



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

November 3, 2022

Zoning Division

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

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

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Michael Rosso	Planner II
Jenale Garnett	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
NOVEMBER 3, 2022**

Case #	Applicant	Commission District	Staff Recommendation	BZA	Page #
VA-22-09-092	Barbara Gritter For Solarium Solar LLC	2	Continued	Continued	1
VA-22-10-104	Heath Hensley	5	Denial	Approval w/Conditions	2
VA-22-11-119	James Meagher	2	Approval w/Conditions	Approval w/Conditions	16
VA-22-10-103	Brad Berkman For Sunshine Cellars	1	Approval w/Conditions	Approval w/Conditions	26
VA-22-08-060	Michael Miles For Orlando Commerce Center	6	Denial	Approval w/Conditions	38
SE-22-10-106	Ruth Hamberg For Rehoboth Church	6	Approval w/Conditions	Approval w/Conditions	54
VA-22-12-122	Jan-Michael Lambdin	1	Approval w/Conditions	Approval w/Conditions	74
VA-22-11-114	Salvador Castro	2	Approval w/Conditions	Approval w/Conditions	90
SE-22-09-095	Justin Bauknight For Kiwanis Clubhouse	3	Approval w/Conditions	Approval w/Conditions	101
SE-22-08-064	Mattaniah Jahn For Coral Towers LLC	2	Continued	Continued	118

Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on Nov 29, 2022.

ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

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

Residential Districts

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

Non-Residential Districts

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

Other District

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

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

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

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

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

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

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

FOOTNOTES

^a	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.
^b	Side setback is 30 feet where adjacent to single-family district.
^c	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.
^d	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.
^e	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
^f	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
^g	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
^h	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.
^j	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.
^k	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%.
^m	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: **NOV 03, 2022**

Commission District: **#2**

Case #: **VA-22-09-092**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): BARBARA GRITTER FOR SOLARIUM SOLAR LLC

OWNER(s): JAMES LOVETT, ELIZABETH MCCORMICK

REQUEST: Variances in the R-2 zoning district to allow a ground mounted solar system as follows:

- 1) In front of the principal structure in lieu of the side or rear yard.
- 2) Total square footage of solar panels of 1,154 sq. ft. in lieu of 209 sq. ft. (25% of the living area of the principal structure.)

PROPERTY LOCATION: 7918 Albania Ave., Orlando, FL 32810, Southwest corner of Albania Ave. and Brownell St., east of N. Orange Blossom Trl., north of Edgewater Dr.

PARCEL ID: 29-21-29-0356-02-210

LOT SIZE: +/- 0.32 acres (13,886 sq. ft.)

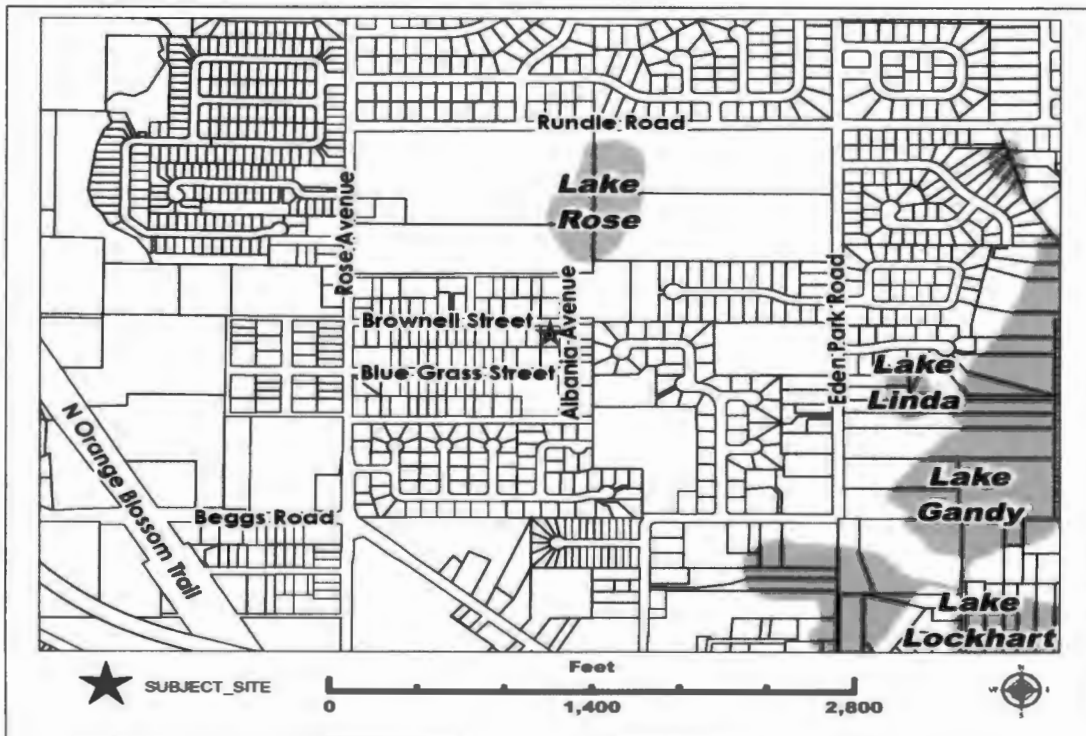
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 91

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT.

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#5**

Case #: **VA-22-10-104**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): HEATH HENSLEY

OWNER(s): TERAH HENSLEY, HEATH HENSLEY

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

1) To allow a detached accessory structure (treehouse) with a north side setback of 1.2 ft. in lieu of 7.5 ft.

2) To allow an existing accessory structure (treehouse) with an east setback of 1 ft. from the Normal High Water Elevation (NHWE) in lieu of 30 ft (which includes an east rear setback of 1 ft. in lieu of 10 ft.)*

*wording added for clarity

Note: This is a result of Code Enforcement.

PROPERTY LOCATION: 408 Ololu Drive, Winter Park, FL 32789, east side of Ololu Dr., west side of Lake Killarney, east of I-4, south of Lee Rd.

PARCEL ID: 02-22-29-4168-00-930

LOT SIZE: +/- 0.35 acres/ 15,381 sq. ft.

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 108

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Charles Hawkins, II, Joel Morales, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and elevations received October 5, 2022, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the variance request and, which shall inform all interested parties that the treehouse is located no closer than 1 foot from the Normal High Water Elevation (NHWE) of Lake Killarney.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the proposal could have been constructed in a manner to reduce or eliminate the need for the Variances if a permit was obtained prior to starting construction. Staff noted that one (1) comment was received in support, and no comments were received in opposition.

