



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

July 1, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

Board Member

District

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

At Large

BZA Staff

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Chief Planner

Nick Balevich

Planner II

Laekin O'Hara

Planner I

Michael Rosso

Planner I

ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
JULY 1, 2021

| <u>PUBLIC</u> <u>HEARING</u> | <u>APPLICANT</u> | <u>DISTRICT</u> | <u>BZA</u> <u>RECOMMENDATIONS</u> | <u>PAGE #</u> |
|---|---|------------------------|---|----------------------|
| VA-21-08-058 | Alliance Permitting Services (Ryan Thompson) | 1 | Approved w/Conditions | 1 |
| VA-21-07-059 | Megharaj Kranthy | 5 | Approved w/Conditions | 14 |
| VA-21-07-043 | Davila Homes 1st Street (Debi Plaisance) | 4 | Withdrawn | 27 |
| VA-21-07-044 | Davila Homes Blackwood Avenue (Debi Plaisance) | 1 | Variances #1 and #2; Approved w/Conditions Variances #3 and #4; Withdrawn | 28 |
| VA-21-07-054 | Marshalls (Joseph Chura) | 3 | Approved w/Conditions | 44 |
| VA-21-07-055 | Jamie Koechner | 1 | Variances #1 and #4; Approved w/Conditions Variances #2 and #3; Not Applicable | 59 |
| VA-21-08-060 | Homes In Partnership (Mariela Garcia) | 2 | Approved w/Conditions | 74 |
| SE-21-07-039 | Orlando Speedworld (Kelsey Weiss) | 5 | Approved w/Conditions | 86 |

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) Mobile Home - 2 acres | 850 | 100 | 35 | 50 | 10 | 35 | <i>a</i> |
| A-2 | SFR - 21,780 (½ acre) Mobile Home - 2 acres | 850 | 100 | 35 | 50 | 10 | 35 | <i>a</i> |
| 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 Two dwelling units (DUs), 8,000/9,000 Three DUs, 11,250 Four or more DUs, 15,000 | 1,000 500/1,000 per DU 500 per DU 500 per DU | 45 <i>c</i> 80/90 <i>d</i> 85 <i>j</i> 85 <i>j</i> | 20 <i>h</i> 20 <i>h</i> 20 <i>h</i> 20 <i>h</i> | 20 <i>h</i> 30 30 30 | 5 <i>h</i> 5 <i>h</i> 10 10 <i>b</i> | 35 35 35 35 | <i>a</i> <i>a</i> <i>a</i> <i>a</i> |
| R-3 | One-family dwelling, 4,500 Two DUs, 8,000/ 9,000 Three dwelling units, 11,250 Four or more DUs, 15,000 | 1,000 500/1,000 per DU 500 per DU 500 per DU | 45 <i>c</i> 80/90 <i>d</i> 85 <i>j</i> 85 <i>j</i> | 20 <i>h</i> 20 <i>h</i> 20 <i>h</i> 20 <i>h</i> | 20 <i>h</i> 20 <i>h</i> 30 30 | 5 5 <i>h</i> 10 10 <i>b</i> | 35 35 35 35 | <i>a</i> <i>a</i> <i>a</i> <i>a</i> |
| R-L-D | N/A | N/A | N/A | 10 for side entry garage, 20 for front entry garage | 15 | 0 to 10 | 35 | <i>a</i> |
| R-T | 7 spaces per gross acre | Park size min. 5 acres | Min. mobile home size 8 ft. x 35 ft. | 7.5 | 7.5 | 7.5 | 35 | <i>a</i> |
| R-T-1 | | | | | | | | |
| SFR | 4,500 <i>c</i> | 1,000 | 45 | 25/20 <i>k</i> | 25/20 <i>k</i> | 5 | 35 | <i>a</i> |
| Mobile home | 4,500 <i>c</i> | Min. mobile home size 8 ft. x 35 ft. | 45 | 25/20 <i>k</i> | 25/20 <i>k</i> | 5 | 35 | <i>a</i> |
| R-T-2 | 6,000 | SFR 500 | 60 | 25 | 25 | 6 | 35 | <i>a</i> |
| (prior to 1/29/73) | | Min. mobile home size 8 ft. x 35 ft. | | | | | | |
| R-T-2 (after 1/29/73) | 21,780 ½ acre | SFR 600 | 100 | 35 | 50 | 10 | 35 | <i>a</i> |
| | | Min. mobile home size 8 ft. x 35 ft. | | | | | | |

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

| <i>District</i> | <i>Min. lot area (sq. ft.)^m</i> | <i>Min. living area (sq. ft.)</i> | <i>Min. lot width (ft.)</i> | <i>Min. front yard (ft.)^a</i> | <i>Min. rear yard (ft.)^a</i> | <i>Min. side yard (ft.)</i> | <i>Max. building height (ft.)</i> | <i>Lake setback (ft.)</i> |
|-----------------|--|-----------------------------------|--|--|--|---|--|---------------------------|
| C-2 | 8,000 | 500 | 100 on major streets (see Art. XV); 80 for all other streets <i>f</i> | 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 | <i>a</i> |
| C-3 | 12,000 | 500 | 125 on major streets (see Art. XV); 100 for all other streets <i>g</i> | 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 | <i>a</i> |

| <i>District</i> | <i>Min. front yard (feet)</i> | <i>Min. rear yard (feet)</i> | <i>Min. side yard (feet)</i> | <i>Max. building height (feet)</i> |
|-----------------|-------------------------------|------------------------------|------------------------------|---|
| 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

| | |
|----------|---|
| <i>a</i> | 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. |
| <i>b</i> | Side setback is 30 feet where adjacent to single-family district. |
| <i>c</i> | 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. |
| <i>d</i> | 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"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size. |
| <i>e</i> | Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets. |
| <i>f</i> | Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets. |
| <i>g</i> | Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets. |
| <i>h</i> | 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. |
| <i>j</i> | 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. |
| <i>k</i> | 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%. |
| <i>m</i> | 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: **JUL 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-08-058**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): ALLIANCE PERMITTING SERVICES (RYAN THOMPSON)

OWNER(s): LOUIS ANTONIO MCDUGALL, ANA JULIA QUINONES

REQUEST: Variance in the P-D zoning district to allow a generator 3.2 ft. from the east side property line in lieu of 10 ft.

PROPERTY LOCATION: 10729 Citron Oaks Dr., Orlando, FL, 32836, northeast corner of Citron Oaks Dr., and Berry Creek Rd., south of Daryl Carter Pkwy, west of Palm Pkwy.

PARCEL ID: 15-24-28-7776-00-670

LOT SIZE: 0.2 acres (8,956 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 69

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

1. Development shall be in accordance with the site plan dated May 12, 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. Two fast growing shrubs planted at a minimum height of 30 inches shall be installed to screen the generator from view.
5. A permit shall be obtained for the generator within 180 days 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 approval. Staff noted that no comments were received in support and no comments were received in opposition.

The applicant noted the property is a corner lot and proposed the generator in a location so that it is not visible from the adjacent street and in a location beside the electrical connection.

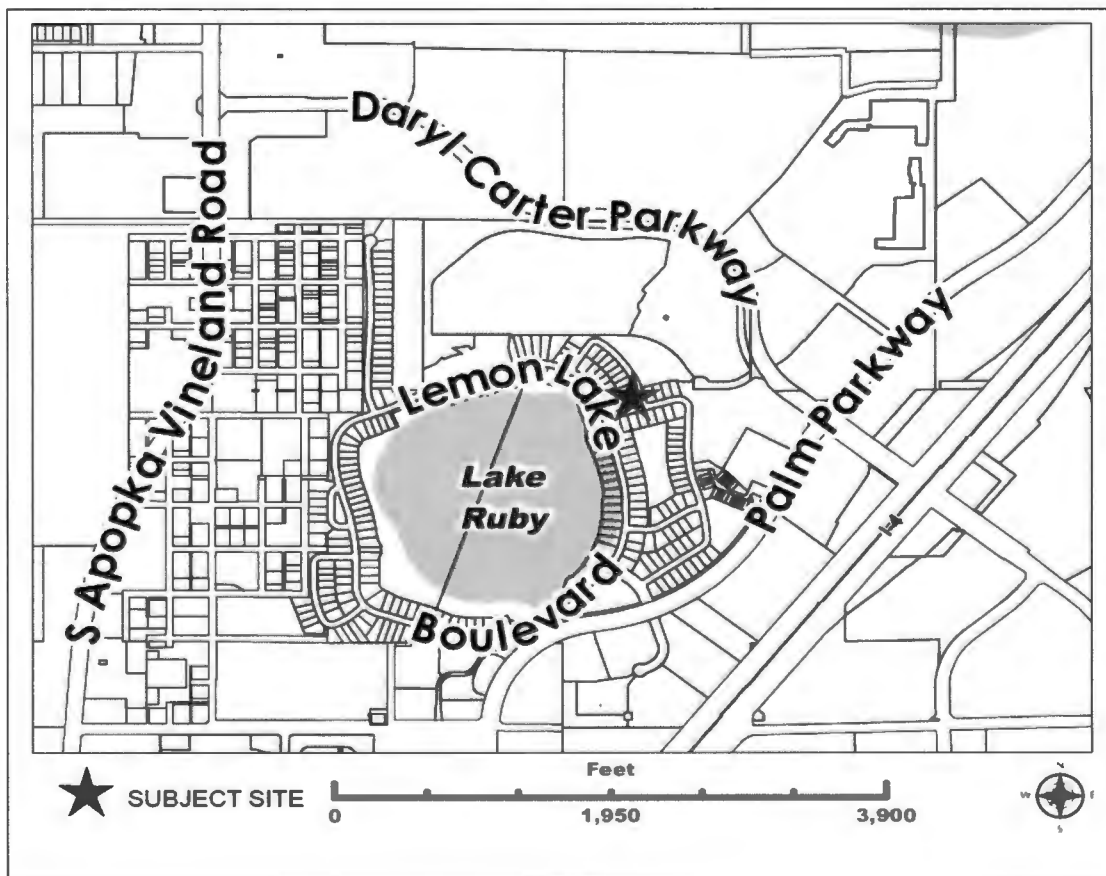
The BZA acknowledged the visibility issue.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|-------------------------|----------------------|-------------------------|-------------------------|-------------------------|
| Current Zoning | Ruby Lake Ranch PD | Ruby Lake Ranch PD | Ruby Lake Ranch PD | Ruby Lake Ranch PD | Ruby Lake Ranch PD |
| Future Land Use | PD-LMDR | PD-LMDR | PD-LMDR | PD-LMDR | PD-LMDR |
| Current Use | Single-family residence | Stormwater-retention | Single-family residence | Single-family residence | Single-family residence |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Ruby Lake Ranch PD. This PD allows single-family residences on small lots with reduced building setbacks. The property is also located in the Buena Vista North Overlay District, however this district does not provide restrictions pertaining to residential generators.

The neighborhood is comprised of single-family homes. The subject property is an approximately 0.2 acre lot, located in the Ruby Lake Phase 1 Plat, recorded in 2016, and is considered to be a conforming lot of record. It is developed with a 2,881 sq. ft. single family home and swimming pool, completed in December, 2017. The applicant purchased the property in December, 2017.

The applicant is proposing to install a 4 ft. x 2.1 ft., 3 ft. high permanent generator 3.2 ft. from the east side property line, adjacent to the existing house, where a 10 ft. setback is required by County Code Sec 38-79(16), requiring a variance. The generator will operate normally at 67 decibels (Db) noise level from a distance of 23 ft. The generator will be set to self-test every week at 57 Db. Normal conversation is 60 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 67 Db, which is between the sound of conversation in a restaurant and a dishwasher, or an a/c compressor.

The applicant is proposing to install the generator on the same side of the property as the a/c equipment. The property is a corner lot that fronts on Citron Oaks Dr., with Berry Creek Rd. as the side street, with a pool, deck and screen enclosure in the rear yard. Since the house is already built to within 7.3 ft. from the east side property line, there is no other location in the side yard that a generator may be installed without the need for a variance.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|---------------|
| Min. Lot Width: | 50 ft. | 70.54 ft. |
| Min. Lot Size: | 6,000 sq. ft. | 8,956 sq. ft. |

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

| | Code Requirement | Proposed |
|--------------|--|---|
| Front: | 10 ft. Citron Oaks Dr | 20.5 ft. (South) |
| Rear: | 15 ft. house, 5 ft. pool deck | 29.5 ft.-house, 8.5 ft.-pool deck (North) |
| Side: | 5 ft. house 10 ft. generator (when adjacent to house) | 7.3 ft.-house, 3.2 ft.-generator (East) Variance |
| Side street: | 10 ft. Berry Creek Rd. | 11.2 ft. (West) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstances particular to this property are the result of the house, swimming pool and screen enclosure being built to within 7.3 ft. of the east side property line. The rear of the property is encumbered by easements or existing improvements which precludes installation at the back. Therefore, any proposed generator location on the side will require a variance.

Not Self-Created

The applicant is not responsible for the configuration of the lot, the setbacks and the location of the house, pool and screen enclosure.

No Special Privilege Conferred

The existing setbacks of the house and pool enclosure location renders the installation of a generator impossible without a variance since the site is constrained.

Deprivation of Rights

Without the requested variance, the applicant will not be able to place a permanent generator on their property.

Minimum Possible Variance

Due to the setbacks, the location of improvements and constrained lot, the requested variance is the minimum possible.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. The proposed generator location is beside the existing air conditioning unit, and when operating at full power during a power outage, the generator will emit similar noise levels as currently experienced and therefore will not create adverse impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated May 12, 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. Two fast growing shrubs planted at a minimum height of 30 inches shall be installed to screen the generator from view.
5. A permit shall be obtained for the generator within 180 days 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: Ryan Thompson
3071 N. Orange Blossom Trl., Ste. H
Orlando, FL 32804



THE STANDBY POWER PEOPLE

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

Subject: Variance for 10729 Citron Oaks Orlando FL 32836

To whom it may concern,

We are requesting a setback variance be granted relating to a residential standby generator to be installed on the side of the residence. There is a 7.5' property line around the home. The generator is to be 18" off the home and occupies 2' itself. The generator will extend to 3'2" off the home and sit 4' from the property line. Current setback calls for the generator to be 10' from the property line. This means that I need a variance to be given for the 6' remaining that we would need.

Sincerely,
Ryan Thompson
General Manager

3.2

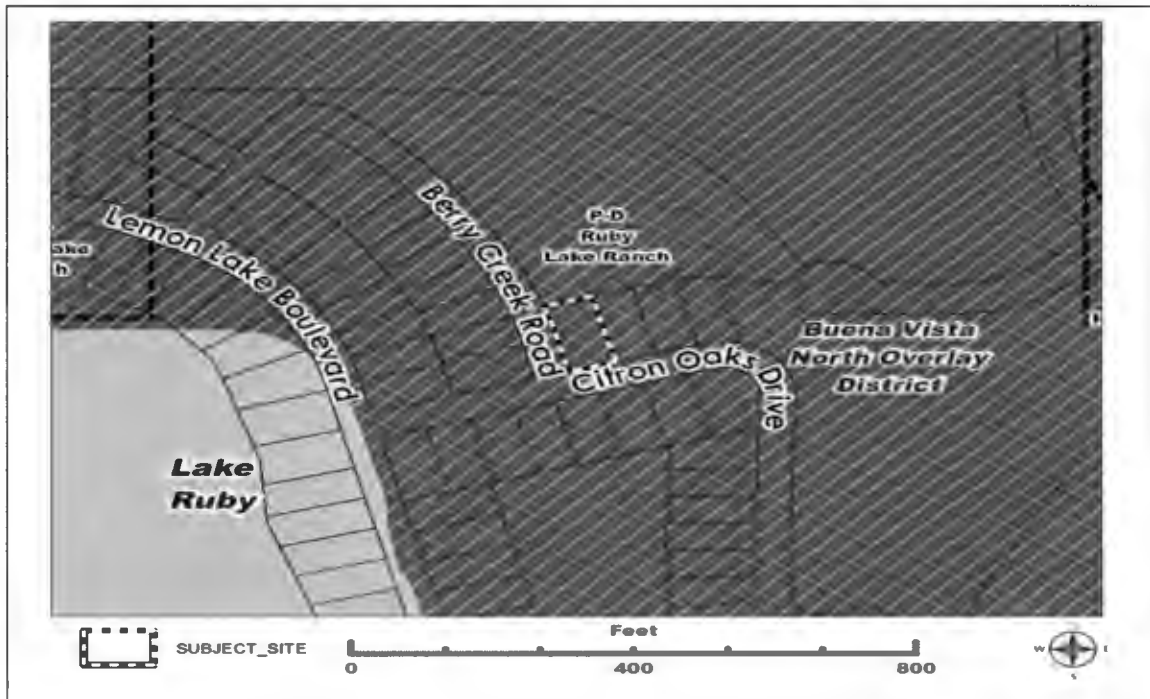
3071 N Orange Blossom Trail Suite H - Orlando, FL 32804 - ☎ 407.984.5000 @ www.generatorsupercenter.com/orlando

COVER LETTER PAGE 2

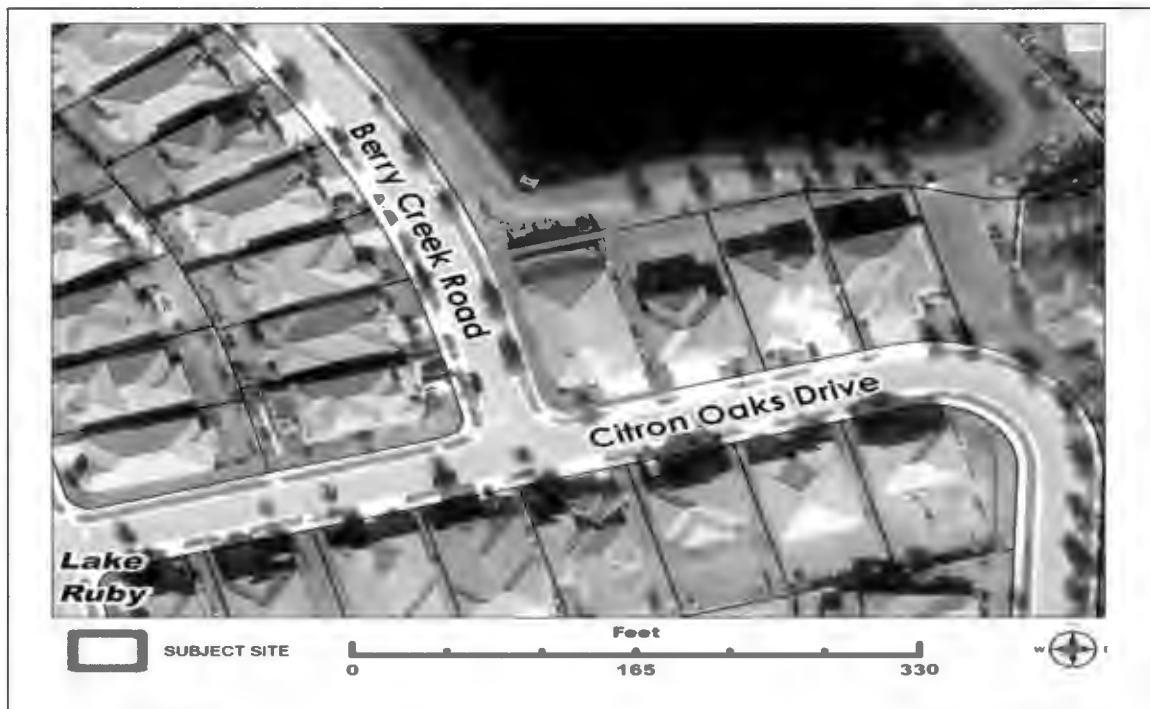
McDougall Variance
10729 Citron Oaks
Orlando, FL 32836

1. **Special Conditions and Circumstances:**
Generator cannot be located on any other location of the property due to a pool in the back yard and a street located along the other side of the home.
2. **Not Self-Created:**
All conditions notated under "special conditions and circumstances" are pre-existing.
3. **No Special Privilege Conferred:**
Variance being requested will not result in any special privilege being conferred to the homeowner.
4. **Deprivation of Rights:**
Homeowner should not be denied the use of a generator due to the occurrence of a special event (i.e hurricane, extended power outage)
5. **Minimum Possible Variance:**
6 feet
6. **Purpose and intent:**
All necessary steps will be taken to make sure the generator is visually aesthetic.

ZONING MAP



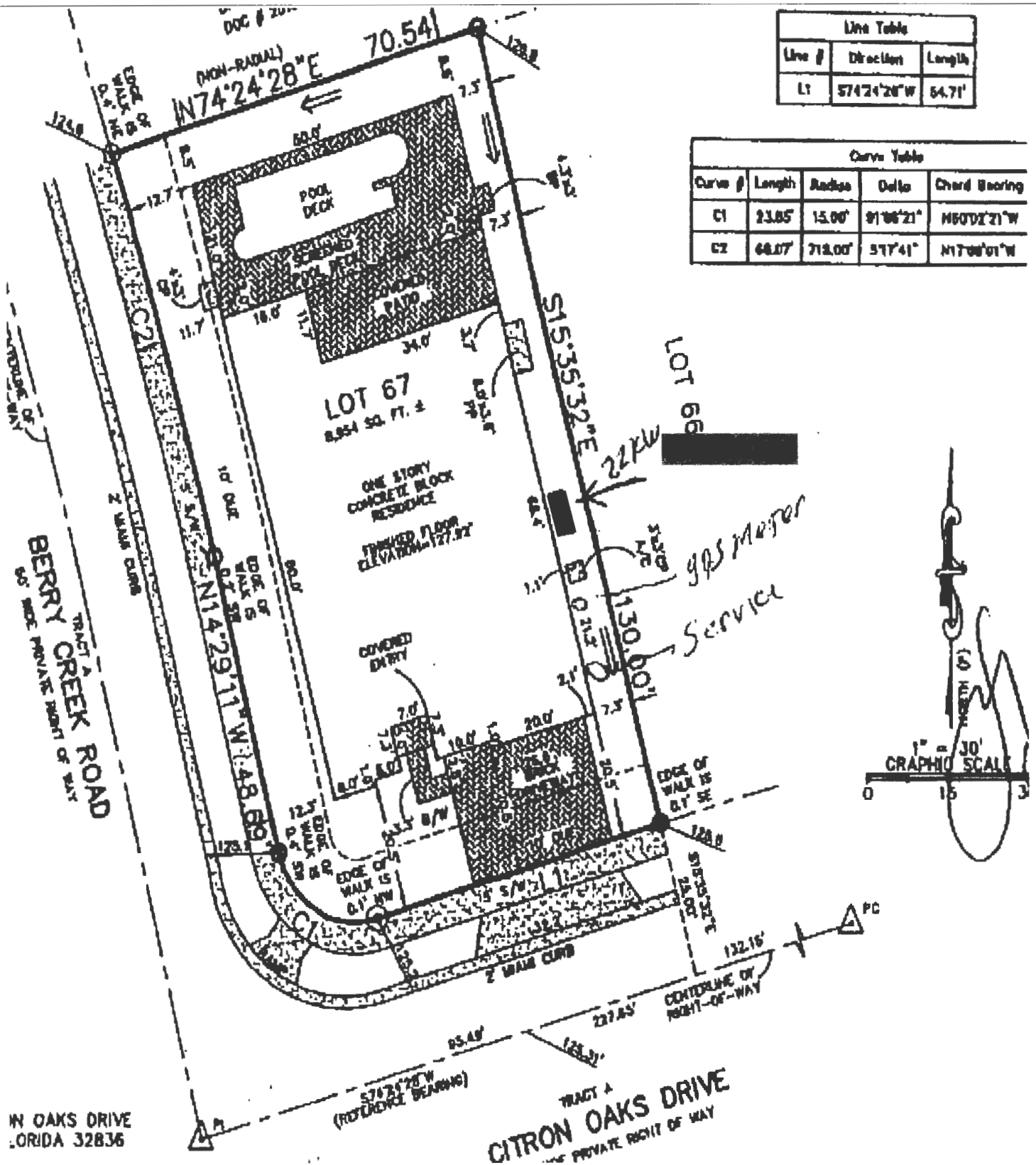
AERIAL MAP



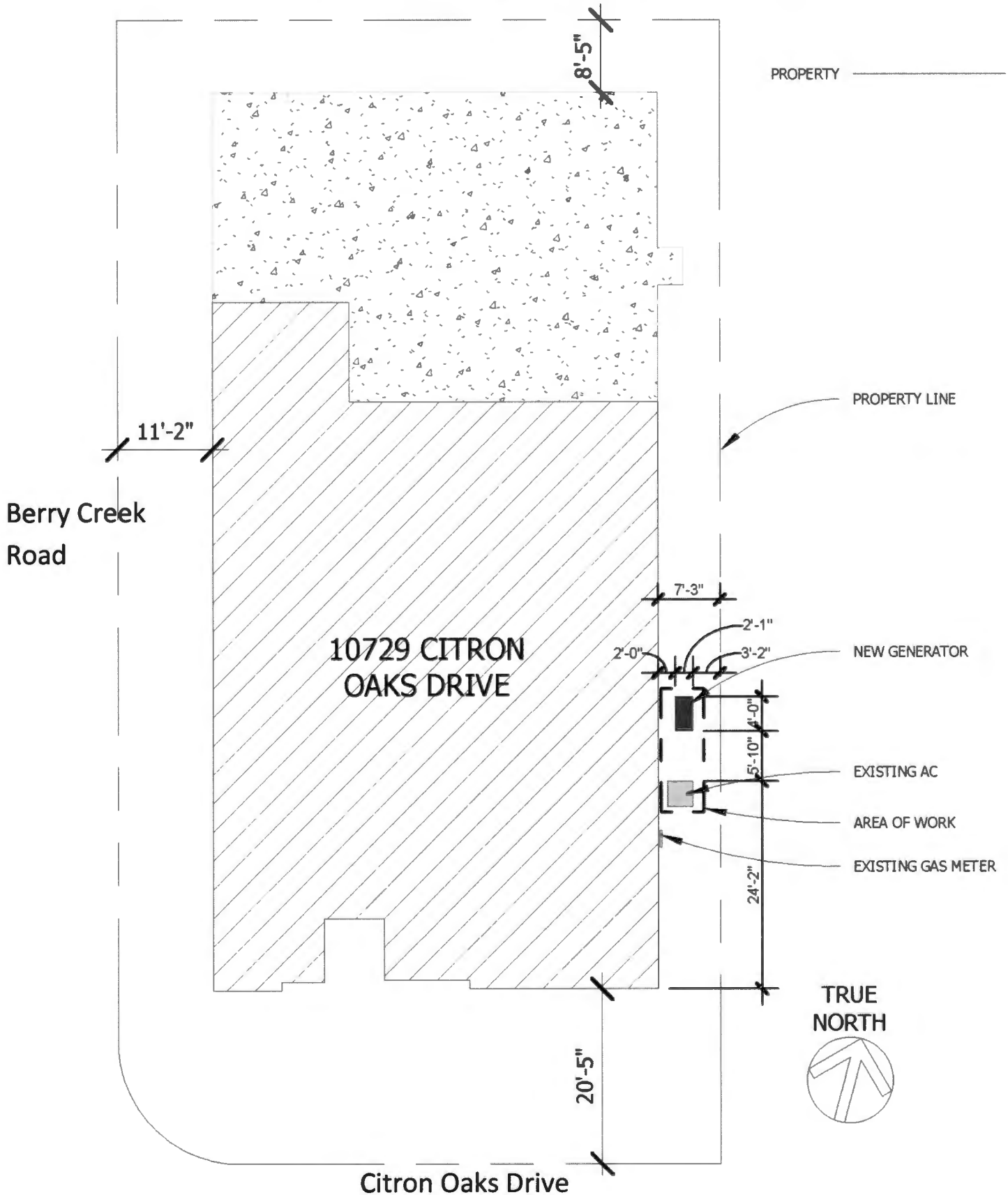
SURVEY

| Line Table | | |
|------------|-------------|--------|
| Line # | Direction | Length |
| L1 | 574°24'20"W | 54.71' |

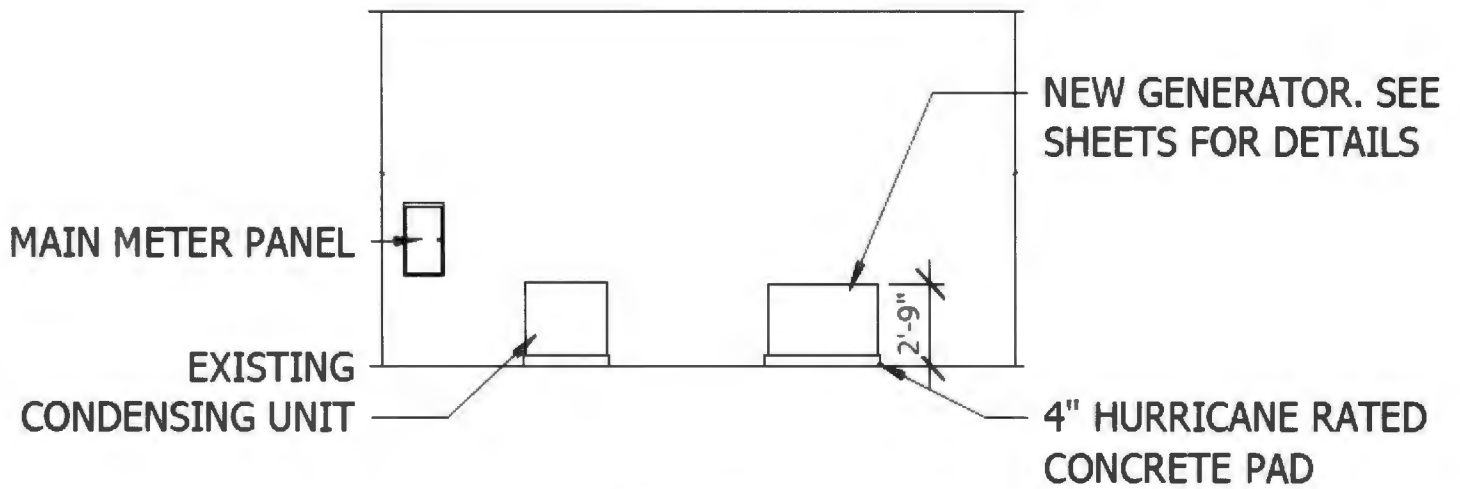
| Curve # | Length | Radius | Delta | Chord Bearing |
|---------|--------|---------|-----------|---------------|
| C1 | 23.05' | 15.00' | 91°06'21" | N50°02'31"W |
| C2 | 68.07' | 712.00' | 57°41" | N17°08'01"W |



SITE PLAN



PROPOSED GENERATOR ELEVATION AND ELECTRIC PANEL LOCATION



SITE PHOTOS



Front from Citron Oaks Dr. facing north



Side-Generator location facing north

SITE PHOTOS



Side-Generator location facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-059**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): MEGHARAJ KRANTHY

OWNER(s): SANDHYA KRANTHI, BHAVANA KRANTHI, BRUNDHA KRANTHI, MEGHARAJ KRANTHY

REQUEST: Variance in the A-2 zoning district to allow a 6 ft. high fence within the 15 ft. site distance triangle.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 4500 Bancroft Boulevard, Orlando, FL, 32833, west side of Bancroft Blvd., approximately 300 ft. north of Quarterly Pkwy.

