

Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**January 6, 2022**

Zoning Division

**BOARD OF ZONING ADJUSTMENT (BZA)**  
**ORANGE COUNTY GOVERNMENT**

<b><u>Board Member</u></b>	<b><u>District</u></b>
Thomas Moses	1
John Drago	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Wes A. Hodge (Vice Chair)	5
Charles J. Hawkins, II	6
Roberta Walton Johnson	At Large

**BZA Staff**

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Laekin O'Hara	Planner I
Jenale Garnett	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
JANUARY 6, 2022**

<b><u>PUBLIC HEARING</u></b>	<b><u>APPLICANT</u></b>	<b><u>DISTRICT</u></b>	<b><u>BZA RECOMMENDATIONS</u></b>	<b><u>PAGE #</u></b>
VA-22-02-135	Joe Knous	1	Approved w/Conditions	1
VA-22-02-136	Vickie Green	2	Approved w/Conditions	13
VA-21-11-106	Isaac Manzo	6	Approved w/Conditions	27
VA-21-12-127	Jaime Rodriguez	4	Approved w/Conditions	42
SE-22-01-133	Michael Burkhead for Gulfstream Towers	4	Approved w/Conditions	55

**Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on January 25, 2022.**

# ORANGE COUNTY ZONING DISTRICTS

## Agricultural Districts

- A-1** Citrus Rural
- A-2** Farmland Rural
- A-R** Agricultural-Residential District

## Residential Districts

- R-CE** Country Estate District
- R-CE-2** Rural Residential District
- R-CE-5** Rural Country Estate Residential District
- R-1, R-1A & R-1AA** Single-Family Dwelling District
- R-1AAA & R-1AAAA** Residential Urban Districts
  - R-2** Residential District
  - R-3** Multiple-Family Dwelling District
  - X-C** Cluster Districts (where X is the base zoning district)
  - R-T** Mobile Home Park District
  - R-T-1** Mobile Home Subdivision District
  - R-T-2** Combination Mobile Home and Single-Family Dwelling District
  - R-L-D** Residential -Low-Density District
  - N-R** Neighborhood Residential

## Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District
- C-3** Wholesale Commercial District
- I-1A** Restricted Industrial District
- I-1/I-5** Restricted Industrial District
- I-2/I-3** Industrial Park District
- I-4** Industrial District

## Other District

- P-D** Planned Development District
- U-V** Urban Village District
- N-C** Neighborhood Center
- N-A-C** Neighborhood Activity Center

# SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.)<sup>m</sup></i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)<sup>a</sup></i>	<i>Min. rear yard (ft.)<sup>a</sup></i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

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

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

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

#### FOOTNOTES

<sup>a</sup>	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
<sup>b</sup>	Side setback is 30 feet where adjacent to single-family district.
<sup>c</sup>	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
<sup>d</sup>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> <li>(i) are either platted or lots of record existing prior to 3/3/97, and</li> <li>(ii) are 75 feet in width or greater, but are less than 90 feet, and</li> <li>(iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.</li> </ul>
<sup>e</sup>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<sup>f</sup>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<sup>g</sup>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<sup>h</sup>	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
<sup>j</sup>	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
<sup>k</sup>	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
<sup>m</sup>	Based on gross square feet.

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

## VARIANCE CRITERIA:

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

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

## SPECIAL EXCEPTION CRITERIA:

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

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

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



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 06, 2021**

Commission District: **#1**

Case #: **VA-22-02-135**

Case Planner: **Laekin O'Hara (407) 836-5943**

**Laekin.O'Hara@ocfl.net**

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## GENERAL INFORMATION

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APPLICANT(s): **JOE KNOUS**

OWNER(s): **QUISPE JUAN JOSE; TAN JUDITH GIOVANNI**

REQUEST: Variance in the R-1A zoning district to allow the construction of a 916 sq. ft. attached Accessory Dwelling Unit (ADU) with a west rear setback of 23.4 ft. in lieu of 30 ft.

PROPERTY LOCATION: 6302 Morning Mist Ln., Orlando, FL 32819, west side of Morning Mist Ln., east of S. Apopka Vineland Rd., west of Dr. Philips Blvd., and north of Banyan Blvd.

PARCEL ID: **22-23-28-7844-10-020**

LOT SIZE: +/- 0.25 acres (+/- 11,251 sq. ft.)

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **121**

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

1. Development shall be in accordance with the site plan and elevations received November 19, 2021, 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 for the ADU within three (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. The exterior of the ADU shall match the exterior of the existing house, including materials and color.

**SYNOPSIS:** 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 no comments were received in support or in opposition.

The applicant noted that they did not propose a reduced size or a detached structure because it was undesirable.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance by a 5-0 vote, with two absent, subject to the five (5) conditions in the staff report.

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#### STAFF RECOMMENDATIONS

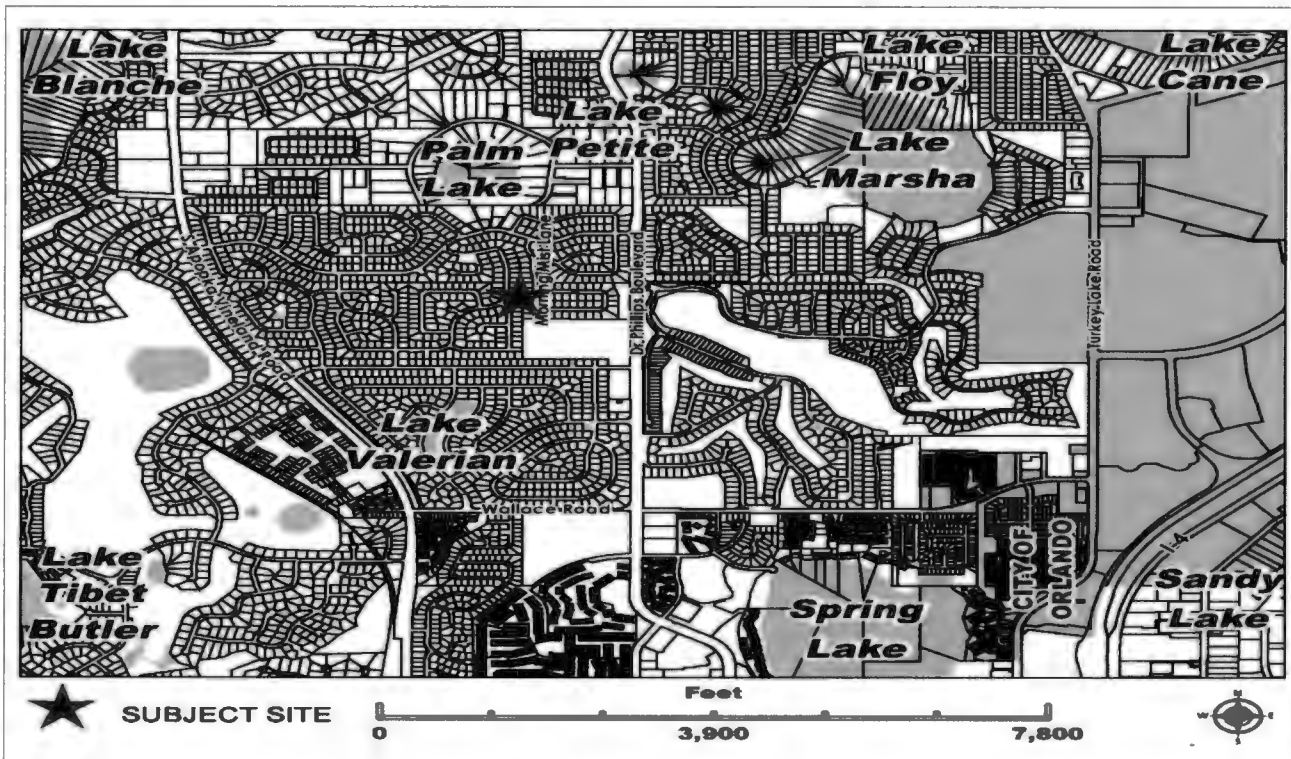
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

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#### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures. The future land use is LDR, which is consistent with the R-1A zoning district.

The area around the subject site consists of single-family homes. The subject property was platted in 1946 as lot 1002 of the Sand Lake Hills Section Eleven subdivision, and is +/- 0.25 acres. It is developed with a 2,420 gross sq. ft. one-story residence, constructed in 1986, and a pool with a screen enclosure in the rear yard of the lot. There is no record of permits for the pool or screen enclosure, however they appear on the aerial maps dating back to at least 1999. There is a 15' drainage and utility easement along the rear of the property, a 10' drainage and utility easement along the north side, and a 5' easement along the south side of the property.

The request is to construct an attached 916 sq. ft. two-story accessory dwelling unit (ADU) adjacent to the southwest corner of the existing residence with a west rear setback of 23.4 ft. in lieu of the required 30 ft. rear setback, requiring a variance. The portion of the addition that encroaches the rear setback totals approximately 132 sq. ft. on each floor, for a total of 264 sq. ft. Alternatively, there are options to reconfigure the proposal to allow for a code compliant ADU, including a reduction in size of the ADU or constructing a detached structure at the same size as currently proposed, meeting Zoning code requirements. For example, the code allows detached accessory dwelling units with a height greater than 15 ft. to be 10 ft. from the rear. While the applicant's letter indicated a 10' building separation is required for detached structures, the Zoning code does not require a minimum separation between a principal and accessory structure. Furthermore, the Division of Building Safety has provided that a residential structure with openings (windows / doors) must be at least 3 ft. from the primary dwelling unit. This would allow for a detached ADU of sufficient size to be proposed.

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
Max Height:	35 ft.	23.6 ft. (ADU)
Min. Lot Width:	75 ft.	90 ft.
Min. Lot Size:	7,500 sq. ft.	11,251 sq. ft.

## Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	66 ft. ADU (East) 34.1 ft. existing home (East)
Rear:	30 ft.	23.4 ft. ADU (West– Variance) 28.7 ft. existing home (West)
Side:	7.5 ft.	16.92 ft. existing home (North) 7.9 ft. ADU (South)

## STAFF FINDINGS

### VARIANCE CRITERIA

#### Special Conditions and Circumstances

There are no special conditions or circumstances, as an ADU could be constructed in a conforming location.

#### Not Self-Created

The need for the variance is self-created, as a smaller accessory dwelling unit could be constructed in a manner which would not encroach into the rear setback, or a detached option could be built compliant with the code.

#### No Special Privilege Conferred

Granting the variance as requested would confer special privilege, as no other structures in the area have similar setbacks.

#### Deprivation of Rights

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and an accessory dwelling unit could be built which complies with code setback requirements.

#### Minimum Possible Variance

The request is not the minimum possible as a code compliant accessory dwelling unit could be constructed by reducing the size, or detaching the unit.

### **Purpose and Intent**

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The ADU is proposed to be set back further than the existing screen enclosure. Furthermore, the proposed ADU will be screened from all surrounding properties by an existing 7' high privacy fence.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and elevations received November 19, 2021, 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 for the ADU within three (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. The exterior of the ADU shall match the exterior of the existing house, including materials and color.

C: Joe Knous  
2733 Donaldson Dr.  
Orlando, FL 32812

C: Juan Jose Quispe & Judith Giovanni Tan  
6302 Morning Mist Ln  
Orlando, FL 32819



### **Project Description**

Modify an existing single-story residence by adding an attached two-story ADU. We are requesting a variance of 6½ feet into the rear lot line to allow for a two-story ADU addition to an existing single-story residence that will be 23½ feet from the rear lot line where a minimum 30 foot setback is required in the R-1/T/HP/AN zoning district.

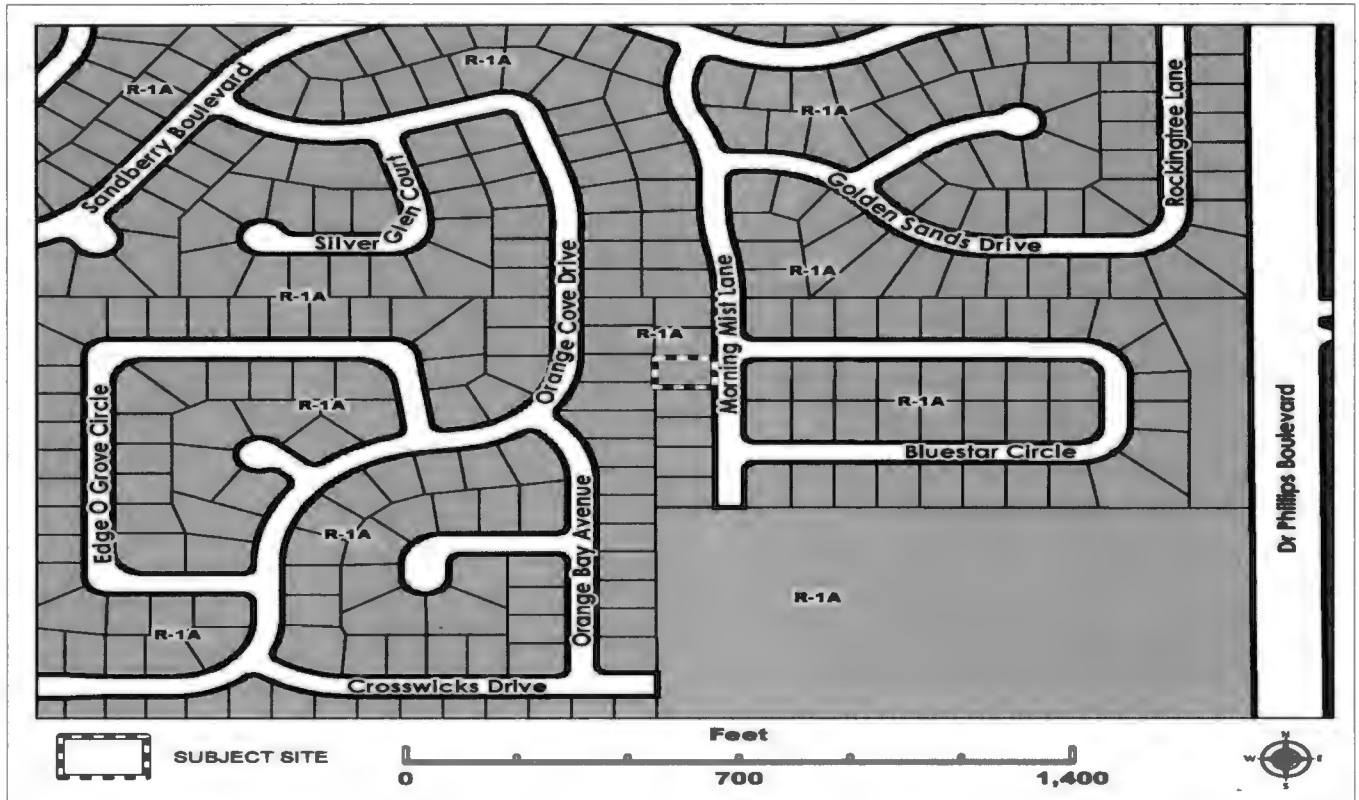
The lot was platted in 1984 which requires a 30 foot rear setback. Lots platted on or after 3/3/1997 required a 25 foot rear setback.

We've looked at developing both a detached and attached ADU structure. Due to the existing residence location on site, the required 10-foot separation distance, and an existing pool, there is limited area to build a detached ADU. We would be limited to roughly 350 square feet of build area which does not provide adequate room for program layout.

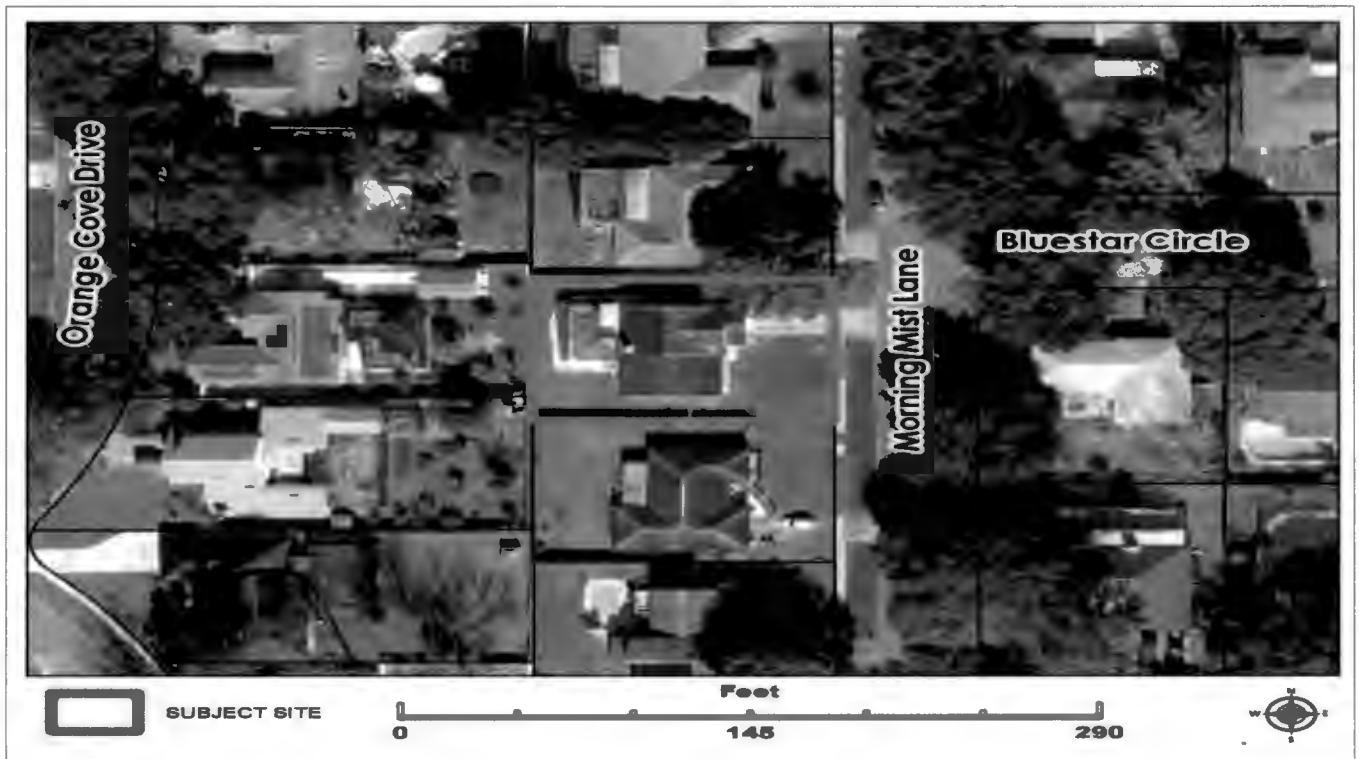
### **6 Standards of Variance Justification**

1. Special Conditions and/or Circumstances  
The variance would not create special conditions and/or circumstances as an attached ADU is allowed per code and detached ADU's could be built within 5 feet of a rear setback.
2. Not Self-Created  
The single-story house is existing and was platted in 1984 prior to the owners purchasing the property. The existing house occupies a majority of the useable lot space, and no prior modifications were made to the house since it was built. If the lot was platted after 1997, there would be additional room to build the attached ADU due to the change in the rear setback requirement from 30 feet to 25 feet. Due to the existing width and depth of the lot, along with the required building separation requirements, there are limited options to build a usable ADU.
3. No Special Privilege Conferred  
ADU's are allowed per code and would not be a special privilege.
4. Deprivation of Rights  
If the variance is denied, the owner would have to consider a smaller detached ADU that does not provide adequate usable space. The only other options would be to build a second story but that would require the occupants to vacate the property for an extended period of time and add additional costs to the project budget that would create a hardship.
5. Minimum Possible Variance  
The proposed attached ADU will only occupy 6½ feet into the rear setback of 30 feet, minimizing the overall impact to the lot's setback requirement. By proposing a two-story ADU and requesting the above variance, it has the least impact since it is not detached and within 5 feet of the rear property line.
6. Purpose and Intent  
If the variance is approved, the new ADU impact to the rear setback line would not be noticeable as the design and character of the proposed ADU is similar to the existing single-family structure.