The owner discussed the location of the tree used for the proposal, the quality of construction, consistency of the design with the surrounding area and neighbor support. The owner also noted that he didn't know that county approval for the structure was required.

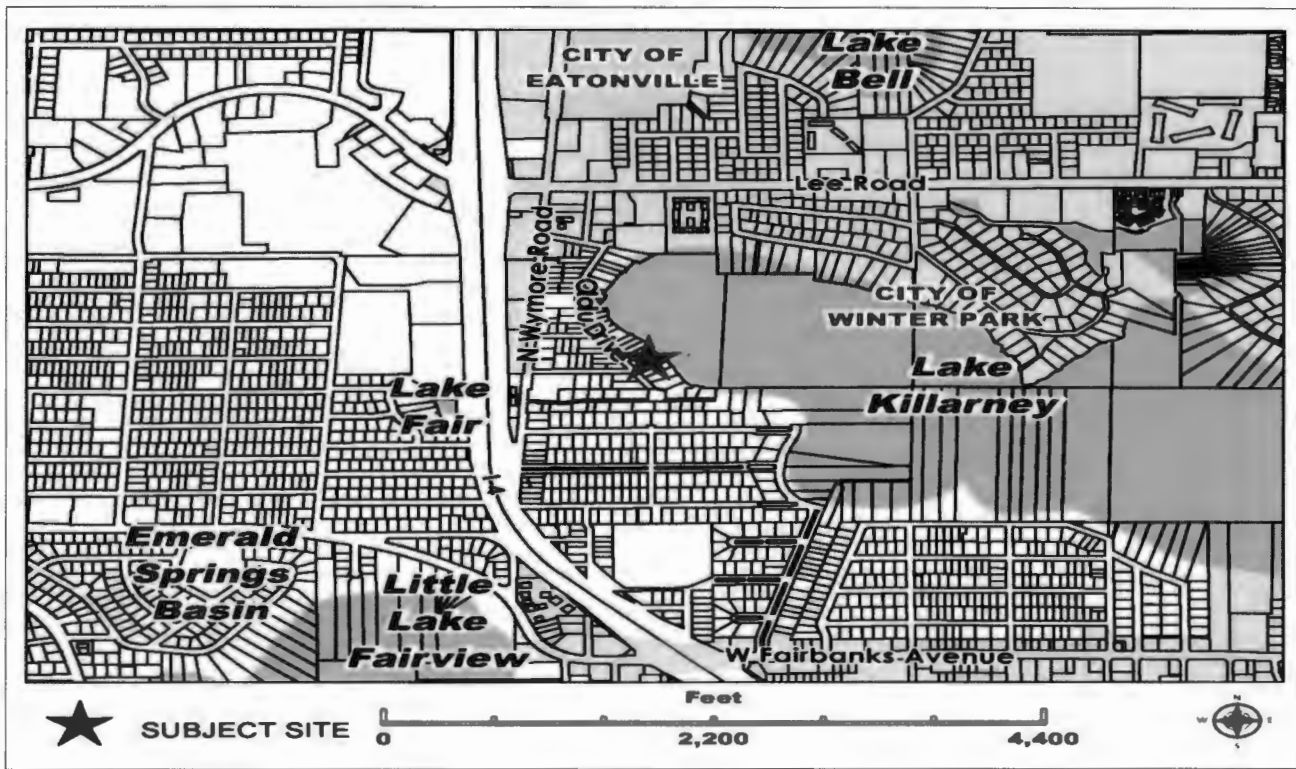
Code Enforcement discussed the citation. There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the construction of the structure on 10 foot high posts, the consistency with the NHWE, the lack of negative impacts, and stated justification for the six (6) criteria. The BZA unanimously recommended approval of the Variances by a 4-0 vote, with three absent, subject to the four (4) conditions in the staff report, with an amended Condition #4, which states " Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the variance request and, which shall inform all interested parties that the treehouse is located no closer than 1 foot from the Normal High Water Elevation (NHWE) of Lake Killarney."

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum of 7,500 sq. ft. lots. The Future Land Use is Low-Density Residential (LDR), which is consistent with the zoning district.

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is a 0.35 acre lakefront lot, located in the Killarney Circle Plat, recorded in 1925, and is considered to be a conforming lot of record. It is developed with a 2 story 5,930 gross sq. ft. home and a swimming pool that were constructed in 1999. The owners purchased the property in 2016.

In 2021, the owner began construction of a treehouse on the northeast corner of the property, utilizing the only tree on the property that was not submerged. A Code Enforcement citation was issued in August, 2022 for the construction of a treehouse without a permit (Incident 610869). The treehouse is approximately 245 sq. ft., is elevated 10 ft. from the ground, and is 22.5 ft. in height to the peak of the roof. The treehouse has been partially constructed and is 1.2 ft. from the north side property line in lieu of 7.5 ft. requiring Variance

#1 and 1 ft. from the east rear property line in lieu of 10 ft., requiring Variance #2. The side setback for a detached accessory structure that is over 15 ft. in height is required to comply with the requirement for the zoning district, which is 7.5 ft. and the rear setback for a detached accessory structure that is over 15 ft. in height is also required to provide a rear setback of 10 ft. The treehouse was constructed over the east Normal High Water Elevation (NHWE) line, however the owner proposes to remove the portion that encroaches into the NHWE, and an additional foot to result in a 1 ft. setback from the NHWE line in lieu of 30 ft. also requiring Variance #2.

Orange County Code does not specifically address treehouses, thus the structure is considered to be a detached accessory structure. Although the requests meet some of the Variance criteria, they do not meet all six. Therefore, staff recommends denial of the requested Variances.

The Orange County Environmental Protection Division has reviewed the request and has no objection to the requested variances.

As of the date of this report, no comments have been received in opposition to this request and a letter of support has been received from the owners of the property directly to the north.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	22.5 ft.
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	15,381 sq. ft

Building Setbacks

	Code Requirement	Proposed
Front:	25 ft. (primary structure)	32.5 ft. (West) primary structure
Rear:	10 ft. for accessory structure over 15 ft. high	1 ft. (East – Variance #2) accessory structure
NHWE:	30 ft. for accessory structure	1 ft. (East-Variance #2) accessory structure
Side:	7.5 ft.	1.2 ft. (North - Variance #1) 58 ft. (South) accessory structure

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition and circumstance are that there is only one tree on the property that is not submerged, within the NHWE, which is used for the treehouse. However, there is ample room in the rear yard to build an equivalent sized accessory structure that is not a treehouse, that will meet code requirements.