PARCEL ID: 14-23-32-7603-00-633

LOT SIZE: 150 ft. 630 ft./ +/-2.16 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 28

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 (5 in favor, 1 opposed and 1 absent):

1. Development shall be in accordance with the site plan and fence specifications dated May 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 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 of denial. Staff noted that five (5) comments were received in support and no comments were received in opposition. Staff noted that the original fence permit was for a chain link fence but aluminum picket and columns were installed without a new or revised permit and noted that the owner was subsequently cited by code enforcement for installing a fence inconsistent with the permit.

The owner provided reasons for the need for the variance, and stated that there is visibility at the end of the driveway. The applicant also noted that the original fence permit included a type of fencing that the HOA does not allow in the front yard and therefore needed to be replaced, unaware of the site distance triangle requirement at the time of the permit.

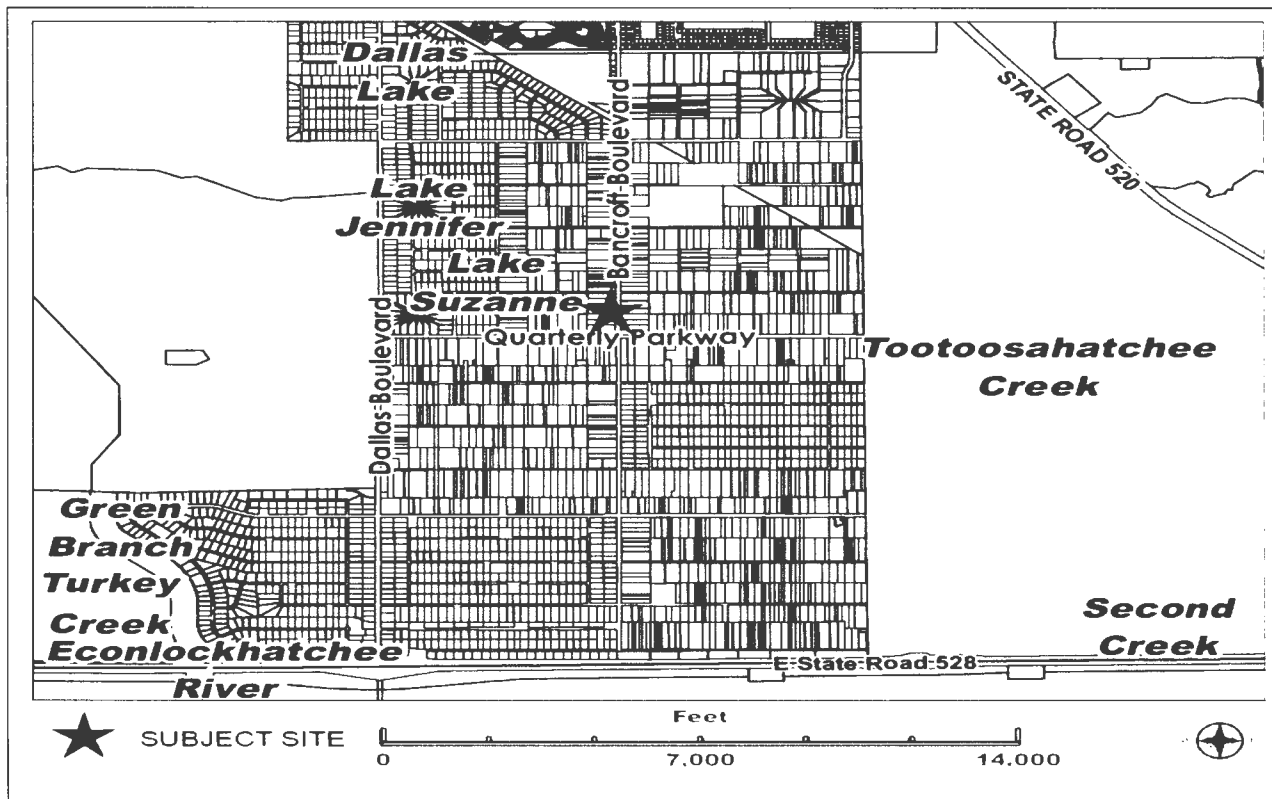
The BZA felt that the 36 ft. distance from the edge of the paved road to the existing fencing and columns meets the purpose and intent of the code.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance with a 5-1 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|-------------------------|--------|-------------------------|--------|-------------------------|
| Current Zoning | A-2 | A-2 | A-2 | A-2 | A-2 |
| Future Land Use | R | R | R | R | R |
| Current Use | Single-family residence | Vacant | Single-family residence | Vacant | Single-family residence |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots.

The subject site is located in an area known as Wedgefield, which is comprised of single-family homes and vacant lots. The subject property is 2.16 acres in size, and consists of the south 150 feet of Tract 63, which was platted in 1963 as part of the Rocket City Unit 9A Plat. There is a 5,378 sq. ft. single family home and swimming pool on the lot which were constructed in 2016. The applicant purchased the property in 2020.

The applicant obtained a permit (F20011979) to install a 6 ft. tall black chain link fence around the property. The permit that was issued showed the fence within the site distance triangle although it did not meet code. However, the fence was not installed as permitted. A 6 ft. tall aluminum picket fence with 7.5 ft. tall pillars was installed. Code Enforcement cited the applicant in October of 2020 for building a fence that does not comply with the permit (Incident 579252). With the addition of the pillars, a building permit was required. A building permit was submitted in March, 2021 (B21006836), which was marked deficient as the proposed was located within the site distance triangle. The applicant is requesting a variance to allow the fence to encroach into the site distance triangle for the driveway.

The code allows fences in agricultural zoning districts to be a maximum of 6 ft. high within the front setback, and allows pillars and posts to extend an additional 24 inches. However, the code prohibits fences to be within the clear view triangle area, which is an area on each side of the driveway that is formed by measuring 15 ft. along the road and 15 ft. along the edge of the driveway.

The front yard is over 200 ft. from the property line to the house. The fence could easily have been placed at the 35 ft. front yard setback to eliminate the need for the site distance triangle, or have been modified to accommodate for the site distance triangle. In addition, there are no other properties in the vicinity that have been granted variances for the site distance triangle.

The applicant submitted 5 letters of support from the owners of the adjacent properties to the south and to the east.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|--|---|
| Max Height: | 6 ft. fence, 8 ft. columns outside the site distance triangle | 6 ft. fence, 7.5 ft. columns within the site distance triangle |
| Min. Lot Width: | 100 ft. | 150 ft. |
| Min. Lot Size: | 1/2 acre | 2.17 acres |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the fence could have been installed in compliance with the requirements of code. The house is setback over 200 ft. from the front property line, which allows for multiple conforming options for fence placement.

Not Self-Created

The need for the variance is self-created, as the fence could be constructed to meet code.

No Special Privilege Conferred

Approval of the variance as requested will confer special privilege that is denied to other properties in the same area and zoning district.

Deprivation of Rights

The owners are not being deprived of the right to install a fence on the property as they could relocate the fence to a location that meets the visibility requirement.

Minimum Possible Variance

The request is not the minimum since the fence could have been installed outside the clear view triangle.

Purpose and Intent

Approval of the variance will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area since the fence is located 36 feet from the edge of the road. In addition, there is no pedestrian sidewalk along this side of the road further reducing any potential conflicts of impairing the site distance triangle.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and fence specifications dated May 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 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: Megharaj Kranthy
4500 Bancroft Blvd.
Orlando, FL 32833

From:
Dr. Megharaj Kranthy
Sandhya Kranthi Bhavana Kranthi & Brundha Kranthi,
4500 Bancroft Blvd., Orlando, FL 32833

05/11/2021

Planning & Zoning Manager,
ORANGE COUNTY ZONING DIVISION,
201 South Rosalind Avenue, 1st Floor,
Orlando, Florida 32801

Ref: Kranthy's/Kranthi's @ 4500 Bancroft Blvd., Orlando, FL 32833 -Parcel ID #
14-23-32-7603-00-633 – Application for Variance & Appeal of Zoning Manager's
Determination. Code Violation: 38-1408; 38-74; 38-77; 38...3.

Dear Sir or Madam:

This is a variance request for a fence. The fence is currently built on the property line, and it violates the fence code 38-1408 (b). The reason for the request is that we would like to keep the fence at the property line because, it provides security from wild animals, it is aesthetically pleasing, and it prevents our dog from escaping and causing accidents on Bancroft Boulevard (which has vehicles traveling atleast 50mph, majority of the vehicles tend to exceed 60mph speeds). The type of construction is an aluminum fence that is 119.3 feet in length and 6 feet in height, with four reinforced concentrate columns measuring 7.13 square feet (2.67 feet in length and 2.67 feet in width). Two of the columns are located at each corner of the fence and the other two columns are located on the right and left side at the entrance of the driveway. Each of the columns has solar lights located on top which provides increased visibility at night to drivers and pedestrians. There is a gate located in-between the two columns at the entrance of the driveway. The gate is made of steel and has two parts; a 4.25 feet walkway gate and a 14.4 feet sliding gate with a height of 6 feet. The sliding gate operates by a solar panel. The driveway is 18.83ft. The construction is on the property line and proposed height is 6 feet. The code requires columns to be clear of the 15 feet by 15 feet visibility triangle from the front of the property line.

The proposal meets the six standards for variance approval.

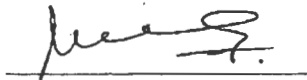
1. There are special circumstances which exist mainly because our house is located with an empty plot of land in front of our house and another empty plot of land on the right side. There are many wild animals that come into our property, and the fence does provide protection for our family – including our dog. Moving the fence from the property line and making it triangular shape makes it less secure and gives areas for our dog to dig into the corners of the triangle making it less secure and more dangerous. Moreover, if our dog is able to dig into the unstable fence and goes into the street, it will cause accidents. Our house has a wide driveway and the house is large, if we move the fence and structure, it will not be aesthetically pleasing. The fence at the property line gives a better view and does not impair visibility as the distance between the columns is wide. The light on top of the columns gives better lighting for drivers at night and decreases accidents. Our building and circumstances are different from others in the zoning area and consequently, it meets the special conditions and circumstances criteria.
2. The special conditions and circumstances do not result from the actions of the applicant. The wild animals across our house and the right side empty lot contribute to the special circumstances. The exceedingly high speed cars in front of our house with the highway and the crime and threat of intruders are all not self-created.

3. The approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district. In fact, the Ranger District has already given variance from the drainage department and Orange County has given clearance from the utility board.
4. Deprivation of Rights – Literal interpretation of the provisions contained in this Chapter would deprive our family the right of feeling secure and the right to have and view an aesthetically pleasing fence, which is enjoyed by other properties in the same zoning district.
5. The request is the minimum zoning variance as it is located on the property line hence confers that it will make possible the reasonable use of land, building, or structure.
6. Approval of zoning variance will not be injurious to the neighborhood and in fact it will make it more secure. The fence is also essential to the public welfare as it prevents animals from crossing and accidents from occurring. Furthermore, the lights on top of the columns will provide increased visibility at night for drivers and pedestrians.

Please find attached:

1. Application of Variance
2. Detailed site plan (8 1/2" x 11" and 8 1/2" x 14") with dimensions drawn to scale by license architect Kyle Jensen. The front of the property needs the variance. (Attached Separately)
3. Letter from Kyle Jensen, Architect.
4. 5 "Letters of No Objection", from immediate neighbors.
5. Letter from Ms. Dawn Mullins, District Manager, Ranger Drainage District. 19950 Nugent Street, Orlando, FL 32833, dated 5th. May 2021
6. Letter from Utilities Department, Engineering & Development Real Estate, 9150 Curry Ford Road, Orlando, FL 32825, dated 6th. May 2021
7. Residential Plan review comments: Permit # B21006836, dated 5th. May 2021
8. Order from Code Enforcement Board dated 21st. April 2021.
9. A check for \$638.00, dated 10th. May 2021.

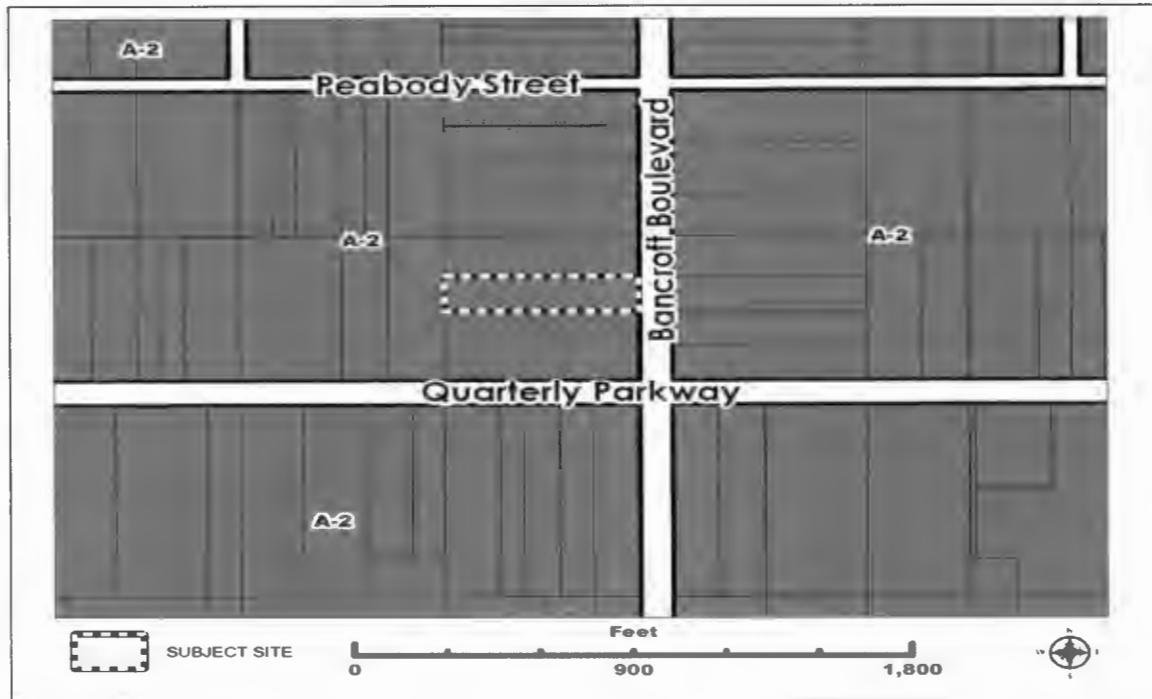
Sincerely,



Signature

Name: Dr. Megharaj Kranthy

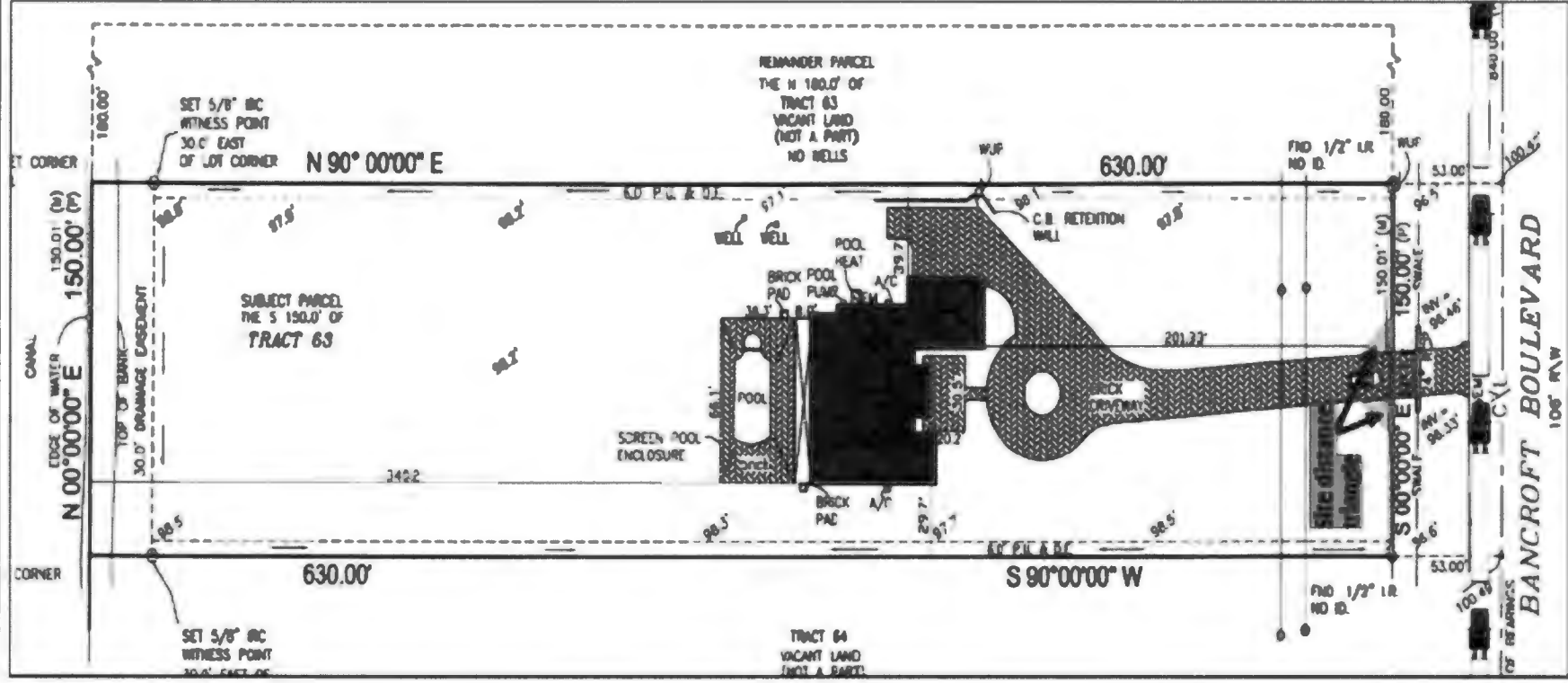
ZONING MAP



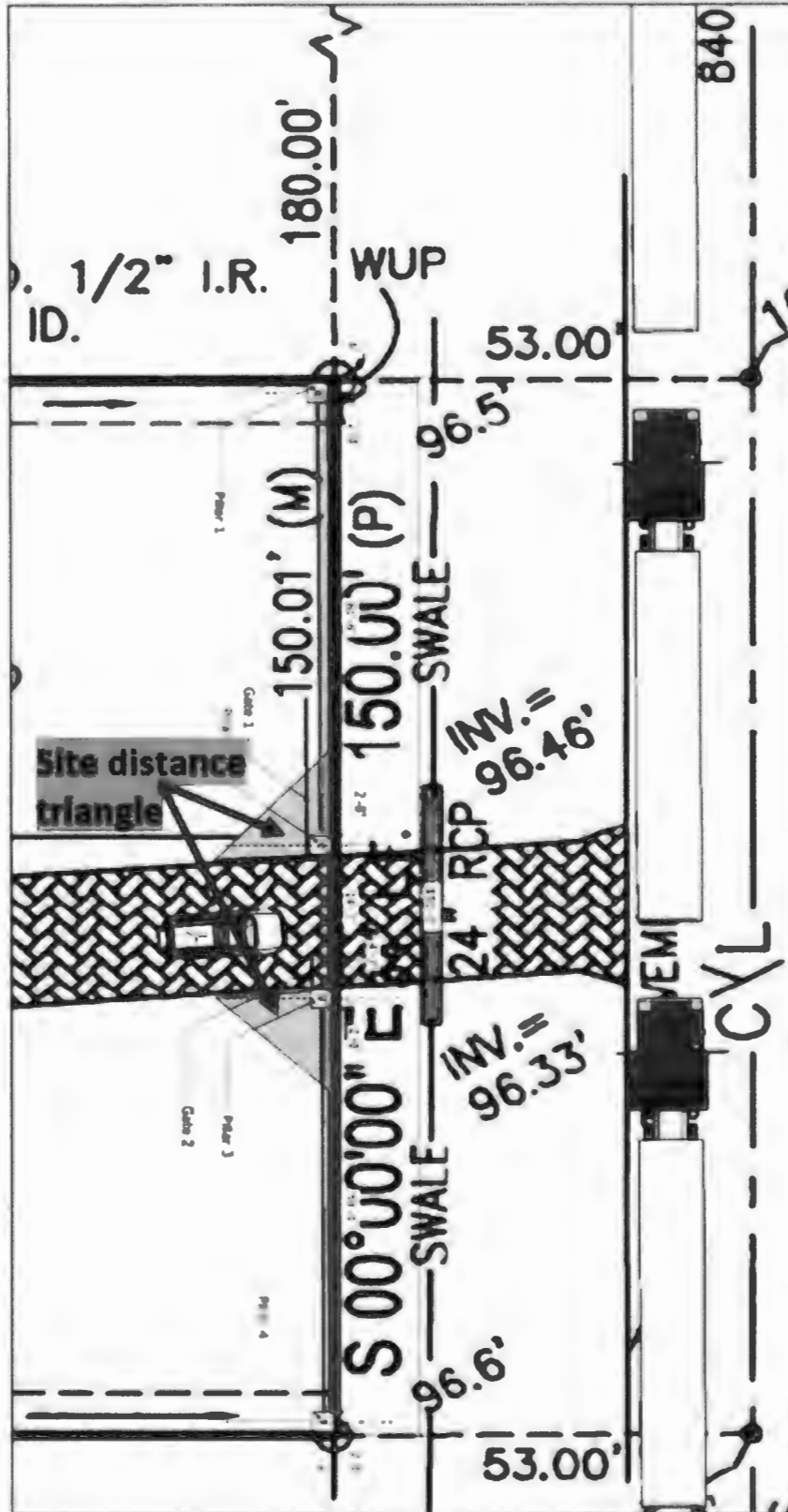
AERIAL MAP



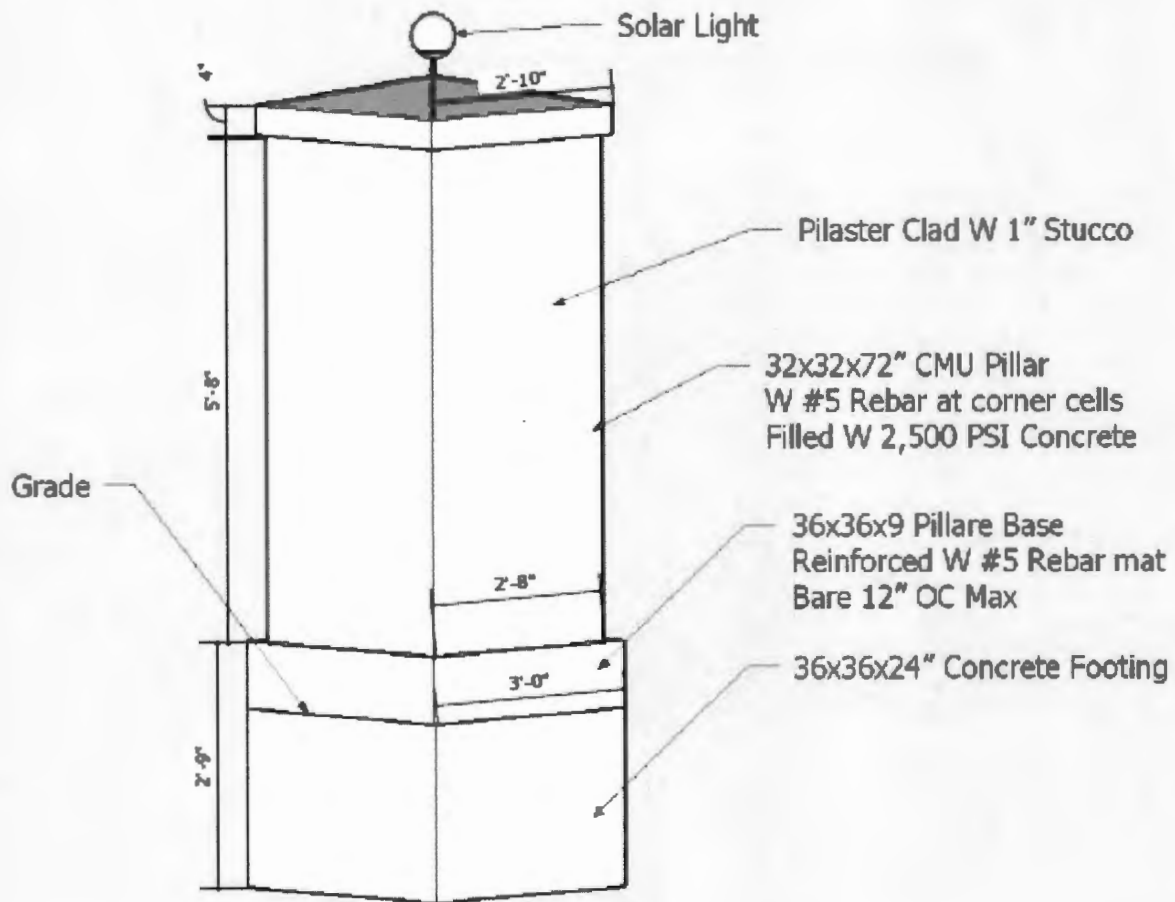
SITE PLAN



CLOSE UP SITE PLAN

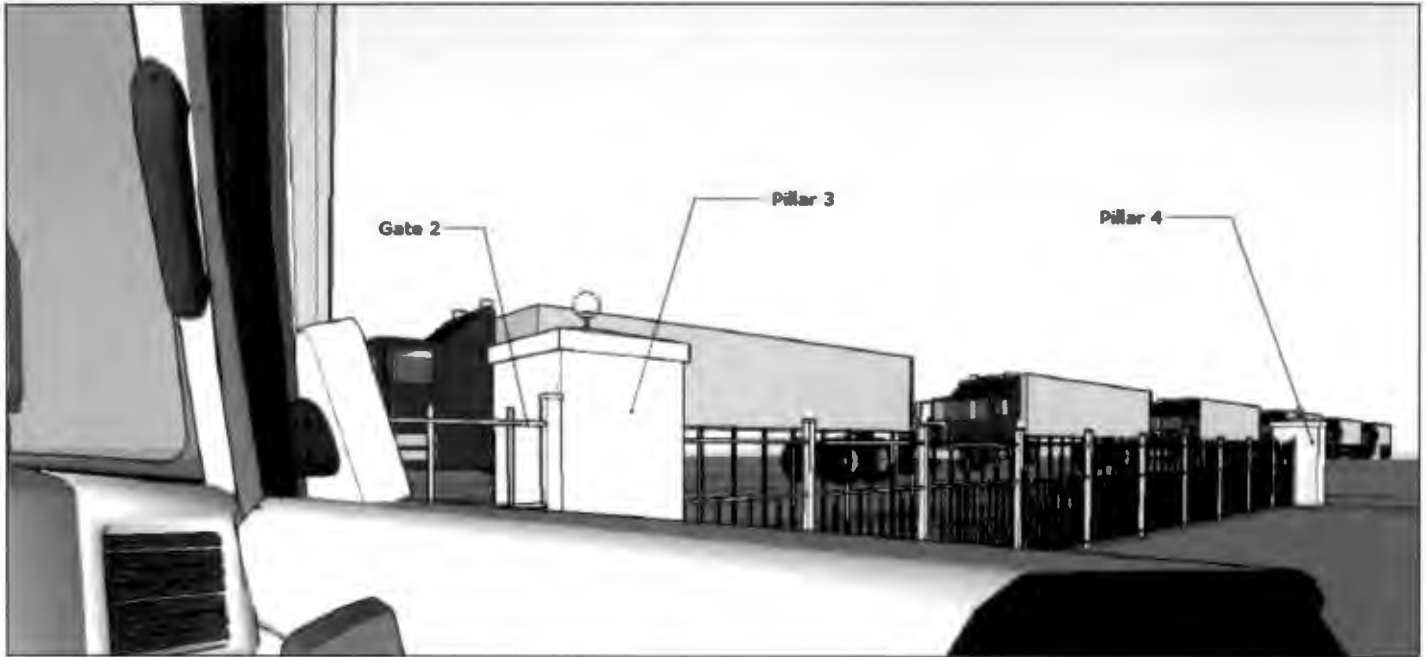


FENCE PILLAR DETAIL



| | |
|-------------|----------------------|
| A006 | PILLAR DETAIL |
| 001 | 1/2" = 1'-0" |

PERSPECTIVE



A003 SOUTH EASTERN PERSPECTIVE VIEW

SITE PHOTO



Front fence from Bancroft Blvd. facing west

SITE PHOTO



Front gate facing west from Bancroft Blvd.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-043**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): DAVILA HOMES 1ST STREET (DEBI PLAISANCE)

OWNER(s): MIKELE INTERNATIONAL GROUP LLC

REQUEST: Variance in the R-2 zoning district to allow the construction of a 2,192 sq. ft. residence with an east street side setback of 6 ft. in lieu of 15 ft.