## ZONING MAP

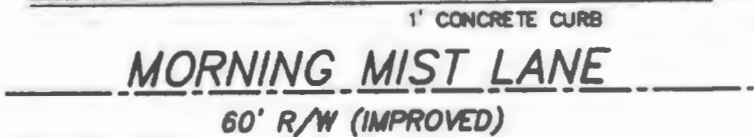


## AERIAL MAP





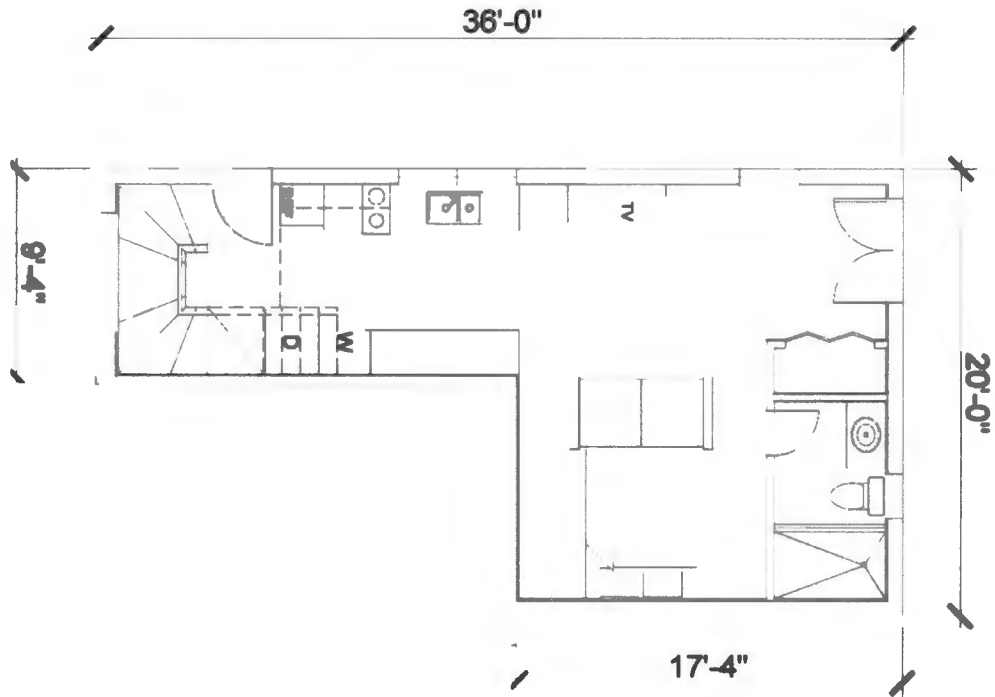
## SITE PLAN



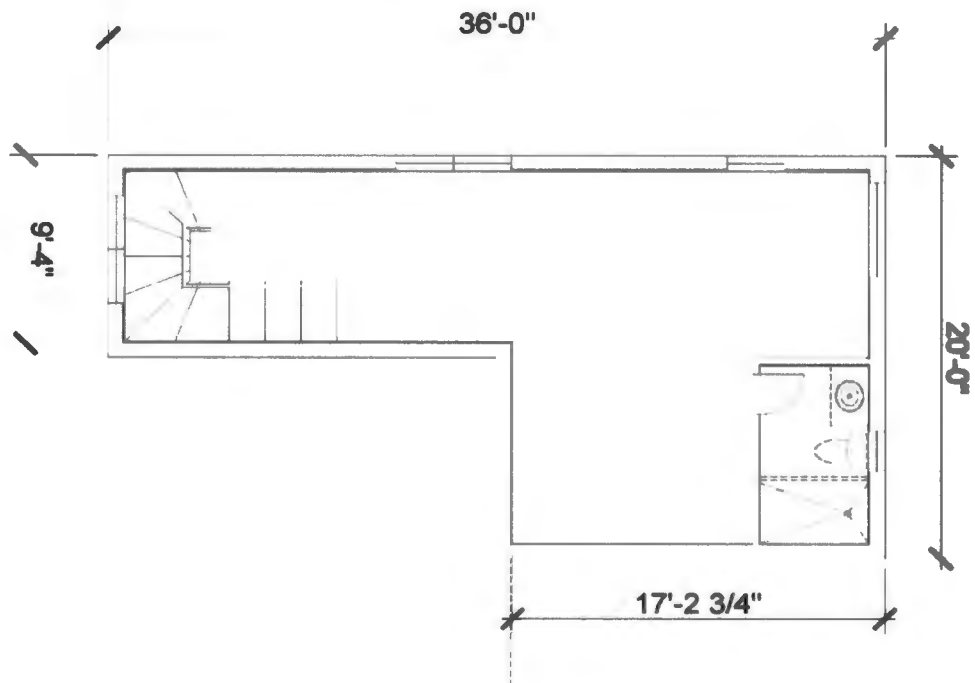


## FLOOR PLANS

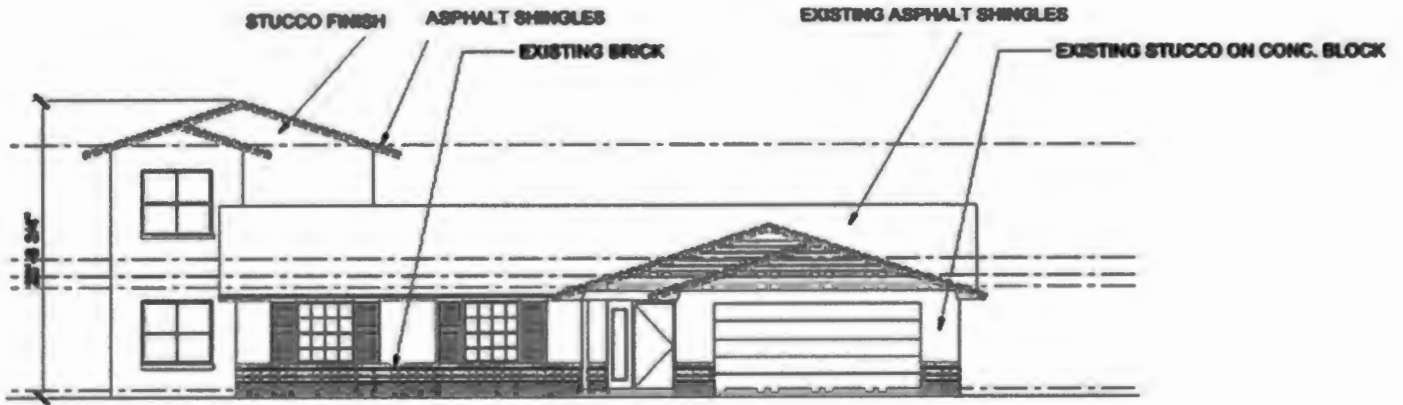
### First Floor



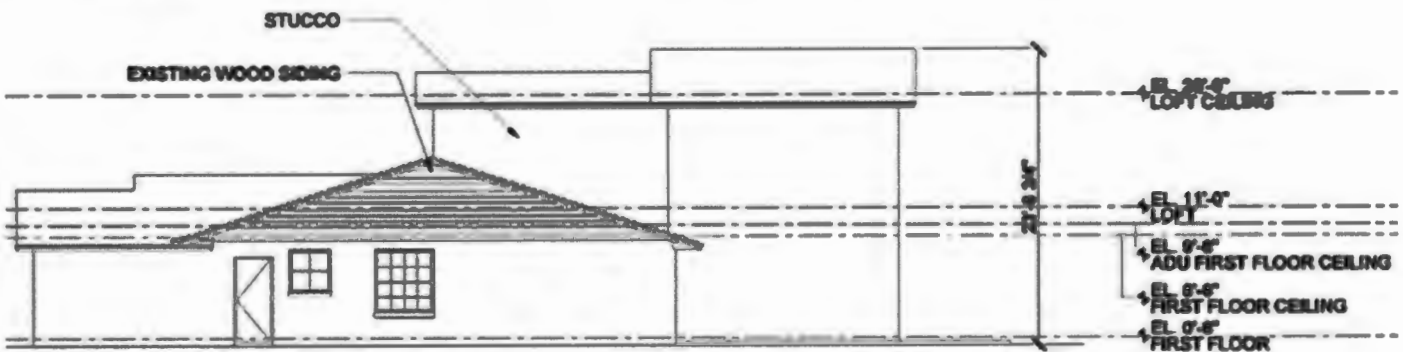
### Second Floor



## ELEVATIONS



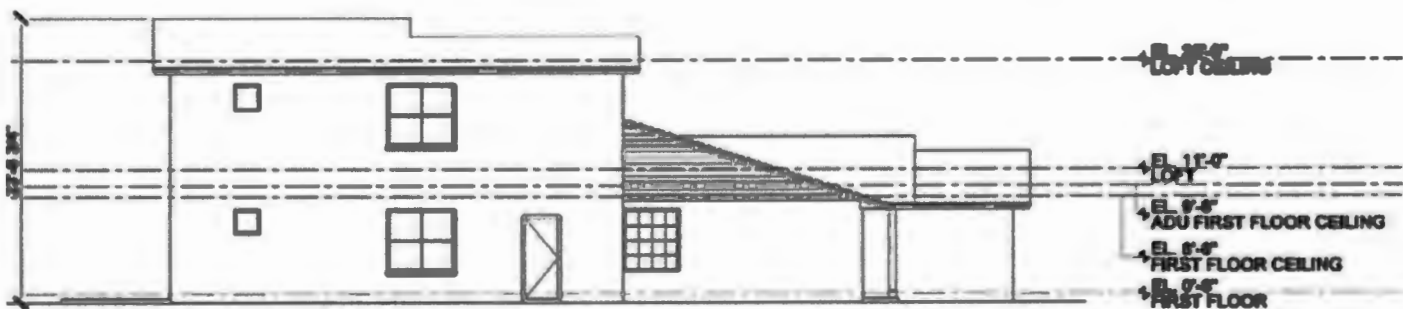
**FRONT ELEVATION (EAST)**



**LEFT ELEVATION (NORTH)**



**REAR ELEVATION (WEST)**



**RIGHT ELEVATION (SOUTH)**

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**SITE PHOTOS**



**Front, facing north west**



**Rear yard, facing northeast towards proposed addition**

**SITE PHOTOS**



**Front, facing west**



**Front, facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 06, 2022**

Commission District: **#2**

Case #: **VA-22-02-136**

Case Planner: **Jenale Garnett (407) 836-5955**

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): VICKIE GREEN

OWNER(s): VICKIE GREEN

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

- 1) To allow an addition (sunroom) with a northeast rear setback of 24 ft. in lieu of 35 ft.
- 2) To allow a conversion from a carport to a garage with a northeast rear setback of 25.1 ft. in lieu of 35 ft.
- 3) To allow an existing residence to remain at a northeast rear setback of 29.4 ft. in lieu of 35 ft.

PROPERTY LOCATION: 5821 Jacquelyn Dr., Zellwood, FL 32798, northeast side of Jacquelyn Dr., northeast of N. Orange Blossom Trl., west of Washington St., north of Jones Ave.

PARCEL ID: 22-20-27-4582-00-420

LOT SIZE: 140 ft. x 125 ft.; +/- 0.40 acres (17,494 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 72

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

1. Development shall be in accordance with the site plan and elevations received November 9, 2021, 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.

**SYNOPSIS:** 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 approval. Staff noted that no comments were received in opposition and three (3) comments were received in support.

The applicant agreed with the staff presentation and noted the need for the improvements.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

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#### STAFF RECOMMENDATIONS

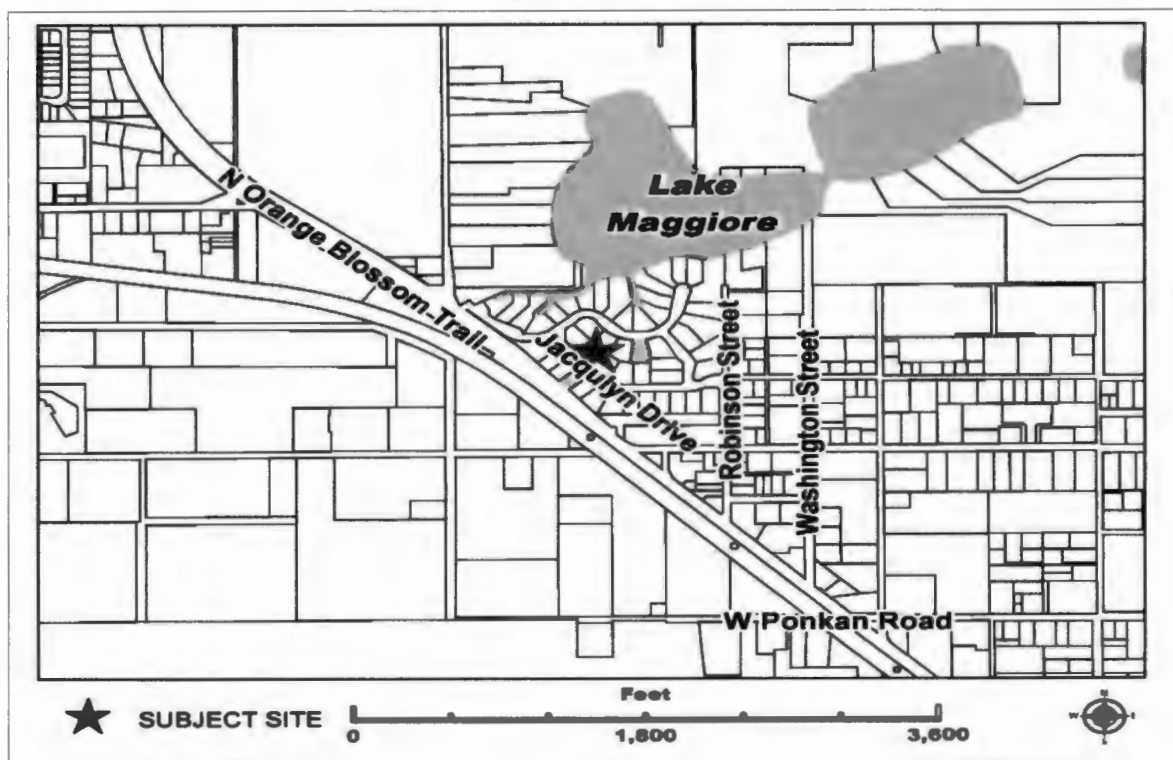
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Approval, subject to the conditions in this report.

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#### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1AA, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 10,000 sq. ft. or greater. The future land use is LDR, which is consistent with the R-1AA zoning district.

The area around the subject site consists of single-family homes. The subject property is an approximately 0.40 acre lot, located in the Lake Maggiore Estates subdivision, recorded in 1973, and is considered to be a conforming lot of record. A 10 ft utility easement runs along all sides of the property line, but none of these easements are affected by the variance request. The property has been under the same family ownership since 1976. It is developed with a 3,787 gross sq. ft. single-family home, with an attached carport constructed prior to 1974, according to a survey provided by the owner, and covered screen room installed in 1978, according to information also provided by the owner. There is also a permanent generator installed on the east side of the screen room.

The existing screen room is 16.4 ft. x 10.3 ft. and has a 24 ft. northeast rear setback. Per 38-79 (18) of Orange County Code, a screen room is permitted to encroach up to 13 ft. into the required rear yard, which would allow it to be up to 22 ft. from the rear yard. While the screen room meets code, it does not appear that a permit was ever issued. This covered screen room is now proposed to be converted to a sunroom at the same size and in the same location, however by converting it to a sunroom, it is considered part of the principal structure which requires a 35 ft. rear yard setback, requiring variance #1 for the 24 ft. setback in lieu of 35 ft.