Not Self-Created

The requests for the variances are self-created, as the structure was built without permits, and there are other options available to have a detached accessory structure in a location that will meet code, albeit not in a tree.

No Special Privilege Conferred

Granting these requests would confer special privilege since there are other options to construct a detached accessory structure that complies with the County Code.

Deprivation of Rights

There is no deprivation of rights as the owner has the ability to construct a detached accessory structure that complies with the County Code by using a different design in a separate location.

Minimum Possible Variance

The requested variances are not the minimum necessary to construct a detached accessory structure on the property. Further, a treehouse in the same location could have been designed to require lesser setback variances.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the of the Code, and will allow the treehouse to remain on the site. It will not be detrimental to the neighborhood as the treehouse will not be visible from the adjacent street, and the most impacted neighbor to the north has provided a letter of support.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received October 5, 2022, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages caused by flooding and, which shall inform all interested parties that the treehouse is located no closer than 1 foot from the Normal High Water Elevation (NHWE) of Lake Killarney.

C: Heath Hensley
408 Oloru Drive,
Winter Park, FL 32789

COVER LETTER

August 2nd, 2022

408 Ololu Dr. Winter Park, FL 32789 | 407-462-7821 | heathhensley@gmail.com

Dear Board of Zoning Adjustment,

I am requesting a zoning variance for my existing treehouse located in the north east corner of my property at 408 Ololu Drive, Winter Park, FL 32789. Given my treehouse is considered a detached accessory structure, and my property is zoned R-1A, I believe the code states the structure should be 7.5' from the northerly property line and 30' from the easterly property line. I am requesting a variance to allow the structure to be 1.2' from the northerly property line and 1.0' from the easterly high-water line (see attached boundary survey for details).

The treehouse is approximately 15.9' by 15.4' (244.86 sq. ft.). It is elevated ~10' off the ground and is ~12.5' tall from the bottom of the floor joist to the top of the roof for a total height of ~22.5' from the ground to the top of the roof. It is constructed with high quality pressure treated pine, composite trex decking, and mixture of stainless steel and galvanized fasteners. The treehouse is currently all open air with a basic railing surrounding but phase 2 of the project includes enclosing an 8' by 12' area (NOTE: if this planned enclosure is not permissible I would keep the treehouse open air).

My property only has 4 proper trees, all of which are cypress trees on the lake side, and the tree I chose to build in was the only one that was over dry land. After discussing it with my neighbors and getting their approval, I constructed the treehouse without realizing I needed county approval/permitting. Unfortunately I have no other suitable tree on my property and moving or planting a new tree is not a viable option within the timeframe of my children's childhood. There are other treehouses and similar structures on the properties surrounding Lake Killamey (and other lakes within Orange County) so I would like to provide my children with a treehouse as well. The treehouse is constructed with high quality material (including hurricane straps) to ensure the safety of my children and our surrounding neighbors. It is intentionally elevated so it tucks into the canopy of the tree and its colors consist of browns and grays to match our dock and the natural surroundings.

When I was a child I had a very similar treehouse that my father built for me. I would spend countless hours pretending I was a pirate on the high seas or a soldier defending my fortress. I would go up in my treehouse to do my homework, take a nap, or have a snack with my friends. Now, thirty years later, my 71 year-old father and I (with help from neighbors, friends, and family) have built a very similar treehouse for my three kids (two 6 year-old boys and 1 year-old daughter). Now I get to see their little imaginations take over in their treehouse as they pretend to explore worlds or use a rope and bucket to pull up their snacks to share with friends. In a day and age where our kids are bombarded with social media, video games, and endless reasons to stay stagnant inside; I want my kids to break away from the screens, move their bodies, and let their imaginations run wild. Adding this treehouse to my backyard is an attempt to draw them out and give them an exciting place to share and dream.

Thank you for your time and energy given towards considering the approval of this variance request. If I can provide any additional information to support you in this evaluation process please do not hesitate to reach out.

Sincerely,



Heath Hensley

COVER LETTER

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.

My property only has 4 proper trees, all of which are cypress trees on the lake side. The tree I chose to build in was the only one that was over dry land. After getting approval from my neighbors, I constructed the treehouse without realizing I needed county approval/permitting.

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.

The only viable tree on my property has been there for ~100+ years and I did not have the opportunity to choose the location of the tree and it's proximity to the boundaries of my property

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.

There are other treehouses and similar structures on the properties surrounding Lake Killarney and other lakes within Orange County

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.

I do not have another tree on my property that could be utilized for a treehouse and would not be able to grow another tree within the amount of time necessary for my children to be of an age to enjoy a treehouse

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.

The requested variance is the minimum needed to retain the existing treehouse.

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.

The treehouse is constructed with high quality material (including hurricane straps) to ensure the safety of my children and our surrounding neighbors. It is elevated so it tucks into the canopy of the tree and its colors consist of browns and grays to match the dock and the natural surroundings.

