

GENERAL INFORMATION

APPLICANT	Luke Classon, Appian Engineering, LLC
OWNER	Thomas E. Opfell
PROJECT NAME	Rouse Road Subdivision Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan (PD / LUP)
REQUEST	A-2 (Farmland Rural District) to PD (Planned Development District)

A request to rezone one (1) parcel containing 12.92 gross acres from A-2 (Farmland Rural District) to PD (Planned Development District), in order to construct forty-one (41) detached single-family dwelling units. The request also includes the following two (2) waivers from Orange County Code:

1. A waiver from Section 38-1254(1) is requested to allow for a 5' building side setback along the southern property boundary of the proposed project site, in lieu of the 25' PD perimeter setback. The 25' PD perimeter setback will still be applied to the northern, eastern, and western property boundaries of the proposed project site.

Applicant Justification: *A reduced buffer on the southern property line will allow for a more seamless transition between the proposed project site and any future development to the south. The required proposed road stub-out being provided on the southern boundary will serve to allow connection by future development of the adjacent parcel on the south, providing that parcel with access to the proposed entrance off of Rouse Road that connects to the full median break. In addition, a letter from the adjacent property owner to the south has been received in support of the 5' side building setback, in lieu of the required 25' PD perimeter setback.*

2. A waiver from Section 38-1254(2)(E) is requested to allow for a 13' front porch setback, in lieu of the required 20' front setback. The 20' front setback shall be maintained for the main building structure. This will allow a maximum of a 7' porch extending beyond the main structure.

***Applicant Justification:** Allowing the 13' front porch setback in lieu of the 20' setback will allow for a more diverse product offering that ensures a lack of homogeneity between homes and serves to create a more community based atmosphere throughout the proposed development.*

LOCATION	2735 Rouse Road; or generally on the east side of Rouse Road, north of Lokanotosa Trail, and south of Rivers End Road.
PARCEL ID NUMBER	09-22-31-0000-00-013
TRACT SIZE	12.92-gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Two hundred fifty-four (254) notices were mailed to those property owners in the mailing area. A community meeting was held on October 9, 2018 at Riverdale Elementary School. A summary of this community meeting can be found on page 7 of this staff report.
PROPOSED USE	Forty-One (41) Detached Single-Family Dwelling Units

STAFF RECOMMENDATION

Development Review Committee – (March 13, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Rouse Road Subdivision Planned Development / Land Use Plan (PD/LUP), dated "Received March 14, 2019", subject to the following conditions:

1. Development shall conform to the Rouse Road Subdivision Land Use Plan (LUP) dated "Received March 14, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the

land use plan dated "Received March 14, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.

2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. 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.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate,

at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).

6. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of March 12, 2019.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 3 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement
7. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
8. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S.

Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

9. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
10. The developer shall obtain water and wastewater service from Orange County Utilities subject to County rate resolutions and ordinances.
11. A Master Utility Plan (MUP) for the PD shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. The MUP must be approved prior to Construction Plan approval.
12. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The updated MUP must be approved prior to construction plan approval.
13. All existing structures shall be demolished prior to plat approval.
14. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
15. Tree removal/earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
16. This site has not received authorization from Orange County for a cell tower within the private Lease Area and Equipment easement shown and this private recorded agreement does not obligate Orange County to approve any cell tower within this property in the future.
17. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
18. The following waivers from Orange County Code are granted:
 - a. A waiver from Orange County Code Section 38-1254(1) to allow for a 5' building setback along the southern property boundary of the proposed project site, in lieu of the 25' PD setback. The 25' PD setback will still be applied to the northern, eastern, and western property boundaries of the proposed project site.

- b. A waiver from Orange County Code Section 38-1254(2)(E) to allow for a 13' front porch setback, in lieu of the required 20' front setback. The 20' front setback shall be maintained for the main building structure. This will allow a maximum of a 7' porch extending beyond the main structure.

IMPACT ANALYSIS

Land Use Compatibility

The applicant is seeking to rezone the subject parcels from A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct forty-one (41) detached single-family dwelling units. The applicant is also seeking approval of two (2) waivers to reduce the required PD setback from twenty-five (25) feet to five (5) feet along the southern property line and to allow for a thirteen (13) foot front porch setback.

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The subject property has an underlying Future Land Use Map (FLUM) designation of Low Density Residential (LDR) which allows for a maximum residential density of four (4) dwelling units per net developable acre. The proposed PD (Planned Development District) zoning and development program is consistent with Low Density Residential FLUM designation and the following CP provisions:

FLU1.4.1 states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to

ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

Community Meeting Summary

A community meeting was required for this application. The meeting was held on October 9, 2018 at Riverdale Elementary School. Thirty-five (35) residents were in attendance and expressed concerns with traffic, lot size compatibility, habitat loss, fences encroaching on the drainage and access easement on the north portion of the property, security of the drainage and access easement, height compatibility with the adjacent subdivision, and homes being used as student rentals.