PROPERTY LOCATION: 333 1st Street, Orlando, Florida, 32824, northwest corner of 1st St. and Avenue C, south of E. Landstreet Rd., west of S. Orange Ave.

PARCEL ID: 36-23-29-8228-50-312

LOT SIZE: 50 ft. x 143 ft./ +/- 0.16 acres (7,146 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 93

WITHDRAWN BY THE APPLICANT PRIOR TO THE JULY 1, 2021 BZA MEETING

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-044**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): DAVILA HOMES BLACKWOOD AVENUE (DEBI PLAISANCE)

OWNER(s): GONDRAN & PORTO ASSOCIATES LLC

REQUEST: Variances in the A-1 zoning district to allow the construction of a 3,458 sq. ft. residence as follows:

- 1) To allow a lot width of 75 ft. in lieu of 100 ft.
- 2) To allow a lot size of 0.36 acres. in lieu of 0.5 acres.
- 3) To allow a west side setback of 9 ft. in lieu of 10 ft.
- 4) To allow an east side setback of 9 ft. in lieu of 10 ft.

PROPERTY LOCATION: 1784 Blackwood Avenue, Gotha, Florida, 34734, south side of Blackwood Ave., south of Old Winter Garden Rd., north of the Florida Turnpike and East-West Expressway Interchange

PARCEL ID: 29-22-28-0000-00-051

LOT SIZE: 75 ft. x 212 ft./ +/- 0.36 acres (15,882 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 73

DECISION: Recommended **APPROVAL** of the Variance requests **#1** and **#2**, 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 as amended; and, Variance requests **#3** and **#4**, were **WITHDRAWN** by the applicant (unanimous; 6 in favor, 0 opposed, and 1 absent):

1. Development shall be in accordance with the lot dimensions on the site plan, dated April 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.

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 variances #1 and #2. The parcel has been in existence for several decades and the property would be undevelopable without the variances to the lot size and width. Staff noted that no comments were received in support and eight comments were received in opposition. Staff noted that the applicant withdrew the request for variances #3 and #4 prior to the hearing. As a result, staff recommended modifying condition of approval #1 to reference only the site plan and lot dimensions, and to remove condition #4.

The applicant stated the intent is to make the lot developable. The applicant also provided information about the power company and the research conducted to address neighborhood concerns about a sufficient power grid to allow the construction of new residences.

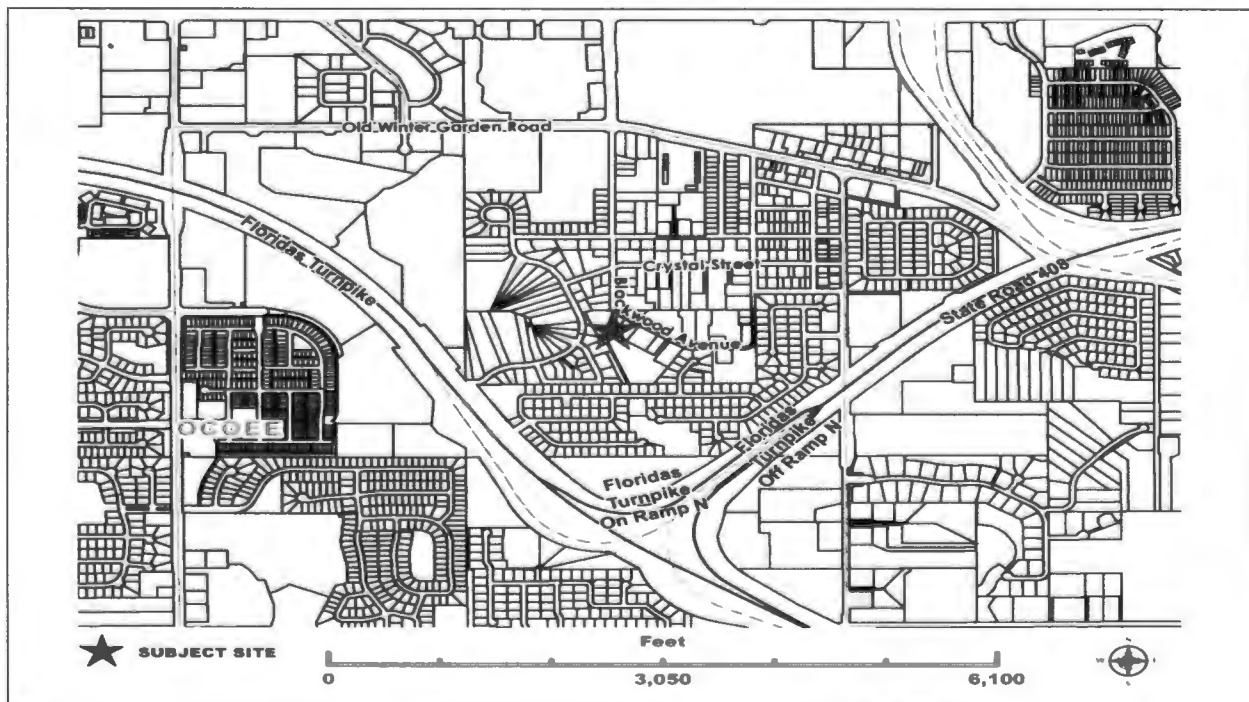
The BZA noted that the feedback from residents regarding utilities was not a zoning issue.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 6-0 vote, subject to three (3) conditions, as amended, in the staff report.

STAFF RECOMMENDATIONS

Approval of Variances #1 and 2, and denial of Variances #3 and #4. However, should the BZA find that the applicant has satisfied the criteria necessary to grant all the variances, staff recommends that the approval be subject to conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses, mobile homes, and a single-family residence with associated accessory structures on larger lots.

The area around the subject site is comprised of single-family homes in both the A-1 and R-1A zoning districts. The subject property is a 75 ft. wide, 0.36 acre unplatted parcel that is currently vacant. The applicant purchased the property in 2019.

The A-1 district requires a minimum 100 ft. lot width and a 0.5 acre lot area. However, since the parcel has existed prior to 1957 when it was designated A-1, it appears never to have met the lot width and area requirements. 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. Deeds are available but not through 1957, so staff cannot verify that the parcel has conveyed in the same configuration as present, back to 1957. Therefore variances for the 75 foot lot width in lieu of 100 ft. (variance # 1), and for the lot area of 0.36 acres, in lieu of 0.5 acres (variance # 2) are required in order to develop the property. The applicant is proposing to construct a 3,458 gross sq. ft., 1 story house with 9 foot setbacks on the west and east sides, requiring variances from the 10 foot side setbacks required in A-1 (variances # 3 and 4).

There are two parcels to the east that are each the same size and width, and were granted variances in 1982 to construct a single-family home each on said substandard lots, but were built in conformance with the setback requirements.

The subject request was initially scheduled to be heard by the BZA on June 3, 2021 but was continued prior to the meeting because the applicant did not post the notice of hearing on the property in the time required by code. Staff received correspondences in opposition to the request from 8 residences located to the north, east and south of the subject property. The neighbors cited concerns pertaining to the condition of the roadway network in the area, local drainage issues, and the strength and viability of the power grid in the area, including the condition of power lines and transformers.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|-------------------------|
| Max Height: | 35 ft. | 18.5 ft. |
| Min. Lot Width: | 100 ft. | 75 ft. (variance # 1) |
| Min. Lot Size: | 1/2 ac. | 0.36 ac. (variance # 2) |

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

| | Code Requirement | Proposed |
|--------|------------------|--|
| Front: | 35 ft. | 35 ft. |
| Rear: | 50 ft. | 108 ft. |
| Side: | 10 ft. | 9 ft. (West-variance # 3, East-variance # 4) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variances #1 and #2

The lots on each side are developed with houses, so without size and width variances the lot would be undevelopable, which is a consideration of special conditions and circumstances.

Variances #3 and #4

There are no special conditions and circumstances particular to this property pertaining to setback variances since the request could be modified to meet code for the proposed new construction, as there is significant buildable area remaining on the lot.

Not Self-Created

Variances #1 and #2

The applicant is not responsible for the configuration of the parcel. The substandard aspects of the lot are not self-created, since the lot has existed for over 60 years.

Variances #3 and #4

The requests for variances to the side setbacks are self-created, as a different home design could be proposed with the same square footage or more that meets setbacks, in order to negate the need for the variances.

No Special Privilege Conferred

Variances #1 and #2

There are other developed lots with single-family homes on lots with similar size and width in the area. The zoning is a mix of A-1 and R-1A, and the lots have been developed with single-family residences, and adjacent lots to the east that have been granted similar variances for lot width and area. No special privilege would be conferred by granting these variances.

Variances #3 and #4

Other lots have been developed in the area without side setback variances, and the house could be designed to meet code, thus granting these would confer special privilege.

Deprivation of Rights**Variances #1 and #2**

Without the requested size and width variances, it will not be possible to develop the parcel.

Variances #3 and #4

The applicant is not being deprived of the right to develop the property as other plans could be proposed that meet the setbacks required, such as a 2-story house or a narrower home with a greater depth.

Minimum Possible Variance**Variances #1 and #2**

The lot width and size have existed for over 60 years, therefore granting the variances will be the minimum possible.

Variances #3 and #4

The requests for variances to the side setbacks for new construction of a 3,458 gross sq. ft. one story home are not the minimum possible variances since there are other alternatives to build that would not require variances.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow development of lawfully created lots and parcels, and the proposed home will not be detrimental to the neighborhood since the proposed house design will be consistent with the design of other residences in the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations shown on the site plan, dated April 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 within 2 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.

C: Debi Plaisance
4210 L B Mcleod Rd., Ste. 101
Orlando, FL 32811



April 13, 2021

Attention: Board of Zoning Adjustment (BZA)
Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801

RE: 1784 Blackwood Avenue, Gotha, FL 34734
Parcel ID: 29-22-28-0000-00-051
Variance Criteria Response

Dear Board of Zoning Adjustment Committee:

Davila Custom Homes, on behalf of our client, Gondran & Porto Associates LLC, kindly request a variance for our project which is located at 1784 Blackwood Ave., Gotha, FL. The project is in the A-1 zoning district and we seek a variance for the following reasons:

1. To allow a lot width of 75 ft. in lieu of 100 ft.
2. To allow a lot size of 0.36 ac. in lieu of 0.5 ac.
3. To allow side setbacks of 9 ft. in lieu of 10 ft.

Per Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. Below we offer our reasoning as to why we kindly request to be granted a variance for Parcel ID #: 29-22-28-0000-00-051 and demonstrate our compliance to the criteria:

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

RESPONSE: The subject property is a substandard lot as are several other adjacent lots, therefore no special conditions and/or circumstances exist, however for the subject property to be a buildable lot that correlates to the current zoning criteria for A-1 with regard to lot width and lot size, a variance would be required. The lot size

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www.davilacustomhomes.com

also factors into our request to allow for side setbacks of 9 ft. in lieu of 10 ft.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

RESPONSE: The special conditions and circumstances of the subject property are not a result from the actions of the property owner and/or Davila Homes.

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

RESPONSE: If granted variance approval for the lot width, lot size, and side setbacks, we acknowledge and understand that we are not entitled to any special privileges and must adhere to any and all land development code criteria for A-1 zoning.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

RESPONSE: Per the interpretation of the provisions contained in this Chapter and it will deprive the applicant of rights commonly enjoyed by other properties in the same zoning district as the lot would be unbuildable since it does not confirm to the requirements of an A-1 zoning.

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.

RESPONSE: This request for a zoning variance is the minimal required to make the property located at 1784 Blackwood Ave. a buildable lot.

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6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

RESPONSE: Approving a variance to deviate from the Land Development Code for the A-1 zoning district would not be injurious to the neighborhood and would provide harmony and cohesiveness to the subdivision, since it would no longer be a vacant lot but a developed property.

If you have any questions, please feel free to reach out to me at Davila Custom Homes at permitting@davilacustomhomes.com and/or at 407.985.1551.

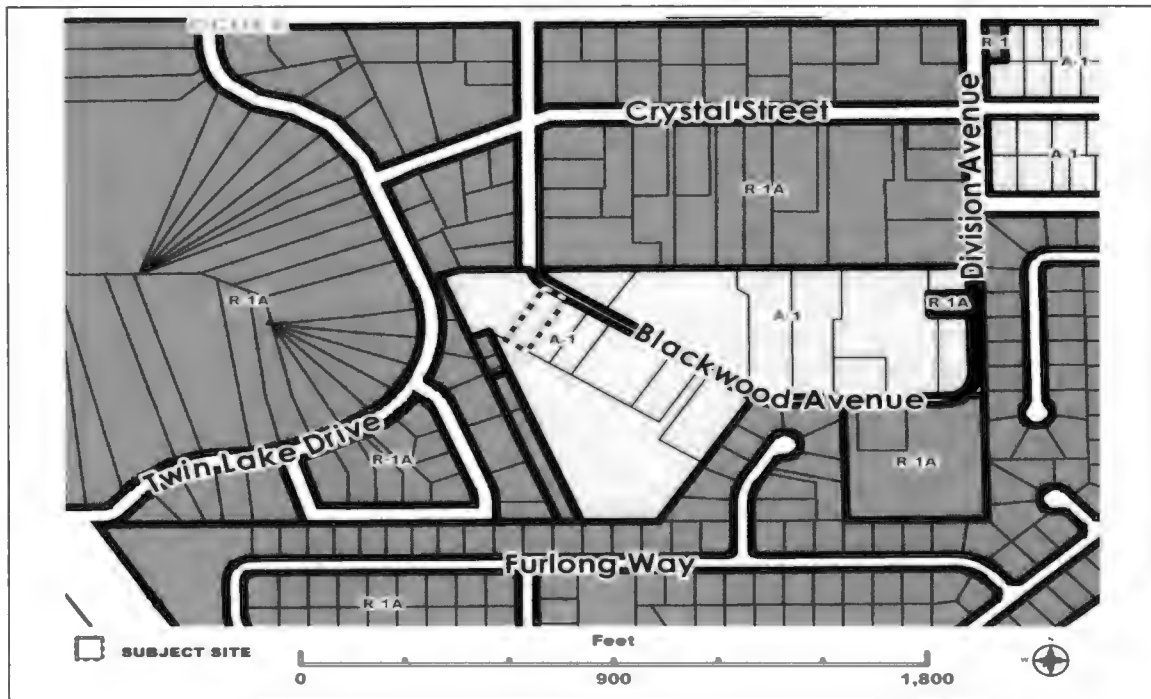
Sincerely,

Debi Plaisancee

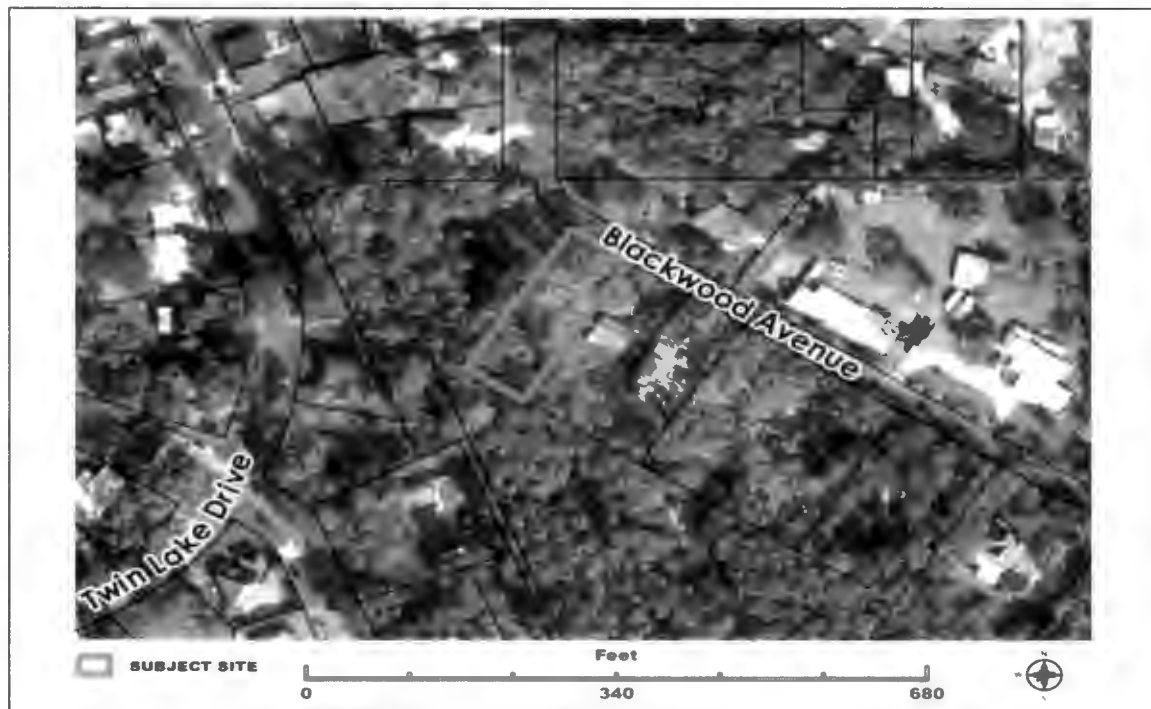
Thank you,
Debi Plaisancee | Permitting Manager
Davila Homes Construction
P: 407.985.1551 C: 407.725.3474
permitting@davilacustomhomes.com
www.davilacustomhomes.com

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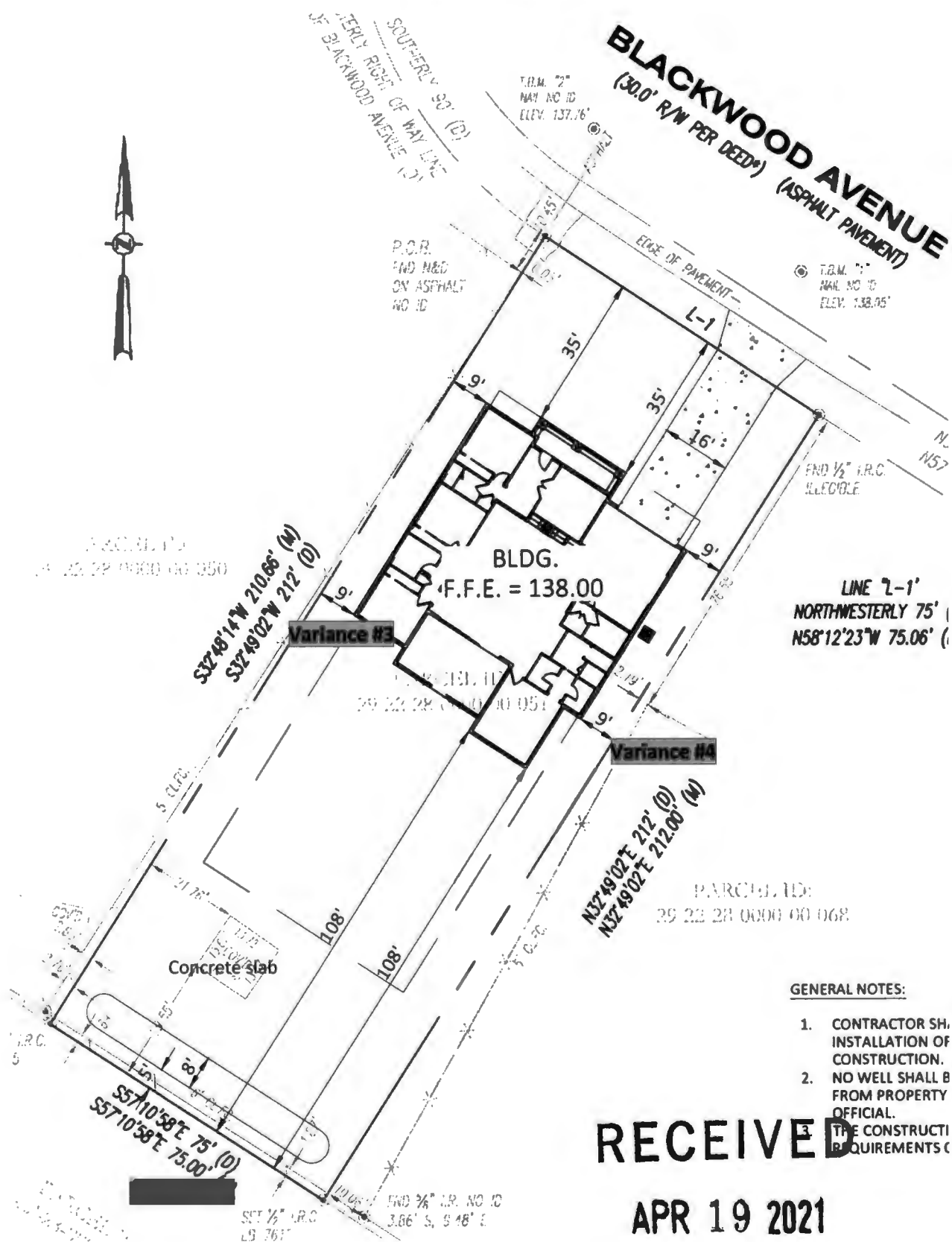
ZONING MAP