ZONING MAP

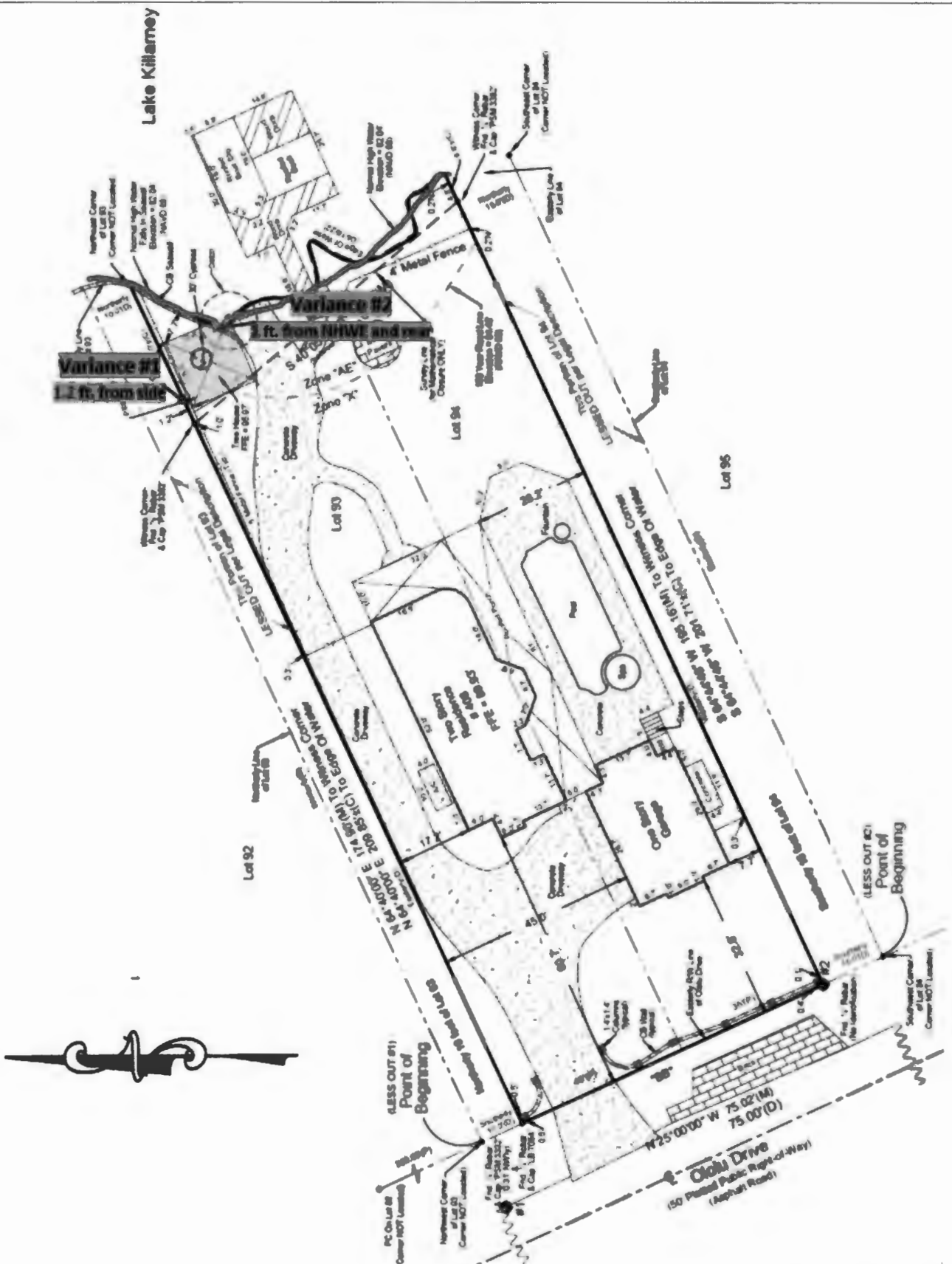


AERIAL MAP



SITE PLAN

Lake Killarney



Variance #1
1.2 ft. from side

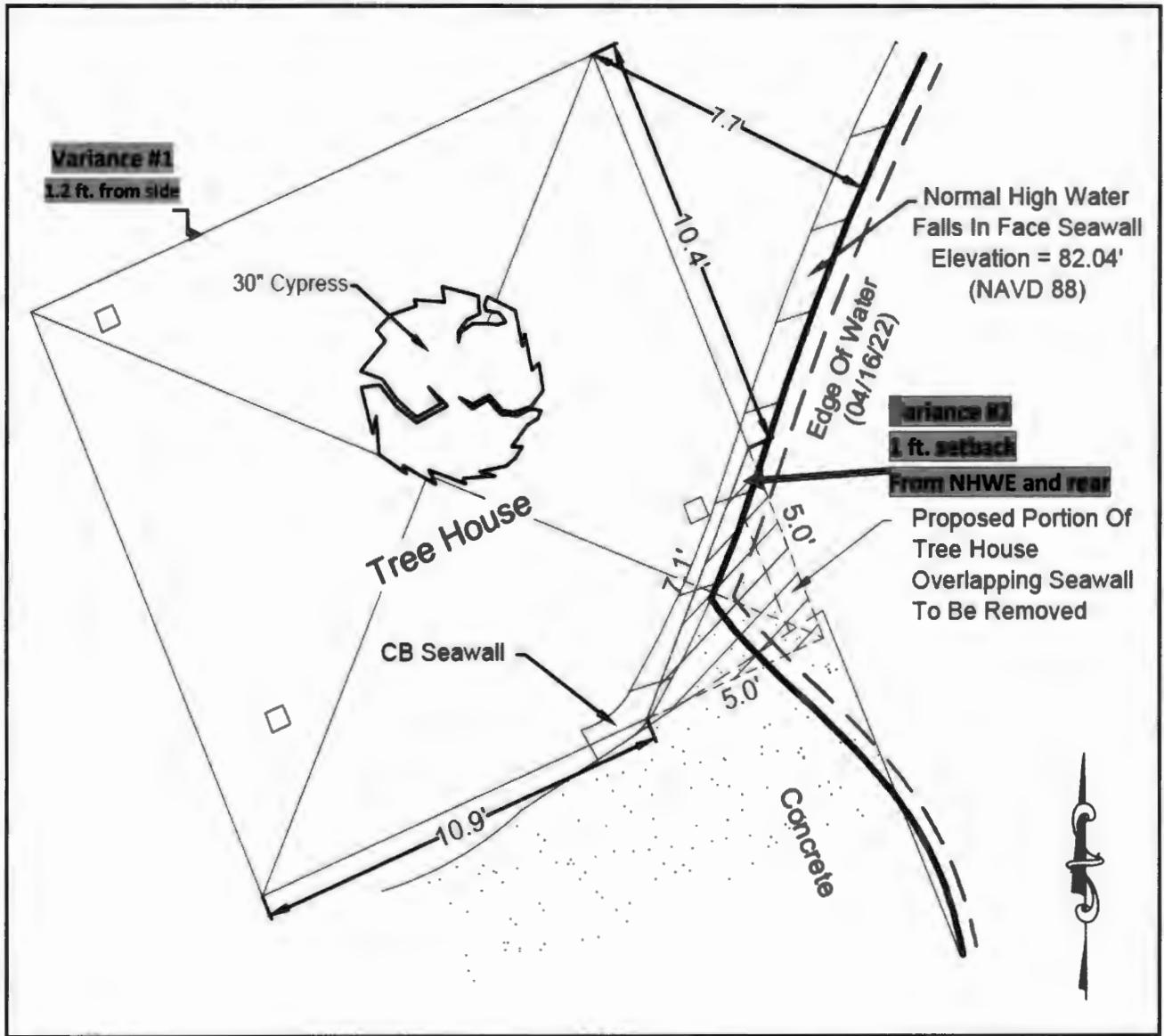
Variance #2
1.2 ft. from H/H/V/E and rear