The proposal also includes converting the existing carport to an enclosed garage, which is set back 25.1 ft. from the rear property line. Variance #2 is required to recognize the existing northeast rear setback, to allow the garage conversion. A permit (B21015547) has been submitted for the garage conversion which is on hold pending the outcome of this request.

As originally constructed, the principal structure was built in 1973 with a northeast rear setback of 24.9 ft., which is a non-conforming setback. This does not meet the required rear setback of 35 ft, requiring variance #3 to allow the existing northeast rear setback of 24.9 ft. to remain.

The applicant has provided three letters of support from neighbors located to the south. At the time of this report, no letters of opposition have been received.

#### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	7 ft. (sunroom) 8.5 ft. (garage)
Min. Lot Width:	85 ft.	140 ft.
Min. Lot Size:	10,000 sq. ft.	17,494 sq. ft.

#### **Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	30 ft.	39.6 ft. (Southwest)
Rear:	35 ft.	24 ft. sunroom conversion (Northeast – Variance #1) 25.1 ft. garage conversion (Northeast – Variance #2) 29.4 ft. existing residence (Northeast – Variance #3)
Side:	10 ft.	16.2 ft. (Southeast) 25 ft. (Northwest)

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#### **STAFF FINDINGS**

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#### **VARIANCE CRITERIA**

##### **Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is the age of the existing improvements, built between 1973 and 1978 in the same location, and the existing non-conforming setbacks. Any proposed additions to the rear of the home would require a variance.

##### **Not Self-Created**

The request is not self-created since the owner is not responsible for the existing location of the screen room, carport, and existing residence for over 43 years.

##### **No Special Privilege Conferred**

Due to the orientation of the house on the lot, and the year the house was built, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

##### **Deprivation of Rights**

Denial of these variances would deprive the owner of the right to utilize and enjoy structures on the property that similar surrounding properties are allowed.



### **Minimum Possible Variance**

Given the year the house was built and the orientation of the house on the property, the requested variances are the minimum possible.

### **Purpose and Intent**

Approval of the request will be in harmony with the purpose and intent of the Code, and the proposed requests will not be detrimental to the neighborhood since the design of the existing improvements and conversions as proposed are consistent with the architectural design of the existing house and would be compatible with other residences in the surrounding area.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and elevations received November 9, 2021, 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: Vickie Green  
5821 Jacquelyn Drive  
Zellwood, FL 32798

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## COVER LETTER

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Vickie Green  
P O Box 621  
5821 Jacquelyn Dr  
Zellwood FL 32798

Board of Zoning Adjustment  
201 S. Rosalind Ave, 1st Floor  
Orlando FL 32801

Dear Sir or Madam,

I am requesting a setback variance of 24 feet in the rear of my property. The existing structure is a screen porch built in 1978 . The required setback is apparently 35 feet, which my house can in no way meet to begin with as it was built 34' 2" from the property line in the first place. My home sits far back on the property at 40 feet setback compared to other, newer homes in the area set 30 feet back as the regulations changed in the late 90s. Also, for this same reason I can't put a shed in my back yard as it is too narrow to meet require utility easements and fit a shed of any usable size.

I would like to change this screen porch to a proper sun room with windows and a door which can be locked. This would be a simple change of screen to windows for cleanliness, pest control and security. The existing structure has been there over 40 years and affects no one other than myself. The combination of blowing dust, daddy longlegs webs and water intrusion through the screens during storms results in a cleaning nightmare. I can't use a part of my home because of this. Shouldn't an individual be able to use all parts an structures of their own home? At this moment it is little more than basically-open storage as I can't properly secure items in the carport and I don't want my grill stolen.

I would also like to close in the aforementioned carports to create proper garages with locking doors. As my parents bough the house in 1976 with carports and crime was low they weren't as concerned. They had a workshop two miles away on other property and had little need for secure on-site storage. I inherited the house after my mother's death in 2010. I moved here in 2011 after my divorce. Less than two weeks later I had two bicycles stolen out of the carport . Later I noticed my Craftsman air compressor was also missing but it wasn't listed on the report with Orange County Sheriff's Office. This has led to me stringing chains and locks on equipment. It still could be stolen by a determined thief with bolt cutters. I didn't create this issue. I feel it is not asking for special privilege to be able to have a secure garage like the rest of the neighborhood. I have the only carport in the neighborhood so this will also create a more cohesive appearance with the rest of the homes. This leads one to conclude garages are common for middle class neighborhoods and expected for homes in the local area.

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## COVER LETTER

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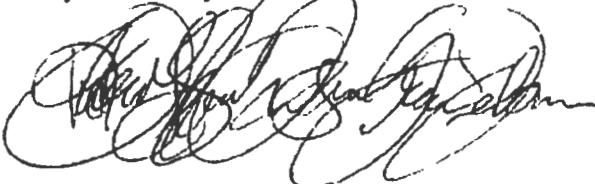
In conclusion, I am requesting a variance of 24 feet from the existing screen room structure to property line and permission to switch out screens for windows and doors that can be locked to increase the utility and safety of the porch structure. This existing structure is 89 inches tall ( 7'5") and 168.2708 square feet. I am not requesting a change in square footage.

For the carports to garages I am requesting permission to install siding on the south side of the existing carport structure from the original concrete pad to the ceiling line 79" in height, 7 " 7", and 1314 square feet. I am requesting permission for three locking garage doors for the west side of the the structure facing the road, to be installed in the existing bay openings. I am not requesting a change in square footage

Lastly, this is a single family residence and I live alone although I am legally married . There is literally no other person in my household as my husband lives at his own house due to his employment. [REDACTED]

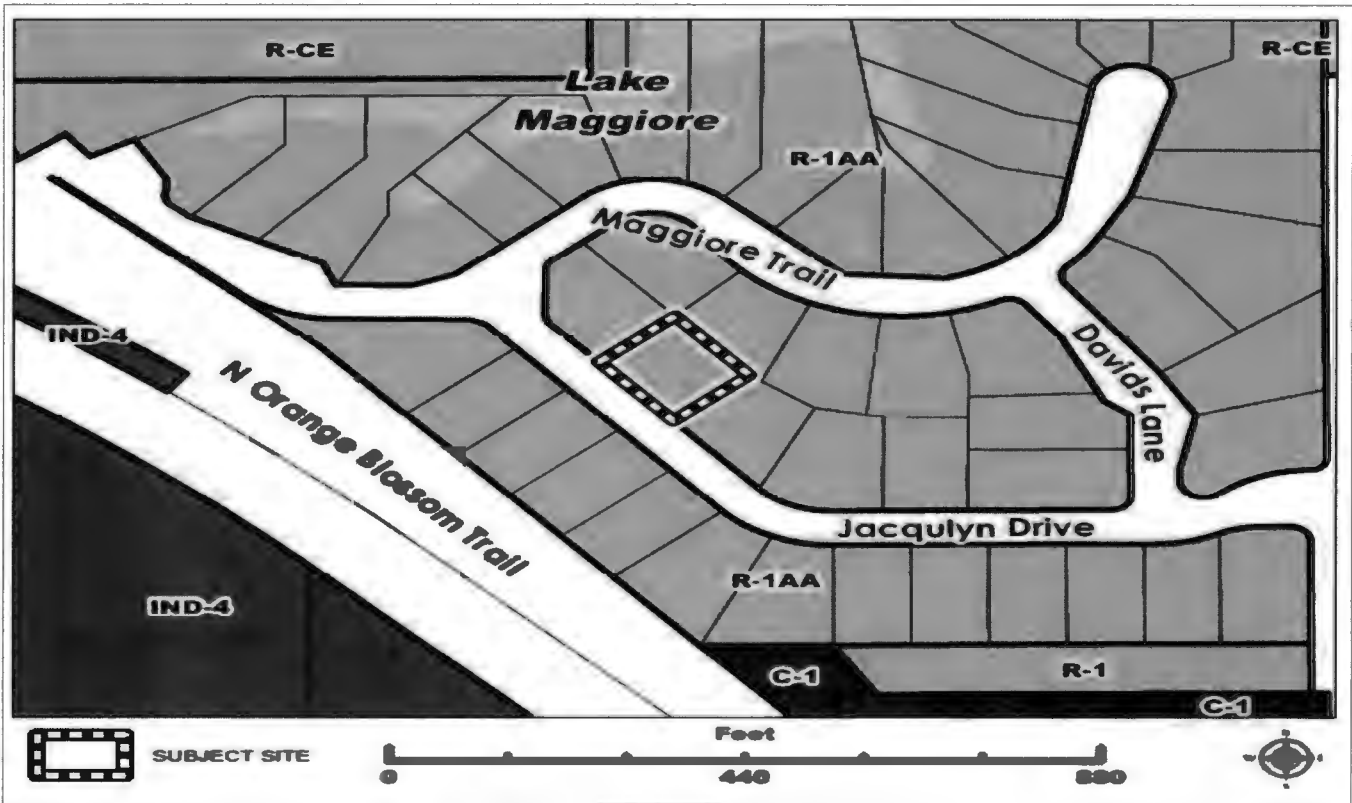
[REDACTED] I honestly feel I have to take measures to be more secure in my home and decrease the burden of its upkeep. I believe that a variance for these proposed improvements doesn't affect the others in my neighborhood in any but a positive way as it will present a tidier appearance from the street. My immediate neighbors, who also have sun rooms and garages, have voiced support and signed No Objection letters to this effect.