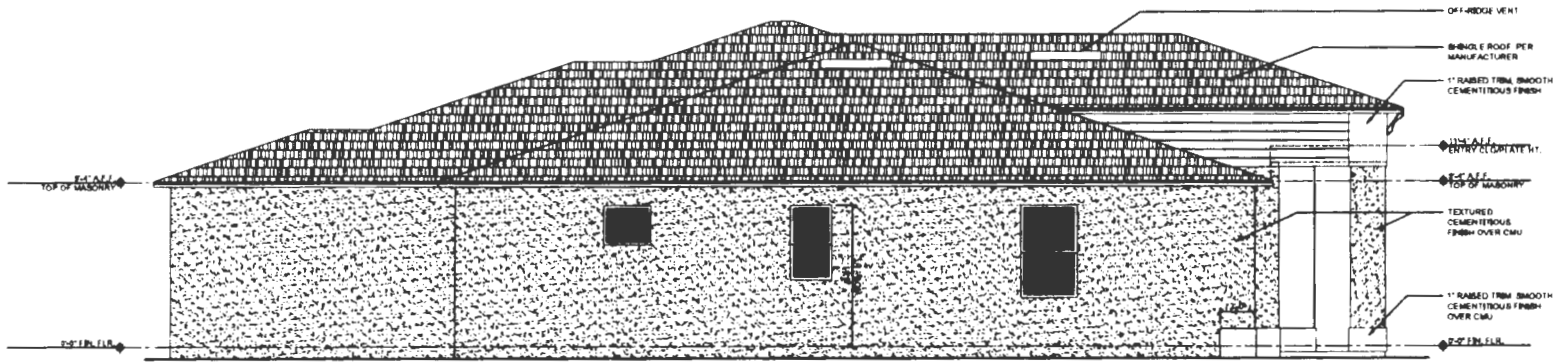


AERIAL MAP

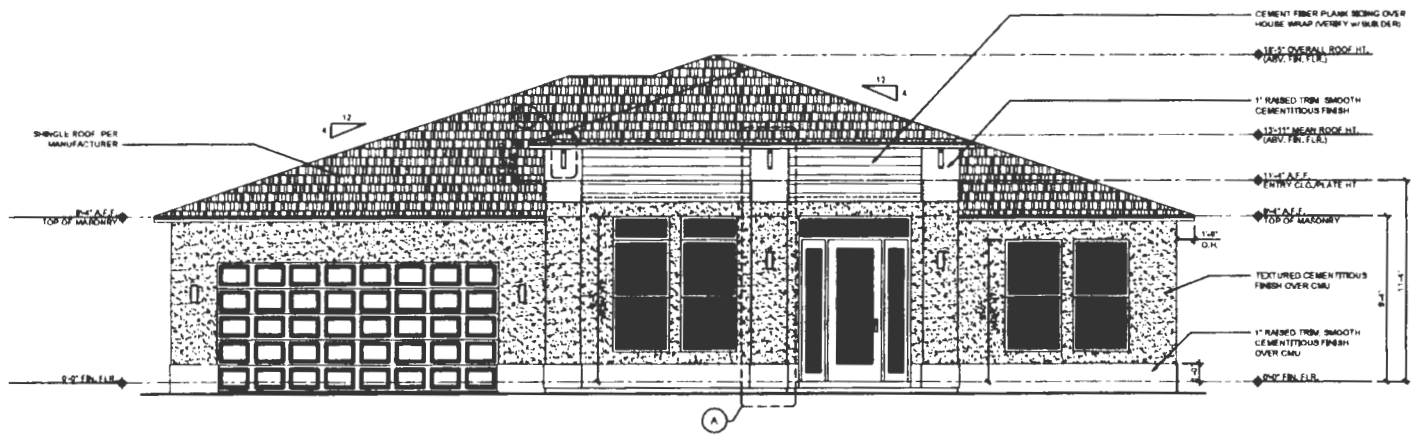


SITE PLAN



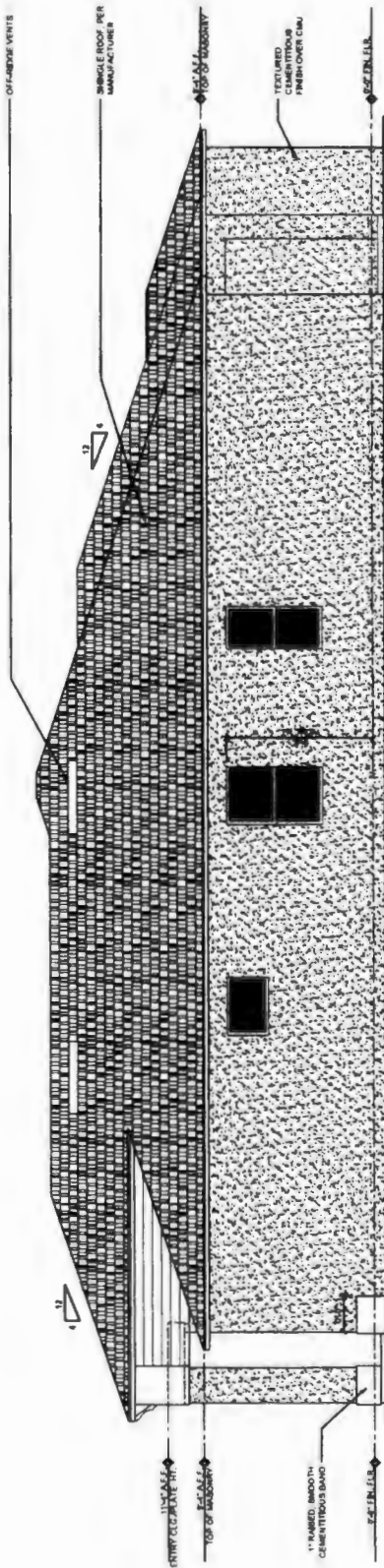


SCALE: 1/4" = 1'-0" LEFT SIDE ELEVATION

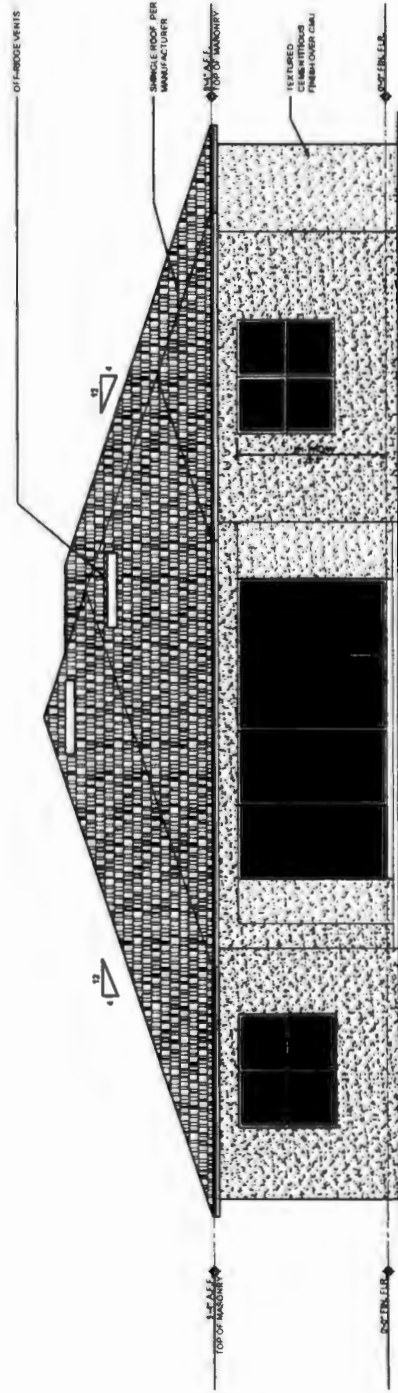


SCALE: 1/4" = 1'-0" FRONT ELEVATION

ELEVATIONS

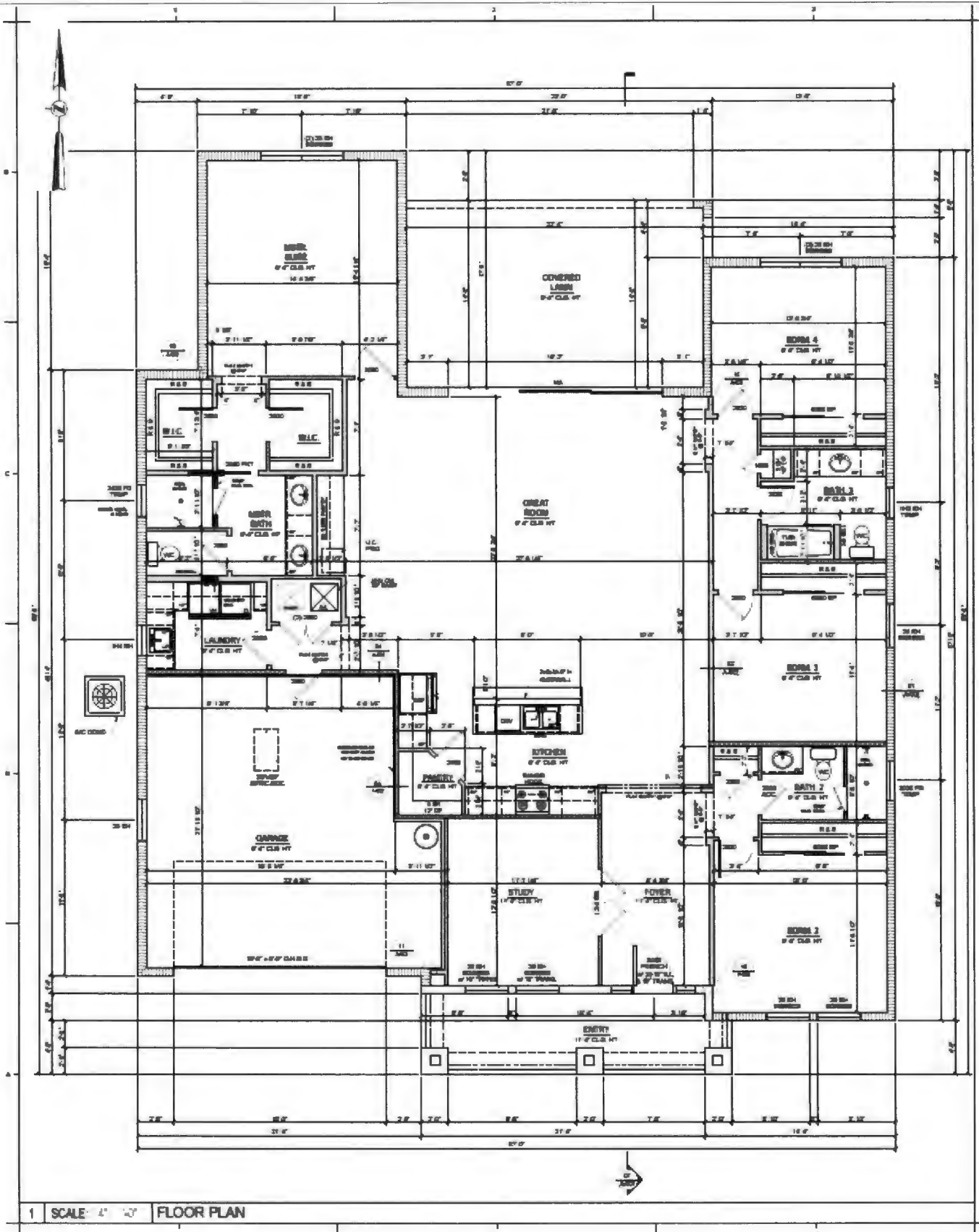


SCALE: 1/4" = 1'-0" RIGHT SIDE ELEVATION



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

FLOOR PLAN



SITE PHOTOS



Front from Blackwood Ave. facing south



**Neighboring property that was granted a variance to build on similar sized lot on Blackwood Ave.
(without setback variances) to the east**

SITE PHOTOS



**Neighboring property that was granted a variance to build on similar sized lot on Blackwood Ave.
(without setback variances) to the east**

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Michael Rosso**

Case #: **VA-21-07-054**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): MARSHALLS (JOSEPH CHURA)

OWNER(s): DDRM SKYVIEW PLAZA LLC

REQUEST: Variance in the C-2 zoning district to allow 331.3 sq. ft. of wall signage in lieu of 255 sq. ft.

PROPERTY LOCATION: 7609 S Orange Blossom Trl., Orlando, FL, 32809, northeast corner of S. Orange Blossom Trl. and W. Sand Lake Rd.

PARCEL ID: 27-23-29-8093-00-010

LOT SIZE: 25.83 acres

NOTICE AREA: 500 FT

NUMBER OF NOTICES: 256

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 as amended (unanimous; 5 in favor, 0 opposed, 1 abstained, and 1 absent):

1. Development shall be in accordance with the site plan and sign specifications dated May 10, 2021, as modified by these 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 sign within 2 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. Total wall sign copy area shall not exceed 290 sq. ft., with maximum letter height not to exceed 7.5 feet.

SYNOPSIS: Staff discussed the proposal, indicating the location of the property, the location of all signage on the plaza site plan, the location of the proposed wall signage, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of a lesser variance since a reduction of the proposed signage area and sign height would be consistent with other approved wall sign variances in the plaza. Staff noted that one (1) comment was received in support and no comments were received in opposition.

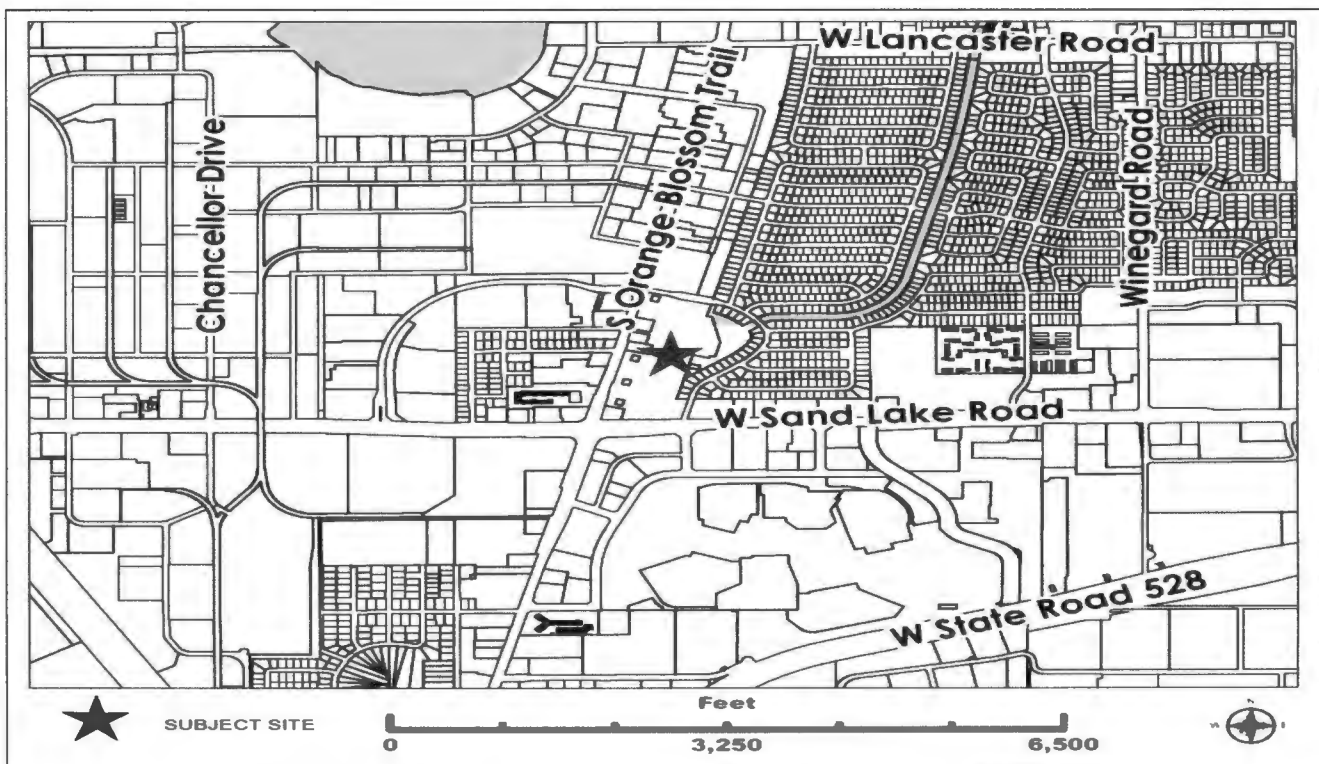
The applicant noted that in consideration of the staff comments, they would like to amend the request to 7.5 ft. tall letters and a total of 290 sq. ft. of signage.

There was one person in attendance to speak in favor and one person in attendance to speak in opposition to the request. The BZA discussed the comparative sign sizes in the plaza and noted the visibility from the two adjacent streets. The BZA unanimously recommended approval of the variance with a 5-0 vote, with one abstention, subject to the five (5) conditions in the staff report, with an amendment to Condition 5, which states " Total wall sign copy area shall not exceed 290 sq. ft., with maximum letter height not to exceed 7.5 feet."

STAFF RECOMMENDATIONS

Approval of a lesser variance of 272 sq. ft. in lieu of 255 sq. ft. If the BZA should find that the applicant has satisfied the criteria needed to grant the variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|------------|------------|------------------|--|------------|
| Current Zoning | C-2 | C-2 | P-D | R-1 & C-2 | C-1 & C-2 |
| Future Land Use | C | C | C | LDR & C | C |
| Current Use | Commercial | Commercial | Office/Education | Single-family Residential & Commercial | Commercial |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the C-2, General Commercial zoning district, which allows a variety of commercial businesses including retail.

The subject property is 25.84 acres in size and was platted in 1992 as part of the Skyview Plaza plat. The property consists of a 233,870 square foot shopping plaza that is comprised of multi-tenant commercial buildings, as well as outparcels with structures that were constructed between 1964 and 1988.

Marshalls occupies a unit in one of the multi-tenant commercial buildings in the Skyview Plaza. The store, which is under construction, has a maximum building height of 42 ft. and has 147.8 ft. of frontage facing west, approximately 460 feet from the center line of S. Orange Blossom Trail. The proposed signage for the Marshalls includes a panel on a multitenant pylon sign directly on S. Orange Blossom Trail, a small 2.5 sq. ft. under canopy sign, and one large 8 ft. x 41 ft. 5 in., 331.7 sq. ft. wall sign.

For the purposes of calculating the allowable wall sign area, frontage is determined based on the location of the primary entrance to the building which in this case is the south elevation. Orange County Sign Code Section 31.5-15(a)(2) allows 1.5 sq. ft. of wall signage per linear foot of building frontage, as well as a 15% increase for buildings with a height between 35 and 50 feet. Using this calculation, the Marshalls is allowed up to 255 sq. ft. of copy area for their wall sign. Therefore, the amount of wall signage proposed requires a variance. Although the original request referenced a maximum allowed wall sign copy area of 221.7 sq. ft., the 15% increase due to Marshall's maximum building height of 42 ft. was not included in the original calculation. This report has been updated accordingly to reflect the correct maximum allowed by code.

The Marshalls request constitutes a 30% increase from what is allowed by code. This greatly exceeds the wall sign copy area variance that was granted to the adjacent Badcock store in 2019, which was a 10.5% increase from the code. It is also significantly greater than the variance granted to the adjacent Ross store in 2017 for wall sign copy area which was a 16% increase from the code. Further, in 2020, the adjacent Olive Garden was granted a wall sign copy area variance of 175.3 sq. ft., in lieu of 127.5 sq. ft., which represents a 37.5% increase from what is allowed by code, which is distributed on three separate facades, including signs that are visible from S. Orange Blossom Trail and W. Sand Lake Road. Therefore, the actual size of any one of Olive Garden's signs is smaller than the primary signs of Badcock and Ross, and much smaller than the request.

While the request meets some of the standards for variance criteria, it does not meet all of the standards, however staff is recommending a lesser variance of 272 sq. ft. in lieu of the maximum 255 sq. ft. that will meet all of the standards as outlined below. This recommendation would allow Marshalls to have a sign that has a maximum height of approximately 7.25 ft., which is still smaller than the adjacent Badcock wall sign which has a height of 7.75 ft, while still providing adequate visibility from S. Orange Blossom Trail. Furthermore, a 272 sq. ft. wall sign would only be a 6.7% increase from the code, which is smaller than all variances approved within the Skyview Plaza.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|-------------------|
| Max Height: | 50 ft. | 42 ft. |
| Min. Lot Width: | 100 ft. | 1,700 ft. |
| Min. Lot Size: | 8,000 ft. | 1,125,485 sq. ft. |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Special conditions and circumstances particular to this site are relative to the distance of the building from the adjacent right-of-way. The building is located a considerable distance from S. Orange Blossom Trail and therefore signage needs to be larger to have the same impact as smaller signage on a building located closer to the right-of-way.

Not Self-Created

The need for additional sign area is not self-created due to the distance from S. Orange Blossom Trail. Furthermore, unlike other businesses, Marshalls cannot install wall signage that would also be visible from W. Sand Lake Road.

No Special Privilege Conferred

Approval of the request will not grant the applicant special privilege, as there are several other businesses in the plaza which have been granted additional wall sign copy area due to the distance from the right-of-way.

Deprivation of Rights

The sign code does not give any consideration to the distance that building frontages are from the right-of-way. Therefore, the failure to grant even the reduced variance that staff has recommended will deprive Marshalls of the ability to install signage that will be adequately visible from S. Orange Blossom Trail.

Minimum Possible Variance

Since the applicant has other alternatives to reduce the request, this is not the minimum variance to allow adequate signage visibility. Other adjacent businesses have installed wall signs which have smaller sign heights

than what Marshalls is requesting, and are still visible from the right-of-way. The suggested reduced variance of sign area to 272 sq. ft. in lieu of 255 sq. ft. would be considered as the minimum possible variance to still allow adequate visibility.

Purpose and Intent

The purpose of the sign code is to ensure that a consistent amount of signage is permitted for all properties and to avoid sign clutter. Approval of the requested increased wall signage area would not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the surrounding area, as the requested wall signage is significantly larger than that of adjacent businesses in this commercial plaza. The suggested reduced variance of 272 sq. ft. in lieu of 255 sq. ft. would be in harmony with the purpose and intent of the Zoning Regulations and would not be detrimental to the surrounding area as the recommended smaller sign copy area, relative to the size of the Marshalls, would lead to a Marshalls sign that is similar in size and scale to existing wall signage in the Skyview Plaza.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and sign specifications dated May 10, 2021, as modified by these 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 sign within 2 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. Total wall sign copy area shall not exceed 272 sq. ft., with maximum letter height not to exceed 7.25 feet.

C: Gina Penney
1077 W. Blue Heron Blvd.
West Palm Beach, FL 33404

COVER LETTER



BRANDING THE WORLD

national headquarters

1077 West Blue Heron Blvd.

West Palm Beach, FL 33404

800.772.7932

www.atlasbtw.com

March 29, 2021

Orange County Zoning Division
201 South Rosalind Avenue 1st Floor
Orlando, FL 32801.
Ph: 407-836-3111
Email: BZA@ocfl.net

RE: Marshalls – 7801 S. Orange Blossom Trail
Letter of Intent / Variance Criteria

To Whom It May Concern:

Marshalls is requesting an exception to what code allows for wall sign. The proposed sign materials consist of aluminum, acrylic, and LED lights. The allowable square footage for this location is $148' \times 1.5 = 222$ square feet. Proposed wall sign: $8' \times 41'-5" = 331.2$. The proposed wall sign placement is 400' (+/-) from the front property line and 300' (+/-) from the side property line. Proposed wall sign placement: bottom of sign: 25' and top of sign: 33' from grade. The name of the store contains 9 letters 4 of which are ascenders, because of this they are already limited on the overall height and width...calculations for the sign if boxing the sign without the ascenders is 220.89 square feet.

The shopping center Marshalls will be going in allows for three signs; a tenant panel in a multi-tenant ground sign, the wall sign we are requesting the variance for, and a blade sign that is not visible to vehicular traffic. The multi-tenant ground sign is not visible until after you have passed the closest entrance to the store when traveling northbound. We are requesting a variance on the wall sign because there is a concern with potential customers not seeing the store until they have passed the locations entrance. They would then enter at the next entrance and cut through the parking. Our goal is to make it easier for customers to identify the exact location of the store and to provide that visibility before they pass by the entrance so they can enter the shopping plaza safely.

COVER LETTER

March 29, 2021

Orange County Zoning Division
201 South Rosalind Avenue 1st Floor
Orlando, FL 32801.
Ph: 407-836-3111
Email: BZA@ocfl.net

RE: Marshalls – 7801 S. Orange Blossom Trail
Letter of Intent / Variance Criteria

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

The building we are proposing to place the sign on is set back over 400' from the road. The in-line tenants run at an angle parallel to S. Orange blossom Trail. There are two buildings and landscaping blocking visibility when traveling north on S. Orange blossom Trail making it difficult to see the building until you are in front of the store.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
This is not self-created, the building is in-line with the other tenants and the tenants are running parallel to the road. The road itself runs at a NE angle. The buildings setback is necessary to provide adequate parking.

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

Approval of this request is in accordance with other businesses in this shopping center. They have similar hardships created by the buildings setback and orientation. Other retail establishments in this plaza have filed for a variance and been awarded the allowance for a larger sign because of the lack of visibility.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Marshalls is asking for the same privilege as other tenants in the plaza who have larger signs due do a variance approval.

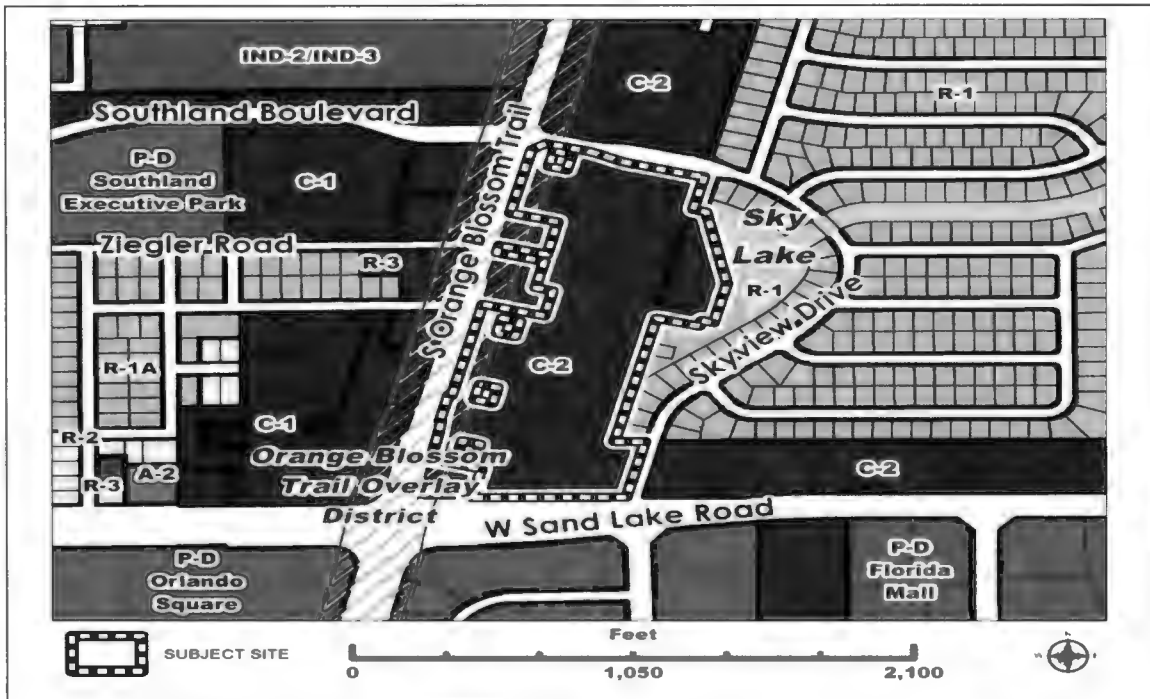
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We are asking for the minimum amount necessary to achieve visibility from the road. The proposed sign is aesthetically pleasing. Positioned in the center of the sign band area; it is well proportioned with the store size and sign band.

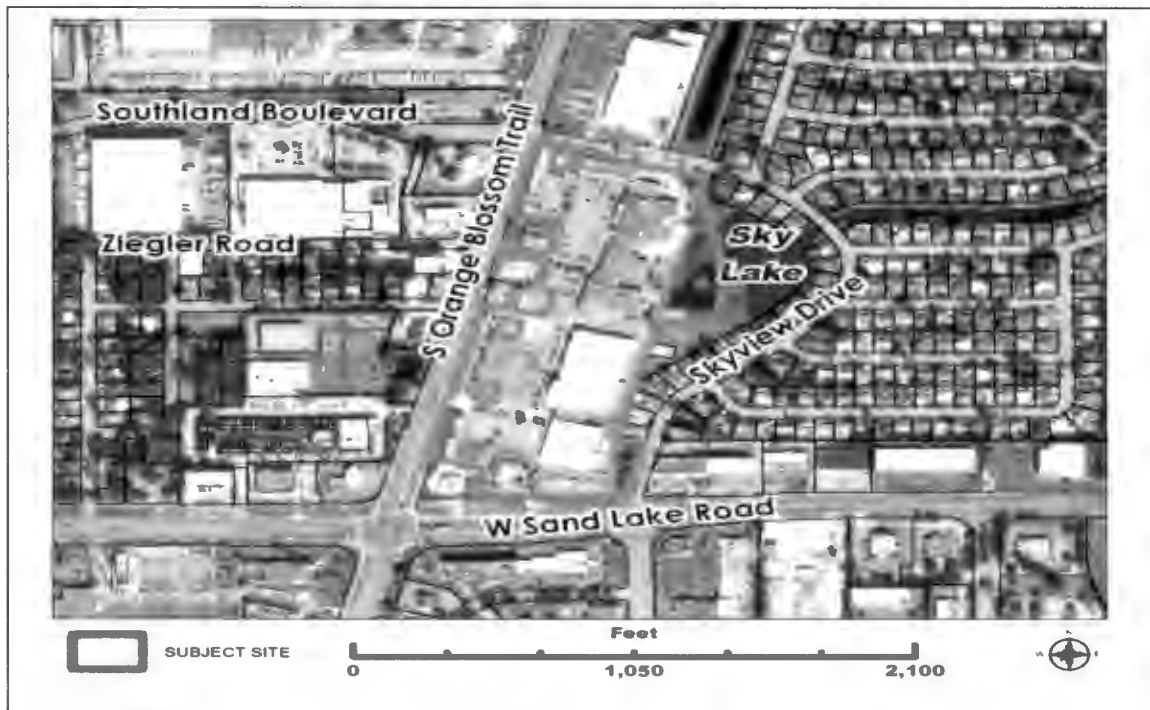
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of this variance will be in harmony with the intent of the code. The larger sign will fit perfectly in the sign band area and will not be injurious to the neighborhood. The sign will assist potential customers when navigating thru the parking lot and it will be visible for motorist on the road, which will give them adequate time to transition over and make the turn into the plaza.

