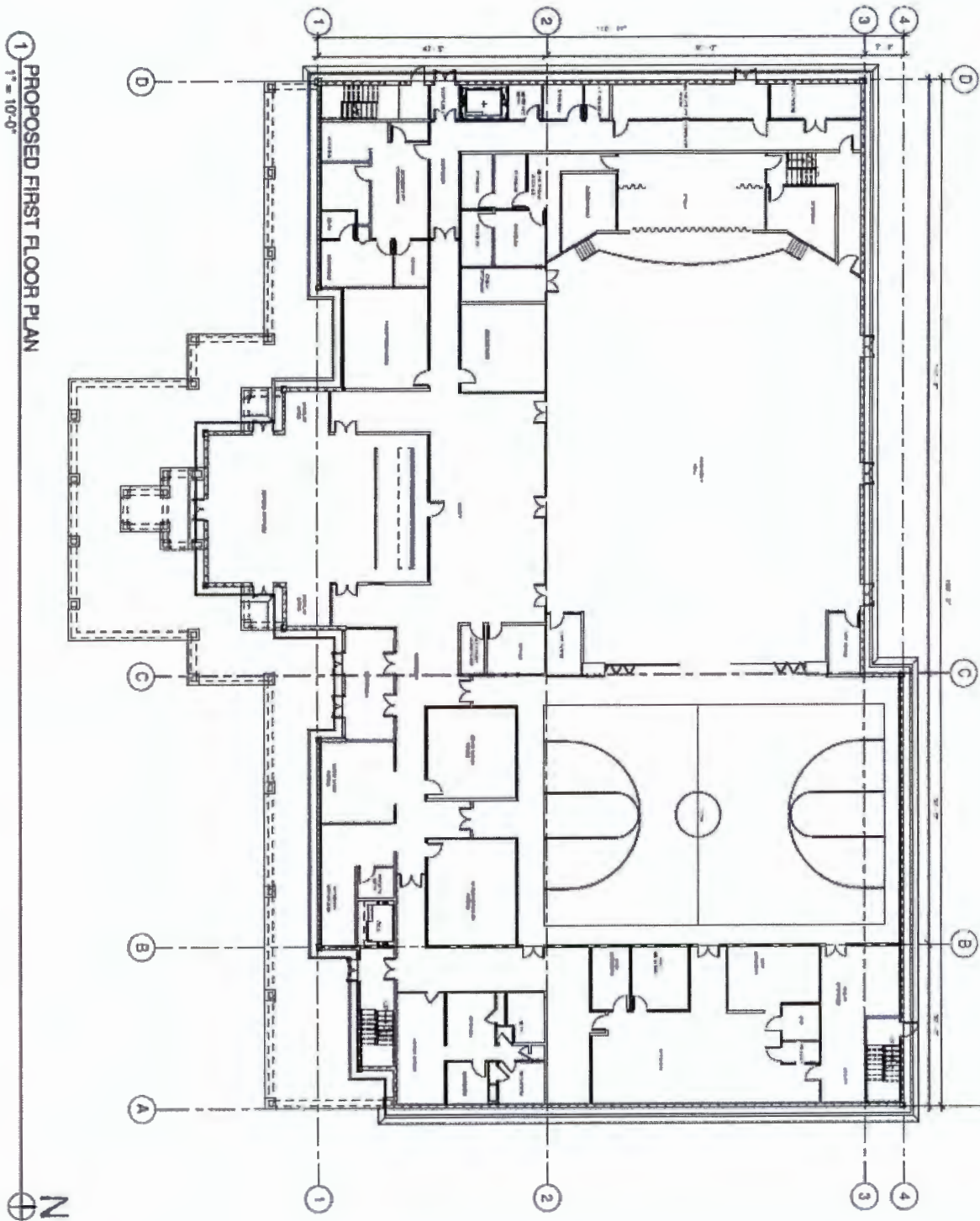
SITE PLAN



LANDSCAPE PLAN

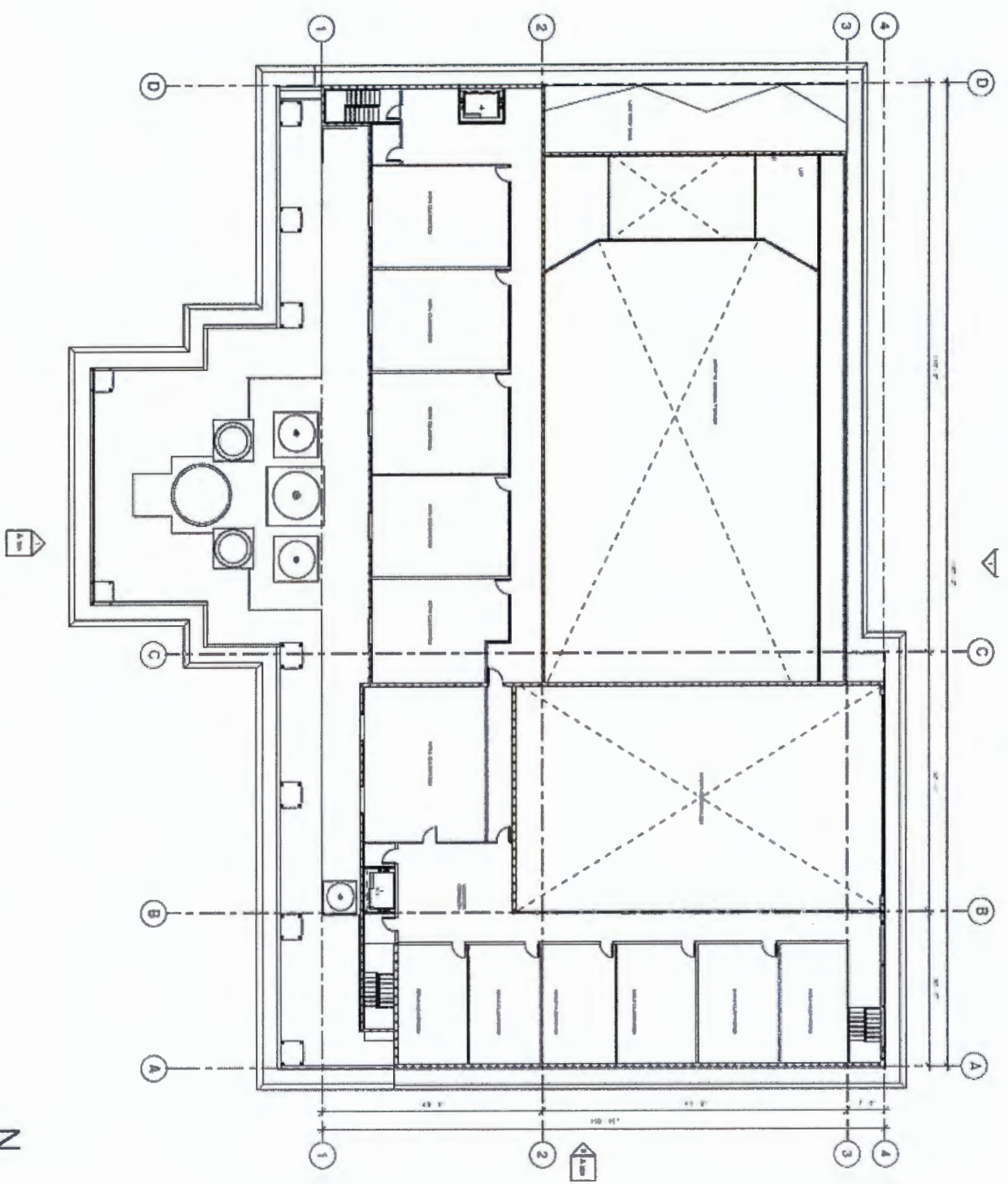


1st FLOOR PLAN



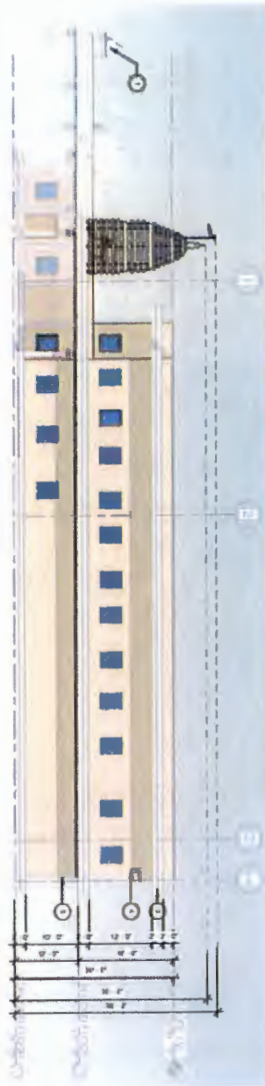
2nd FLOOR PLAN

1 PROPOSED SECOND FLOOR PLAN
1" = 10'-0"



ELEVATIONS

③ NORTH ELEVATION
1" = 10'-0"



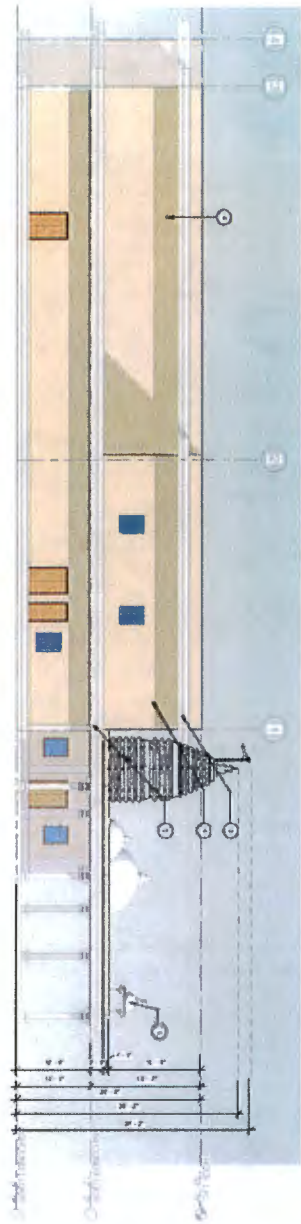
MATERIAL LEGEND	
1	CONCRETE
2	BRICK
3	GLASS
4	WOOD