(Less out 32')
Point of Beginning

Oldu Drive
50' Proposed Public Right-of-Way
(Asphalt Road)

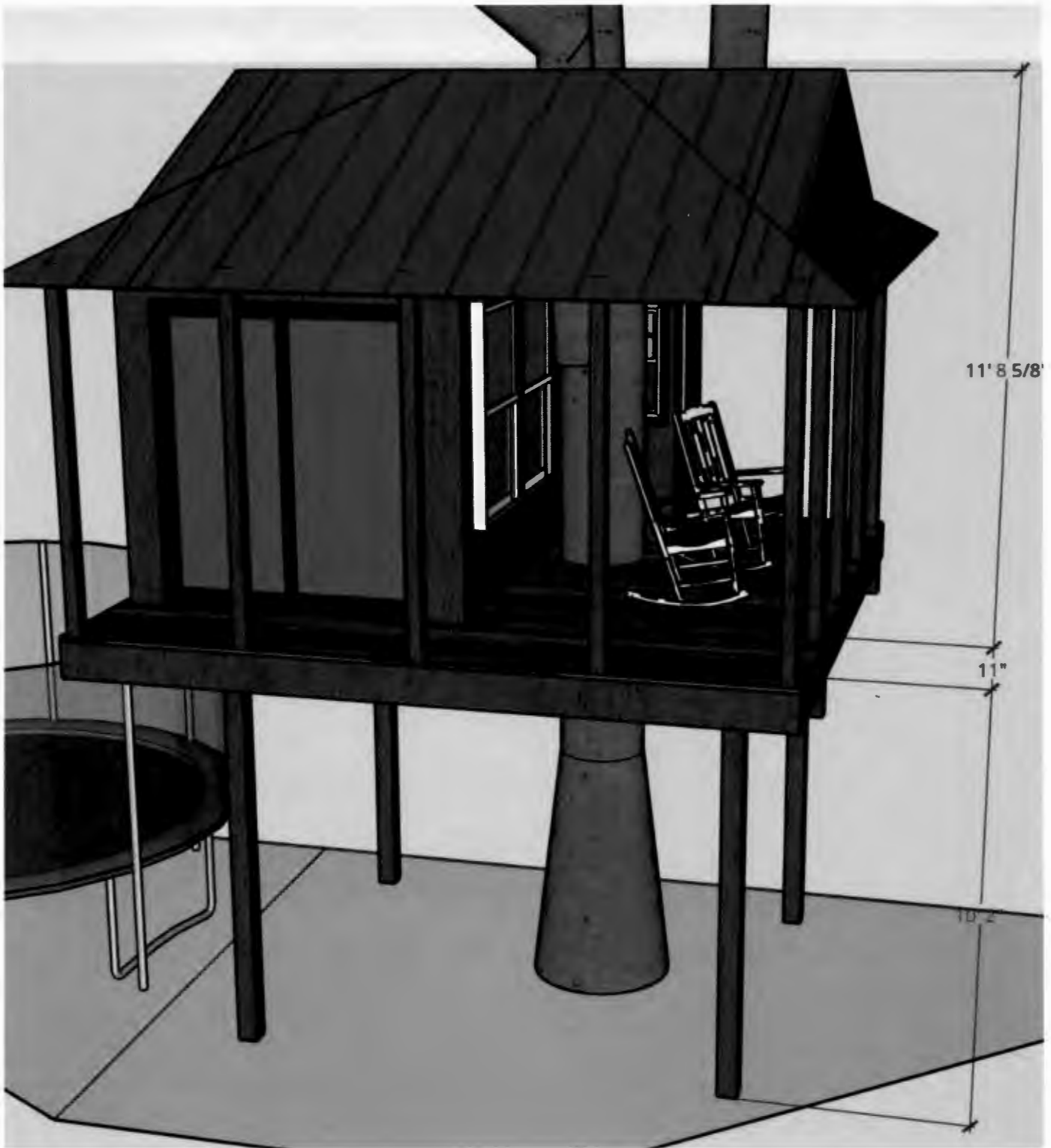
SITE PLAN/ TREE HOUSE DETAIL

**Detail:
Portion Of Tree House Overlapping Seawall**



Not To Scale

RENDERING OF TREEHOUSE



SITE PHOTOS



Front facing east from Ololu Dr.



Treehouse facing east

SITE PHOTOS



Treehouse facing north showing 1 ft. east NHWE setback and 1.2 ft. north side setback



Treehouse facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#2**

Case #: **VA-22-11-119**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): **JAMES MEAGHER**

OWNER(s): **XIAO CAO, JAMES MEAGHER**

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

- 1) To allow a lot width of 100 ft. in lieu of a minimum of 130 ft.
- 2) To allow a lot size of 0.87 acres (0.5 acres upland) in lieu of a minimum of 1 acre.

PROPERTY LOCATION: **4860 Lake Carlton Drive, Mount Dora, Florida, 32757, west side of Lake Carlton Dr., on the east side of Lake Carlton, west of Dora Dr., north of Sadler Rd.**

PARCEL ID: **18-20-27-0000-00-025**

LOT SIZE: **0.87 acres (0.5 acres upland)**

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

NUMBER OF NOTICES: **35**

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions: (Motion by John Drago, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II and Roberta Walton Johnson):

1. Development shall be in accordance with the lot width and dimensions shown on the site plan received October 13, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that eight (8) comments were received in support, and no comments were received in opposition.

The applicant had nothing to add.