Many thanks for your consideration,

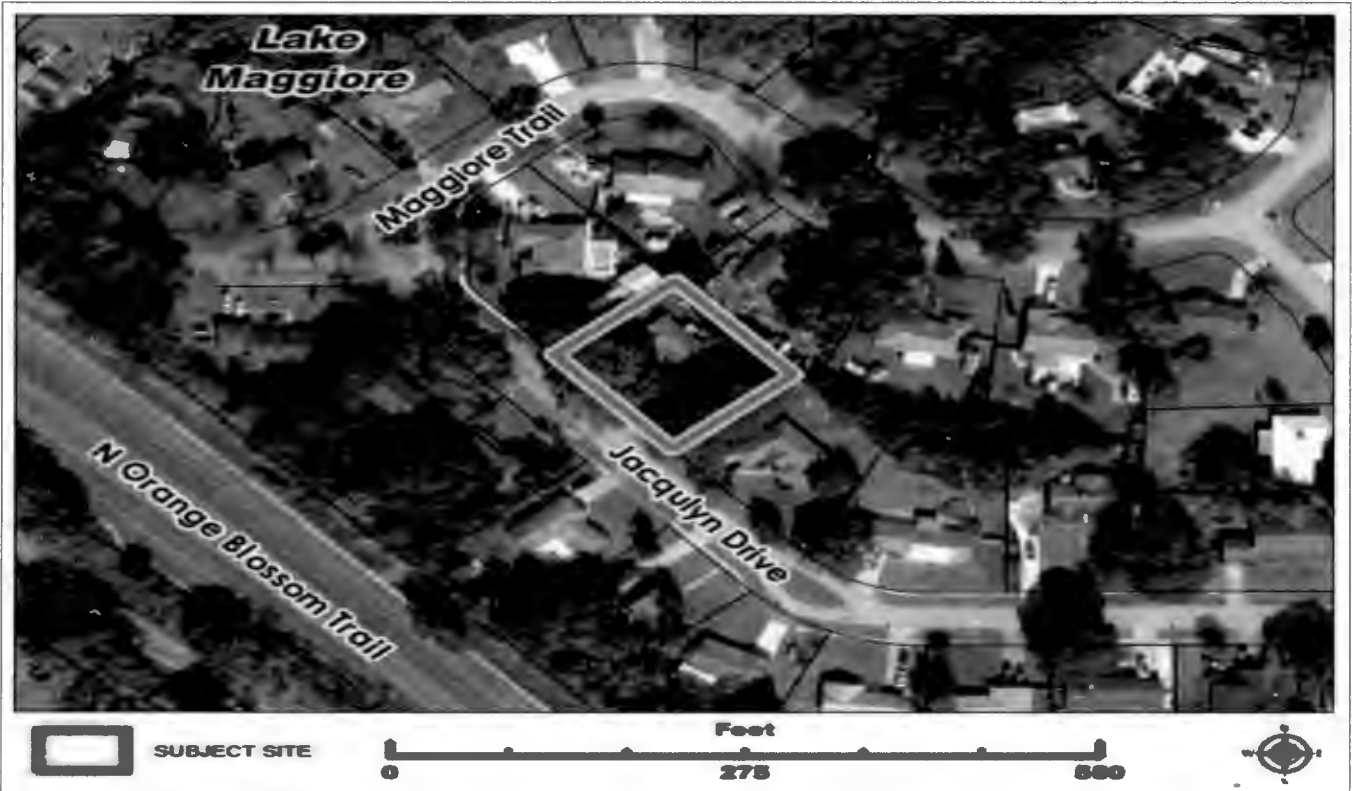


Vickie Stranger-Thorsen Green

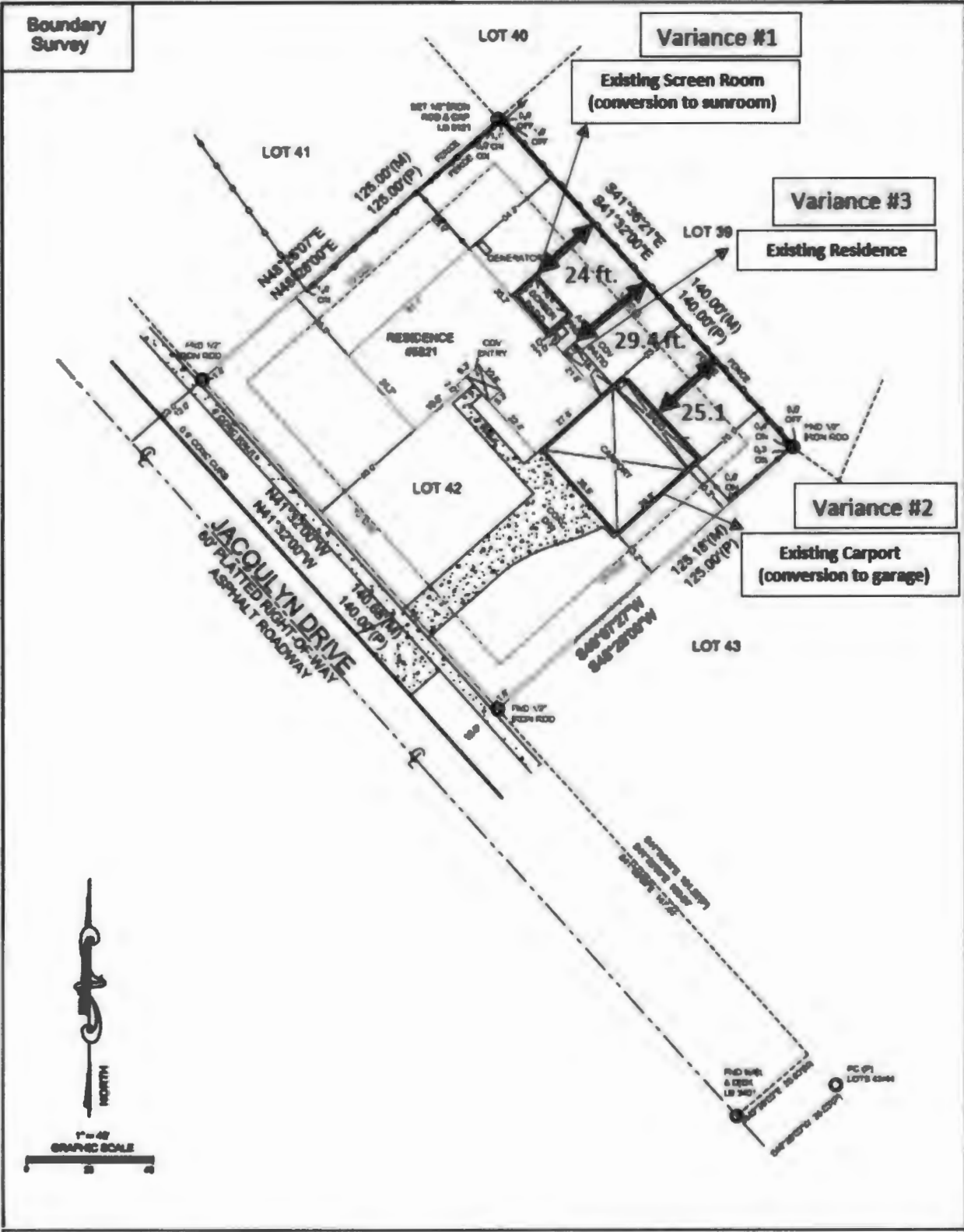
## ZONING MAP



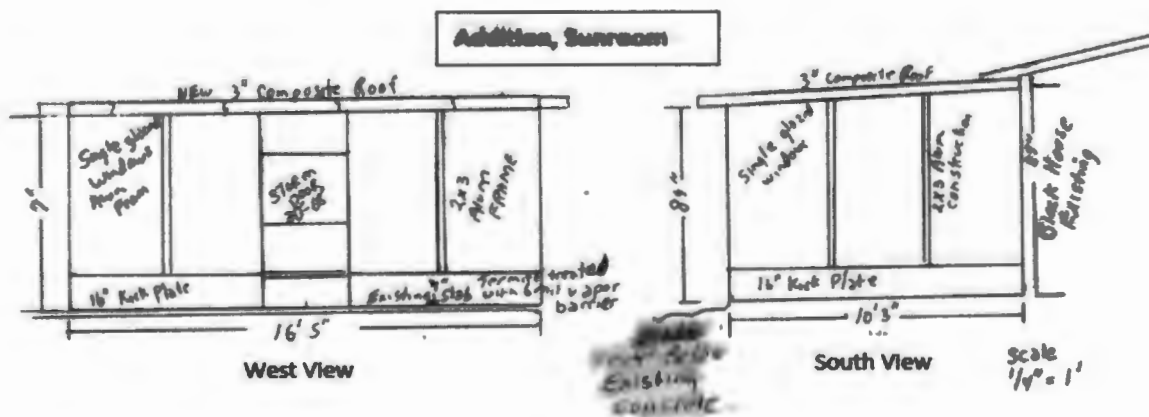
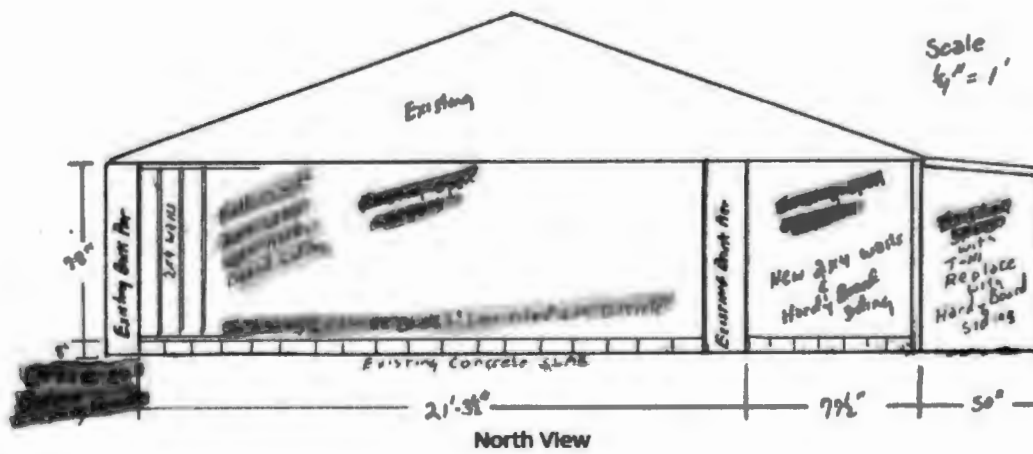
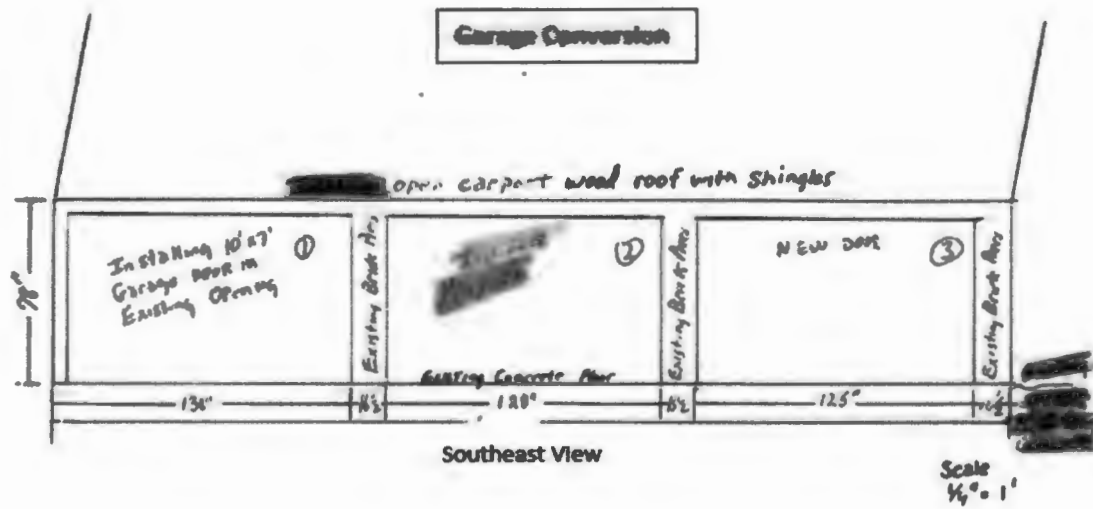
## AERIAL MAP



## SITE PLAN



## ELEVATIONS



## SITE PHOTOS



**Facing northeast towards front of subject property**



**Rear yard, facing west towards additions**



**SITE PHOTOS**



**Rear yard, facing east towards proposed sunroom**



**Rear yard of 29.4 setback, facing north towards existing residence**



## SITE PHOTOS



**Rear yard, facing west towards existing addition (proposed sunroom)**



**Rear yard, facing south of existing addition (proposed sunroom)**

## SITE PHOTOS



**Facing northeast towards front of existing carport (proposed conversion to garage)**



**Rear yard, facing west towards rear of existing carport (proposed conversion to garage)**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 06, 2022**

Commission District: **#6**

Case #: **VA-21-11-106**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): **ISAAC MANZO**

OWNER(s): **BRYAN EDUARD FREIER**

REQUEST: **Variances in the R-2 zoning district to construct a single-family residence as follows:**

1) To allow a lot size of 3,371 sq. ft. in lieu of a minimum of 4,500 sq. ft.

2) To allow a 10 ft. south rear setback in lieu of 25 ft.

PROPERTY LOCATION: **906 20th St., Orlando, FL 32805, south side of 20th St., north of W. Kaley Ave., east of S. Westmoreland Dr.**

PARCEL ID: **03-23-29-0180-19-031**

LOT SIZE: **50 ft. x 67.5 ft.; +/- 0.08 acres (3,371 sq. ft.)**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **147**

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

1. Development shall be in accordance with the site plan and elevations received October 28, 2021, 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 the approval of the rear yard variance is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

**SYNOPSIS:** 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 approval of variance #1, and for a recommendation for denial of variance #2. Staff noted that no comments were received in support or in opposition.

The applicant disagreed with the staff recommendation for variance #2 and stated that denial of the request for a setback variance would cause a severe hardship. The applicant also noted that the impact on the neighborhood is minimal and that approval will allow for the highest and best use.

There was no one present to speak in favor or in opposition to the request.

The BZA discussed the setbacks, noted the minimal impact to neighbors, that it would be difficult to build a house on the parcel meeting all setback requirements due to the existing lot depth, felt that this was a good example of infill development, and unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

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#### STAFF RECOMMENDATIONS

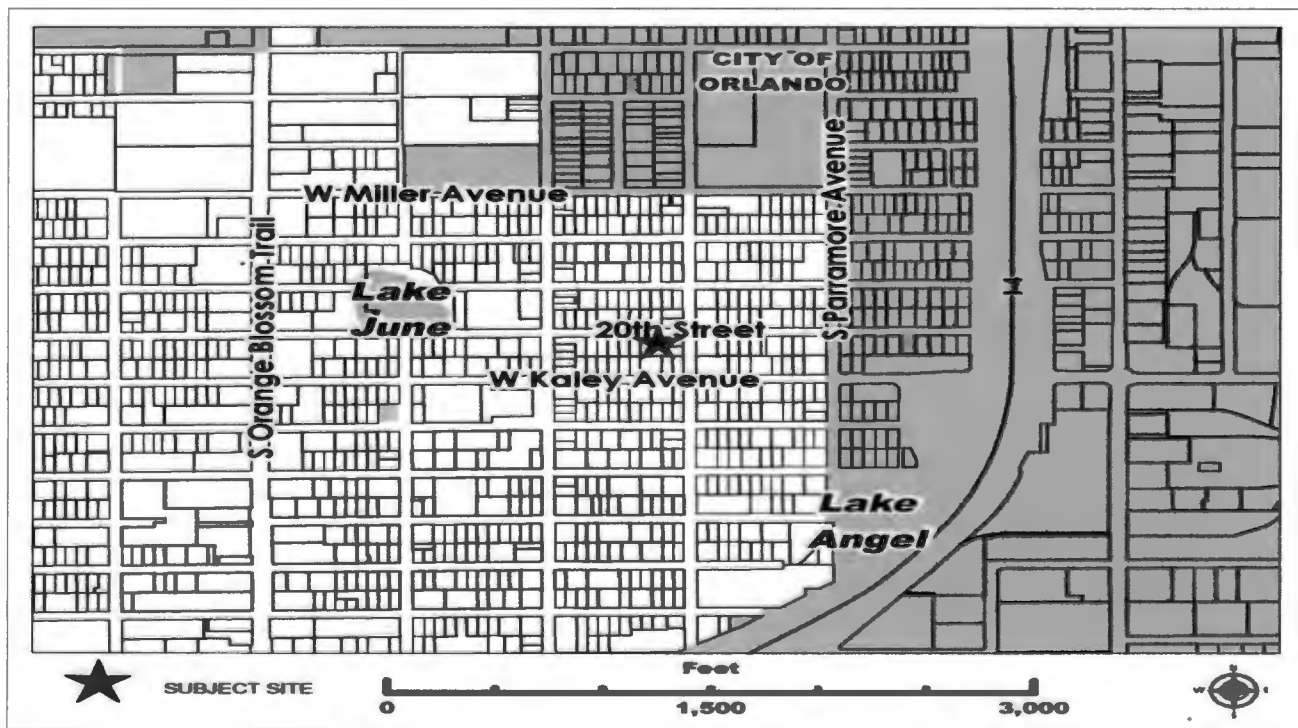
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Approval of variance #1, subject to the conditions in this report, and denial of variance #2. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all variances, staff recommends that the approval be subject to the conditions found in this report.

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#### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Vacant	Single-family residential	Single-family residential	Single-family residential	Vacant

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The future land use is Low-Medium Density Residential (LMDR), which is consistent with the zoning district.

The area around the subject site consists of single-family homes and vacant lots. The subject property is a 0.08 acre parcel, consisting of the north half of lot 3, block 19, located in the Angebilt Addition Plat, recorded in 1923, and is considered to be a non-conforming parcel of record. The property was previously developed with a single-family home that was demolished in 2014 (B14009175). The owner purchased the property in 2020.

A two-story 1,748 sq. ft. single-family residence with an attached 1-car garage is proposed to be constructed on the vacant property, approximately seven years after the previous residence was demolished.

Although according to County records, this parcel has been in its current size and configuration since at least 1955 and has been within the R-2 zoning district since the implementation of the Zoning Code in 1957. There is no record of lot split approval from the County, and per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The parcel is 3,371 sq. ft. in size, but the R-2 zoning district requires a minimum lot area of 4,500 sq. ft. Since evidence has not been submitted that exempts the substandard size aspect of the parcel via Sec. 38-1401, variance # 1 is required.

The proposed new residence meets the north, east and west setback requirements, but the south rear setback is proposed to be 10 ft. in lieu of 25 ft., requiring variance # 2. Although the proposed residence is 2-story and is moderately-sized, there are other options that would eliminate the rear setback variance, such as reorienting the structure by resizing the footprint, and bringing it closer to the minimum front and side setbacks, as code

requires a 6 ft. minimum side setback, and the proposal is for 10 ft., and the front setback is required to be 25 ft., and the proposal is for 27 ft.

Comparatively, nearby the subject property are similar sized single-family residences constructed on similarly sized parcels. For example, the 2 parcels located to the east are identical in size and dimensions to the subject property. The property to the immediate east contains a house that was constructed prior to 1981, and another parcel contains a house that was constructed in 1947.

As of the date of this report, staff had not received any correspondence in favor or in opposition to the request.

#### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	24 ft.
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	3,371 sq. ft. (Variance #1)

#### **Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	27 ft. (North)
Rear:	25 ft.	10 ft. (South – Variance #2)
Side:	6 ft.	10 ft. (West) 10 ft. (East)

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### **STAFF FINDINGS**

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#### **VARIANCE CRITERIA**

##### **Special Conditions and Circumstances**

The existing parcel size and depth are considerations of special conditions and circumstances. Demolition of the previous residence in 2014 has rendered the property undevelopable without the variance for lot area. Further, the parcel depth makes it difficult to develop the property with a reasonable sized residence without a setback variance.

##### **Not Self-Created**

**Variance #1:** The lot was created prior to 1955 and therefore the owners are not responsible for the existing lot configuration, since the property was purchased in 2020, the substandard aspects of the lot are not self-created.

**Variance #2:** The requested variance is self-created, as the proposal is for new construction which could be modified to meet the required setback.



**No Special Privilege Conferred**

**Variance #1:** Granting the variance will not establish special privilege since there are other substandard developed lots in the area with single-family homes with similar size.

**Variance #2:** The requested variance would grant special privilege, as a different design could be utilized that would meet required setbacks.

**Deprivation of Rights**

**Variance #1:** Without the requested size variance, the owner will be deprived of the ability to construct a residence on the parcel.

**Variance #2:** The owner is not being deprived of the ability to construct a residence on the property that complies with setbacks by utilizing a different design.

**Minimum Possible Variance**

**Variance #1:** The requested variance is the minimum necessary to construct any improvements on the existing property.

**Variance #2:** The requested variances are not the minimum necessary, as a modified floorplan could be proposed in order to comply with setbacks, or be more in compliance with the setbacks, including the utilization of an extra 4 feet on each side, and shifting the house 2 feet closer to the front.

**Purpose and Intent**

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The proposed home will not be detrimental to the neighborhood as the proposed residence will be consistent with similar sized single-family residences on small lots in the area, and while the rear property line abuts another residential lot, this property is perpendicular to the subject property and is a deep lot with open space in the area adjacent to the proposed rear setback variance, and thus would not be negatively impacted.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received October 28, 2021, 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 the approval of the rear yard variance is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
- C: Isaac Manzo  
4767 New Broad St.  
Orlando, FL 32814



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COVER LETTER

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**MANZO & ASSOCIATES, P. A.**

ATTORNEYS AT LAW

MAILING ADDRESS  
4767 NEW BROAD STREET  
ORLANDO, FLORIDA 32814

ISAAC MANZO  
ADMITTED IN FLORIDA AND  
THE DISTRICT OF COLUMBIA

FAHHAAD A. NAGEHOON  
ADMITTED IN FLORIDA

TELEPHONE (407) 514-2692  
FACSIMILE (407) 514-2613  
EMAIL ADDRESS:  
MANZO@LAWYER.COM  
MANZOLAWGROUP.COM

October 26, 2021

Orange County Zoning Division  
201 S Rosalind Ave, 1<sup>st</sup> Floor  
Orlando, FL 32801

Re: Variance Application; 906 20th Street Orlando Florida, 32835 (the "Property");  
Bryan the Builder LLC ("Client")

Dear Board:

Our client seeks a variance for this real property located in Orange County. Our client bought this lot and is attempting to build a new single-family residence on it. In order to put this property to its best use, there are two variances that must be approved before client's pending building permit can be issued. We are requesting a setback of 10 ft. in the rear, where the required setback is 25 ft., a variance request of 15 ft. Additionally, we are requesting a lot size variance of 3371 sq. ft. where the required lot size is 4,500 sq. ft., a variance request of 1,129 sq. ft.

We believe we have determined the necessary variances to be:

- 1) To allow lot size to be 3371 sq. ft. in lieu of 4,500 sq. ft.
  - 2) To allow a south rear setback of 10 ft in lieu of 25 ft.
- 
1. **Special Conditions and Circumstances** – special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. This lot was purchased as-is, with a lot size smaller than allowed by the Code, unlike other lands in the zoning district.
  2. **Not Self-Created** – the special conditions and circumstances do not result from actions of the applicant, this lot was purchased at its current size, and was not split or subdivided by the current owner/applicant. Existing lot was created by another property owner at an earlier point in time.
  3. **No Special Privilege Conferred** – No special privilege will be conferred that has not already been conferred to other lots in this neighborhood, either by prior grants of variances or their otherwise ability to not comply with the current Zoning Regulations.

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BALDWIN PARK  
4767 NEW BROAD STREET, ORLANDO, FLORIDA 32814

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**COVER LETTER**

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Page 2 of 2

4. **Deprivation of Rights** – Failure to approve this variance application will serve as a deprivation of rights to the applicant, and may constitute a due process violation and taking under the Florida Constitution. Additionally, denial of this variance application will result in financial hardship; loss of land use functionality; and will generally not meet the need of the applicant to make the highest and best use of the land.
5. **Minimum Possible Variance** – the zoning variance applied for is the minimum variance possible to make reasonable use of the land. In order to build a reasonably sized single family home, the proposed dimensions necessitate a variance in the size applied for.
6. **Purpose and Intent** – the purpose and intent of this variance application is in harmony with the purpose and intent of the Zoning Regulations. This application is in an R-2 zoning designation, and as a proposed single family residential home, it will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Thank you for your consideration of this application.

Sincerely,

Manzo & Associates, P.A.