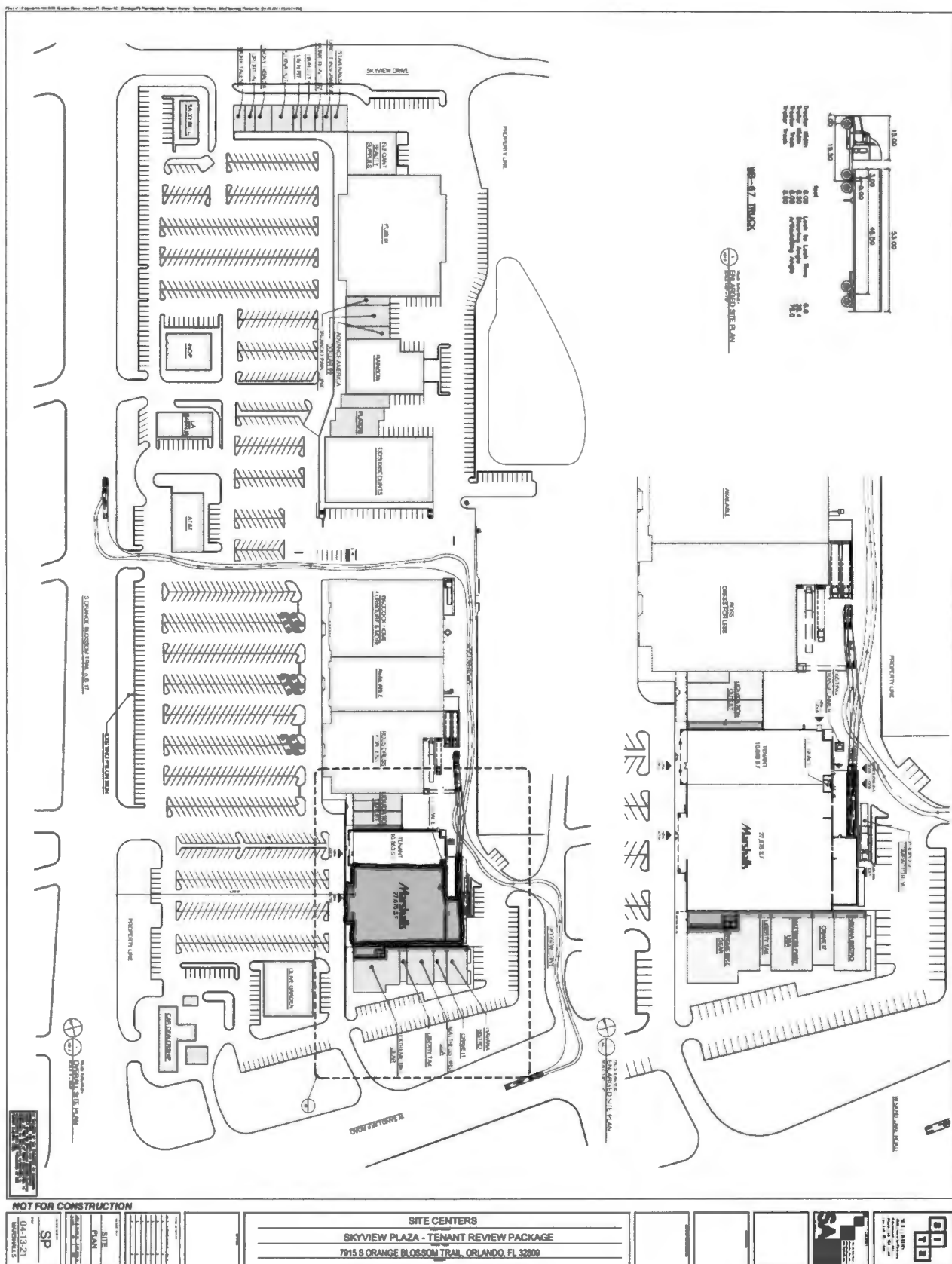
ZONING MAP



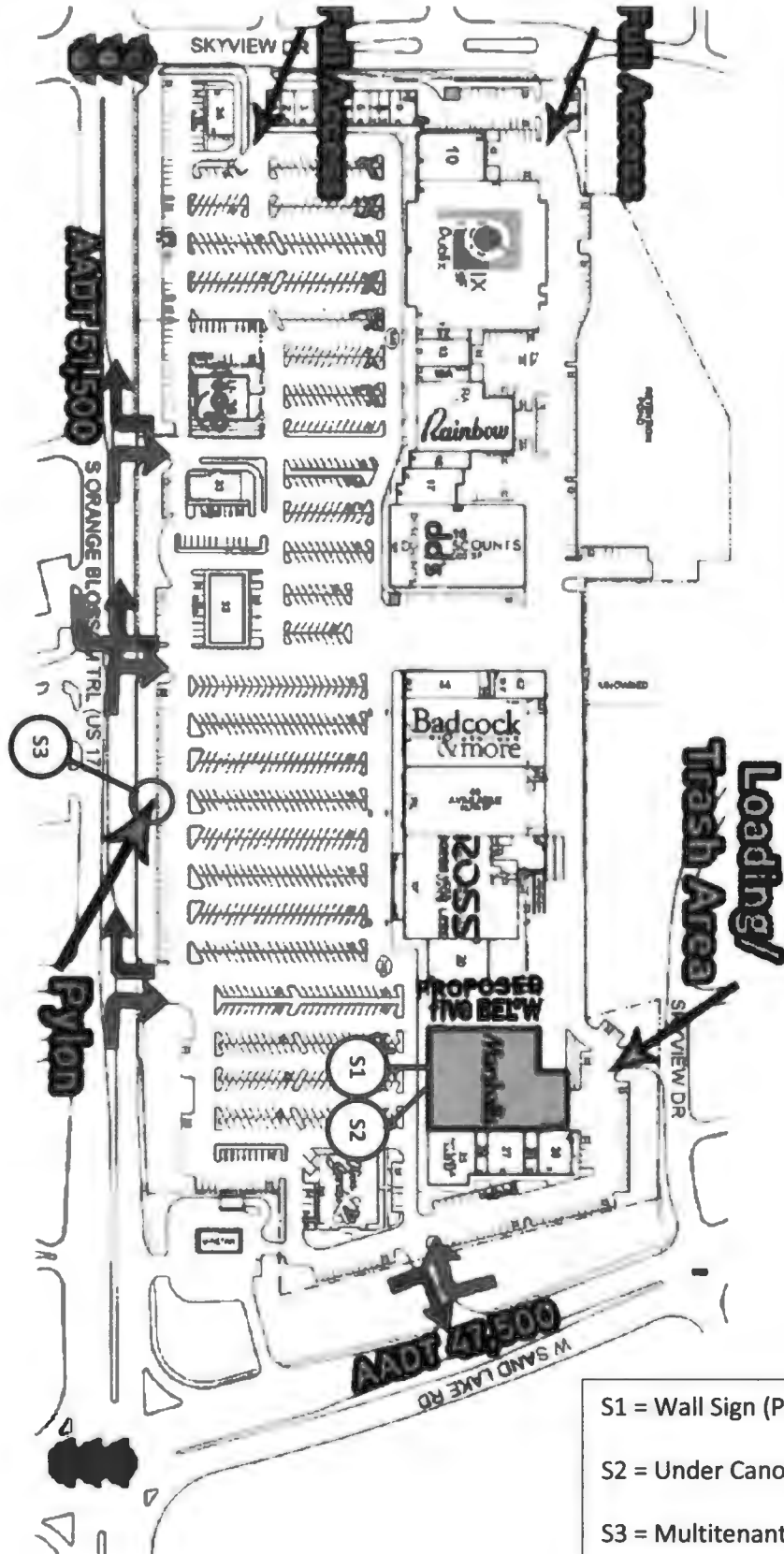
AERIAL MAP



SITE PLAN



SITE / SIGN PLAN

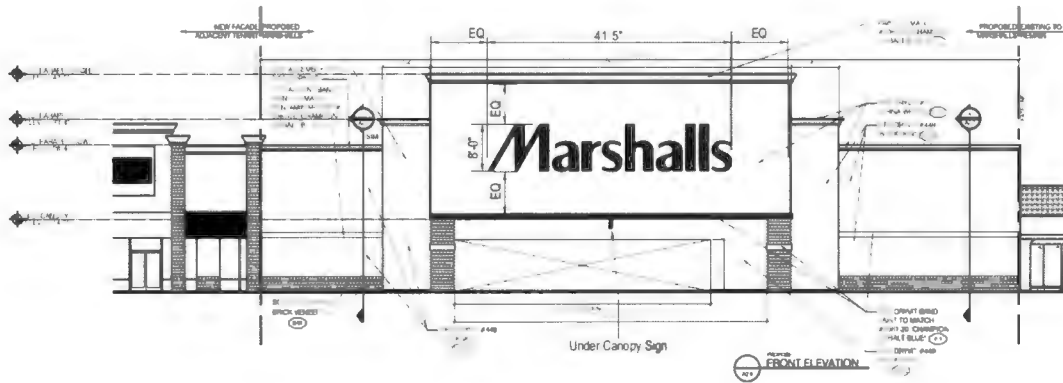


S1 = Wall Sign (Proposed 331.3 SF)

S2 = Under Canopy Sign

S3 = Multitenant Pylon Sign

SIGN SPECIFICATIONS



SPECIFICATIONS FOR FABRICATION AND INSTALLATION:

Internally illuminated front-lit channel letters built to UL specifications

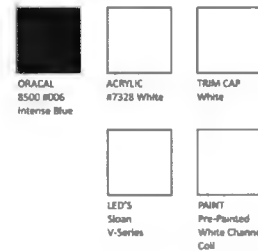
- Aluminum construction: backs .063 / returns .040 / depth 5"
- Mounting method: Individual (remote power supply/wiring)
- Power Supply(s) mounting placement: above or below roof line
- Illumination: LED Modules
- Primary electrical requirement: 120 volt
- (Installed within six feet of sign by others, with no obstructions)

COLOR & LED SPECIFICATIONS

- Trim Cap: Jewelite Standard White 1"
- Plex Face Color: #7328 White 3/16"
- Vinyl: Oracal 8500 #006 Intensive Blue
- LED Type: Sloan Prism White L.E.D. Modules
- Power Supply(s) (60 Watt) (120 Volt)
- Returns: Pre-painted White Channel Coil / White (Secondary)
- Interior painted for increased illumination: Gloss White



| Nomenclature | A | B | C | Boxed SF | Actual SF |
|--------------|-------------|-----|--------|----------|-----------|
| MCL-B-96-RMT | 96" / 8' 0" | 64" | 41' 5" | 331.2 | 249.0 |



- 001
- 002
- 003
- 004
- 005
- 006
- 007
- 008
- 009
- 010
- 011
- 012
- 013



White on Blue FRONT ELEVATION

Blue on White FRONT ELEVATION



Oracal 8500 #006 Intensive Blue Vinyl



#7328 White Acrylic (or)
White Polycarbonate on Faces Longer than 8'-0"



ORACAL
8500 #006
Intensive Blue



ACRYLIC
#7328 White



Monument | Tenant Panels Double Faced

Specification for Fabrication and Installation

Acrylic Panel with vinyl graphics applied to first surface

- Acrylic Face 3/16" #7328 White Acrylic

Polycarbonate Faces used on signs over 8' 0" long 3/16" White

Vinyl Film: 3M Translucent Series Vinyl film

Color Specifications:

Plex Face Color: #7328 White

Vinyl: Oracal 8500 #006 Intensive Blue

Note:

Dimensions to be verified

atlas

National Headquarters 1077 West Blue Heron Blvd
West Palm Beach, Florida 33404
800 772 7932
www.atlasblw.com

Revisions

S03

J.K

TLD

||

W Sandlake Rd. & Orange Blossom Trail
Orlando, FL

03.31.2020

104964-S03

SITE PHOTOS



Front facing south (Marshalls currently under construction)



Front facing east (Marshalls currently under construction)

SITE PHOTOS



Front facing north (Marshalls currently under construction)



Approx. 75 ft. in front of Marshalls facing west towards S. Orange Blossom Tr.

SITE PHOTOS



Front facing east (Taken approx. 115 ft. from center of S. Orange Blossom Tr.)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Laekin O'Hara**

Case #: **VA-21-07-055**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): JAMIE KOECHNER

OWNER(s): JAMIE KOECHNER, ROSANA GOMES

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

- 1) To allow a 5 ft. high fence and 6 ft. high sliding gate within the 15 ft. visibility triangle.
- 2) To allow a 6 ft. high sliding gate in the front yard in lieu of 4 ft. high.
- 3) To allow a 5 ft. high fence in the front yard in lieu of 4 ft. high.
- 4) To allow a 5 ft. high fence within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. high.

PROPERTY LOCATION: 14302 Ellerbee St., Winter Garden, FL, 34787, south side of Ellerbee St., north shore of Black Lake, east of Avalon Rd.

PARCEL ID: 34-22-27-0000-00-033

LOT SIZE: 132 ft.x336 ft. (AVG)/ +/- 0.98 acres (42,863 sq. ft.)

NOTICE AREA: 700

NUMBER OF NOTICES: 53

DECISION: Recommended **APPROVAL** of the Variance requests **#1** and **#4**, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; and, Variance requests **#2** and **#3**, were determined as **NOT APPLICABLE** by staff (5 in favor, 1 opposed and 1 absent):

1. Development shall be in accordance with the site plan and fence details dated May 10, 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 columns, fence, and sliding gate within 2 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.

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 due to property's location adjacent to a dead end street and denial of Variance #4 since the owner has other locational or height alternatives. Staff noted that five comments were received in support and one was received in opposition.

The BZA confirmed that the property is unique to the area with the canal at the easterly side, and there are special conditions with the presence of the drain field at the northwesterly portion of the site.

The owner noted the site constraints and the liability of members of the public using his property to access the canal and Black Lake. He also stated that the fence height and gate are for security reasons.

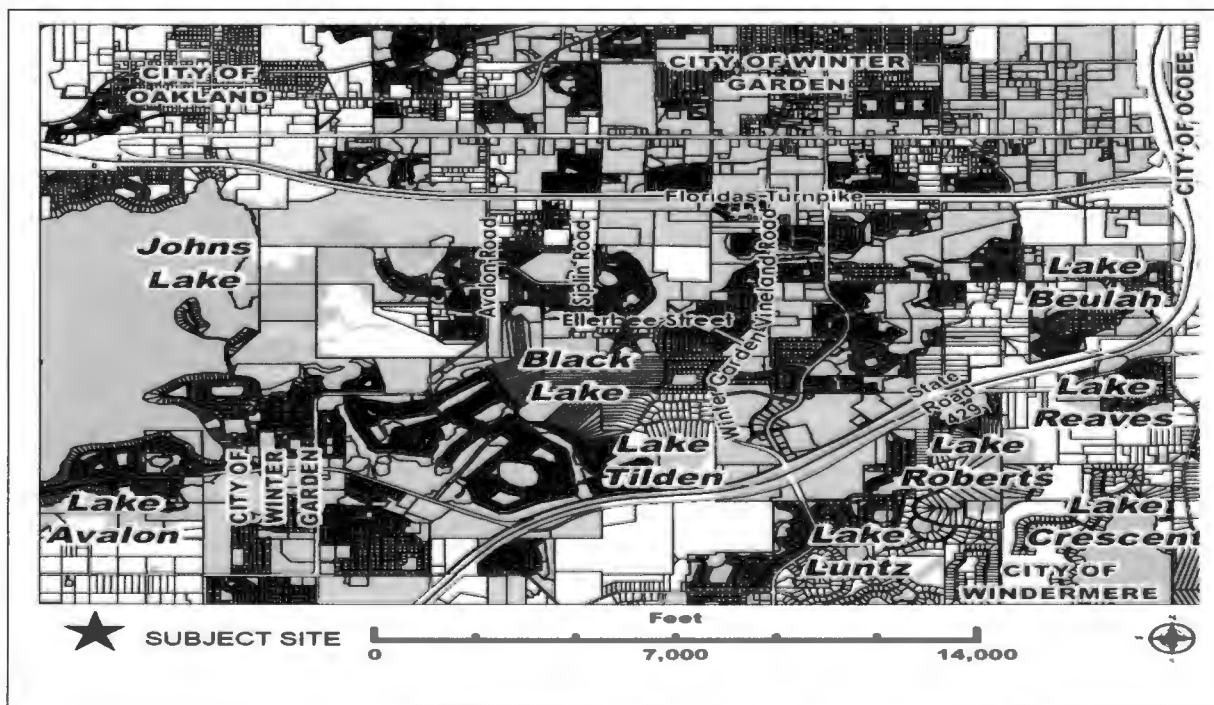
The BZA stated that the canal is a feature unique to this property, and noted the particular circumstances include the fact that the fencing was needed for safety reasons.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of variances #1 and #4 by a 5-1 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Staff recommends approval of Variance #1, subject to the conditions in this report, and denial of Variance #4. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all the Variances, staff recommends that the approval be subject to the conditions found in this report. Staff has determined Variances #2 and #3 are no longer necessary.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|-------------------------|-------------------------|------------|-------------------------------|-------------------------|
| Current Zoning | A-1 | A-1 | Black Lake | Canal/ A-1 | A-1 |
| Future Land Use | R | R | WB | WB & R | R |
| Current Use | Single-family residence | Single-family residence | Black Lake | Canal/Single-family residence | Single-family residence |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses, mobile homes, and a single-family residence with associated accessory structures on larger lots.

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is a +/- 0.98 unplatted lot. This property is located on Black Lake, with a canal that runs along the entire east side of the property, and the Normal High Water Elevation (NHWE) following the canal along the east. This property is located towards the end of a dead-end road, with no sidewalk on either side. A septic tank / drainfield is located in the northwest corner of the property.

The site is developed with a 6,049 sq. ft. single-family home, which was constructed in 2020. A pool is currently under construction (B20022131) at the rear of the property. The applicant purchased the property in 2020. The applicant is requesting a 5 ft. high aluminum picket fence and 6 ft. high aluminum picket sliding gate with 4 - 6 ft. tall concrete columns to be installed along the front property line, and a 5 ft. tall aluminum picket fence along the west property line.

The code allows fences in agricultural zoning districts to be a maximum of 6 ft. high within the front setback, and allows pillars and posts to extend an additional 24 inches. However, the code prohibits fences to be within the clear view triangle area, which is an area on each side of the driveway that is formed by measuring 15 ft. along the road and 15 ft. along the edge of the driveway, and limits the height of fences to 4 ft. within the 50 ft. setback from the NHWE. The proposed fence is within the clear view triangle and a portion is located within the NHWE setback, requiring variances #1 and #4, respectively.

A fence permit (F20023861) was submitted in November 2020 for a 5 ft. tall aluminum fence along the front property line and a 4 ft. tall aluminum fence along the west property line, but was marked deficient as the improvements did not meet the required 15 ft. site visibility triangle. That permit was subsequently voided out as it was not issued within 6 months of creation. A new permit will be required for any fencing.

The applicant submitted a total of 3 letters of support from the owners of the adjacent properties to the east and west.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|--|---|
| Max Height: | 6 ft. for fence within 35 ft. front setback, Pillars, columns, and posts may extend up to twenty-four (24) inches above the height limitations provided such pillars and posts are no less than ten (10) feet apart located outside of clear view triangle | 5 ft. high fence, 6 ft. tall columns, 6 ft. high sliding gate along the front property line and westerly side within clear view triangle. |
| Min. Lot Width: | 100 ft. | 147.42 ft. |
| Min. Lot Size: | 21,780 sq. ft. | 42,863 sq. ft. |
| NHWE | 50 ft. | 5 ft. high fence within NHWE (Variance #4) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1 and #4

The special conditions and circumstances particular to the property is the site's constraints, such as the location of the existing drain field and septic tank in the front yard, making it difficult to install a fence that meets the sight distance triangle required by code without the need for a variance. Further, a 5 ft. high fence is permitted within the side and rear yards, however due to the presence of a NHWE at the rear and easterly side of this property, only a 4 ft. high fence would be permitted.

Not Self-Created

Variance #1

The need for the variance does not result from the actions of the applicant, as the location of the drain field was established at the time of construction of the house.

Variance #4

The need for the variance is self-created, as the applicant could install the fence at a conforming height.

No Special Privilege Conferred

Variance #1

Granting the variance as requested will not confer special privilege that is denied to other properties in the same area and zoning district, as fencing would be allowed but the location of the drain field makes it difficult to meet code requirements.

Variance #4

Granting the variance as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant could modify the improvements requested to a conforming height.

Deprivation of Rights**Variance #1**

Without the requested variance, the applicant will not be able to install a fence anywhere within the north westerly portion of the property due to the presence of the drain field.

Variance #4

There is no deprivation of rights since code compliant fencing could be installed.

Minimum Possible Variance**Variance #1**

Given the configuration and location of improvements on the property, the requested variance is the minimum possible.

Variance #4

The requested variance is not the minimum possible, as the applicant could modify the height to meet code.

Purpose and Intent**Variances #1 and #4**

Approval of the requested variance will allow improvements in an appropriate location which is in harmony with the purpose and intent of the Zoning Regulations. Therefore, the proposed requests would not be detrimental to the surrounding area since the property is accessed from a dead end street and the proposed transparency of the aluminum picket fence and gate will limit any potential visibility issues.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and fence details dated May 10, 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 columns, fence, and sliding gate within 2 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.

C: Jamie Koechner
14302 Ellerbee St.
Winter Garden, FL 34787

COVER LETTER

Dear Zoning Board

I would like to request a variance for my fence project. The current permit # is F20023861. The reason for this request is because code requires a viewing triangle which will cause a few problems:

1) I am the second to last house on a dead end road. It's very quiet on my street. There is only one driveway on the opposite side of the street and it's 1/4 of a mile away. A water canal separates the next door neighbor on the right of me. She is 85 years old. Any traffic that does come down that road will turn around in my drive. The road doesn't have signage. I have already had to repair my yard where vehicles have turned around.

2) The viewing triangle requires a space of 15 ft between the fence and my driveway on both sides. My septic tank is in the front yard. I can't build the fence on top of the septic drain lines. Even if I didn't have septic lines that would put the fence in the middle of my yard.

3) I need this fence for my pool.

4) I need to protect my home, kids, dogs. Building a pool

5) There are many fences on my street that are definitely not following the rules. Especially the 8,000 square ft house on the corner just 300 yards from me on the same side of road. He has built a 5 ft concrete wall with a 6 ft fence on top of the wall !!! This wall sits just a few feet from the road and goes around the corner which blocks any view of oncoming traffic. This is dangerous for my daughters while riding their bikes.

6) My driveway is 20 to 30 ft wide and 150 ft long. From the road it elevates to my house. I'm only asking to build a straight 5 ft aluminum picket fence from my property lines up to 2 ft from each side of driveway to attach an electric security gate. The triangle requires the fence to be 15 ft away from each side. From the top of my driveway I can clearly see over and past the fence in any direction. I have included photos to illustrate this.

7) Instead of 4 ft columns I would like to build them 6 ft tall. My request is to put a column on both corners of my yard and one column on each side of driveway to support my security gate.

8) One column will be 20 ft from normal high water line of the canal on left side

9) It's very important that the fence extend to the edge of canal so that people don't have access to the canal. Sometimes people bring kids there to go fishing. I love to fish so I feel bad to ask them to leave. I don't need that liability.

I have included 3 letters from neighbors that will support my cause.

Lurcie Hodge, 14254 Ellerbee st 407-924-2457, Kellie Collins 14246 Ellerbee st, 321-370-6508, Sean Young 14346 Ellerbee st, 321-370-6508

Thank you for your consideration

Jamie Koechner

407-572-5156

Jamiekmoney@aol.com



3-26-31

COVER LETTER

Zoning Board

This letter is an addition to my main cover letter just for some clarification. I'm requesting a variance to allow a 5 ft high fence within the front setback and also to allow fence within the viewing triangle. Code is 4 ft. This part of the fence includes a 5ft by 10ft access swing gate and a 6x 18 ft electric slide gate over driveway. Every week at least 2 or 3 people are on my property fishing in that canal. Large dogs run through my property as well. This creates a huge liability for us and I have had people get really upset when I ask them to leave the canal area. A 4 ft fence is not high enough to deter big dogs and hungry fishermen. I also have a pool and a lake front lot that needs to be secured.

Thank You for your consideration

Jamie Koechner

05-25-2021

COVER LETTER

Hello Zoning Board

I want to address the six criteria that must be met to obtain a variance.

1) Special conditions and circumstances:

One special condition is the fact that I have a larger water canal bordering my property. At least twice a week I have people thinking that this is public property next to the canal and I have to ask them to leave. I need a fence in the front to keep these people from harm's way. They walk right past and even have taken down my no trespassing sign. Another special condition is the fact that I have a septic system in my front yard and a viewing triangle would require me to put a fence through the middle of my yard directly in the septic drain lines.

2) Not self-created:

The water canal was not created by me. The septic system was the decision of the builder before I bought the house.

3) No special privilege conferred:

I do not expect any special privilege.

4) Deprivation of rights:

The fence project in no way would deprive any rights that myself or other home owners in this district would normally enjoy. I'm seeking a variance because I do everything by the book. There is no intention of building anything that would be in violation.

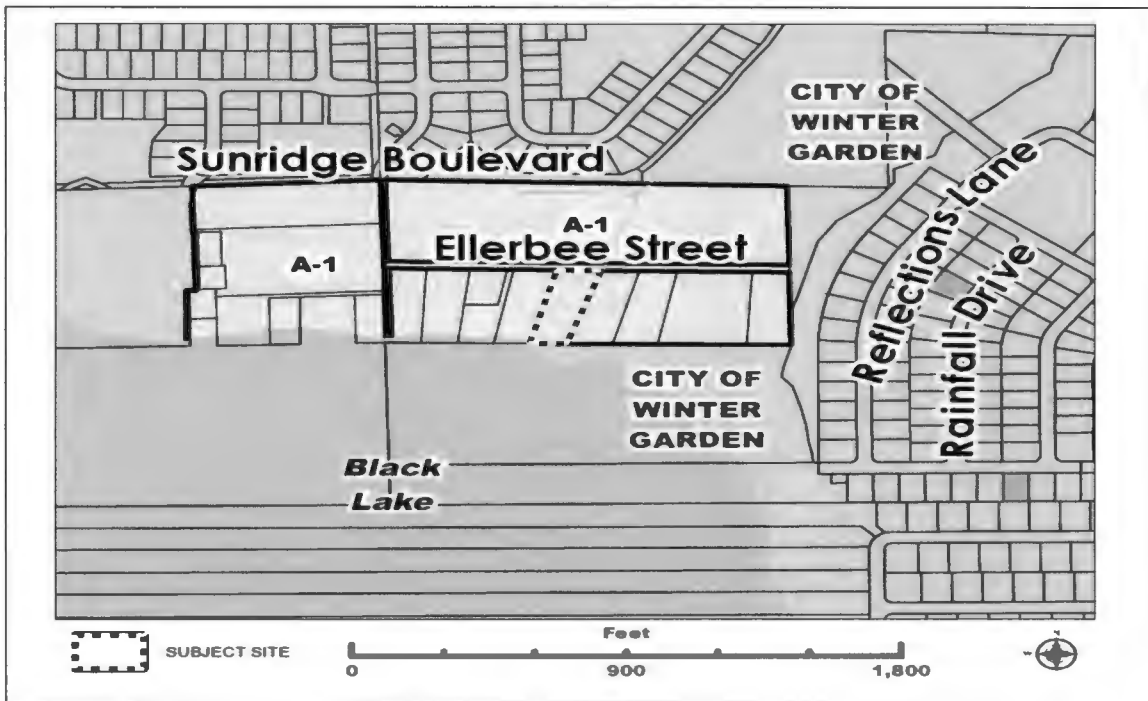
5) Minimum possible variance:

I'm asking for a 5 ft. see through picket fence and only 4 columns to support gates and provide security for my family. The view is very clear from every angle.

6) Purpose and intent:

I have two beautiful teenage girls and two 10 pound dogs. I need to protect my family as there are several dogs in that neighborhood that run freely. I've worked three jobs for 40 years to buy this property. I need to protect it. This will also protect the general public as like I said before, people are coming to there to fish and I can't have this liability. I will have an access gate near the canal and an access road if the county needs to come to the canal for any reason. So this also protects county property and the electric company's property.

ZONING MAP



AERIAL MAP



PROPOSED SITE PLAN

SUBJECT TO: AN EASEMENT FOR INGRESS AND EGRESS OVER THE NORTH 30 FEET THEREOF.