SITE DATA

Existing Use	Single-Family Dwelling Unit
Adjacent Zoning	N: R-1A (Single-Family Dwelling District) (1967) E: A-2 (Farmland Rural District) (1957) W: PD (Planned Development District) (Pegasus PD) (1994) S: R-1 (Single-Family Dwelling District) (2008)* *(Restricted to ten (10) lots)
Adjacent Land Uses	N: Single-Family Dwelling Units E: Retention Pond W: Single-Family Dwelling Units S: Single-Family Dwelling Units

APPLICABLE PD DEVELOPMENT STANDARDS

PD Perimeter Setback:	25 feet (waiver requested for south PD boundary)
Maximum Building Height:	35 feet
Minimum Lot Size:	6,000 square feet
Minimum Lot Width:	50 feet
Minimum Living Area:	1,600 Square Feet (under HVAC)

Minimum Building Setbacks

Front Setback: 20 feet (waiver requested to 13' for front porches)
Rear Setback: 20 feet
Side Setback: 5 feet

SPECIAL INFORMATION

Subject Property Analysis

The applicant is seeking to rezone the subject parcel from A-2 (Farmland Rural District) to PD (Planned Development District) in order to construct forty-one (41) single-family residential dwelling units. Two (2) waivers from Orange County Code are requested related to setbacks. Additionally, the applicant is requesting impacts to Class II wetlands and upland buffers.

Comprehensive Plan (CP) Amendment

The property has an underlying Future Land Use Map (FLUM) designation of Low Density Residential (LDR). The proposed use is consistent with this designation and all applicable CP provisions; therefore, a CP amendment is not necessary.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is located within the UCF Study Area.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

The subject property had a Conservation Area Determination (CAD) issued on June 25, 2018 (CAD-18-02-023). The CAD determined that 1.95 acres of Class II wetlands are located on the property. A Conservation Area Impact (CAI) permit (CAI-18-06-031) is currently awaiting approval to permit the impact of 0.07 acre of primary wetland (Class II within the Econ Protection Area), 0.12 acre of secondary impacts, and 0.58 acre of upland buffer impacts. The CAI must be approved concurrently with this request by the BCC.

Transportation / Concurrency

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.

There are two failing roadway segments within the project impact area. University Boulevard from Dean Road to Rouse Road and from Rouse Road to Alafaya Trail is currently operating below the adopted level of service and there is no capacity available to be encumbered. This information is dated and subject to change. The applicant will be required to enter into a Proportionate Share Agreement prior to obtaining an approved CEL. A traffic Study has been submitted.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Not currently available

Schools

A Capacity Enhancement Agreement (CEA) application, #OC-18-049, was approved by the Orange County School Board on March 27, 2019. Approval of this request must occur, barring any extensions, by September 23, 2019 or the CEA will expire.

Parks and Recreation

Orange County Parks and Recreation reviewed this request, but did not provide any issues or concerns.

Code Enforcement

There are no active Code Enforcement violations associated with the subject property.

Specific Project Expenditure Report and Relationship Disclosure Forms

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

PLANNING AND ZONING COMMISSION (PZC) FINDINGS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested Rouse Road Subdivision Planned Development (PD), subject to eighteen (18) conditions.

Staff indicated that two hundred fifty-four (254) notices were mailed to surrounding property owners within a buffer of 500 feet from the subject property, with zero (0) commentaries received in support or in opposition of the request. The applicant was present for the hearing and concurred with staff's recommendation. No members of the public were present to speak on this request.

A discussion was held pertaining to the community meeting held on October 9, 2018, tree preservation, wetland impacts and buffering, the requested PD perimeter setback waiver, and the proposed northern property line setback. A motion was made by Commissioner Spears to find the request to be consistent with the Comprehensive Plan and recommend APPROVAL of the Rouse Road Subdivision Planned Development (PD) zoning, subject to

eighteen (18) conditions. Commissioner Abdallah seconded the motion, which then carried on an 8-0 vote

Motion / Second	<i>Gordon Spears / Mohammed Abdallah</i>
Voting in Favor	<i>Gordon Spears, Mohammed Abdallah, Diane Velazquez, JaJa Wade, Yog Melwani, Carlos Nazario, Jose Cantero, and Jimmy Dunn</i>
Voting in Opposition	<i>None</i>
Absent	<i>Eddie Fernandez</i>

PZC RECOMMENDED ACTION

Planning and Zoning Commission (PZC) Recommendation – (April 18, 2019)

Make a finding of consistency with the Comprehensive Plan and APPROVAL of the Rouse Road Subdivision Planned Development / Land Use Plan (PD/LUP), dated “Received March 14, 2019”, subject to the following conditions:

1. Development shall conform to the Rouse Road Subdivision Land Use Plan (LUP) dated "Received March 14, 2019," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received March 14, 2019," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the

County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.

3. 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.
4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this land use plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The following Education Condition of Approval shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement entered into with the Orange County School Board as of March 12, 2019.

- b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 3 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
- c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
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8. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
9. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
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17. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
18. The following waivers from Orange County Code are granted:
 - a. A waiver from Orange County Code Section 38-1254(1) to allow for a 5' building setback along the southern property boundary of the proposed project site, in lieu of the 25' PD setback. The 25' PD setback will still be applied to the northern, eastern, and western property boundaries of the proposed project site.
 - b. A waiver from Orange County Code Section 38-1254(2)(E) to allow for a 13' front porch setback, in lieu of the required 20' front setback. The 20' front setback shall be maintained for the main building structure. This will allow a maximum of a 7' porch extending beyond the main structure.