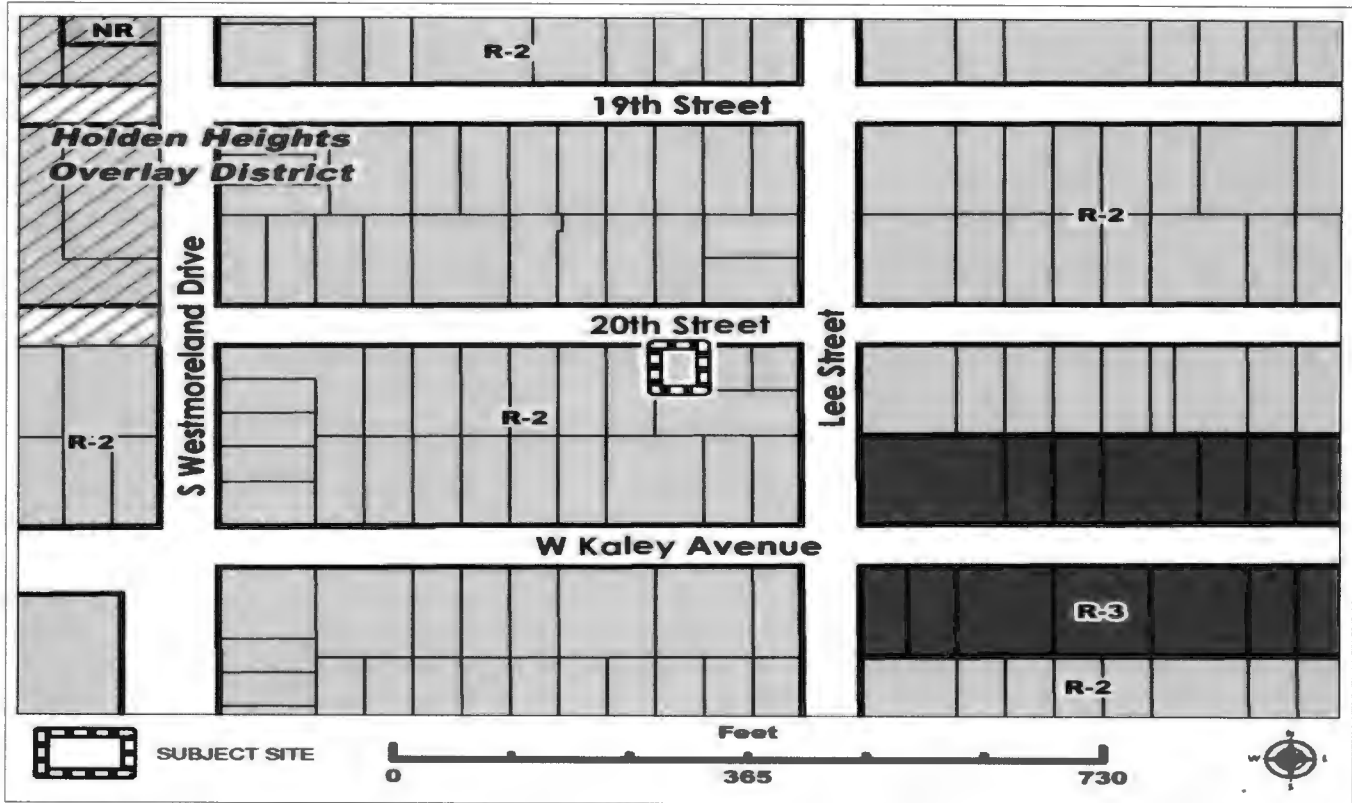
S ISAAC MANZO

Isaac Manzo, Esq.

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BALDWIN PARK  
4767 NEW BROAD STREET, ORLANDO, FLORIDA 32814

## ZONING MAP



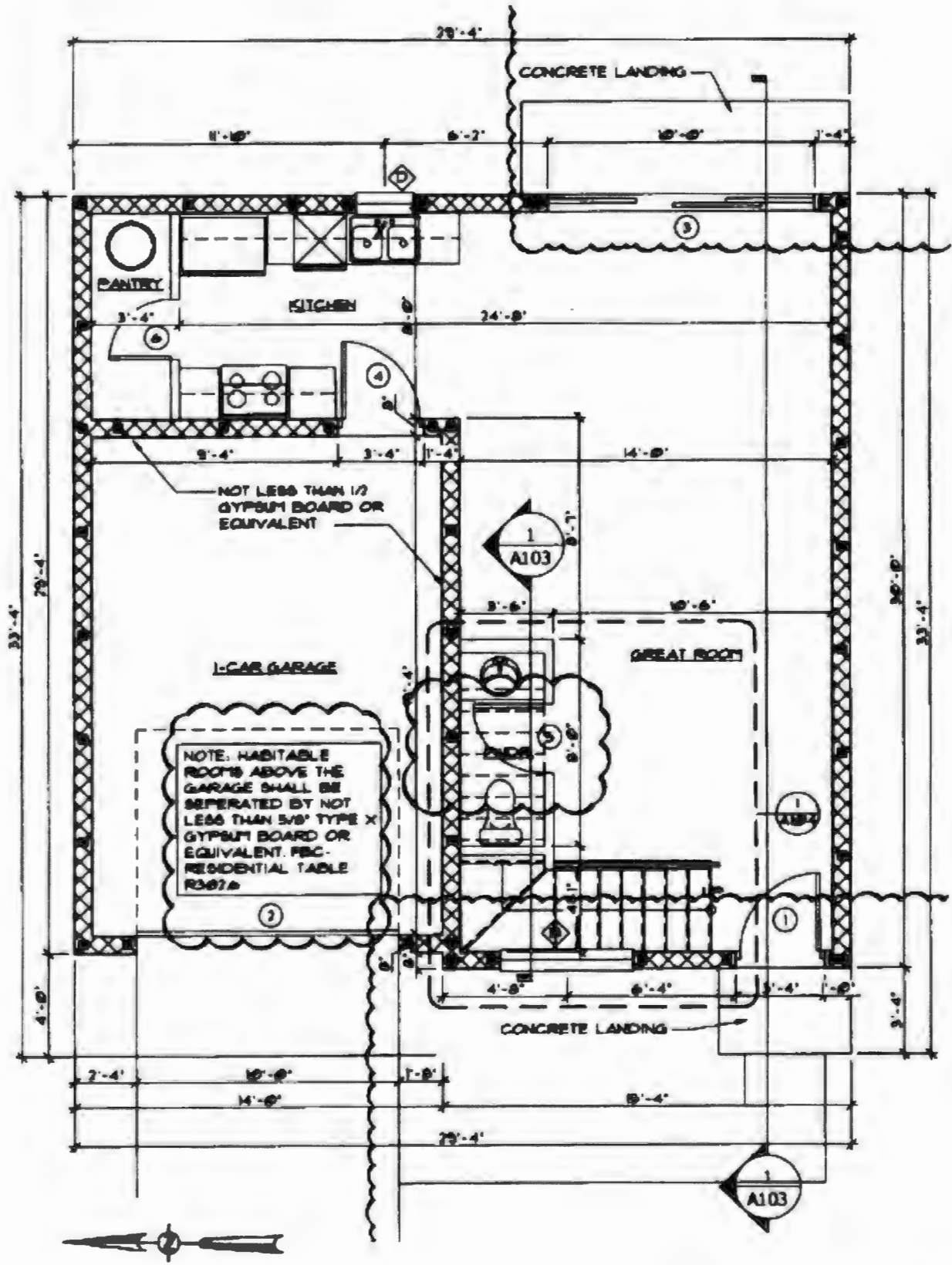
## AERIAL MAP



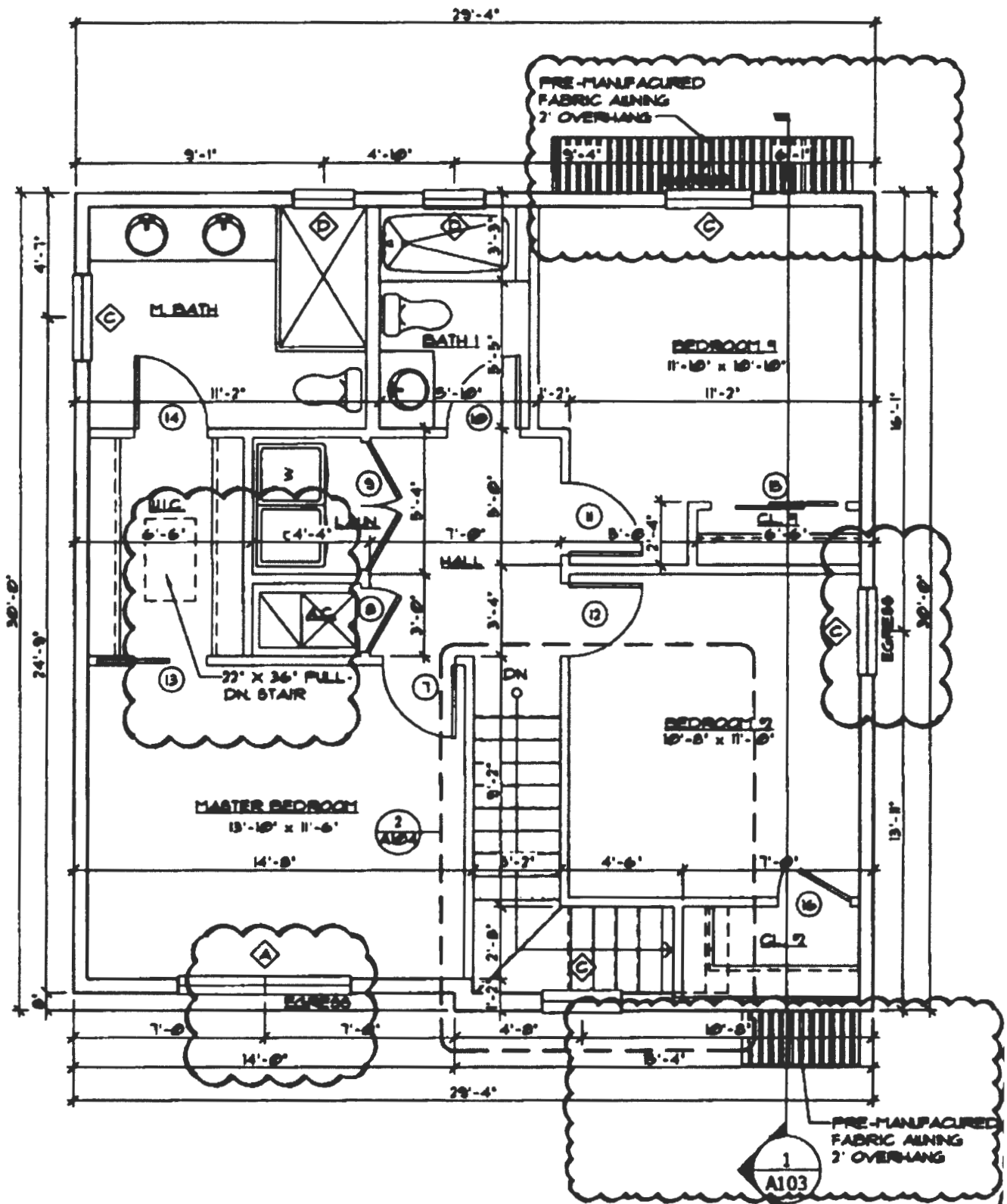
NBS 40' 47"E [ASSUMED] 50' [P]



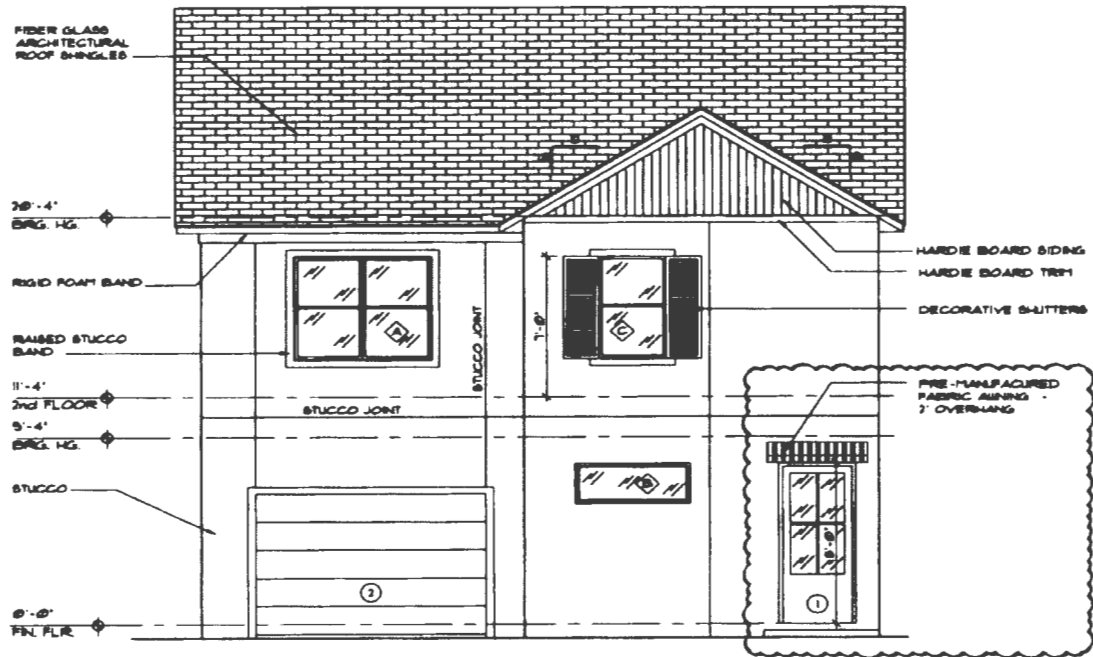
# FIRST FLOOR PLAN



## SECOND FLOOR PLAN

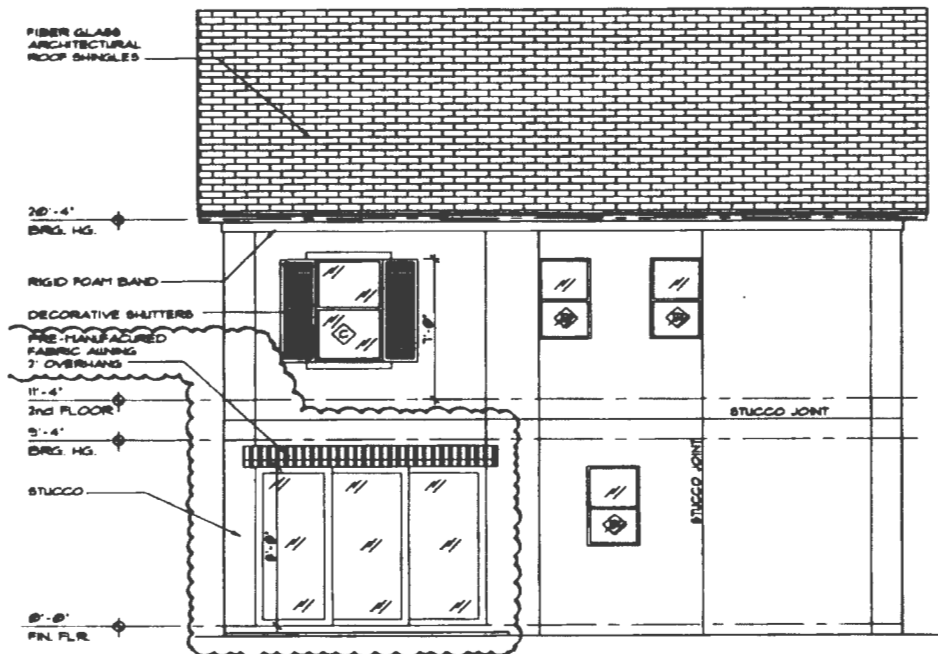


## ELEVATIONS



**FRONT ELEVATION**

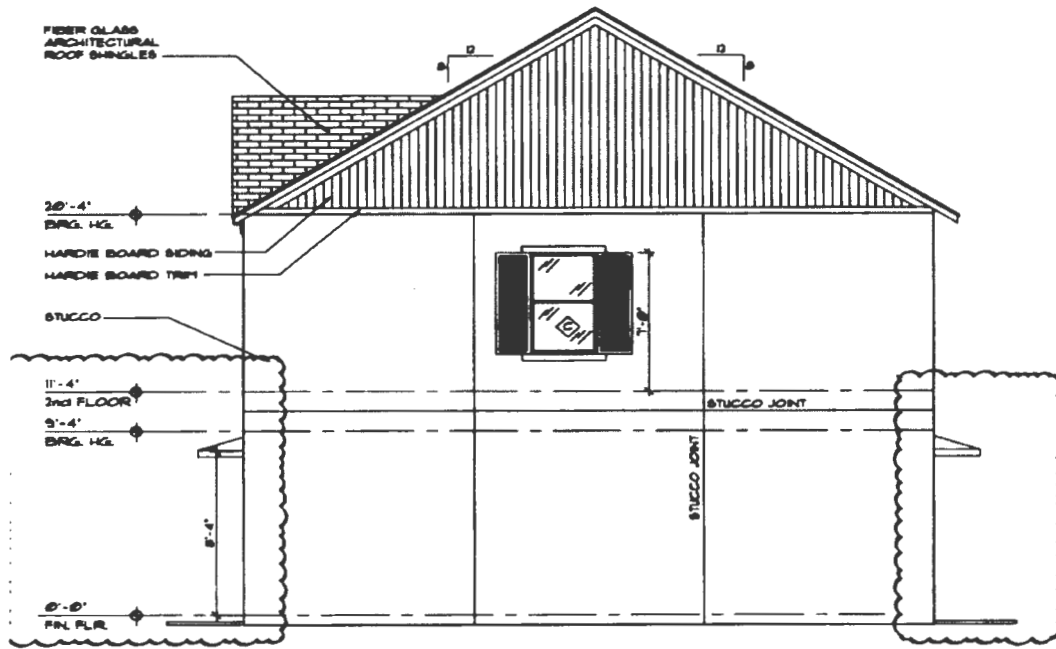
SCALE: 1/4" = 1'-0"



**RIGHT ELEVATION**

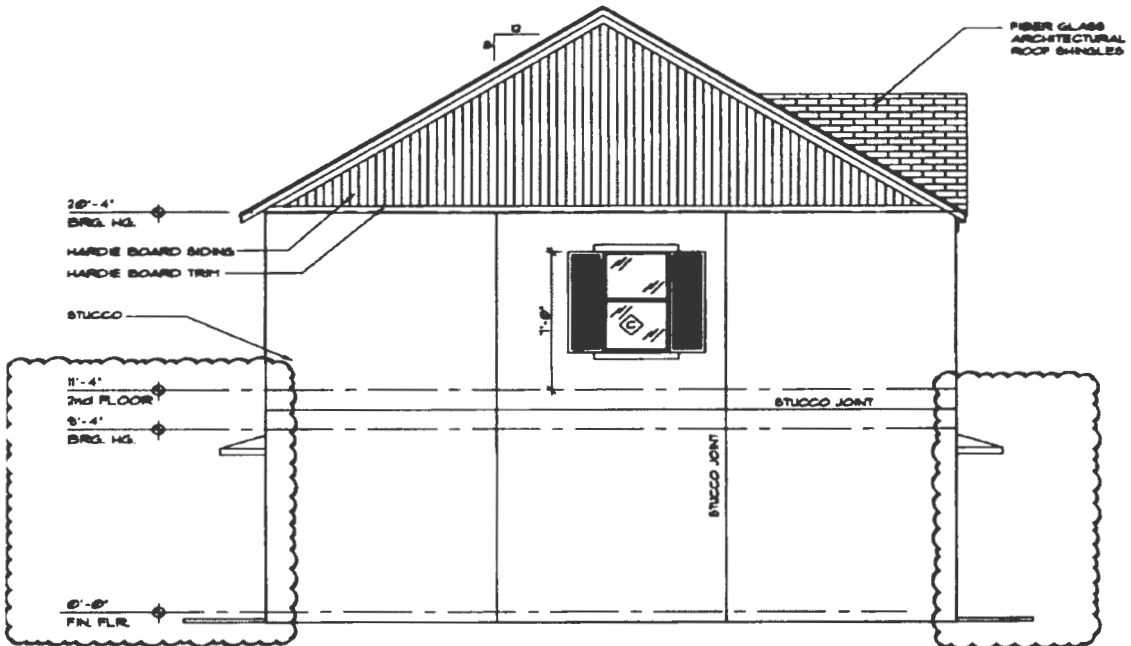
SCALE: 1/4" = 1'-0"

## ELEVATIONS



**RIGHT ELEVATION**

SCALE: 1/4" = 1'-0"



**LEFT ELEVATION**

SCALE: 1/4" = 1'-0"



**SITE PHOTO**



**Front from 20th St. facing south**



**Adjacent similarly sized properties along 20th St. facing southeast**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 06, 2022**

Commission District: **#4**

Case #: **VA-21-12-127**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): JAIME RODRIGUEZ

OWNER(s): JOSE A LOPEZ

REQUEST: Variances in the R-2 zoning district as follows:

1) To allow an existing summer kitchen with a south rear setback of 3 ft. in lieu of 5 ft.