POINT OF BEGINNING

S 87°51'19" E (D)

S 89°15'21" E 147.42'

S 89°15'21" E 576'
S 87°51'19" E (D)

POINT OF COMMENCEMENT

NW CORNER OF THE S 1/2 OF
THE N 1/2 OF THE SW 1/4 OF
THE NE 1/4 SECTION 34-22-27
RECOVERED 3/4" IRON PIPE, NO
IDENTIFICATION

N LINE OF S 1/2 OF
THE N 1/2 OF THE SW
1/4 OF THE NE 1/4

Variance #1
visibility triangle

NOT PLATTED

N 17°13'39" E 364.08' (D)
N 15°49'32" E 1333.03' (D)

2-STORY
RESIDENCE
FFE=102.0

W-1
CLASS I

W-1
CLASS I

WETLAND
(FLAGGED BY OTHERS)

N 89°37'13" W 120.40'
N 88°13'11" W (D)

TRACT H
CONSERVATION
BLACK LAKE PARK PHASE 2
PLAT BOOK 64, PAGES 1-6

ELLERBEE ST.
30' RIGHT OF WAY AGREEMENT
ORB 1775, PG 0461

CONCRETE DRIVE

GUARD RAIL

CONCRETE
RIP-RAP

Variance #4
General location of
fence within the 50
ft. NHWE

NOT PLATTED

CLASS I
S 19°53'09" W 339.56'
S 21°17'11" W 371.32' (D)

Fence

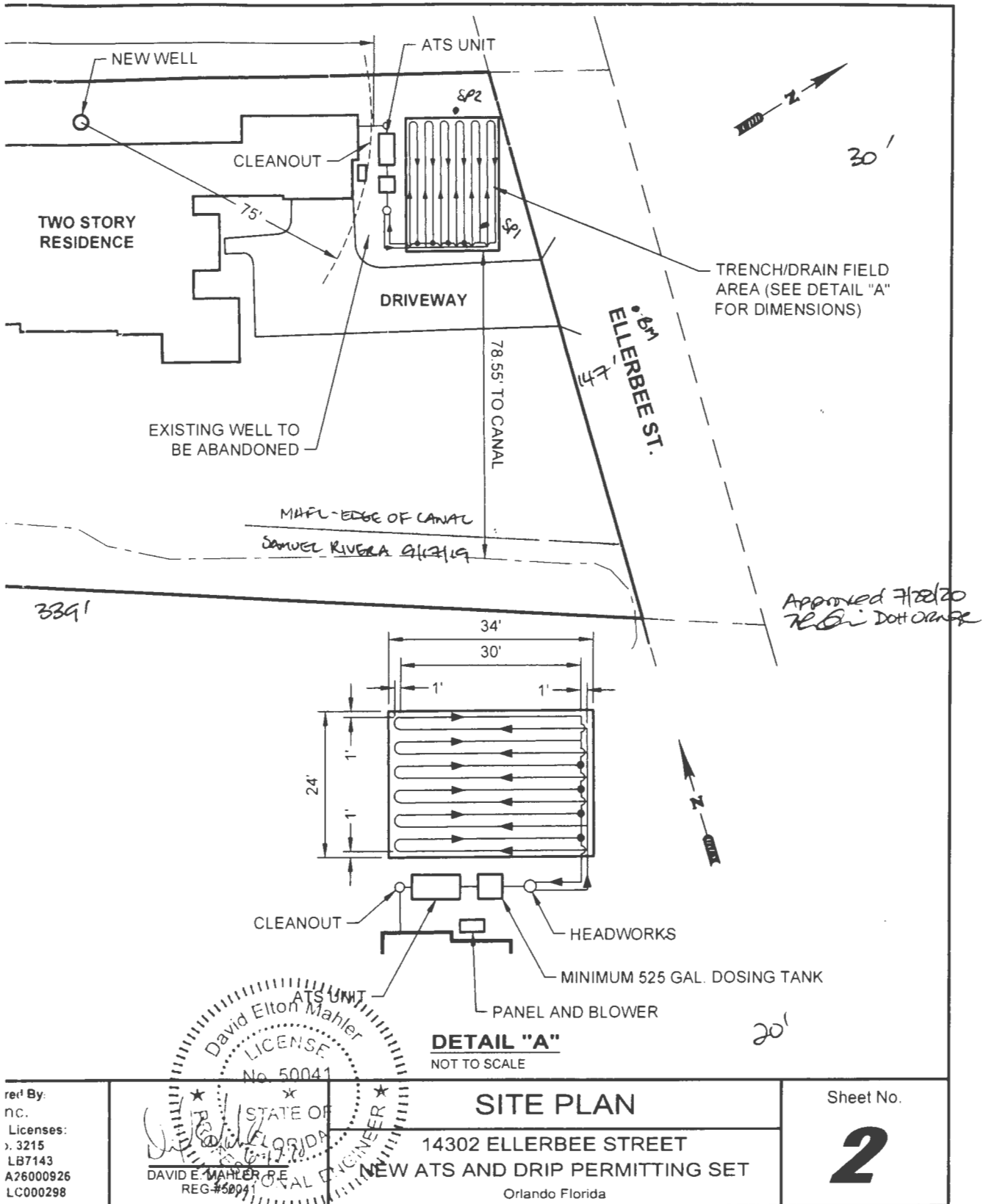
Column

Visibility
triangle

NORMAL HIGH WATER
LINE ELEVATION=93.76
(NAVD88)

S LINE OF S 1/2 OF
THE N 1/2 OF THE SW
1/4 OF THE NE 1/4

DRAINFIELD LOCATION

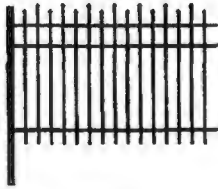


FENCE, COLUMN, & GATE DETAIL

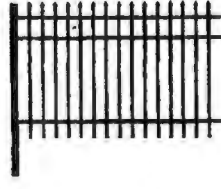
ALUMINUM FENCE STYLES

Quickship available in five days for Black only.
Increase lead time to 21 days for colors and rackable sections
Panels shown in stock are also available via Quickship for non-stocking locations

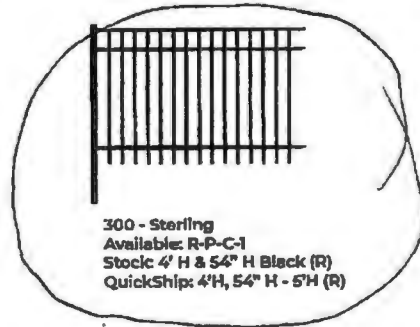
Color Options Available:



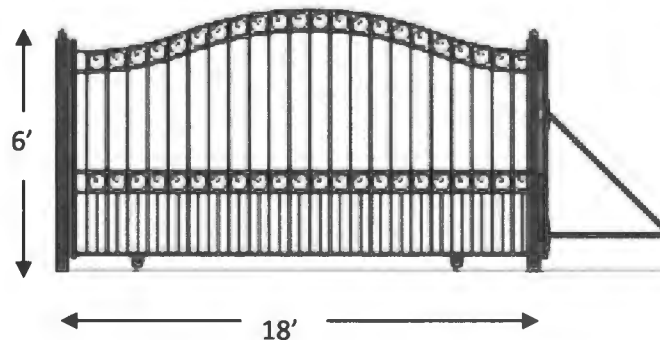
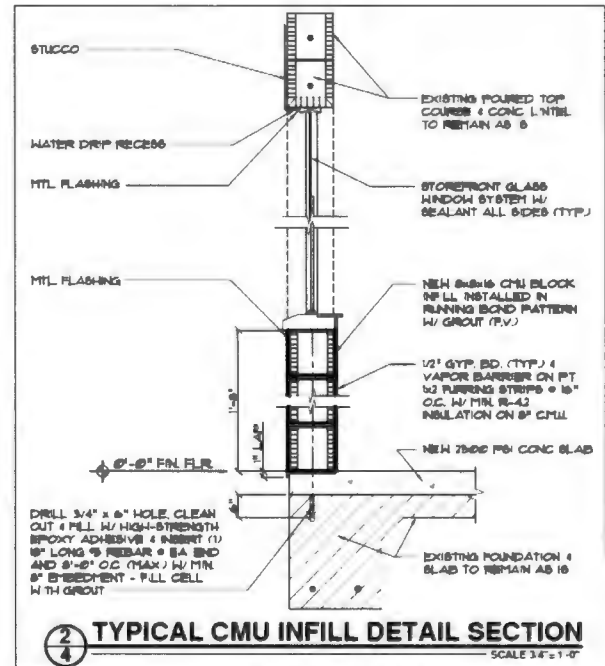
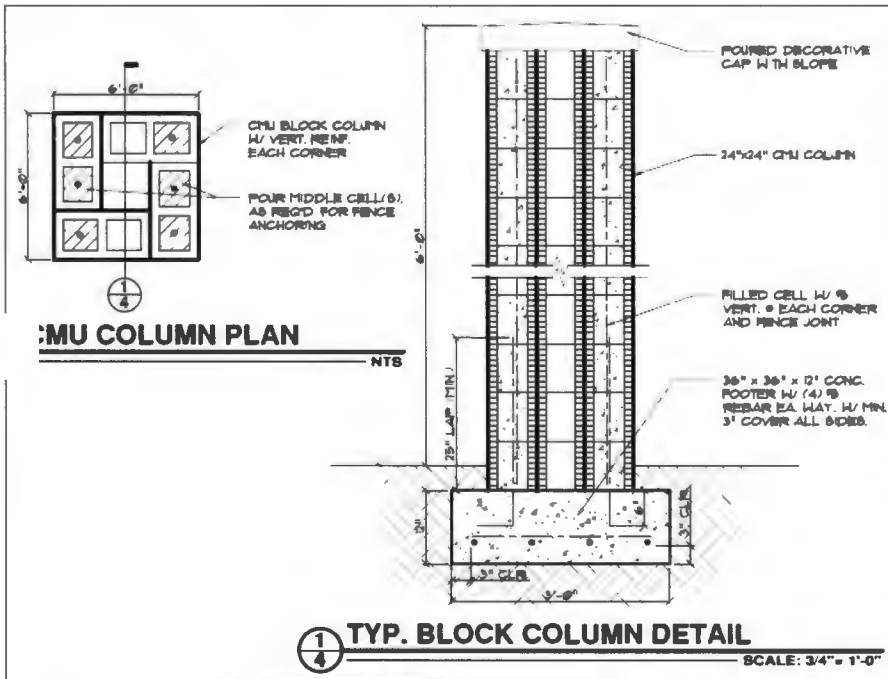
200 - Parkland
Available: R-C-1



203 - Colonial
Available: R-P-C-1
Stock: 4'H Black (R)
Quickship: 4'H, 5'H (R)



300 - Sterling
Available: R-P-C-1
Stock: 4' H & 54" H Black (R)
QuickShip: 4'H, 54" H - 5'H (R)



Aleko Steel Sliding
Driveway Gate PARIS Style
– provided by Garage
Department. Dimensions
added per website details.

SITE PHOTOS



East side of subject property facing south



East side of subject property facing north towards Ellerbee Street

SITE PHOTOS



From subject property facing west along Ellerbee Street



From subject property facing east along Ellerbee Street showing dead end

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Ted Kozak, AICP**

Case #: **VA-21-08-060**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): HOMES IN PARTNERSHIP (MARIELA GARCIA)

OWNER(s): DU BOIS SELWYN JOSEPH

REQUEST: Variances in the R-1AAAA zoning district to allow the construction of a 2,000 sq. ft. residence as follows:

1) To allow a lot width of 64 ft. in lieu of 110 ft.

2) To allow a lot size of 8,803 sq. ft. in lieu of 21,780 sq. ft.

PROPERTY LOCATION: 5205 McDonald Rd., north side of McDonald Rd., northeast of N. Orange Blossom Trl., east of Winifred Ave.

PARCEL ID: 27-20-27-0000-00-018

LOT SIZE: 0.20 acres (+/- 8,803 sq. ft.)

NOTICE AREA: 500

NUMBER OF NOTICES: 45

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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated June 15, 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 history of the zoning of the neighborhood, 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 support and one comment was received in opposition.

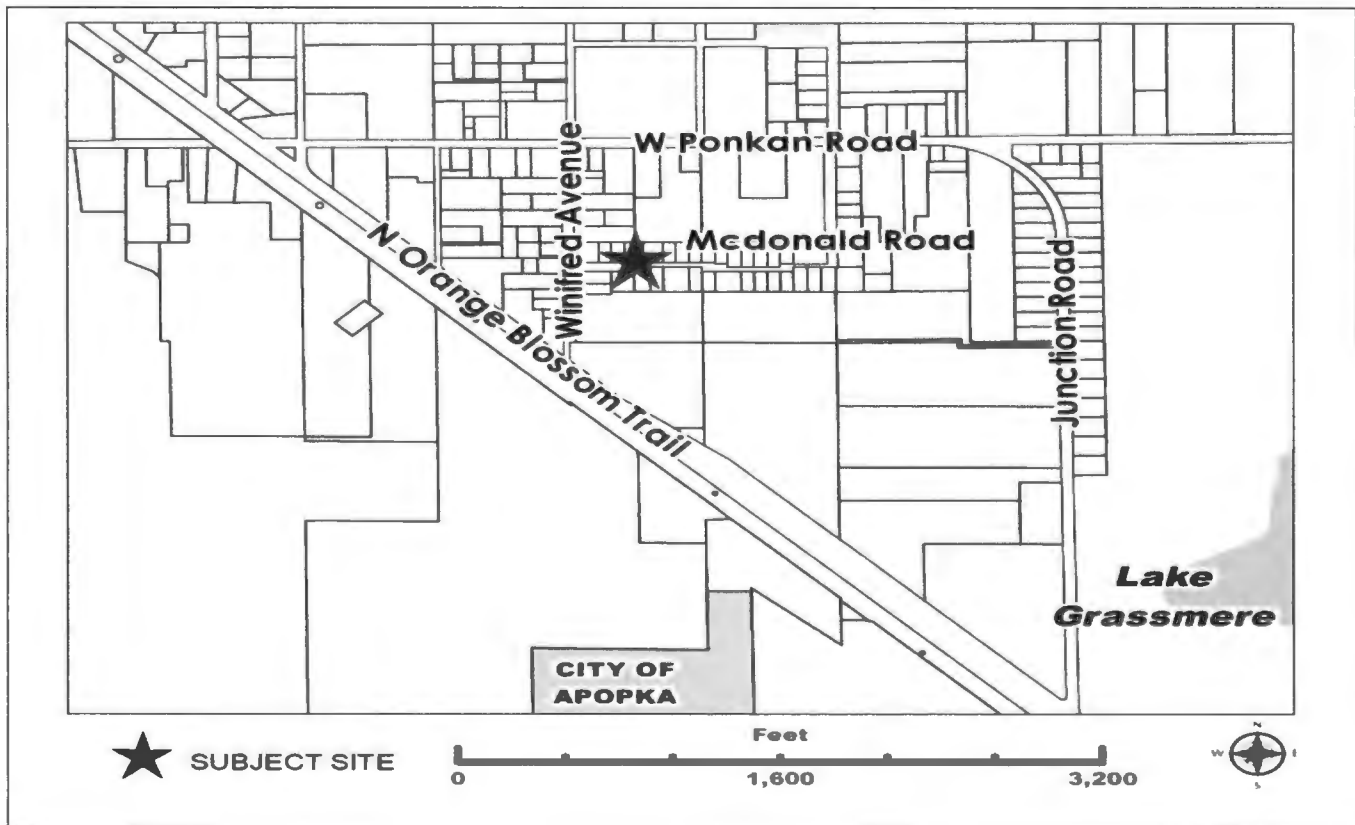
The applicant had nothing to add to the staff presentation.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variances by a 6-0 vote, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1AAAA, Residential Urban district, which allows single-family homes and associated structures and requires a minimum lot area of 21,780 sq. ft. The property is also located in the Zellwood Rural Settlement. Rural settlements are rural communities that were established before the enactment of the Comprehensive Plan in 1991 and are located in the rural service area, which typically requires a minimum density of 1du/10acre. Because these communities were previously established with higher densities, rural settlements were created to recognize and allow the higher densities in the rural service area. The property has a Future Land Use of Low Density Residential, which allows 4 du/1 acre.

The area around the subject site is comprised of single-family homes within the R-1AAAA zoning district. The subject property is a 64.6 ft. wide, 8,803 sq. ft. unplatted parcel that is currently vacant. On October 21, 198 the Board of County Commissioners administratively rezoned the subject parcel and the adjacent neighborhood from R-1 to R-1AAAA, effectively requiring a variance to develop all vacant substandard parcels affected by the rezone. The owner purchased the property in 2021.

The R-1AAAA district requires a minimum 110 ft. lot width and a 21,780 sq. ft. lot area. The parcel has existed prior to 1957. When it was designated R-1, it initially met the 5,000 sq. ft. lot size and 50 ft. lot width requirements. However, 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. Deeds are available via the Orange County Property Appraiser but only through 1975. Therefore, variances for the 64 foot lot width in lieu of 110 ft. (variance # 1), and for the lot area of 8,803 sq. ft., in lieu of 21,780 sq. ft. (variance # 2) are required in order to develop the property. The applicant is proposing to construct a 2,000 gross sq. ft., 1 story house which meets the front, rear and side setbacks for the R-1AAAA district.

There are parcels along McDonald Rd. that are each the same size and width, and were granted variances after the 1982 county rezoning, including the newest constructed residence located at 5111 McDonald Rd. which was granted a variance in 2019, VA-19-06-049, to construct a single-family residence on a substandard lot.

As of the preparation of this report, staff has not received any correspondence in favor or in opposition to the requests.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|-----------------------------|
| Max Height: | 35 ft. | 18.5 ft. |
| Min. Lot Width: | 110 ft. | 64.6 ft. (Variance #1) |
| Min. Lot Size: | 21,780 sq. ft. | 8,803 sq. ft. (Variance #2) |

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

| | Code Requirement | Proposed |
|--------|------------------|------------------------|
| Front: | 30 ft. | 30 ft. (South) |
| Rear: | 35 ft. | 57.2 ft. (North) |
| Side: | 10 ft. | 12 ft. (East and West) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The lots on each side are developed with residences, so without size and width variances the lot would be undevelopable, which is a consideration of special conditions and circumstances.

Not Self-Created

The applicant is not responsible for the configuration of the parcel. The substandard aspects of the lot are not self-created, since the lot has existed for over 60 years when it was initially assigned R-1 zoning.

No Special Privilege Conferred

There are other developed lots with similar size and width in the area within the R-1AAAA zoning district that have been developed with single-family residences, and adjacent lots to the east that have been granted similar variances for lot width and area. No special privilege would be conferred by granting these variances.

Deprivation of Rights

Without the requested size and width variances, it will not be possible to develop the parcel since each adjacent parcel has already been developed.

Minimum Possible Variance

The lot width and size have existed for over 60 years, therefore granting the variances will be the minimum possible.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow development of lawfully created lots and parcels, and the proposed home will not be detrimental to the

neighborhood since the size and scale is consistent with the size and scale of other residences in the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated June 15, 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: Mariela Garcia
1140 S. Grove St.
Eustis, FL 32726

COVER LETTER

June 7, 2021

Orange County Zoning

201 S. Rosalind Ave.

Orlando, FL

To whom it may concern:

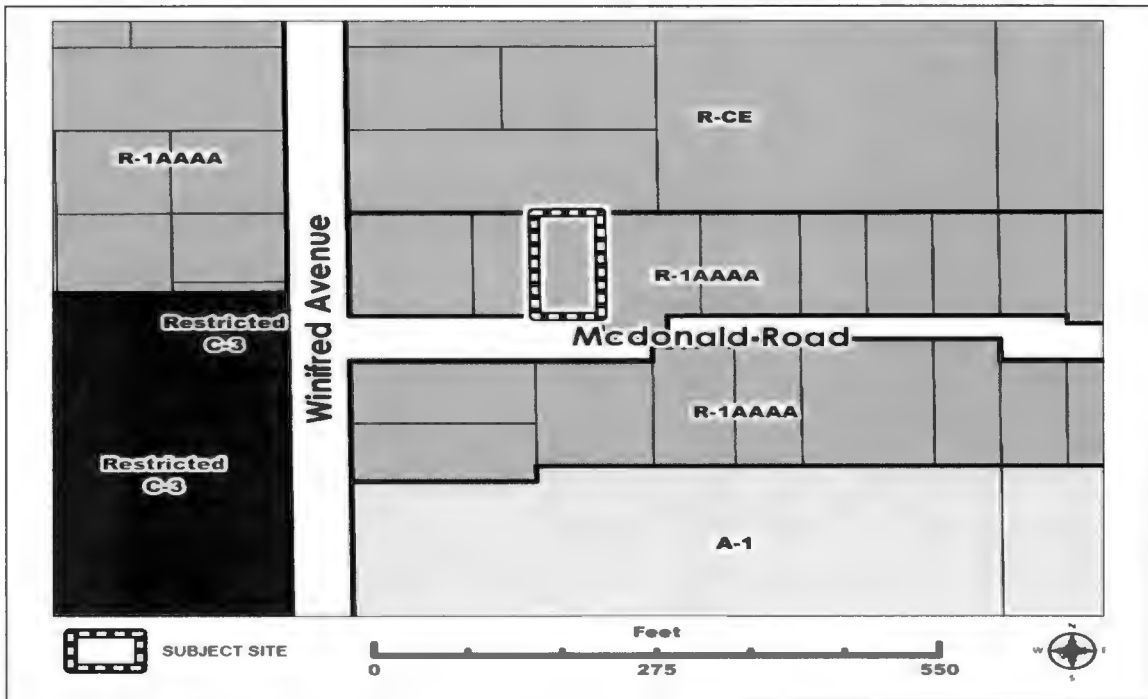
We are requesting a variance for the property located at 5205 McDonald Road in Zellwood, FL due to the following special conditions and circumstances. Currently this area zoning is calling for a lot width of 110 feet and a lot size of 21,780 sq. ft. However, this lot is 64.62 feet wide and the parcel is a total of 8,803 sq. ft. The variance for which we are applying is not a result of a self-created hardship nor is it expected to be a special privilege. We are asking to build an affordable home of 1527 sq.ft. under air and 2000 sq. ft. total under roof which would not deprive the owner of their rights. This home will comply with setbacks required by zoning. This home will fit comfortably with the surrounding homes that Homes in Partnership has previously built in the area. In addition, it helps revitalize the area.

Thank you,

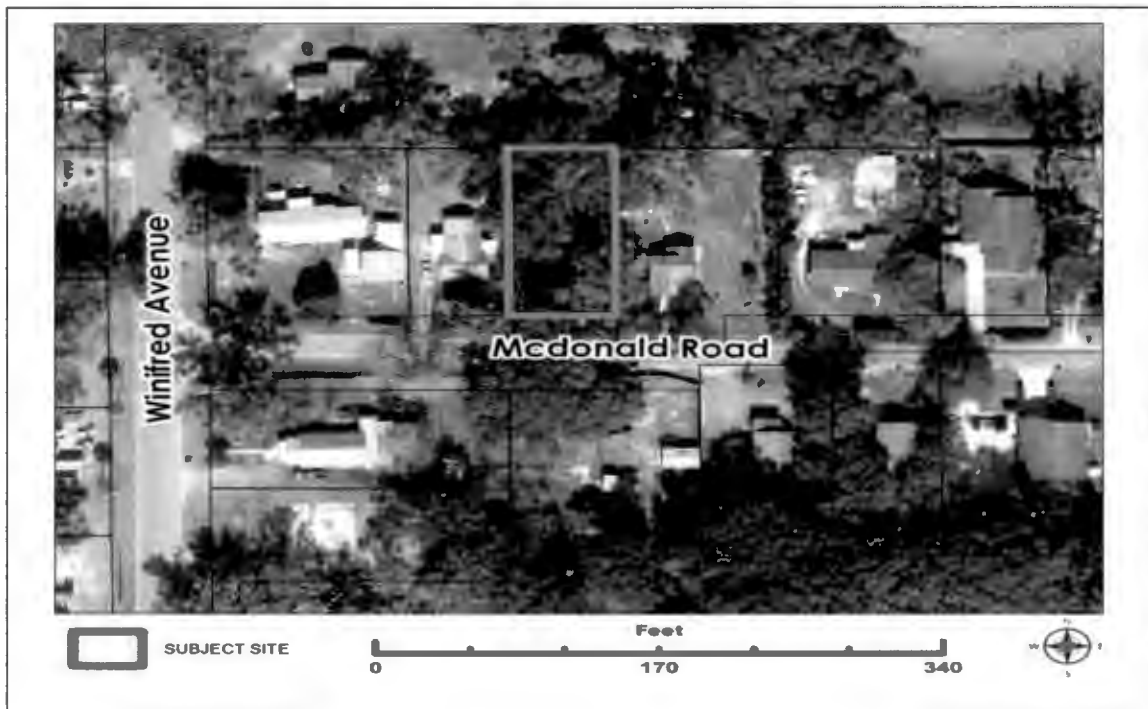
Construction Coordinator

Mariela Garcia

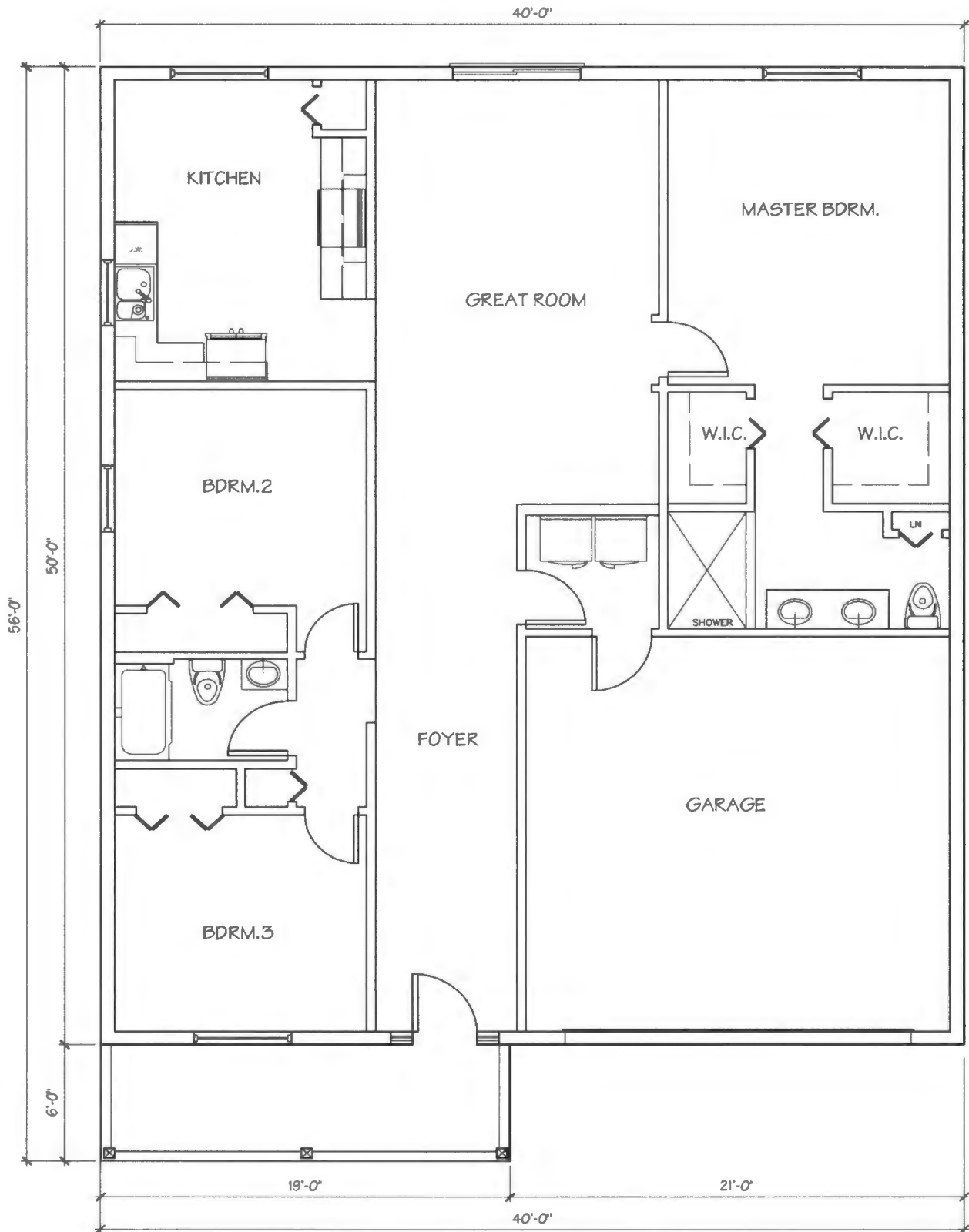
ZONING MAP



AERIAL MAP



FLOOR PLANS



1
A0.01

1ST FLOOR PLAN

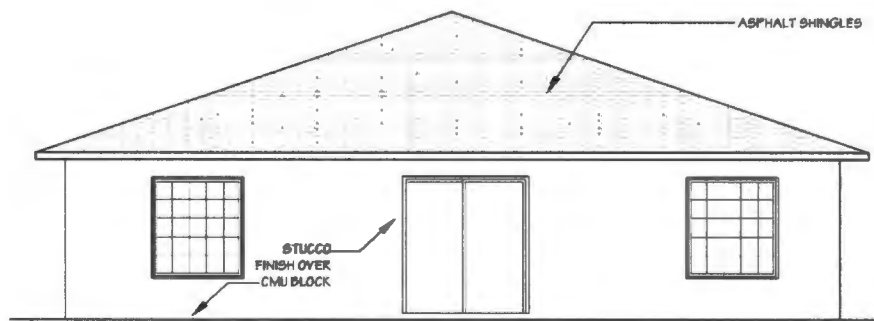
SCALE : 1/4" = 1'-0"



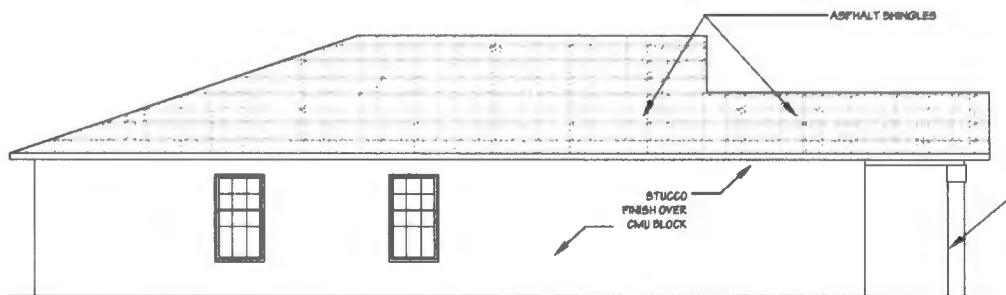
ELEVATIONS



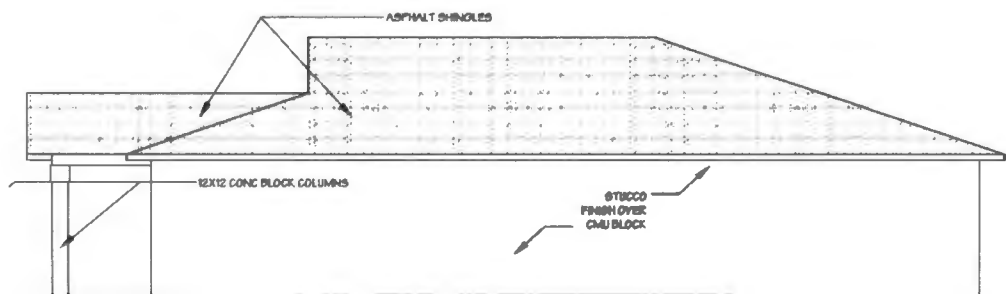
1
A0.01 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



1
A0.01 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



1
A0.01 WEST ELEVATION
SCALE: 1/4" = 1'-0"



1
A0.01 EAST ELEVATION
SCALE: 1/4" = 1'-0"

SITE PHOTOS



Subject property facing north from McDonald Rd.