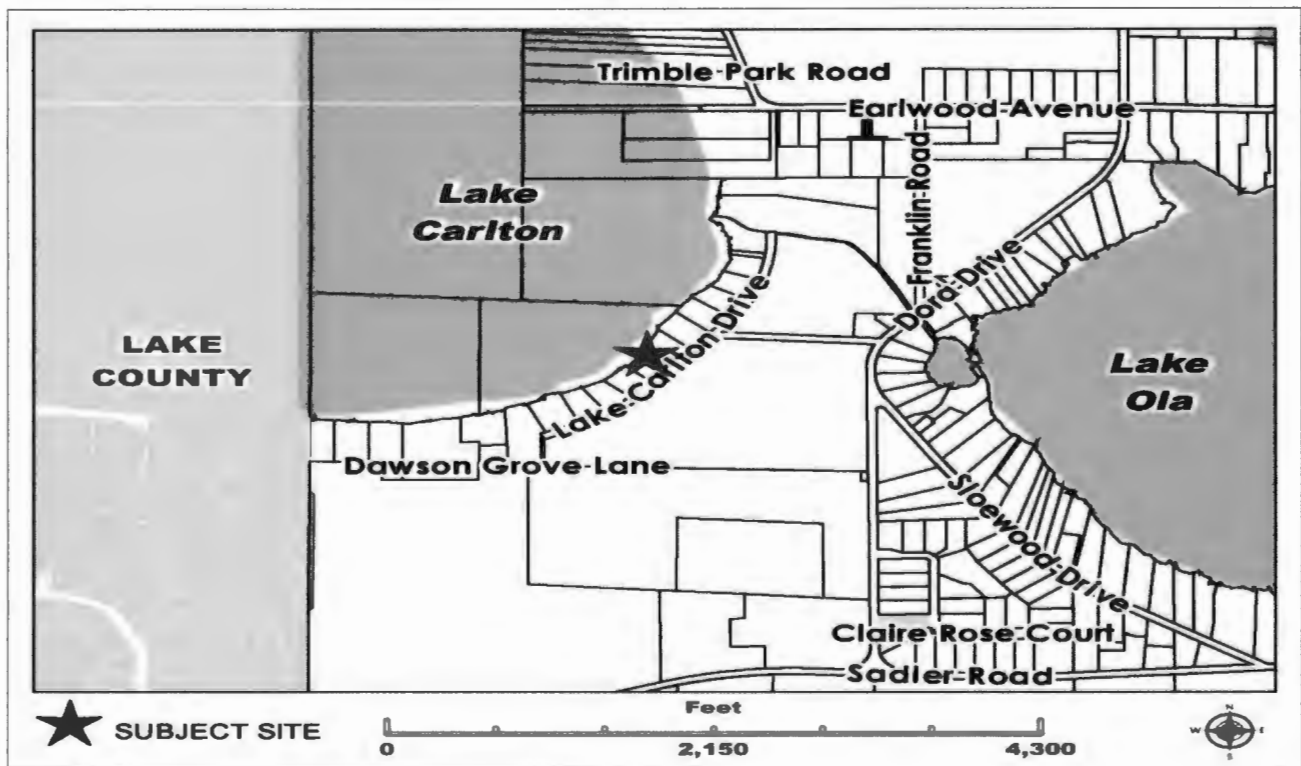
There were two people in attendance to speak in opposition to the requested lot size at a size lower than the 1 acre requirement for the area and the precedent it would set. There was no one in attendance to speak in favor of the request.

The BZA discussed the density, noted the existing size of the parcel and the consistency of its size with others in the area, the infill development opportunity, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 4-0 vote, with three absent, 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-CE	R-CE	R-CE	Lake Carlton Rd. PD	Lake Carlton
Future Land Use	RS-1/1	RS-1/1	RS-1/1	RS-1/1	Lake Carlton
Current Use	Vacant	Single-family residential	Single-family residential	Vacant	Lake Carlton

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Country Estate District, which allows single-family homes and associated accessory structures on a minimum of one acre lots. The Future Land Use is RS 1/1, which is consistent with the zoning district.

The property is located in the Tangerine Rural Settlement. Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those area wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location, and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. In the Tangerine Rural Settlement, the maximum density is one (1) unit per one acre for new development. The Orange County Planning Division supports the request to construct one (1) residential unit on the subject parcel even though it does not meet the minimum density requirement, provided that all R-CE zoning district performance standards are met.

The area around the subject site consists of single-family homes and vacant lots. The subject property is a 0.87 acre (0.5 acre upland) unplatted lakefront lot, located on Lake Carlton, and is a non-conforming lot, as it does not meet the minimum lot width or size. The owners purchased the property in 2021.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property (lot 25) was conveyed on December 10, 1996, to William Riddle along with the parcel to the south (lot 20). William Riddle then conveyed both parcels to Robert and Julie Muir on May 24, 2001. On February 1, 2005, the subject property (lot 25) was conveyed separately, and eventually sold to the current owner on March 30, 2021. Thus, the parcel cannot be considered to be a substandard lot of record, and variances are required for the lot width and lot size in order to build a single-family home on the property.

The parcel is 100 feet wide, but the R-CE zoning district requires a minimum lot width of 130 ft., requiring Variance #1, and is 0.5 acres upland in size but the R-CE zoning district requires a minimum lot area of 1 acre, requiring Variance #2. The applicant has applied for a permit (B22015552) to construct a one story 4,246 gross sq. ft. single-family home on the property, which is on hold, pending the outcome of this request. The proposed home will meet all setback requirements for the district, including the required 50 ft. Normal High Water Elevation setback from Lake Carlton to the west.

The Orange County Environmental Protection Division has reviewed the request and has no objection to the requested variances.

As of the date of this report, 8 comments from lakefront neighbors on Lake Carlton Drive have been received in favor of this request, and none have been received in opposition.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	25 ft.
Min. Lot Width:	130 ft.	100 ft. (Variance #1)
Min. Lot Size:	1 acre	0.5 acres (upland) (Variance #2)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	36 ft. (East)
Rear and NHWE:	50 ft.	111 ft. (West)
Side:	10 ft.	10.7 ft. (North) 11 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing lot size and configuration are considerations of special conditions and circumstances. The property would be undevelopable without the variances for lot width and area.

Not Self-Created

The lot was in this configuration when the owners purchased the property in 2021 and the substandard aspects of the parcel are not self-created.

No Special Privilege Conferred

Granting the variances will not establish special privilege since there are other platted substandard developed lots in the area with single-family homes.

Deprivation of Rights

Without the requested width and size variances, the owners will be deprived of the ability to construct a residence on the parcel, as the adjacent parcels to the north and south are developed.