2) To allow the existing residence to remain with an east side setback of 4 ft. in lieu of 5 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 12418 Woodbury Cove Dr., Orlando, FL 32828, south side of Woodbury Cove Dr., south of E. Colonial Dr., east of N. Alafaya Trl., west of S.R. 408.

PARCEL ID: 30-23-29-8554-06-040

LOT SIZE: +/- 0.13 acres (5,788 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 85

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

1. Development shall be in accordance with the site plan and elevations received December 7, 2021, 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 for the summer kitchen shall be obtained within 1 year 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.

**SYNOPSIS:** 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 of variance #1, and for a recommendation for approval of variance #2. Staff noted that six (6) comments were received in support, and three (3) in opposition.

The applicant stated that he was hired to draw after the fact plans in order to obtain a permit. He also stated that the owner constructed the improvements himself after consulting the HOA and receiving no opposition.

The owner stated that he has met with code enforcement, and the chicken coop has been removed. He apologized for not knowing that a permit was required for the summer kitchen, but noted that he had permission from the HOA. He also offered to remove the shed.

There was no one present to speak in favor or in opposition to the request.

Code Enforcement confirmed that the chicken coop had been removed but that the shed was still on the property.

The BZA discussed the chicken coop, the drainpipe as observed in the photos, confirmed that they were already removed, discussed the need to obtain a permit for a shed and confirmed with staff that it must meet code setback requirements. The BZA unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

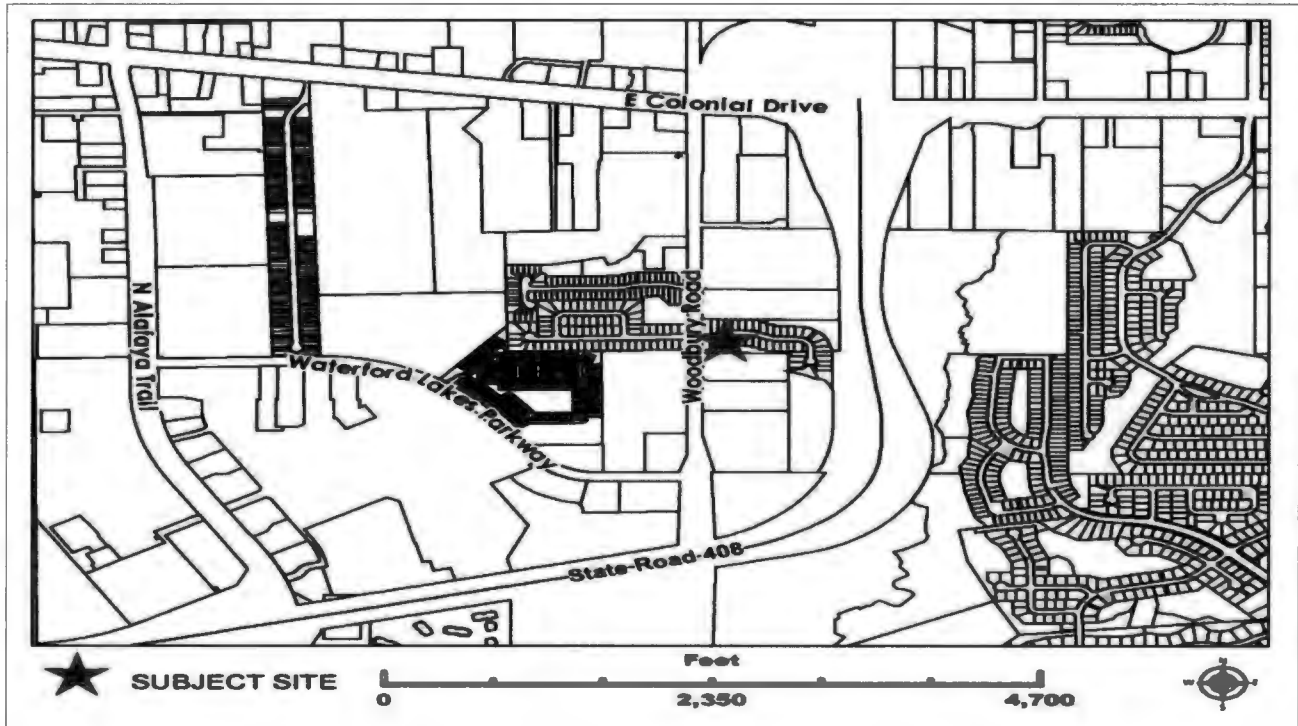
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#### **STAFF RECOMMENDATIONS**

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Denial of variance #1 and approval of variance #2, subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all variances, staff recommends that the approval be subject to the conditions found in this report.

## LOCATION MAP



## SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	MDR	MDR	MDR	MDR	MDR
Current Use	Single-family residential	Single-family residential	Conservation area	Single-family residential	Single-family residential

## BACKGROUND AND ANALYSIS

### **DESCRIPTION AND CONTEXT**

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The future land use is Medium Density Residential (MDR), which is consistent with the R-2 zoning district.

The area around the subject site consists of single-family homes and abuts a conservation tract, owned and maintained by the Woodbury Cove Community Association, Inc. which backs up to the rear of the property to the south. The subject property is a 5,778 sq. ft. lot, located in the Woodbury Cove Plat, recorded in 2000, and is considered to be a conforming lot of record. It is developed with a 2,636 gross sq. ft. single-family home,

constructed in 2001, and a swimming pool with a screen enclosure, constructed in 2006. The applicant purchased the property in 2009.

In 2021, the owner built a 14 ft. x 25 ft., 350 sq. ft. summer kitchen without a permit. It is located behind the swimming pool/enclosure, 3 feet from the rear property line, in lieu of the required 5 ft. rear setback, requiring Variance #1. The summer kitchen is attached to, and accessed through the screen enclosure. The site visit also revealed a chicken coop and a plastic shed located in rear of the property in the adjacent conservation tract.

Code enforcement cited the property owner in July, 2021 (CE#: 593760) for the accessory structure (summer kitchen) built without a permit as well as for pavers that had been installed without a permit. The owner obtained a permit for the pavers (Z21006226) in August, 2021. Code enforcement also received a complaint regarding chickens on the property in January, 2021. At the time of inspection, Code Enforcement did not observe any chickens at the site, therefore no violations were issued. A violation letter (CE#: 601299) has since been sent to the Woodbury Cove Community HOA related to the shed and chickens located on their property.

The single-family residence was constructed in 2001, with a 4 ft. east side setback. Variance #2 is requested to recognize this setback for the existing house.

Staff has received 6 letters of support, including a letter from the property owner located directly adjacent to the east of the property and 2 letters of opposition, including a letter from the property owner located directly across the street to the north.

#### District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	11 ft. (Summer kitchen)
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	5,778 sq. ft.

#### Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	20 ft.	24 ft. (North)
Rear:	5 ft. accessory structure 20 ft. house	3 ft. Summer kitchen (South - Variance #1) 44 ft. existing house (South)
Side:	5 ft.	4 ft. existing house (East - Variance #2) 5.1 ft. existing house (West) 13 ft. Summer kitchen (East) 12 ft. Summer kitchen (West)

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## STAFF FINDINGS

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### **VARIANCE CRITERIA**

#### **Special Conditions and Circumstances**

**Variance #1:** There are no special conditions and circumstances particular to this property pertaining to the setback variance for the summer kitchen since it could have been designed to meet the rear setback.

**Variance #2:** The special condition and circumstance particular to this property pertaining to the setback variance for the existing house is that it appears to have been constructed in 2001 with the non-conforming setback.

#### **Not Self-Created**

**Variance #1:** The requested variance is self-created, as the summer kitchen was constructed without permits, and a smaller structure could have been constructed in a manner which would not have encroached into the rear setback.

**Variance #2:** The request is not self-created since the owner is not responsible for the existing location of the house.

#### **No Special Privilege Conferred**

**Variance #1:** Granting the variance would confer special privilege since a similar structure could have been constructed in a manner to meet code.

**Variance #2:** Due to the orientation and location of the improvements on the lot, granting the requested variance will not confer any special privilege conferred to others under the same circumstances.

#### **Deprivation of Rights**

**Variance #1:** There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and a summer kitchen could be built which complies with code setback requirements.

**Variance #2:** Denying the variance for the existing condition that has existed since 2001 with permits would be a deprivation of rights.

#### **Minimum Possible Variance**

**Variance #1:** The request is not the minimum possible as a code compliant summer kitchen could be constructed.

**Variance #2:** The request is the minimum possible variance to continue enjoyment of the existing residence.

#### **Purpose and Intent**

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations, since the house has existed since 2001 with this setback, and since the summer kitchen will not be detrimental to the neighborhood since the design of the summer kitchen is consistent with the architectural

design of the existing house and other residences in the surrounding area. Furthermore, no rear neighbors will be affected by the summer kitchen, as the property backs up to an open space/conservation area.

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#### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received December 7, 2021, 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 for the summer kitchen shall be obtained within 1 year 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.

C: Jamie Rodriguez  
12773 Upper Harden Avenue  
Orlando, Florida 32827

Jamie Rodriguez  
11954 Narcoossee Rd., Suite2#181  
Orlando, Florida 32832

COVER LETTER

**Jaime Rodriguez**  
12773 Upper Harden Ave  
ORLANDO, FL 32827  
(321) 662-3717

To: Orange County Building Department

Variance Address: 12418 Woodbury Cove Dr

This letter is to request a variance for the rear setback on an structure with an outdoor kitchen. The required setback for the rear of building is 5' and we only have 3'. We are requesting a variance for 2' at the rear of the property. We are meeting the side setbacks.

**1. Special conditions and circumstances:**

This lot has a wooded area behind the property with no neighbors in the back. All views are blocked by trees. The only space available for the structure is between the existing pool and rear fence. We also have letter from neighbors and president of hoa not opposing to the structure.

**2. Not Self-Created**

The existing conditions when the house was purchased did not allow for another area to build the structure. The only space available is after the pool in which there is more room.

**3. No special privilege conferred**

We do not think there is any special privilege as we are only asking for a 2' setback from the rear of the property in which there is only woods and a parking lot on the other side. The side setbacks are ok.

**4. Deprivation of rights**

We just want to be able to use our pool and enjoy the use of an outdoor kitchen/structure in which is not seen from any other side. The structure/outdoor kitchen will enhance our quality of life at home.

**5. Maximum Possible Variance**

We are only asking for a 2' variance on the rear of the property. Not the side setbacks.

**6. Purpose and Intent**

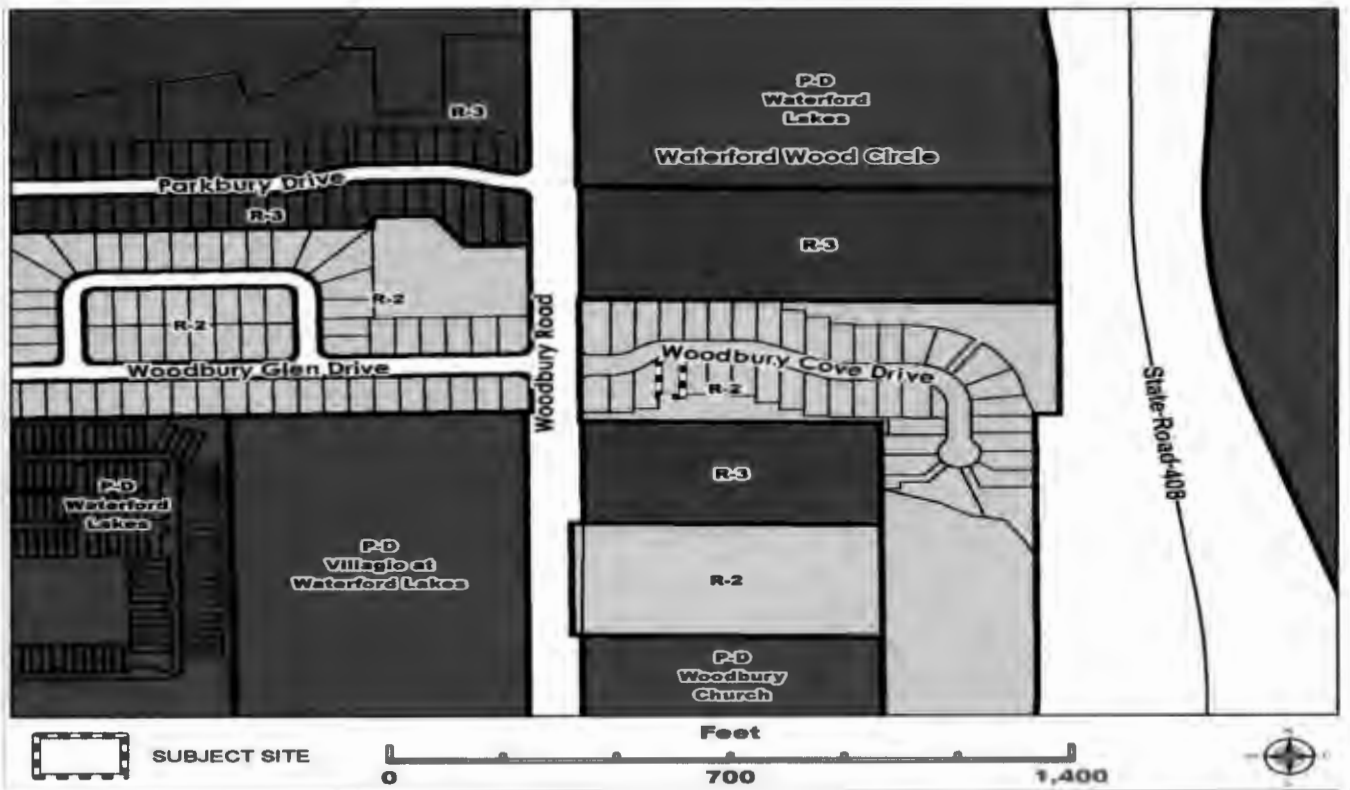
This variance will not impact any neighbors (see attached approval letters from neighbors) or create any detrimental circumstances to the public welfare.

If you have any questions, let me know.