Facing west along McDonald Rd. towards vacant property on the left in background

SITE PHOTOS



Subject property facing south towards McDonald Rd.



New residence along McDonald Rd. to the east with similar sized parcel

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 01, 2021**

Case Planner: **Ted Kozak, AICP**

Case #: **SE-21-07-039**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): **ORLANDO SPEEDWORLD (KELSEY WEISS)**

OWNER(s): **R B S J R INC**

REQUEST: **Amendment to an existing Special Exception for an existing race track in the A-2 zoning district to allow for a revised site plan that includes additional associated accessory structures.**

This is the result of Code Enforcement action.

PROPERTY LOCATION: **19164 E. Colonial Drive, Orlando, FL 32820, west of the intersection of E. Colonial Dr. and S.R. 520.**

PARCEL ID: **26-22-32-0000-00-015**

LOT SIZE: **112.68 acres**

NOTICE AREA: **1 mile**

NUMBER OF NOTICES: **1,003**

DECISION: Recommended **APPROVAL** of the amendment to 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 amendment to the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions as amended (unanimous; 4 in favor, 0 opposed, 1 abstained, and 2 absent):

1. Development shall be in accordance with the site plan and elevations dated May 27, 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. Use of the property is limited to race track operations. Drag strip events and oval race events shall not run concurrently due to the available number of parking spaces.

5. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
6. The owner shall use best management practices to reduce noise impacts not attributed to its race track operations through enforcement of patrons with security personnel and continue to work with local law enforcement agencies such as the Orange County Sheriff's office to educate and reduce off-site street racing activities.
7. Noise warning signs shall be installed, or replaced as needed for legibility, throughout the property that provides verbiage that non-compliance of excessive noise will result in removal and/ or trespass from the property.
8. Hours of operation for all race track operations, including special seasonal racing events, shall be as follows: Monday through Thursday 10 a.m. to 11:30 p.m., 5 p.m. to midnight Friday, noon to midnight Saturday and 9 a.m. to 6 p.m. Sunday.
9. Permits shall be obtained for all unpermitted structures and improvements, within 3 years of final action on this application by Orange County or this approval is null and void, except as explicitly stated in conditions #10, #11 and 12. The zoning manager may extend the time limit if proper justification is provided for such an extension.
10. The Media Trailer at the front of the site shall be removed within 6 months of final approval of this request.
11. A permit shall be obtained for the bus parking area, as indicated on the site plan, and shall be improved with a durable all-weather surface as per County Code Section 38-1479, within 1 year of final approval of this request.
12. Concrete debris piles shall be removed within 6 months of final approval of this request.

SYNOPSIS: Staff described the proposal, including the location of the property, the history of operations and prior approvals, the site plan, the proposed improvements 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 one comment was received in support, two comments were received in neutrality and two comments were received in opposition, including one comment received after the staff report was published.

The applicant stated that the race track facility has been operating for over 50 years and the request is to allow the restroom, storage building, truck parking and improvements installed without permits. They contended that the operations are not expanding beyond its current extent of operations and noted that the owner has committed to be a good neighbor, including enforcement of the noise levels due to music and customer noise.

Six (6) neighbors spoke in favor of the request and thirteen (13) neighbors spoke in opposition of the request, citing concerns about the traffic, noise, air quality, late hours of operation and the use being incompatible with the area. They also noted that the business has dramatically expanded over the past several years and desired additional buffering and landscaping to the perimeter to lessen noise impacts.

The applicant noted that the owner is not proposing any expansion to the race facility, only minor site improvements unrelated to car racing and reiterated the Noise Ordinance exemption for the race track operations. The applicant indicated that the owner was in support of all the proposed conditions except for Condition 8, related to hours of operation.

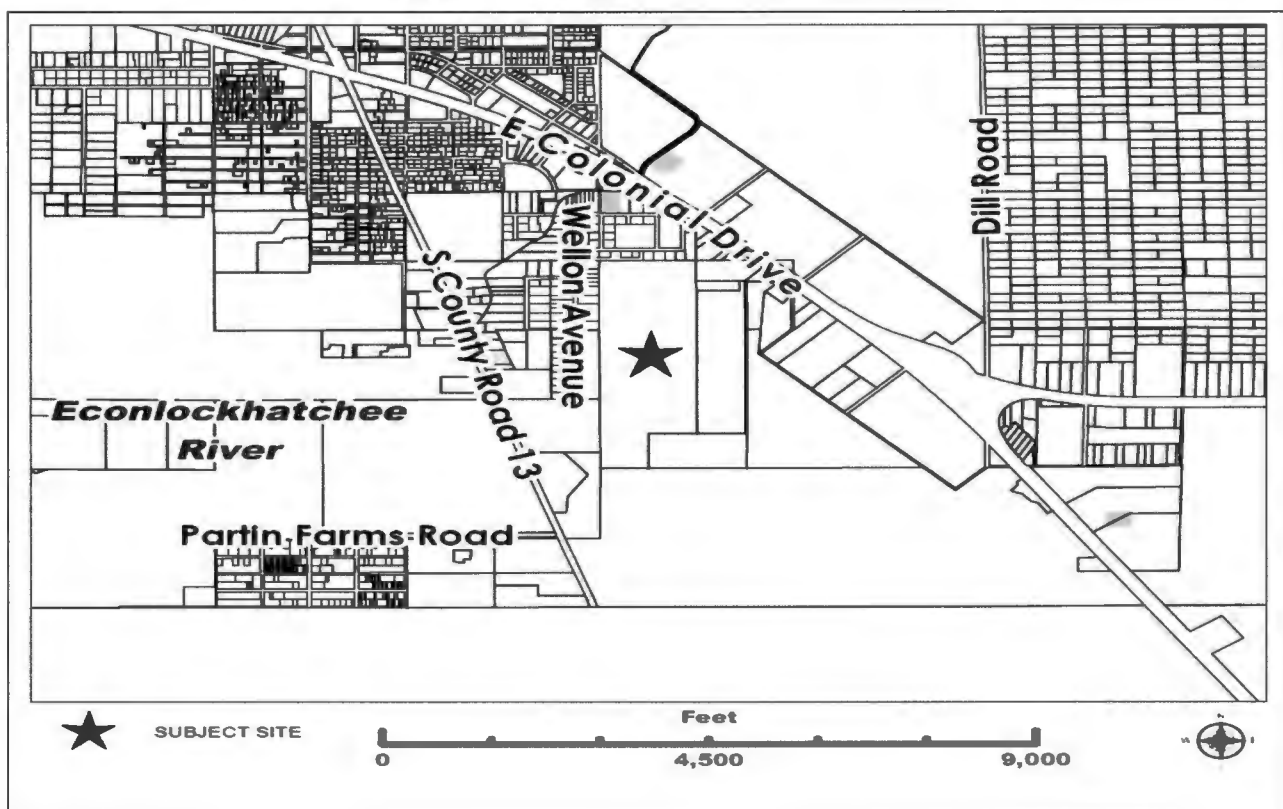
The BZA noted the complaints received at the community meeting, discussed the hours of operation, the history of the site, and discussed the need for a condition for restating the hours of operation that were provided by the owner.

The BZA recommended approval of the special exception amendment by a 4-0 vote, with one abstention, subject to the twelve (12) conditions in the staff report, and an amendment to Condition #8, which states "Hours of operation for all race track operations, including special seasonal racing events, shall be as follows: Monday through Thursday 10 a.m. to 11:30 p.m., 5 p.m. to midnight Friday, noon to midnight Saturday and 9 a.m. to 6 p.m. Sunday."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|------------|--------------|--|---------------------|---|
| Current Zoning | A-2 | R-T-2, A-2 | A-2 | A-2 | R-T-2 |
| Future Land Use | R | LDR, R | Pres | R | R, RS 1/1 Bithlo Rural Settlement |
| Current Use | Race Track | Mobile Homes | County preservation and retention areas | Motocross racing | Mobile Homes, Single-Family residences, Paint Ball business |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural and residential uses on larger lots. In addition, uses associated with outdoor amusement, such as horse and car racing (SIC Group 7948), are permitted through the Special Exception process.

The area consists of single-family residences, mobile homes, an adjacent motocross operation to the east, and an Orange County retention area to the southwest. The subject property is unplatted and is considered to be a conforming lot of record. The site is accessed from East Colonial Drive 800 feet to the east via a perpetual access easement. The applicant purchased the property in 2014.

The Orlando Speedworld business has been in operation as a rack track with drag strip since 1965. Current operations include motor vehicle racing on a racing oval with stands and a practice track towards the east side of the site with associated accessory structures and a main drag strip with stands, a tower with offices, a truck parking area and associated accessory structures such as restrooms and storage buildings. The business operates year-round and the hours of operation are as follows: Wednesday 5 p.m. to 11:30 p.m., Friday 5 a.m. to midnight, Saturday noon to midnight and Sunday 9 a.m. to 6 p.m. and closed on Monday. According to the applicant, Tuesdays and Thursdays only operate for private practice sessions between 10 a.m. and 5 p.m., between 4 p.m. and 11 p.m. and occasionally for special racing events and the vast majority of the racing events occur during the winter months. Only the drag strip operates regular events during the summer rainy months. The applicant states that the days and hours of operation will continue as existing. Currently approximately 30 people are employed by the company, including 7 full-time employees.

The property has an extensive history of Special Exception approvals of the car racing operations dating back to 1965, as follows:

- May 18, 1965 (item #13) – Original special exception in A-2 for Bithlo Speedway recommended for approval by the BZA (covering drag strip).

- March 2, 1972 (item #25) – BZA recommended approval of a Special exception in A-2 for a privately owned 1/3 mile oval race track, rodeos, circuses, etc. with 2 conditions: 1. A guard rail is erected; 2. A 10 ft. space is provided between the guardrail and a required 10 ft. high wheel fence – to be installed.
- January 5, 1978 (item #20) – request to the BZA to determine if Special Exceptions originally approved should be rescinded or modified. The hearing was called for by the BCC and a petition with approx. 8 signatures was submitted by area residents based on noise concerns. The case was continued until February 2, 1978.
- February 2, 1978 – (item #20) - request to the BZA to determine if Special Exception originally approved should be rescinded or modified. BZA recommended denial of the petition to rescind or modify the actions.
- April 11, 1978 – George E. Atwood appealed the BZA decision. The BCC continued the case to September 1, 1981.
- September 1, 1981 – The BCC held a public hearing. The BCC found that the use of the land had gone beyond the intent of original approvals, had become a detriment to the health, safety and welfare of the general public, had an adverse impact on the general public interest, and therefore, modified the original approvals to include: specifying hours of operation, restricting jet car racing to afternoon hours, prohibiting rock concerts, and requiring security and control over spectators to ensure orderly conduct and evacuation of the area immediately after 11 p.m.
- September 3, 1981 – The BCC rescinded its motion of September 1, 1981 and authorized scheduling of a public hearing on October 20, 1981.
- October 20, 1981 – The BCC upheld the decision of the BZA and granted Special Exception in the A-2 district for BZA previously approved on May 18, 1965, March 2, 1972, and February 2, 1978, and further denied the petition to rescind or modify the action.

As stated previously, the site contains two open stands, one for the drag strip, located near the northwest portion of the site, labeled on the site plan and one for the racing oval, located in the north central portion of the site, also labeled on the site plan. Each of the stands can hold a maximum of 6,500 spectators for race events. Additional improvements on site are as follows:

- 1,071 sq. ft., 12.7 ft. high medical/ bar building, labeled on the site plan as Building 1, constructed in 1977 with a permit
- 1,230 sq. ft., 16.7 ft. high gift store/ concession building, labeled as Building 2, constructed in 1977 with a permit
- 1,030 sq. ft., 12.7 ft. high restroom building, labeled as Building 3, constructed in 1977 with a permit
- 1,650 sq. ft., 13.1 ft. high storage building, labeled as Building 4 constructed in 1967 with a permit
- 312 sq. ft., 10 ft. high restroom building, labeled as Building 5 was constructed in 1977 with a permit
- 647 sq. ft., 30 ft. high building containing the offices and main tower labeled as Building 6, constructed in 1977 with a permit
- 640 sq. ft., 13 ft. high restroom building, labeled as Building 7, constructed in 1972 with a permit
- 502.7 sq. ft., 13 ft. high restroom building, labeled as Building 8, constructed in 1972 with a permit
- 2,424 sq. ft., 19 ft. high storage building, labeled as Building 9, constructed in 2015 without a permit
- 2,500 sq. ft., 12.3 ft. new restroom building, labeled as Building 10, under construction without a permit

The applicant is requesting approval of a modification of the site plan to include additional improvements to allow the issuance of site work permits to allow the concrete parking area which recently replaced the prior unimproved parking area located in the northwest portion of the site adjacent to the drag strip to remain, to allow the paved drift track practice area for the adjacent oval and to allow the issuance of building permits for

unpermitted structures, a 2,500 sq. ft. restroom (Building 9 on the site plan) currently under construction and a 2,424 sq. ft. storage building (Building 10 on the site plan), to remain. Code Enforcement cited the owner in December 2020 for modifying a race track operation without an amendment to a Special Exception, and for building and structure additions without permits (Incident 581759).

The location of the unpaved general event parking areas for the drag strip and the oval track remains unchanged, as previously approved. The location of all other buildings and structures as listed above, remain unchanged as approved. Currently there is an unpermitted mobile trailer, currently used for media access, located near the main entrance to the site, which is proposed to be removed. Staff also observed concrete debris piles near the County retention area and preserve areas at the rear of the site that will be required to be removed. There is also a bus parking area as indicated on the site plan that has been conditioned to be converted to an approved parking surface.

Since the race track operation initially began in 1965, residential development has been constructed within the nearby areas surrounding the site and subsequently the new residents began to object to the noise from the racing operations. From that time until the early 2000s, frequent noise complaints and requests to restrict the noise generated by the use occurred during County Commission meetings as documented by the public hearing minutes. As a result of the noise complaints, over the years the following changes to the operation have been implemented: restricted hours of operation for the drag strip and the oval loop such that the operations do not happen concurrently; and installed signs indicating that playing loud music is prohibited and enforcement by the operator of that prohibition. The owner has committed to the installation of signage throughout the site and as such a condition of approval is recommended, stating that "Noise warning signs shall be installed, or replaced as needed for legibility, throughout the property that provides verbiage that non-compliance of excessive noise will result in removal and/ or trespass from the property."

It should be noted that the noise generated from the use of the site as a race track is exempt from the County Noise Ordinance. Per Chapter 15, Article V (Noise Pollution Control), Section 15-185(18) provides an exemption for "Any motor vehicle engaged in professional or amateur sanctioned, competitive sports event for which admission or entry fee is charged, or practice of time trials for such event, at a facility being used for such purposes as of October 15, 1995."

Based upon the maximum site occupancy, the total parking spaces required is approximately 4,678 spaces. The site contains a total area available for 4,000 grass parking spaces, including overflow lots at the southwest portion of the site, and the 1,000 spaces located west of the drag strip, plus 13 paved accessible parking spaces for a total of 5,022 spaces, thus meeting the parking code requirement. The applicant will continue to use the grass parking and drive aisle areas for general public parking, as originally approved by the BCC in 1965 and as has been used for the past 50 years.

On Monday, June 21, 2021, a Community Meeting was held at East River High School and in an online format to allow for input. The meeting was attended by the applicant, County staff, and 30 attendees. Five of the neighbors spoke negatively about the operations. Comments included concerns about the truck parking along the west side of the property, the smoke or exhaust from car racing and the need for an air pollution study, hours of operation, noise level impacts due to racing and car music and the noise ordinance exemptions, drag racing on Avalon Road, and septic and aquifer issues. Three of the residents spoke in favor of the business, stating that it was operating normally as over the past 50 years, was a benefit to the community, and that the

restroom and storage buildings are needed.

As of the preparation of this report, staff has received 2 emails in stating neutrality to the request, and 3 phone calls and 1 email in favor of the request.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|--|
| Max Height: | 35 ft. | 12.3 ft., Restroom Building 9 19 ft., Storage Building 10 |
| Min. Lot Width: | 100 ft. | 1,336.69 ft. |
| Min. Lot Size: | 1/2 acre | 112.68 acres |

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

| | Code Requirement | Proposed |
|--------|------------------|--|
| Front: | 35 ft. | 636.4 ft., Restroom Building 9 638.5 ft., Storage Building 10 (North) |
| Rear: | 50 ft. | 3,300 ft., Restroom Building 9 3,299.7 ft., Storage Building 10 (South) |
| Side: | 10 ft. | 220 ft., Restroom Building 9 181.3 ft., Storage Building 10 (West) 1,070 ft., Restroom Building 9 1,079.4 ft., Storage Building 10 (East) |

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

Amusement facilities such as race track operations are permitted in the A-2 zoning district through the Special Exception process. As such, the proposal is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The property has been used as a race facility for over 50 years. The site is large and the closest new structures are located over 181 ft. from the nearest residential property line. The addition of several structures on site will not impact the overall current use of the site.

Shall not act as a detrimental intrusion into a surrounding area

The proposed location of the new structures for the existing race track operations on the subject property will not negatively impact the surrounding area, since the existing use and operations has been in existence for over 5 decades and all new improvements will meet Code. Further, as part of the recommended conditions of approval for this request, the operator will be required to use best management practices to reduce noise impacts not attributed to its race track operations through enforcement of patrons with security personnel and

continue to work with local law enforcement agencies such as the Orange County Sheriff's office to educate and reduce off-site street racing activities.

Meet the performance standards of the district

With no changes to the existing the grassed parking, drive aisles for the customers, the location of the new structures, the proposed modification of the truck parking area at the northwest and the paved practice area, the proposed modifications to the site plan will meet the performance standards of the district.

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

The applicant has not proposed any additional activity on the property that is dissimilar to the existing conditions and that would generate noise, vibration, dust, odor or heat beyond that what has been approved by the Board of County Commissioners in the past since the only site modifications include the construction of three new buildings and replacement of vehicle paving areas at the west side of the property. Further, the majority of the perimeter of the site is currently heavily vegetated and buffered, which will offset any potential impacts of the new improvements.

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

The provided 10 ft. landscape buffer that surrounds the entire perimeter is existing as originally approved and has been enhanced with new trees and shrubs over the years, which meets the requirements of Section 24-5.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated May 27, 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. Use of the property is limited to race track operations. Drag strip events and oval race events shall not run concurrently due to the available number of parking spaces.
5. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
6. The owner shall use best management practices to reduce noise impacts not attributed to its race track operations through enforcement of patrons with security personnel and continue to work with local law enforcement agencies such as the Orange County Sheriff's office to educate and reduce off-site street racing activities.
7. Noise warning signs shall be installed, or replaced as needed for legibility, throughout the property that provides verbiage that non-compliance of excessive noise will result in removal and/ or trespass from the property.
8. Hours of operation for all race track operations, including special seasonal racing events on Tuesday and Thursday shall be as follows: Wednesday Thursday 5 p.m. to 11:30 p.m., 5 p.m. to midnight Friday, noon to midnight Saturday and 9 a.m. to 6 p.m. Sunday and closed on Monday. On Tuesday and Thursday practice sessions shall be from 10 a.m.-to 5p.m. or from 4 p.m. to 11 p.m.
9. Permits shall be obtained for all unpermitted structures and improvements, within 3 years of final action on this application by Orange County or this approval is null and void, except as explicitly stated in conditions in conditions #10, #11 and 12. The zoning manager may extend the time limit if proper justification is provided for such an extension.

10. The Media Trailer at the front of the site shall be removed within 6 months of final approval of this request.
11. A permit shall be obtained for the bus parking area, as indicated on the site plan, and shall be improved with a durable all-weather surface as per County Code Section 38-1479, within 1 year of final approval of this request.
12. Concrete debris piles shall be removed within 6 months of final approval of this request.

C: Kelsey Weiss
225 E Robinson St. Suite 600
Orlando, FL 32801

Osvaldo Moya
16877 E. Colonial Dr., #407
Orlando, FL 32820



MEMORANDUM

TO: Orange County Zoning Division and the Board of Zoning Adjustment

FROM: Kelsey A. Welss, Esq.

DATE: May 12, 2021

RE: Amended Narrative for SE 21-07-039 on behalf of RBSJR, Inc.

I. PRELIMINARY STATEMENT.

Orlando Speed World (“OSW”) is located at 19164 E. Colonial Drive, Orlando FL, 32820 in an unincorporated area of Orange County with a property tax identification number of 26-22-32-0000-00-015. This property is made up of approximately 113 acres and is zoned A-2 by Orange County. The designated use of the property has been “race car racing” (SIC 7948) since the Orange County Board of Zoning Adjustment (“BZA”) recommended approval of the original special exception in 1965 for a drag strip. In 1972, the BZA recommended approval of a special exception allowing for an oval racetrack (among other approved uses).¹ The Orange County Board of County Commissioners (“BCC”) upheld these approvals on October 20, 1981 by denying a petition to rescind or modify the earlier special exceptions. This application seeks to amend the existing

¹ Based on information from the Orange County Zoning Division, on September 13, 1994, the Orange County Board of County Commissioners approved a special exception application, SE94-08-029, for RBSJR, Inc., allowing it to expand, inter alia, the uses of the Orange County Raceway (oval racetrack and motocross facilities) and hours of operation. At the time of the application, J L. Richards was RBSJR, Inc.’s principal. Application SE94-08-29 related to that certain parcel of property having Tax I.D. No. Parcel #35-22-32-0000-00-01. Tax I.D. Parcel No. #35-22-32-0000-00-01 describes the adjacent parcel of property to the east, the East Orange Motocross site, now owned by the Elizabeth Ann Neilson Family Trust. RBSJR, Inc.’s property has Tax I.D. Parcel No. #26-22-32-0000-00-015, the Tax I.D. Parcel No. referenced in the Orange County Code Enforcement violation sheet attached to this application.

COVER LETTER

Board of Zoning Adjustment
April 13, 2021
Page 2

special exception to allow an accessory structure housing additional bathrooms and two paved areas to remain on the property.

In 1987, the property was sold to RBSJR, Inc., which began leasing the property to DCOM Motor Sports, Inc. in 2011. DCOM Motor Sports, Inc. operates several racetracks in the southeastern United States. Both RBSJR, Inc. and DCOM Motor Sports, Inc. are owned and operated by Osvaldo and Maria Moya (“the Moyas”). Mr. Moya became the President of OSW in 2017 (after completing a purchase of RBSJR, Inc.’s property and assets). Since then, the Moyas have continued to operate OSW with the goal of bringing families together to safely enjoy the sport of racing and generate tourism in District 5 of Orange County. The events held at OSW relate only to motorsports. The property is not utilized as a venue for any sort of concert events. Further, the Moyas hope to make a difference in the community by offering a safe, legal option for racing so as to discourage the illegal drag racing that frequently takes place on S.R. 50.

When the Moyas began operating OSW, they understood that a special exception applied to the property that would allow them to do the following: (1) enhance the dilapidated pit parking that previously existed on the property; (2) add an additional paved area for overflow parking of oversized vehicles and occasional tire warmup for amateur drift racing participants; and (3) install a structure to provide additional bathrooms for OSW patrons’ use. On December 20, 2020, RBSJR, Inc. received notice that these improvements violated sections of the Orange County Code (the “Code”) because they were erected without prior approval. The Moyas immediately began working with Orange County Code Enforcement officers to verify this information and develop a plan to bring the property into compliance.

On March 1, 2021, a public hearing was held before a Special Magistrate whereby an extension of time was granted to bring the property into compliance with the Code. The Moyas

COVER LETTER

Board of Zoning Adjustment
April 13, 2021
Page 3

were instructed to seek a new special exception. In accordance with the Special Magistrate's directives, RBSJR, Inc. hereby submits this Application requesting an amendment to the Special Exception for an existing raceway to permit an accessory structure housing additional bathrooms and two paved areas to remain on the property and, thereby, bring the property into compliance with the Code.

II. PURPOSE OF THE REQUEST.

1. Size, height, and number of buildings (existing structures):²

| Building | Use | Size per Survey in sq. ft. | Size Per Bldg Report in sq. ft. | Height in ft. | Date Constructed or Operational | Description | Primary or Accessory |
|----------|--|----------------------------|---------------------------------|---------------|---------------------------------|-------------------------------------|----------------------|
| 1 | Office Building Bar | 1071 | 1605 | 12.7 | 1977 | One story concrete block building. | Primary |
| 2 | Gift Store Concession | 1230 | 1736 | 16.7 | 1977 | One story concrete block building. | Primary |
| 3 | Restrooms | 1030 | 1605 | 12.7 | 1977 | One story concrete block building. | Primary |
| 4 | Storage (Tech building for pre and post-race inspection) | 1650 | 1920 | 13.1 | 1967 | One story metal building | Primary |
| 5 | Restrooms | 312 | 262 | 10 | 1977 | One story concrete block building. | Accessory |
| 6 | Office Main Tower | 647 | 1200 | 30 | 1977 | Two story wood building (pole barn) | Primary |

² Eight of these buildings have been on the property for over forty years and the Orange County Property Appraiser website has building reports for these buildings which will be submitted with this Application. However, the permit reports only go back as far as 1980. According to the Orange County Property Appraiser website, "[t]here is an ongoing effort to enter the history of development projects into the County system and as information is compiled it will become available." All information related to these buildings in the possession of the Applicant are contained in this chart, the Survey, and the County Reports. The only known unpermitted structure (besides the bathroom building subject to this Application) is Building #9 on this list. Plans for this building will be submitted with this Application.

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| | | | | | | | |
|---|--|-------|-----|----|------|------------------------------------|-----------|
| 7 | Restrooms | 640 | 640 | 13 | 1972 | One story concrete block building. | Accessory |
| 8 | Restrooms | 502.7 | 483 | 13 | 1972 | One story concrete block building. | Accessory |
| 9 | Storage (unpermitted - plans to be submitted with application) | 2424 | NA | 19 | 2015 | One story metal building. | Accessory |

This BZA Application, if granted, will also permit an additional one-story, 2500 sq. ft. concrete building with a height of 12.3 ft. for the purpose of creating additional restrooms. The property also has several bleachers for seating capacity as noted on the Survey attached to this Application.

2. Number of employees:

Currently, OSW has three (3) full time employees, not including the Moyas, and approximately seventeen (17) part time employees. OSW employs up to thirty (30) seasonal employees during peak times of the year. Most of these employees were not working during a significant portion of 2020 as OSW was closed due to the Covid-19 pandemic.

3. Hours of Operation:

The current hours of operation for OSW are as follows:

- Monday - Closed
- Tuesday - Seasonal occasional events
- Wednesday - 5pm - 11:30pm
- Thursday - Seasonal occasional events
- Friday - 5pm - 12am
- Saturday - 12pm - 12am
- Sunday 9am - 6pm

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4. Provided Services:

OSW is a racing facility that has been hosting events since 1966. The facility houses a National Hot Rod Association (NHRA) sanctioned drag strip track and an oval track and continues to host events specifically related to motor sports.³ OSW does not host or rent out the property as a venue for any form of concert related events.

5. Proposed outdoor events/activities:

- Events related to drifting, drag, or oval track racing.
- Seasonal traveling events.
- Recurring weekly events: Whoop Azz Wednesday Night, Friday Night Frenzy, Central Florida Motorcycle Riders Drag Night, Import Race, and FunDay Sunday.

6. Information Requested on Pages 2 and 3 of BZA Application due to limited space:

Q3. What is the size of the proposed structure(s) in feet and/or square footage:

- The proposed bathroom building is 50 ft. x 50 ft. (2500 sq. ft). Height is 12.3 ft. See sheet 2 of Survey for reference.
- Concrete truck parking area (pit parking) in the northwest corner of the site is approximately 97,000 sq. ft. See sheets 1-3 of Survey for reference.
- The drift track is approx. 113,200 sq. ft. located south of the oval track in the southwesterly corner of the property. See sheets 12-14 of Survey for reference. This drift track is not used for any actual events and is only utilized for warm-up (seven second maximum) and overflow parking for large trucks.

Q4. Distance (in feet) of the proposed structure from the affected property line(s):

- Proposed bathroom building is located 213.5 ft. east of the west property line and 636.4 ft. south of the north property line.
- The pit parking is 45 ft. east of the west property line on the north end and 49 ft. east of the west property line on the south end.

³ The Moyas have recently hosted an NHRA event at their racetrack location in Valdosta, Georgia resulting in at least a twenty-million-dollar positive impact to that community. Once OSW is brought up to Code, the Moyas hope to host a similar NHRA event at OSW with an estimated forty-million-dollar positive impact to District 5 of Orange County.