Minimum Possible Variance

The requested variances are the minimum necessary to construct any improvements on the property, due to the lot width and size. Furthermore, the proposed residence meets all other performance standards.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow infill development with lawfully constructed residences. The proposed lot size and width, which will allow for the construction of a new home, will not be detrimental to the neighborhood as the proposed home will be consistent with the size and scale of other development in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the lot width and dimensions shown on the site plan received October 13, 2022, 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: James Meagher
30239 Cheval Street
Mount Dora, Florida, 32751

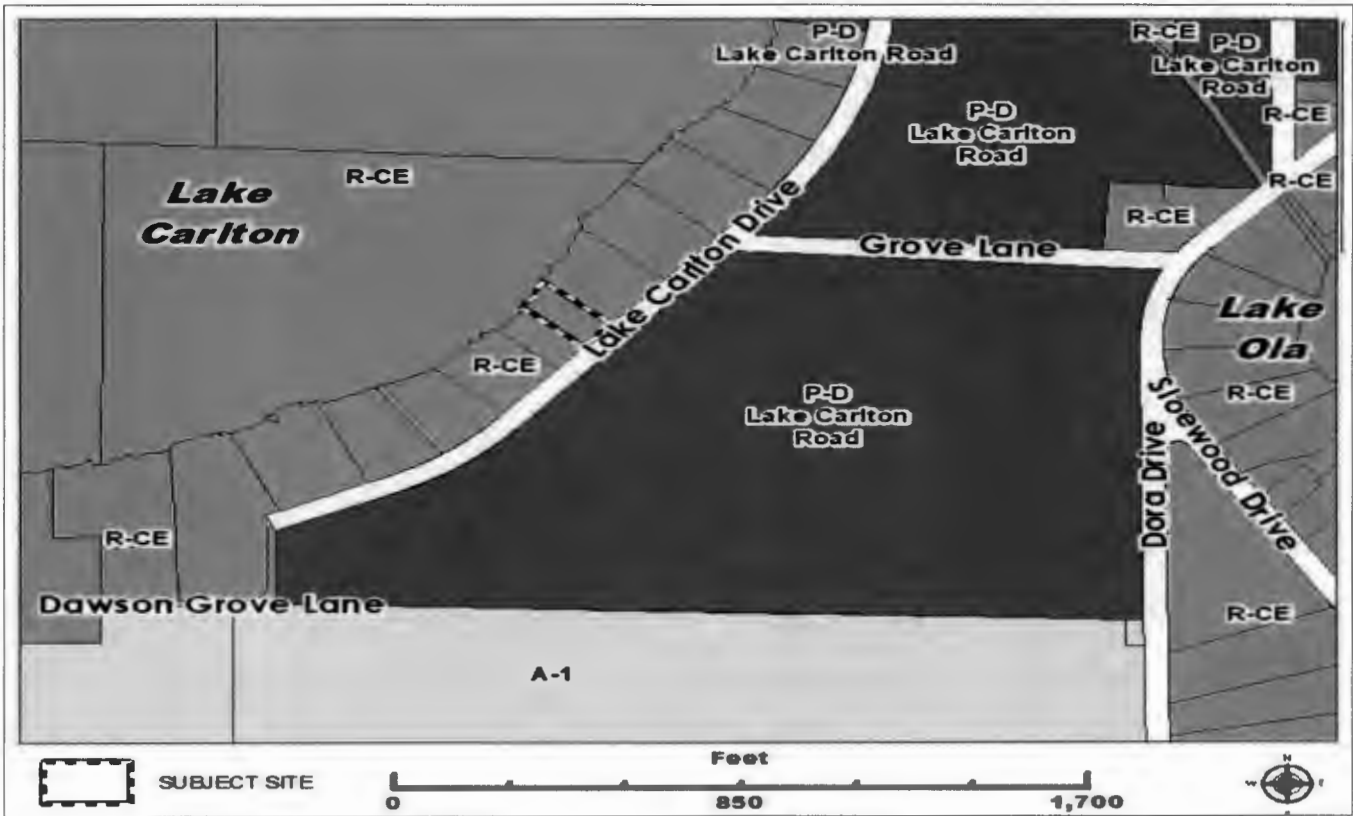
REQUEST

This request is for a Variance to the lot width requirements in the RCE- Rural Country Estate zoning district. The RCE lot width requirement is 130 feet. The applicants lot is 100 feet in width as is the adjoining lot that it was split from in 1966. The proposed single family residential structure will meet all of the RCE setbacks, 35 feet front, 50-foot rear, and 10 side. The structure will be constructed approximately 85 feet from the normal high-water mark of Lake Carlton.

VARIANCE CRITERIA

1. **Special Conditions and Circumstances-** The lot was created in 1966 by the division of a larger lot into two 100-foot lots. The adjoining lot was constructed under similar circumstances and the adjoining lots are not objecting to the request.
2. **Not Self-Created –** The lot was created several owners ago and the substandard lot width condition was not caused by any actions of the applicant.
3. **No Special Privilege Conferred-** The approval of the variance will not confer special privilege to this lot that are not enjoyed by other similar owners. The owner will meet or exceed all RCE setbacks and development standards as shown on the attached exhibit
4. **Deprivation of Rights –** Should the variance not be approved the site will not be allowed to be developed with a single-family residential structure similar to all other lots in the neighborhood
5. **Minimum Possible Variance –** The requested variance is the minimum necessary to allow for construction of the single-family residence. As it is a lot width variance it is the minimum to allow use of the property. The house size or location does not affect the variance request and all other setbacks and development standards will be met as shown on the attached exhibit
6. **Purpose and Intent –** Approval of the zoning variance will allow for the construction of a single-family residential structure similar in size and character to the other homes along the lake. The neighbors are supportive of development of the lot versus leaving it undeveloped .