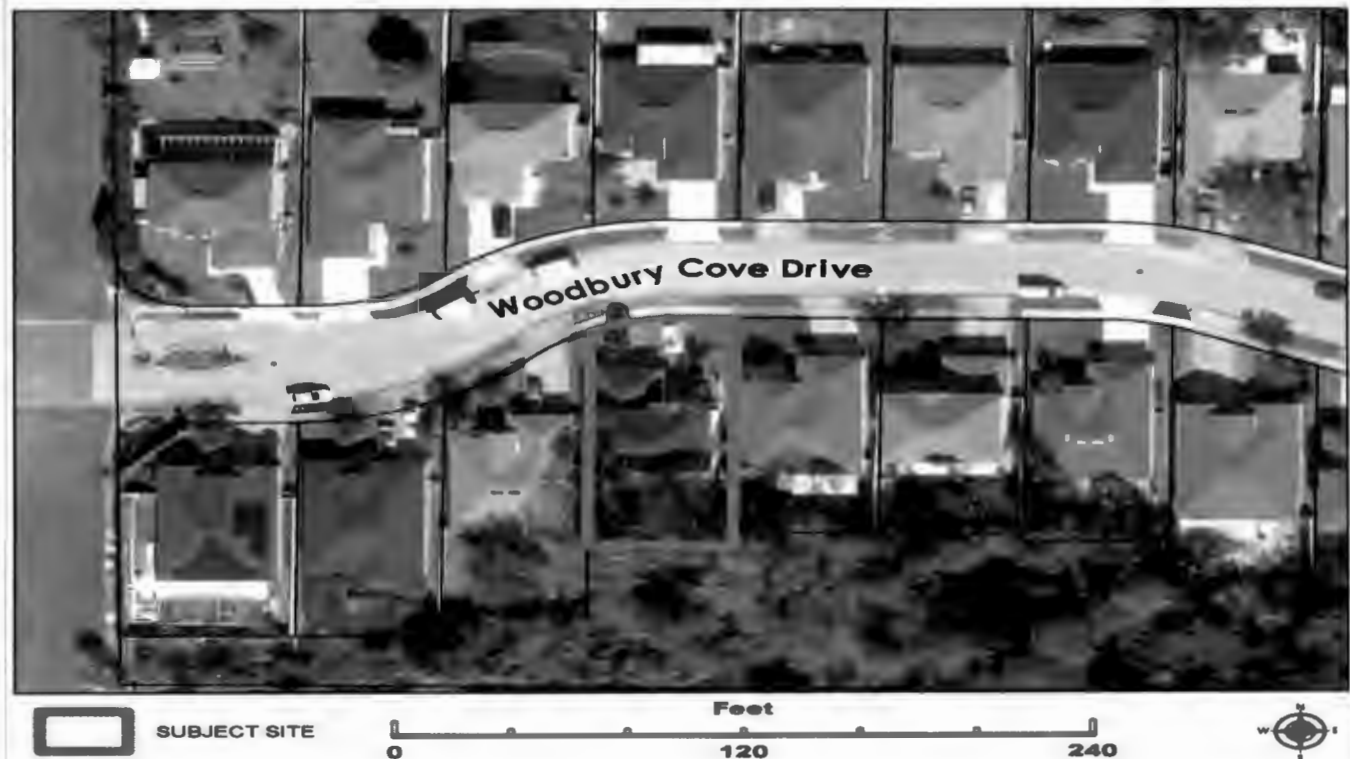
Sincerely,  
Jaime Rodriguez  
Agent for the owner



## ZONING MAP



## AERIAL MAP

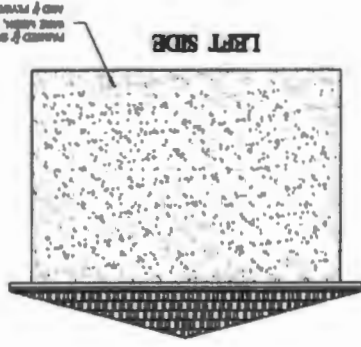




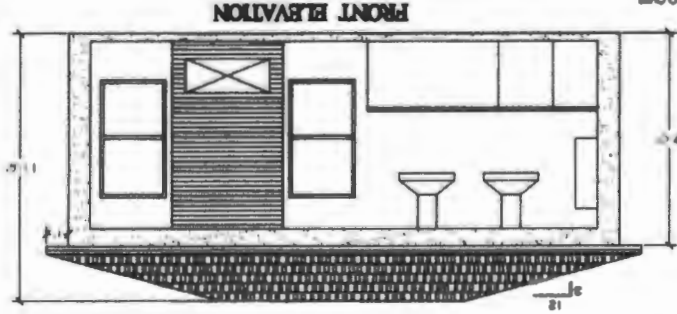
# ELEVATIONS AND FLOOR PLAN

ADDITION	360 SF
TOTAL	360 SF

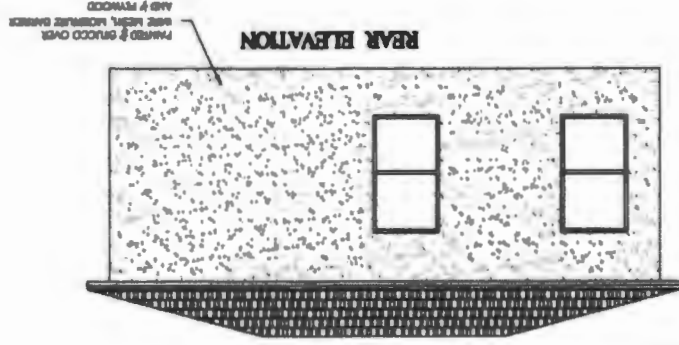
AREA SUMMARY



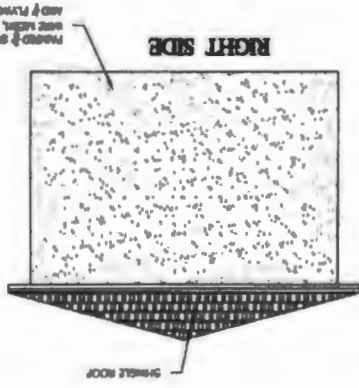
LEFT SIDE



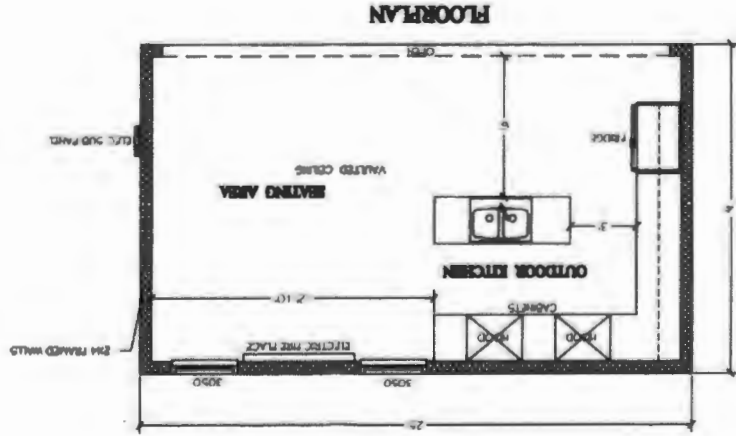
FRONT ELEVATION



REAR ELEVATION



RIGHT SIDE



FLOOR PLAN



**SITE PHOTOS**



**Front from Woodbury Cove Dr. facing south**



**Outdoor kitchen facing south**

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**SITE PHOTOS**

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**Outdoor kitchen facing west**



**Outdoor kitchen and shed facing south**

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**SITE PHOTOS**

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**Off-site chicken coop facing south from property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 6, 2022**  
Case #: **SE-22-01-133**

Commission District: **#4**  
Case Planner: **Ted Kozak, AICP (407) 836-5537**  
**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** GULFSTREAM TOWERS (MICHAEL BURKHEAD)

**OWNER(s):** QUAD PARTNERS INC

**REQUEST:** Special Exception in the I-4 zoning district to allow the construction of a 199 ft. high monopole communication tower facility.

**PROPERTY LOCATION:** 490 Taft Vineland Rd., Orlando, FL 32824, south side of Taft Vineland Rd., south of W. Landstreet Rd., east of Florida's Turnpike

**PARCEL ID:** 11-24-29-7268-00-090

**LOT SIZE:** +/- 2.1 acres

**NOTICE AREA:** 1,500 ft.

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

1. Development shall be in accordance with the site plan and tower specifications received October 28, 2021, 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. Permits shall be obtained for all unpermitted structures and/ or improvements, or they shall be removed prior to issuance a permit for the communication tower.

5. A permit for the communication tower 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.
6. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
7. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
8. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan and tower specifications, the distance separation between the proposed tower and the nearest communication towers in the area, the distance separation between the proposed tower and the nearest residential and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval since the proposal meets the intent of the code. Staff noted that no comments were received in support or in opposition.

The applicant had nothing further to add.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA stated that the location and district was appropriate for the proposal and unanimously recommended approval of the special exception by a 5-0 vote, with two absent, subject to the eight (8) conditions in the staff report.



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## STAFF RECOMMENDATIONS

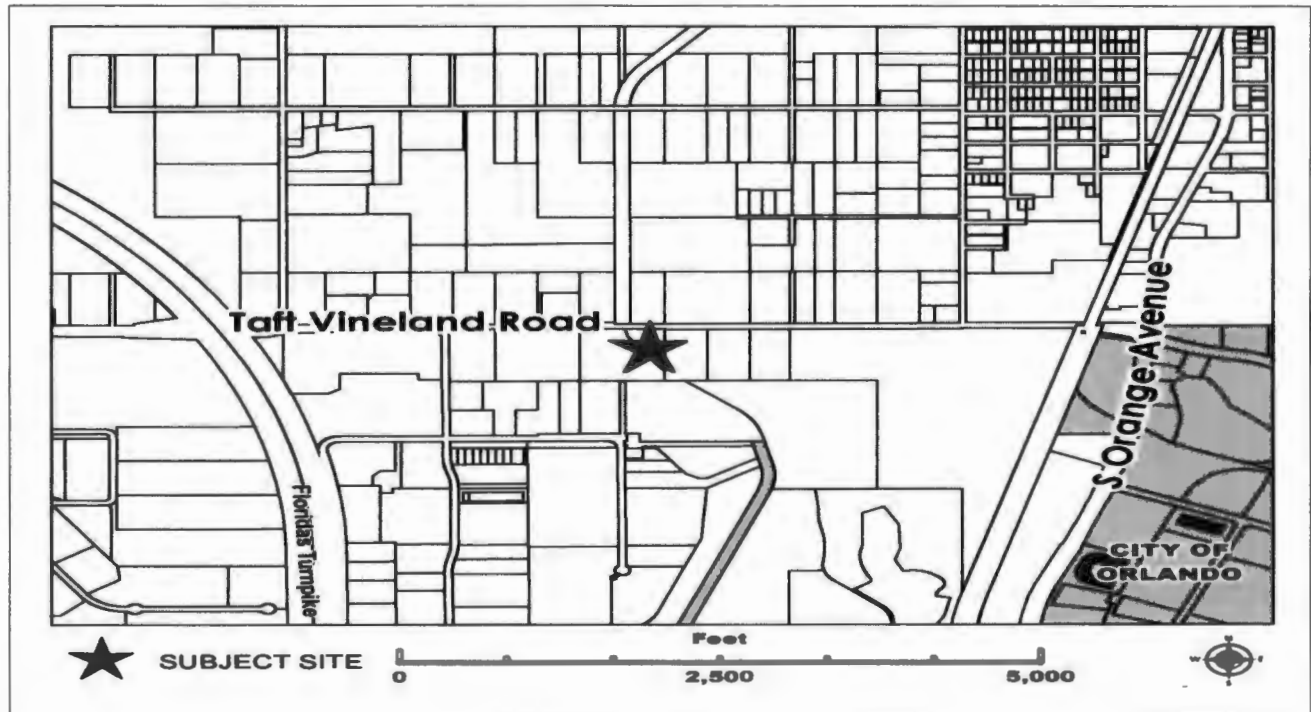
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Approval, subject to the conditions in this report.

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## LOCATION MAP

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## SITE & SURROUNDING DATA

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	Property	North	South	East	West
Current Zoning	I-4	I-2/ I-3	I-4	I-4	I-4
Future Land Use	IND	IND	IND	IND	IND
Current Use	Industrial Warehouse/ Truck Terminal	Industrial Warehouse	Wetlands/ Open Space and Industrial	Industrial	Wetlands/ Open Space and Industrial

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## BACKGROUND AND ANALYSIS

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### DESCRIPTION AND CONTEXT

The subject property is located in the I-4, Industrial district, which allows the most intensive industrial uses, including the processing of bulk materials and manufacturing and open storage of materials. A monopole

communications tower is permitted by right or by Special Exception in the I-4 zoning district, depending on whether or not it meets a variety of requirements.

The subject property is 2.1 acres in size, comprising of a portion of Lot 9 of the Prosper Colony plat, recorded in 1912. The property consists of a total of 5,620 square feet of warehouse building area utilized for Roundtree Transport & Rigging with structures that were constructed in 1985. During a site visit, staff observed portable canopies, shipping containers and other unpermitted structures which based upon aerials, appear to have been installed between 2013 and 2015. These structures will be required to be removed or permits obtained prior to obtaining a building permit for the proposed communication tower.

The subject request is to erect a 199 ft. high monopole communication tower, designed for multiple carriers and colocation opportunities, within a 60 ft. by 60 ft. leased compound facility at the south side of the property. No buildings, trees or vegetation will be removed for installation.

Orange County Code Section 38-1427 provides performances standards for communication towers, including but not limited to, separation from off-site uses and distance separation between communication towers. Additional conditions related to permitted towers and those requiring a special exception are found in Section 38-79, conditions 135, 142, and 143. Condition 135, allows a communication tower by-right when within the maximum building height of the zoning district, which is 50 feet for the subject site. Condition 142 allows a co-located communication tower by-right. Condition 143, allows a monopole up to 170 ft. in height by right if there is colocation and distance separations are met, otherwise a Special Exception is required. Since the proposed tower is taller than 170 ft. and there is no colocation, the applicant is requesting a Special Exception.

The proposed monopole tower complies with the required performance standards. It is 2,135 ft. from the nearest residential use or district, where a minimum of 1,393 ft. is required, and is 5,070 ft. from the nearest communication tower where a minimum of 3,500 ft. is required.

A balloon test was conducted on December 28 and 29, 2021, as required by the Orange County Code for special exception requests, which provided visual evidence that the proposal will have a limited aesthetic impact with respect to height and closeness of the communication tower in proximity to the nearest residential use or district.

The County Environmental Protection Division (EPD) has reviewed the request and has no objection.

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
Max Height:	50 ft. building 170 ft. tower (if meets 6 standards)	199 ft. (Special Exception)
Min. Lot Size:	N/A	+/- 2.1 acres

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

	Code Requirement	Proposed
Front:	35 ft.	369 ft. (North)
Rear:	10 ft.	103.2 ft. (Southwest)
Side:	25 ft.	105.9 ft. (East)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA FOR COMMUNICATION TOWERS**

This request has been assessed based upon the six Special Exception criteria as set forth in Section 30-43(2) as well as the two additional criteria as set forth in Section 1427(n)(7).

**Consistent with the Comprehensive Plan**

The provision of telecommunication towers as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

The new communication tower will be located at the rear portion of the property, over 103 feet from the nearest adjacent property line to the southwest, over 2,135 feet from the nearest residential use or district and over

5,070 feet from the nearest communication tower. It will be similar and compatible with the surrounding industrial area.

**Shall not act as a detrimental intrusion into a surrounding area**

The proposed communication tower will be completely surrounded by industrial districts and uses and will not negatively impact the surrounding area since it will be over 2,135 feet from the closest residential use or district, and as such will not be a detrimental intrusion to the surrounding area.

**Meet the performance standards of the district**

The proposed communication tower meets the performance standards of the district.

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

The proposed monopole tower will not generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing industrial/warehousing in the surrounding area.

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

The proposal will be located within a vacant portion of a developed site and no additional buffer yards are required. As required by Section 1427(d)(11), plantings will be required to be installed along the perimeter of the fenced tower compound.

**Aesthetic Impact. View of a tower that is not camouflaged. Aesthetic impact shall take into consideration, but not be limited to, the amount of the tower that can be viewed from surrounding residential zones in conjunction with its proximity (distance) to the residential zone, mitigation landscaping, existing character of surrounding area, or other visual options proposed.**

The tower is proposed to be located over 2,135 feet from the nearest residential use or district and over 5,070 feet from the nearest communication tower. Furthermore, as affirmed by the visuals provided by the conducted balloon tests, the tower will have a limited aesthetic impact.

**Compatibility. The degree to which the proposed tower is designed and located is compatible with the nature and character of other land uses and/or with the environment within which the tower proposes to locate.**

The proposed tower will be placed and designed to assist with mitigating the overall aesthetic impact of a tower and will be surrounded by industrial and non-residential uses.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and tower specifications received October 28, 2021, 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. Permits shall be obtained for all unpermitted structures and/ or improvements, or they shall be removed prior to issuance a permit for the communication tower.
5. A permit for the communication tower 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.
6. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
7. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
8. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

C: Michael Burkhead  
127 W. Fairbanks Avenue, #469  
Winter Park, FL 32789

Mary Solik, Esq.  
121 S. Orange Avenue, Suite 1500  
Orlando, FL 32801

COVER LETTER



127 W. Fairbanks Avenue  
Box 469  
Winter Park, FL 32789

Orange County Zoning Division  
201 S. Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, FL 32801  
(407) 836-3111  
bza@ocfl.net

Re: 490 Taft-Vineland Road / Parcel ID: 112429726800090 / Special Exception for 199'  
Monopole Tower and Telecom Facility

To whom it may concern:

Gulfstream Towers is proposing to build a 199' monopole tower and telecom facility at 490 Taft-Vineland Road in Orlando. The subject property is 2.11 acres, is zoned industrial (I-4) and is surrounded by industrial zoning (I-4) to the east, west, south and industrial zoning (I-2/I-3) to the north. There is an existing warehouse (5,620sf) on site that services tractor trailers for heavy & specialized equipment hauling.

The proposed facility will provide mobile broadband and E911 service to the immediate area with T-Mobile as the anchor tenant. The facility will be designed in accordance with Orange County LDC Sec 38-1427 Communication Towers with a 50' x 50' fenced equipment area and 5' landscape buffer on all sides. The tower is located within the triangle shaped subject property at 369.1' from north, 105.9' from east and 103.2' from west property lines. This is an unmanned facility and not for human habitation. The impervious area for the tower foundation and equipment is less than 1000sf. Access to the facility via the public ROW (Taft-Vineland Road) and requires only two trips per month.

Lastly, with regard to separation from off-site uses/designated areas Sec 38-1427(d)(2) and separation distances between communications towers Sec 38-1427(d)(3):

**Sec 38-1427(d)(2) Separation from off-site uses/designated areas**

Monopole higher than 140': 980' or 700% of tower height, whichever is greater, from single-family residential unit, vacant single-family zoned land or multi-family residential units.  $700\% \times 199' \text{ proposed monopole} = 1393'$ . Nearest single-family residential unit, vacant single-family zoned land or multi-family residential unit is 2135' east located on parcel 02-24-29-7268-00-806.