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- The drift track is on the northeast corner and 47 ft. west of the east property line at the northeast corner and 36 ft. West at the southeast corner. The drift track is 444 ft. north of the south property line.

7. Additional Information requested by the Zoning Division:

A. Confirmation of Landscape Buffer:

Landscape buffer requirements were not in place when OSW was built. However, there is a buffer around the entire property that exceeds ten (10) feet and primarily consists of grass and palm trees. The items sought for approval in this Application are not in proximity to the perimeter of the property lines. Please see the survey accompanying this Application.

B. Boat Storage at Southeast Corner of Site:

On occasion, OSW has hosted an event known as "Crash-O-Rama." Community members donate abandoned, unused boats for this purpose. The boat storage identified by the Zoning Division in its request for more information is actually general equipment storage for use at during this event. Boats or vehicles stored on property are not registered, tagged, insured, or in-use.

C. Onsite Parking:

General parking in the larger field can accommodate 4,000 vehicles. This does not include the paved drift track parking area. OSW can accommodate another 1,000 vehicles for race participants. Almost all parking at OSW is un-paved, and there are currently no paved drive aisles.

D. Capacity:

During drag racing events, OSW's capacity is 14,000 standing or 6,500 seated. For oval track racing, OSW's capacity is 11,000 standing or 6,500 seated. Capacity has never been reached (or even come close to it).

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III. JUSTIFICATION FOR MEETING SPECIAL EXCEPTION CRITERIA.

Under Section 38 – 78 of the Orange County Code:

Subject to section 30 - 43 of this Code, in reviewing any request for a special exception, the following criteria shall be met [by the applicant]:

- 1) The use shall be consistent with the comprehensive 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 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

The proposed special exception permitting the structure housing bathrooms, the pit parking, and the paved drift track meets the six special exception criteria of Section 38-78 of the Orange County Code as detailed below.

OSW has been operating as a racetrack facility on this property for over 54 years. This request for a special exception concerns only a building housing additional bathroom facilities and two areas that have been paved (a pit parking area for trucks and a drift track utilized by amateur participants for tire warmup and as additional parking for large vehicles). While OSW can continue to operate without them, these improvements serve to enhance the experience of both spectators and participants at OSW.

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1. The use is consistent with the comprehensive plan.

OSW is located in District 5 of Orange County in what is commonly referred to as the Bithlo area just west of the city of Christmas. The entrance for OSW is located on the eastbound (south) side of S.R. 50, otherwise known as East Colonial Drive. The property is zoned A-2 (Farmland Rural District) and is mostly surrounded by other A-2 zoned properties with two C-2 (General Commercial District) properties to the northeast of the property. Several R-T-2 (Combination Mobile Home and Single-Family Dwelling District) parcels of property are located northeast of the property. The southern border of the property abuts to property owned by the BCC which is also zoned as A-2.

The Orange County Zoning Division has identified the building housing the bathroom facility as an “accessory structure”. Pursuant to the use table located at Code Section 38-77, as referenced by Article V, Section III (pertaining to A-2 Farmland Rural District), Section 38-137, “Accessory buildings, uses and structures” contain the designation “P S” meaning that the “use *shall* be permitted as a special exception.” (emphasis added). See Code Sec. 38-137. Therefore, the Code contemplates that the proposed bathroom building is an accessory structure permitted by special exception.

The paved pit parking has been utilized as pit parking for decades. Therefore, allowing this area to be paved will enhance, but will not change the use in any way. The paved drift track is an addition to the already permitted racing activities allowed onsite. This paved drift track will not change the use of the property and it is not and will never be used for actual racing events. Amateur drifters on occasion use this track to warm up their tires (for a maximum of seven seconds at a time). Otherwise, this paved area serves mainly as much needed additional parking for oversized

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vehicles. All drift racing and spectating thereof occurs within the oval track as allowed by the current special exception.

The proposed special exception permitting the bathroom structure and additional paved areas is consistent with the comprehensive plan. The bathroom structure is an accessory building contemplated by the Code and both the paved pit parking and the paved drift track only serve to enhance the permitted services already provided on the property.

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

The OSW property is zoned A-2 and is surrounded mostly by properties also zoned A-2 or C-2. This application seeks permission for an accessory structure contemplated by the Code in A-2 zoning districts. Further, the two paved areas merely add to the already permitted use on the property. The requested amendment to the special exception is, therefore, both compatible and consistent with these surrounding A-2 and C-2 zoned areas.

A pocket of R-T-2 zoned properties is located to the northeast of OSW. The Orange County Property Appraiser's website establishes that the majority (if not all) of the homes in this neighborhood were constructed well after OSW began operating as a raceway. The addition of an accessory structure housing restrooms and two paved areas will have no impact on this neighborhood and is, therefore, compatible with this surrounding area.

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

First, the bathroom building (an existing structure on the property) is a one-story building situated 213.5 ft. east of the west property line and 636.4 ft. south of the north property line. This building is enclosed and situated close to the racetrack to provide additional restrooms for spectators and participants at OSW. The addition of this building does not impact nor intrude upon

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the surrounding areas. Currently, OSW utilizes portable restroom facilities during large events to accommodate spectators at the facility. The requested restroom facility will prove to be less of an intrusion into the surrounding area as a permanent structure will reduce the odor emitted by portable restrooms and will reduce the truck traffic bringing in and removing the portable restrooms. Finally, the permanent restroom facility will be much more sanitary – a much needed benefit considering the impacts of the Covid-19 pandemic.

Second, the two paved areas at issue do not act as a detrimental intrusion into the surrounding area. The paved pit parking area has been utilized as a parking area for decades. Paving this area will not intrude on the surrounding areas and will instead help to reduce any mud dirt created by the previous parking arrangement. The paved drift track will also not act as a detrimental intrusion because it is not actually used as a drift track. Amateur participants use this track to warm up their tires on occasion (for a maximum of seven seconds at a time). Otherwise, this paved area serves mainly as additional parking for oversized vehicles. All actual drift racing and spectating occurs within the oval track. This paved area, at its farthest-reaching point, is located 47 ft. west of the east property line at the northeast corner and 36 ft. west at the southeast corner. A significant portion of this drift track abuts Battlefield Orlando Paintball. Therefore, this drift track is not intruding on any surrounding area.

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

The accessory restroom facility will not add any noise vibration, dust, odor, glare, or any other characteristics associated with the fifth enumerated special exception criteria. As stated above, this building is situated in close in proximity to the oval racetrack facility and is an enclosed

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concrete block building. This building will instead reduce the noise and odor currently associated with rented portable restroom facilities. This building will also facilitate cleanliness.

The two paved pit areas are similar in noise, vibration, dust, odor, glare, heat producing, and other characteristics associated with the uses permitted in the zoning district. First, as mentioned above, the paved pit parking area was already being utilized as parking (without paving) and the paved drift track serves mainly as additional parking for oversized vehicles. On rare occasions, this drift track is utilized as a warm-up space for amateur participants in short bursts. Therefore, the paving will actually serve to reduce noise, vibration, dust, odor, etc. by reducing the amount of dirt/mud that is stirred up when this area is used. Further, the noise, vibration, dust, etc. given off by the two paved areas will be essentially the same as the already existing uses in proximity to the paved pit area and drift track.

OSW already uses an oval racetrack allowed pursuant to a special exception on the property for the raceway dating back several decades. Moreover, East Orange Motorcross is located directly to the west of OSW and Battlefield Orlando Paintball is located along the south east border of OSW. S.R. 50 is just to the North and is a very busy highway. Finally, all of the land to the south of OSW is vacant and owned by the BCC. The paved pit parking and the drift track will not generate noise, odor, vibration, dust, etc. which is dissimilar to the generated from the approved existing uses in the area. In fact, arguably, the paved parking and drift track serve to reduce the overall noise, vibration, odor, etc. by reducing the amount of dust from participants and spectators parking in grassy areas as they have been for decades. Further, these additional uses serve to encourage legal, safe racing with the hopes of reducing the amount of illegal street racing already occurring on S.R. 50.

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5. The use will meet the performance standards of the district in which the use is permitted; and landscape buffer yards will be in accordance with section 24-5 of the Orange County Code.

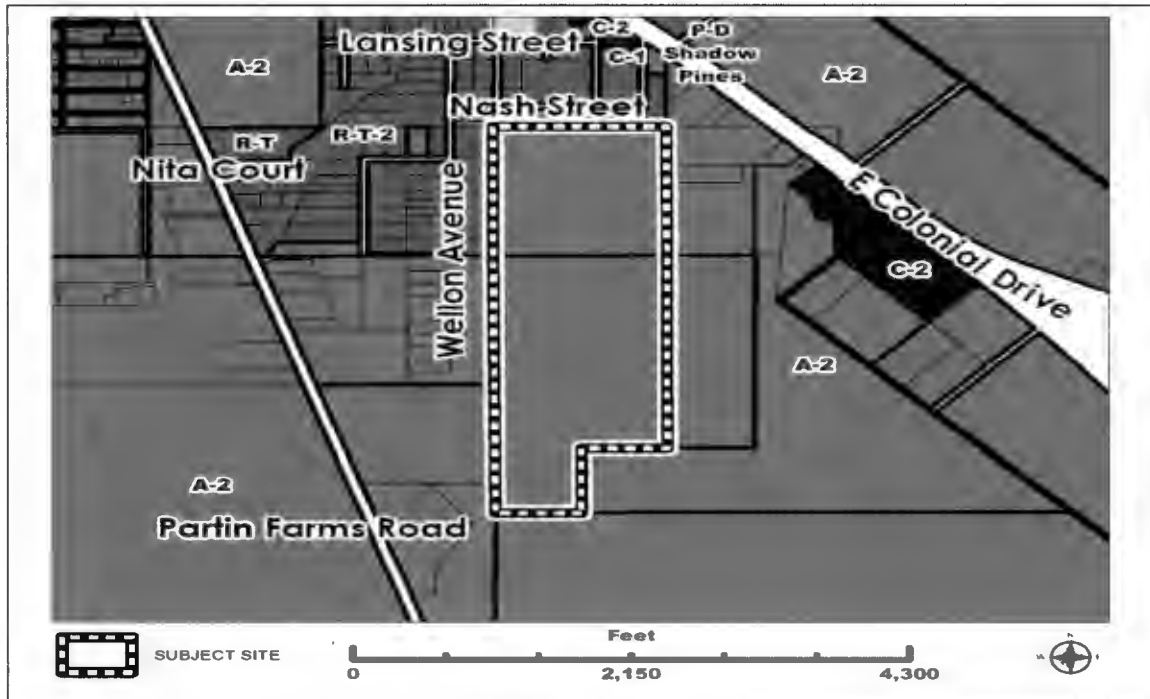
Finally, in submitting this BZA Application, RBSJR, Inc. understands and acknowledges the performance standards of District 5 and the landscape buffer yard requirements of Code Section 24-5 and will comply with such standards and requirements if it is determined that such standards and requirements apply to the property.

IV. CONCLUSION

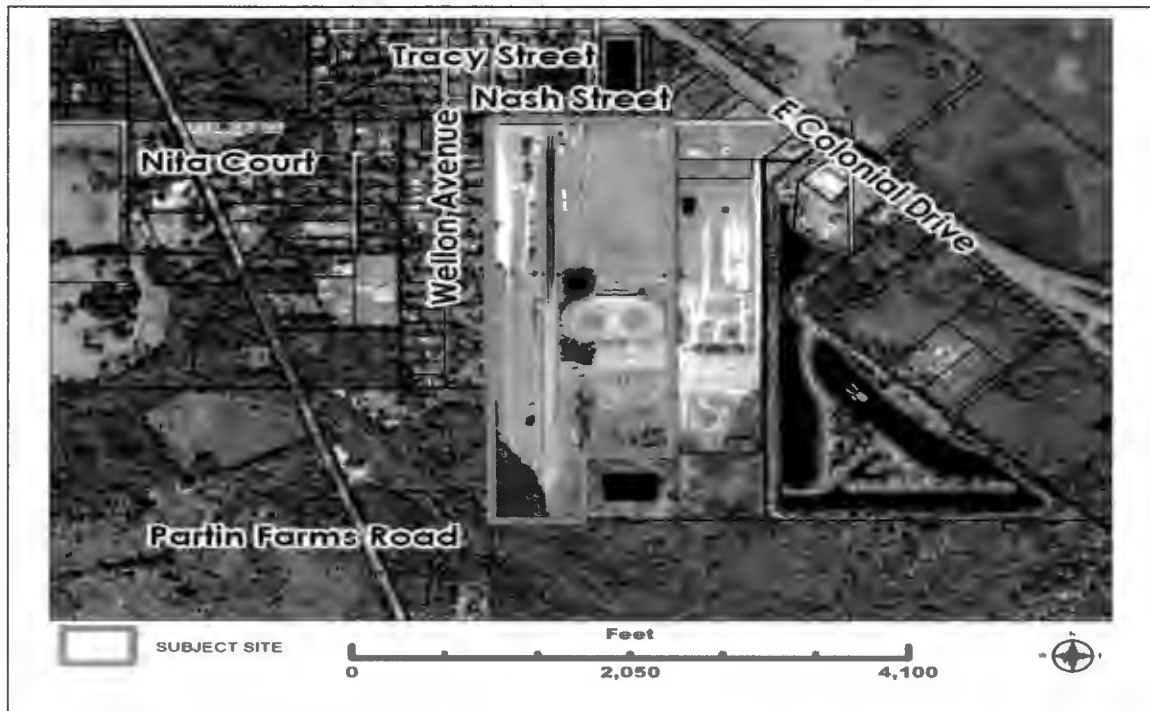
Since 1965, the OSW has benefitted the Orange County community, specifically District 5, by bringing tourism to the east side of the County and by providing an outlet for racing in a safe, controlled environment. By way of this Application to amend the existing special exception, OSW is merely seeking permission to enhance the experience of spectators and participants by adding an additional restroom facility and two paved areas. These proposed uses meet the special exception criteria outlined in Section 38-78 of the Code as detailed above. Along with this cover letter narrative, RBSJR, Inc. has submitted a completed BZA Application for an amendment to the special exception, a complete survey of the property as requested, and has provided additional information requested by the Zoning Division within this cover letter narrative. Therefore, RBSJR, Inc. respectfully requests BZA approval of its application to amend the special exception currently in place on the property.

4850-6657-8409, v. 1

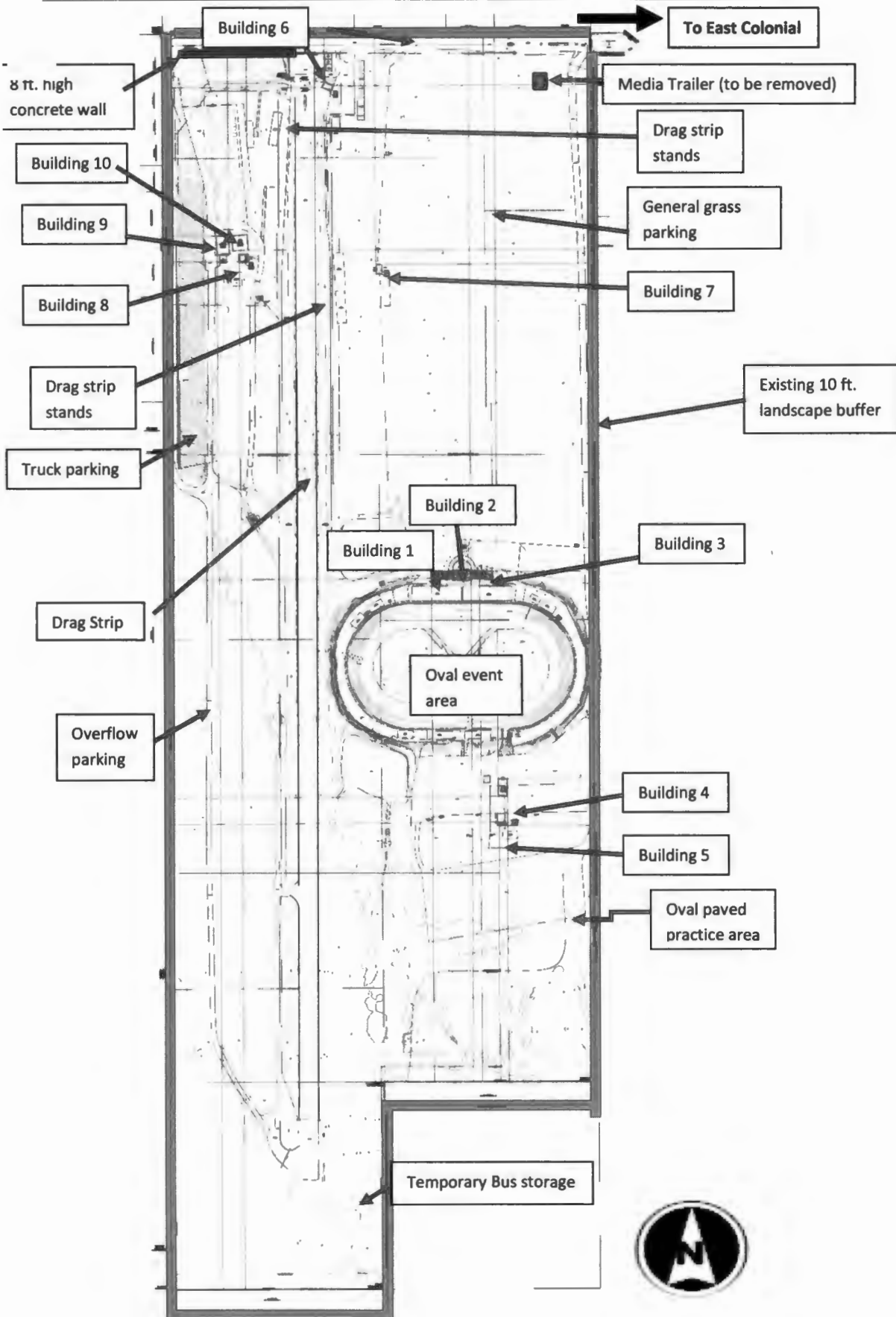
ZONING MAP



AERIAL MAP



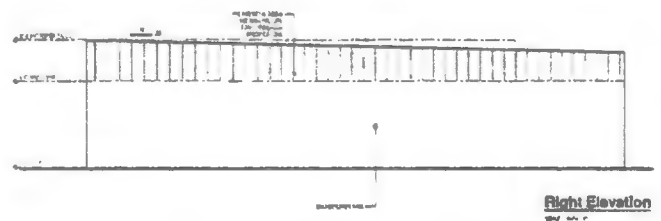
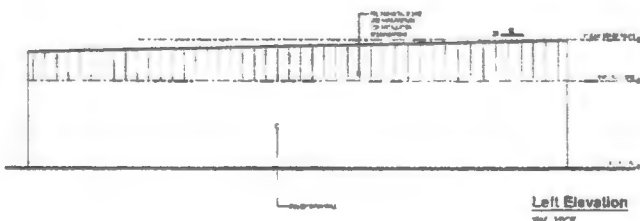
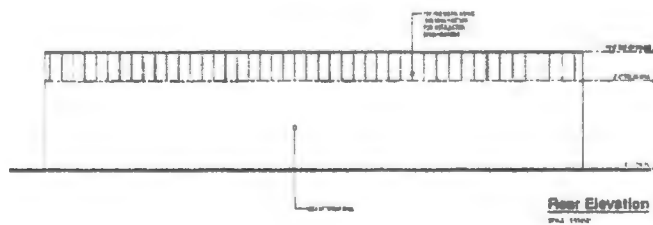
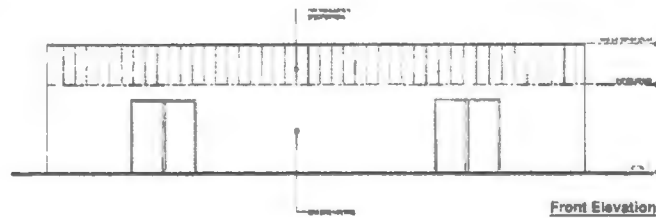
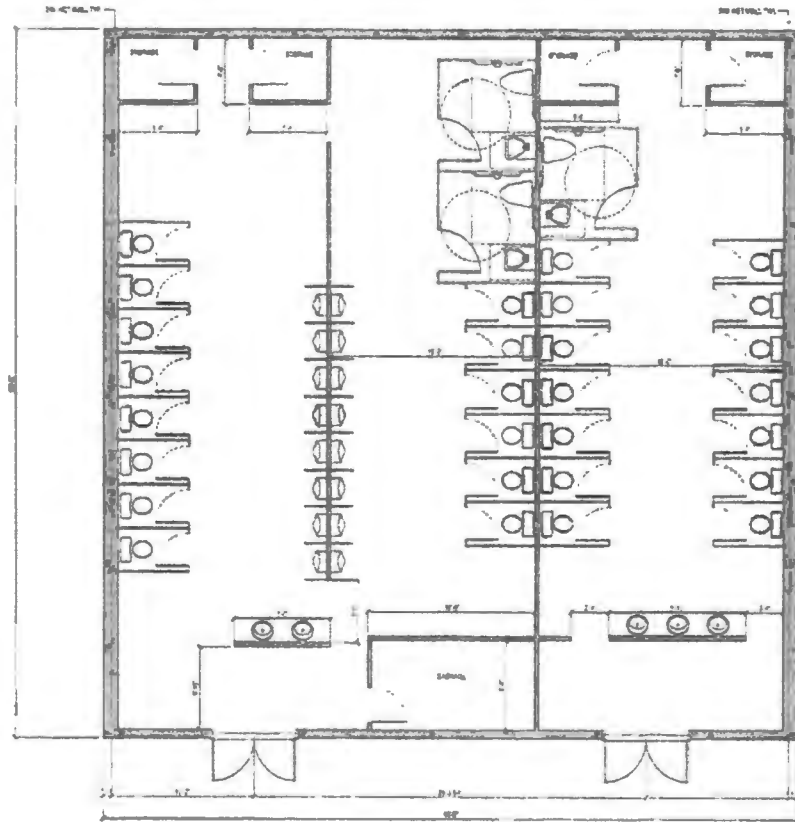
SURVEY WITH SITE IMPROVEMENTS



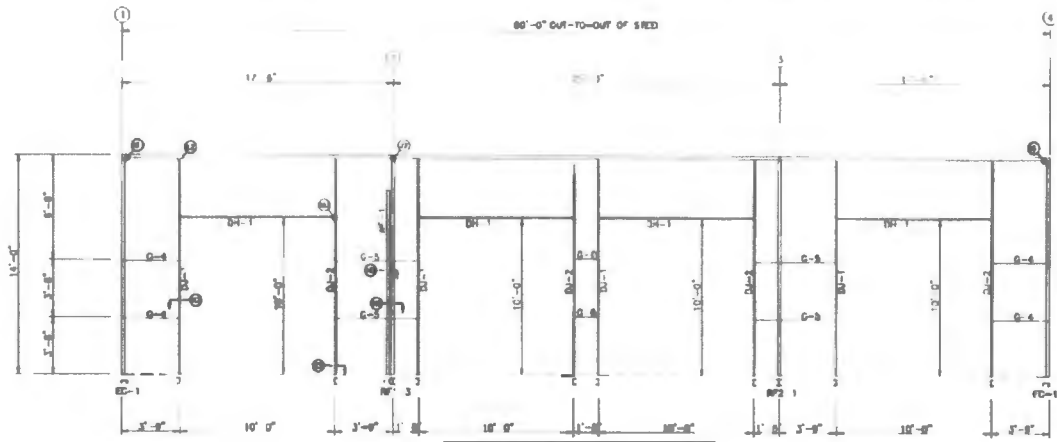
SITE AERIAL



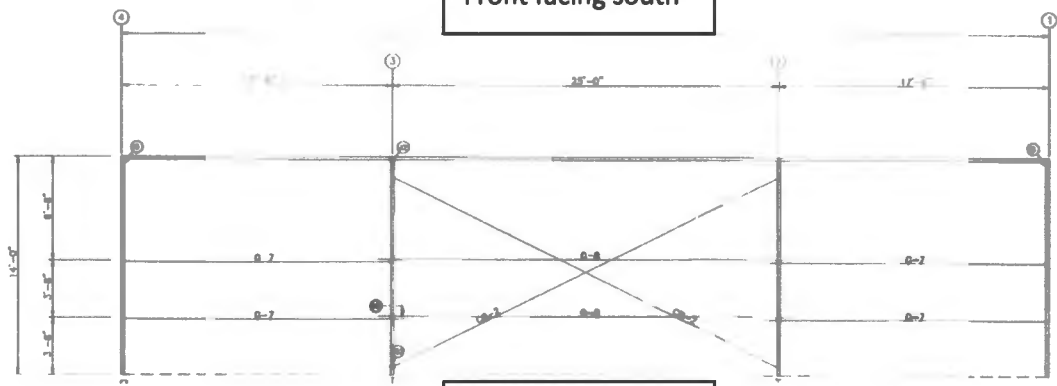
BUILDING 10 - RESTROOM FLOOR PLAN AND ELEVATIONS



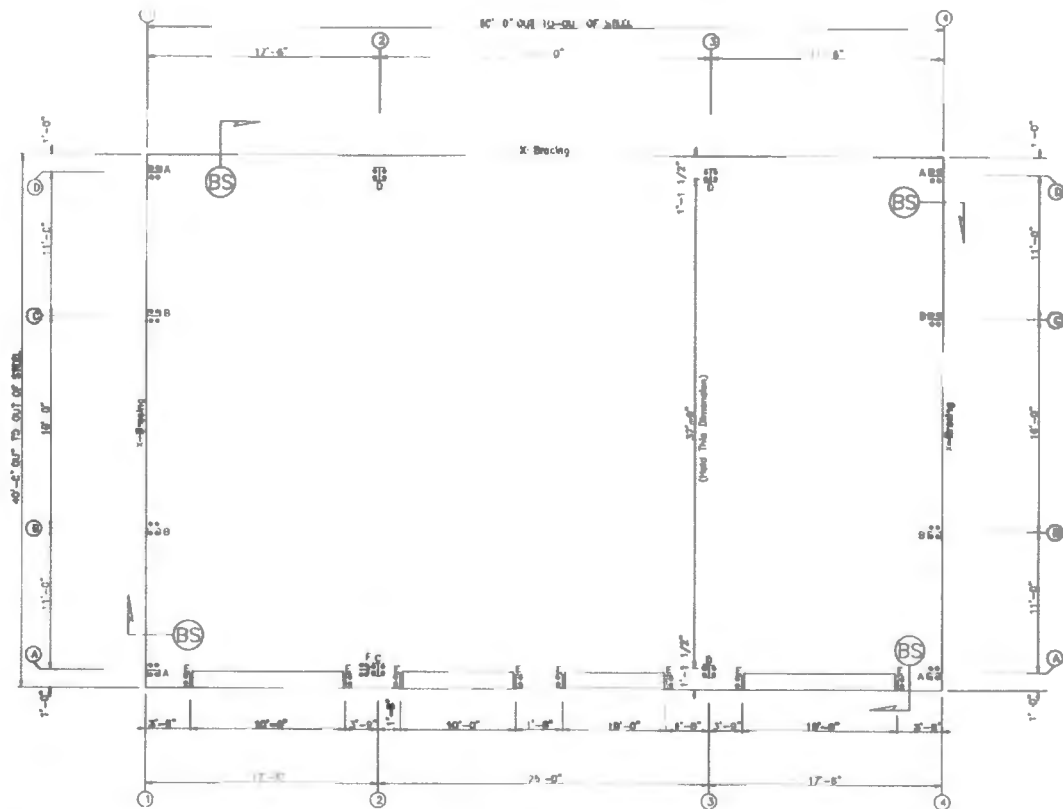
BUILDING 9 - STORAGE BUILDING FLOOR PLAN AND ELEVATIONS



Front facing south



Rear facing north



SITE PHOTOS



Entrance from East Colonial Dr. facing west



North property line facing west with existing 10 ft. landscape buffer

SITE PHOTOS



Northeast corner of site facing south, paved truck parking is to the left, Buildings 10 & 11 in background



Northeast corner of site facing east, 8 ft. high concrete wall is to the right, Building 6 in background

SITE PHOTOS



8 ft. high wall facing west, drag strip stands and tower in background



South property line facing north at end of drag strip, overflow parking in background to the left

SITE PHOTOS



Paved oval practice area with Oval stands in background facing northwest from east property line



Inside Oval track facing west

SITE PHOTOS



General parking area facing northwest from east property line



Drag strip stands facing west with Building 9 restrooms in foreground

SITE PHOTOS



Drag strip main stands in the background to the left and general parking to the right, facing north



Unpermitted Storage Building 11 facing east from truck parking area

SITE PHOTOS



Storage Building 11, Restroom Building 8, unfinished Restroom Building 10 facing northwest



Overflow parking with new paved truck parking facing south with west landscape buffer to the right



BOARD OF ZONING ADJUSTMENT