5	ROOFING
6	LANDSCAPE
7	MECHANICAL
8	ELECTRICAL
9	PLUMBING
10	PAINT
11	FINISH
12	DETAIL
13	SECTION
14	FOUNDATION
15	STRUCTURE
16	MECHANICAL
17	ELECTRICAL
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① EAST ELEVATION
1" = 10'-0"

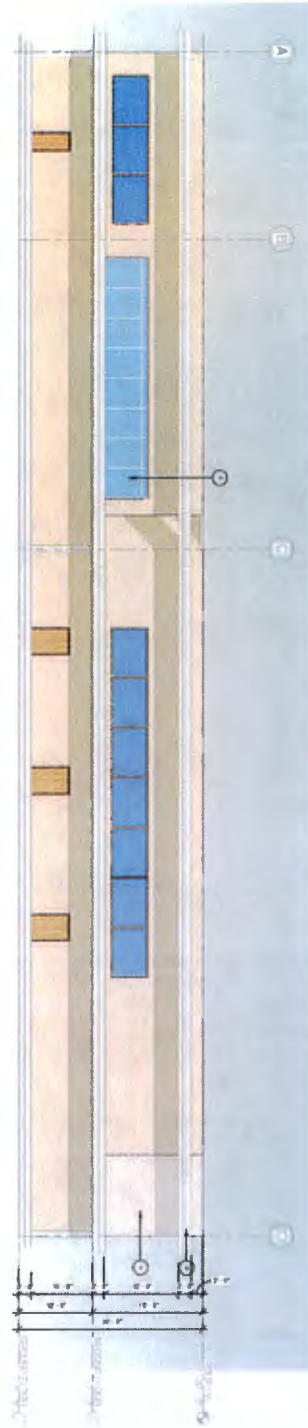


ELEVATIONS

② SOUTH ELEVATION
1/8" = 1'-0"



① WEST ELEVATION
1/8" = 1'-0"



SITE PHOTOS



Property from Hempel Ave. facing west



East side of property facing south towards adjacent nursery

SITE PHOTOS



North property line facing north towards adjacent religious institution



06/08/2023 12:52

Facing east across Hempel Ave. from the subject property



Facing east near proposed entrance from Hempel Ave. towards trees recommended for preservation