**Sec 38-1427(d)(3) Separation distances between communications towers**

Distance from monopole greater than 170' to any existing lattice tower: 3500' required. The nearest tower is approx 5,070' south. It is a lattice tower located on parcel 14-24-29-0000-00-014.

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COVER LETTER

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127 W. Fairbanks Avenue  
Box 489  
Winter Park, FL 32789

**Special Exception Criteria:** Section 38-78, Orange County Code stipulates specific criteria to be met for all Special Exception requests. No application for a Special Exception can be approved unless the BZA finds that the following criteria are met:

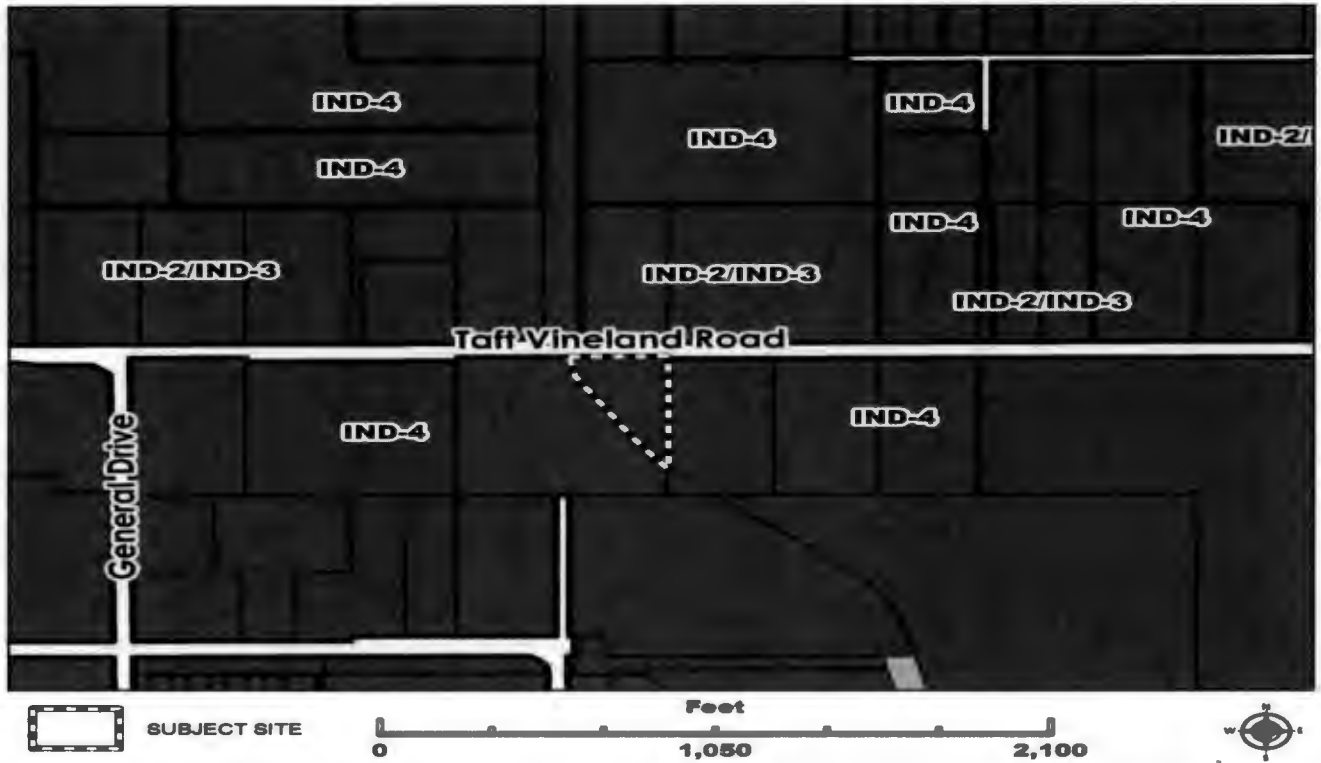
1. **The use shall be consistent with the Comprehensive Policy Plan.**  
This application meets all requirements of Orange County LDC Sec 38-1427 Communication Towers and is consistent with the Comprehensive Policy Plan.
2. **The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.**  
The communication tower use is consistent with the surrounding industrial use area and pattern of surrounding development of other existing tower facilities.
3. **The use shall not act as a detrimental intrusion into a surrounding area.**  
The communication tower use is consistent with the surrounding industrial use area, it is not a detrimental intrusion and is consistent with other existing tower facilities in the area.
4. **The use shall meet the performance standards of the district in which the use is permitted.**  
This application meets all requirements of Orange County LDC Sec 38-1427 Communication Towers and the IND-4 Industrial performance standards.
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.**  
Although located in a large industrial use area, the proposed facility does not produce noise, vibration, dust, odor, glare or heat.
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 facility landscape buffer will be designed in accordance with Orange County LDC Sec 38-1427 Communication Towers with a 5' landscape buffer on all sides of the fenced equipment area.

Thank you,

A handwritten signature in black ink that reads "Mike Burkhead".

Mike Burkhead  
(407) 617-0167  
[mike@gulfstreamtowers.com](mailto:mike@gulfstreamtowers.com)

# ZONING MAP

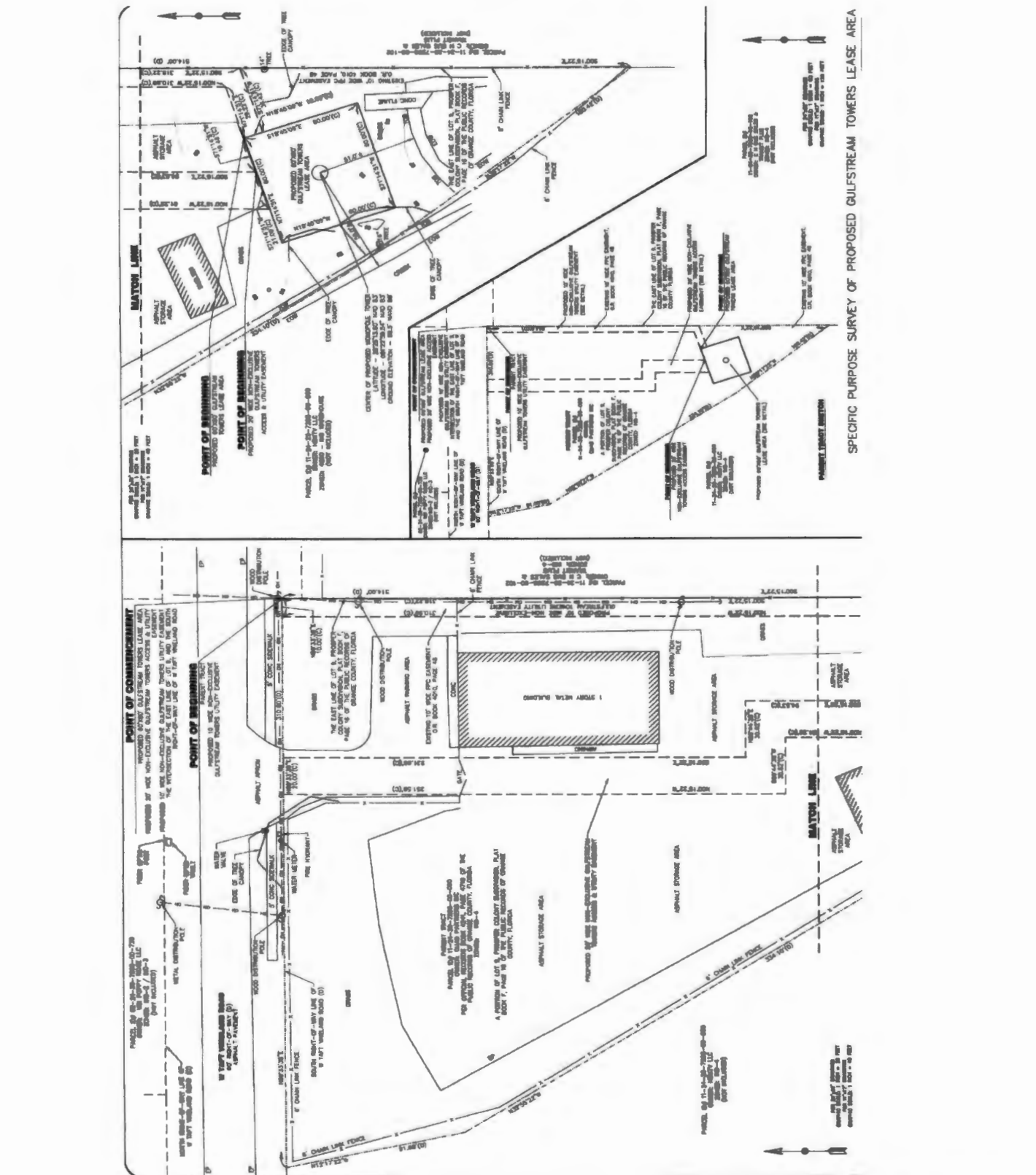


# AERIAL MAP





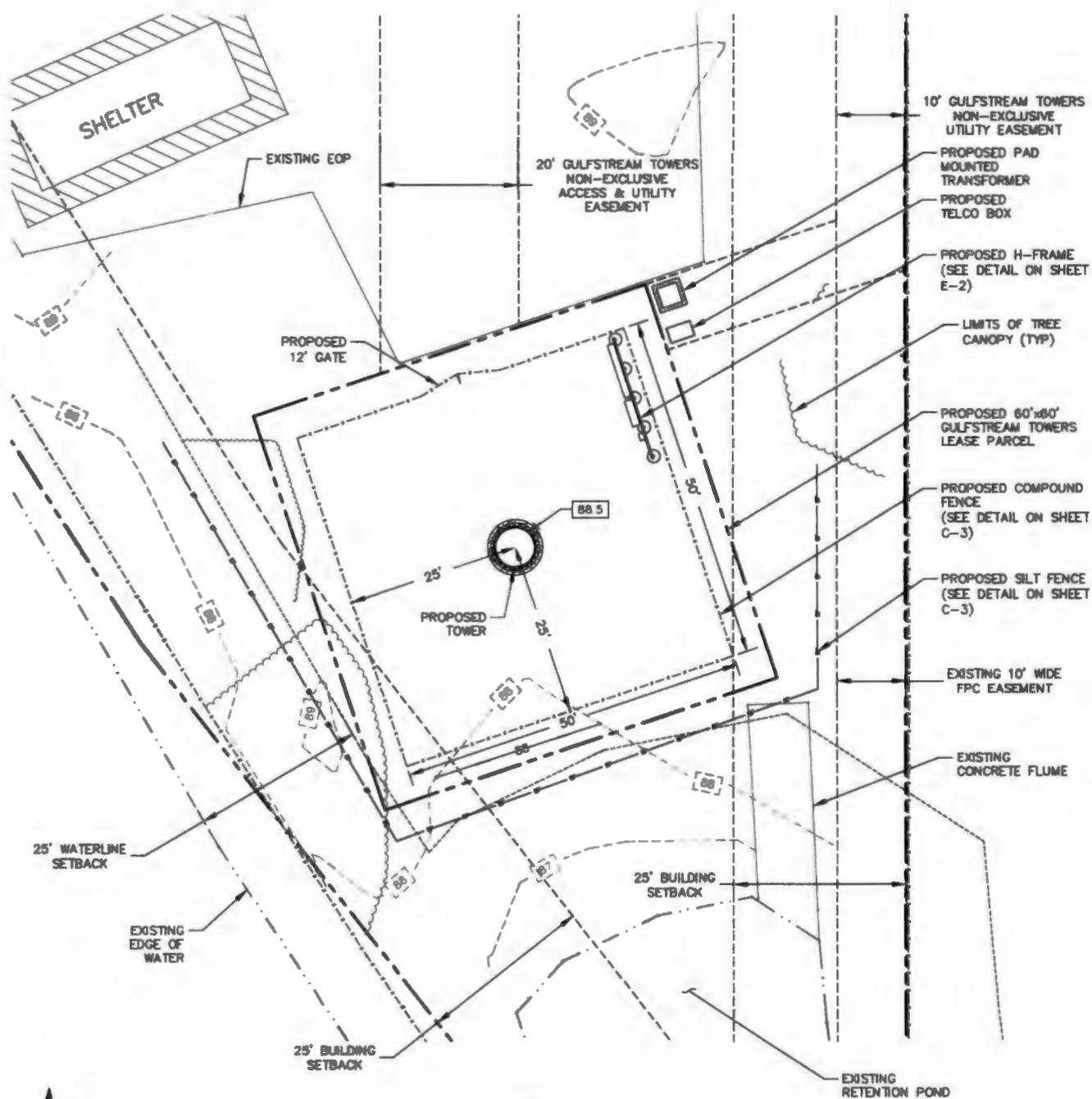
## SURVEY



## OVERALL SITE PLAN



# TOWER LOCATION LAYOUT

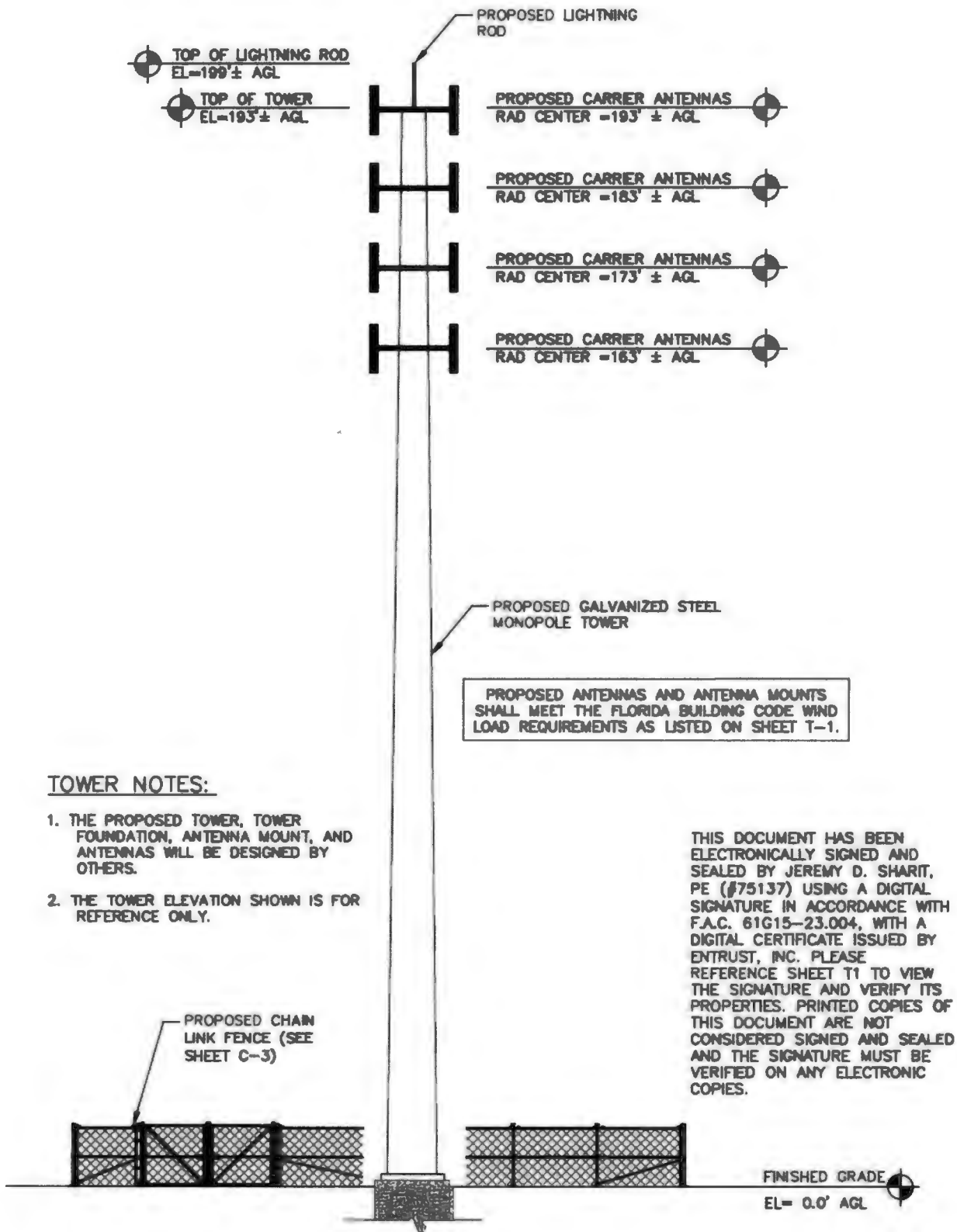


## LEGEND

--- PROPOSED FENCE  
 --- TOWER LEASE PARCEL

--- EXISTING MINOR CONTOUR LINE  
 --- EXISTING MAJOR CONTOUR LINE

## TOWER ELEVATION



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**SITE PHOTOS**

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**Front of property facing south from Taft Vineland Rd.**



**Facing west along Taft Vineland Rd. with property to the left**

## SITE PHOTOS



**Facing south within property with existing building to the left, proposed facility in background**



**Rear parking area, facing northeast towards proposed facility in foreground**

## SITE PHOTOS



Property facing south towards proposed tower location, unpermitted structures in foreground



Facing north at south rear property line, proposed tower facility is on the left



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**SITE PHOTOS**

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**Facing east with Taft Vineland Rd. to the left**



**Facing east to the adjacent property from the south rear of the property**





**BOARD OF ZONING ADJUSTMENT**  
**201 S. Rosalind Ave.**  
**Orlando, FL 32801**