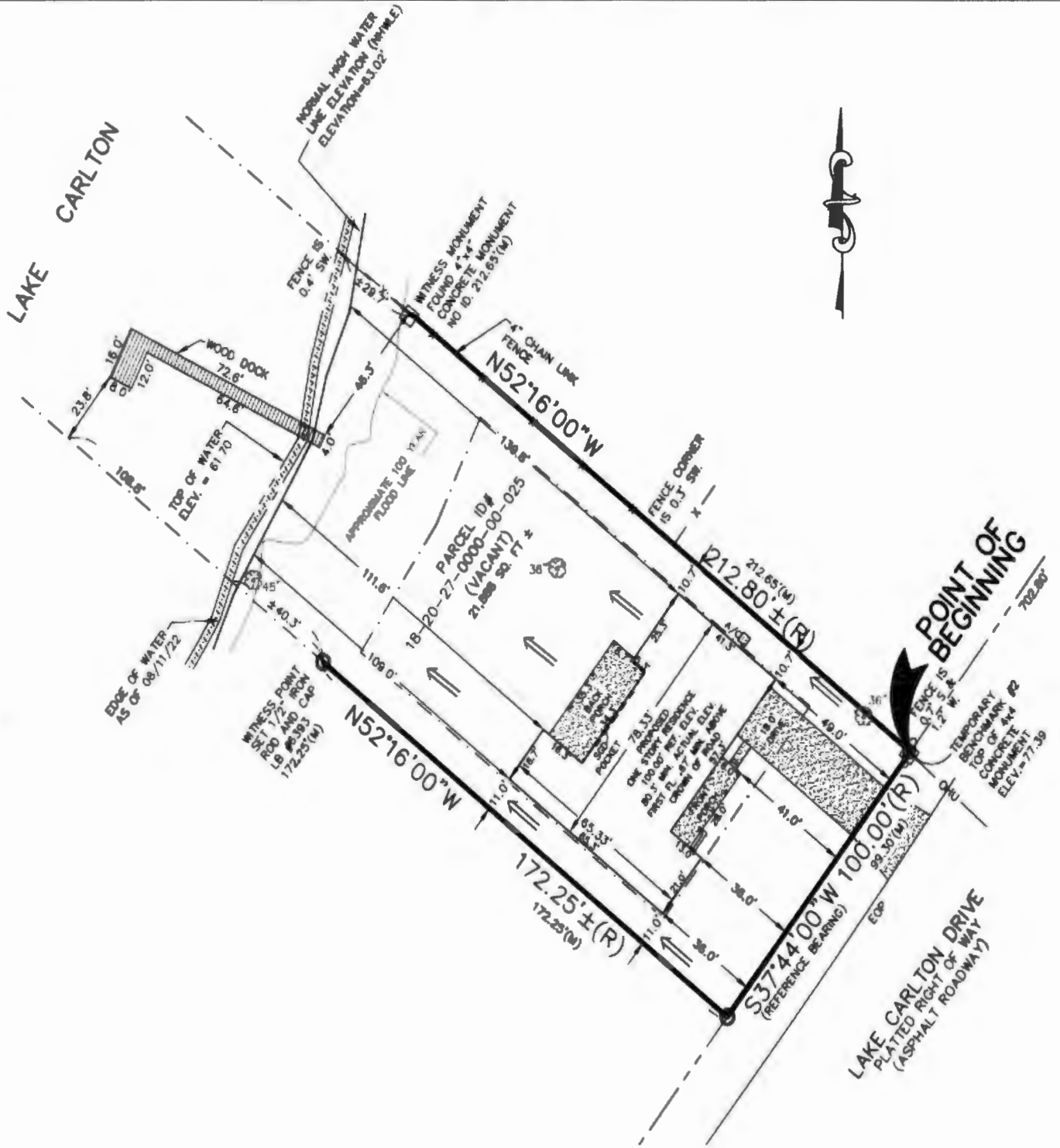
ZONING MAP



AERIAL MAP



SITE PLAN



ELEVATIONS

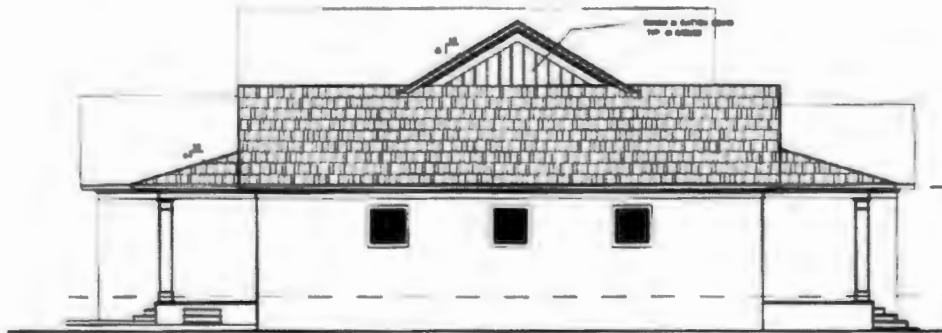


EAST ELEVATION

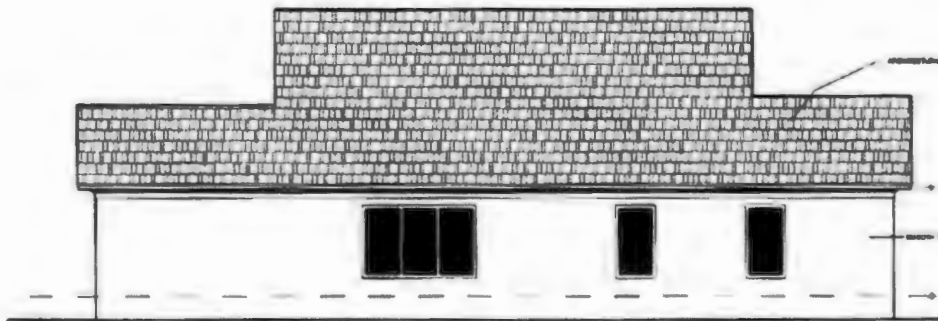


WEST ELEVATION

Jeana G



SOUTH ELEVATION



NORTH ELEVATION

SITE PHOTOS



Front from Lake Calrton Dr. facing west



10/10/2022 13:11

House on adjacent same sized lot to the south on Lake Calrton Dr. facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#1**

Case #: **VA-22-10-103**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): **BRAD BERKMAN FOR SUNSHINE CELLARS**

OWNER(s): **ORLANDO VINELAND PO, L.P.**

REQUEST: **Variance in the PD zoning district to allow a distillery equivalent to 3PS or 4COP quota license for package sales, located 3,540 ft. from a package sale vendor in lieu of 5,000 ft.**

PROPERTY LOCATION: **8200 Vineland Avenue, Orlando, FL 32821, south side of Vineland Ave., east of Interstate 4, west of International Dr., north of State Road 417.**

PARCEL ID: **22-24-28-8893-00-010**

LOT SIZE: **46 acres**

NOTICE AREA: **1,000 ft.**

NUMBER OF NOTICES: **99**

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received October 14, 2022, 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 distance separation, 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 discussed the State licensing and compliance process and noted the distance to the other business with a standard alcohol beverage license. He also noted that Sunshine Cellars will have a craft distillers license and that the operation is different from a liquor store, since it is tourist oriented with guided tours, and the liquor will be sold in the gift shop.

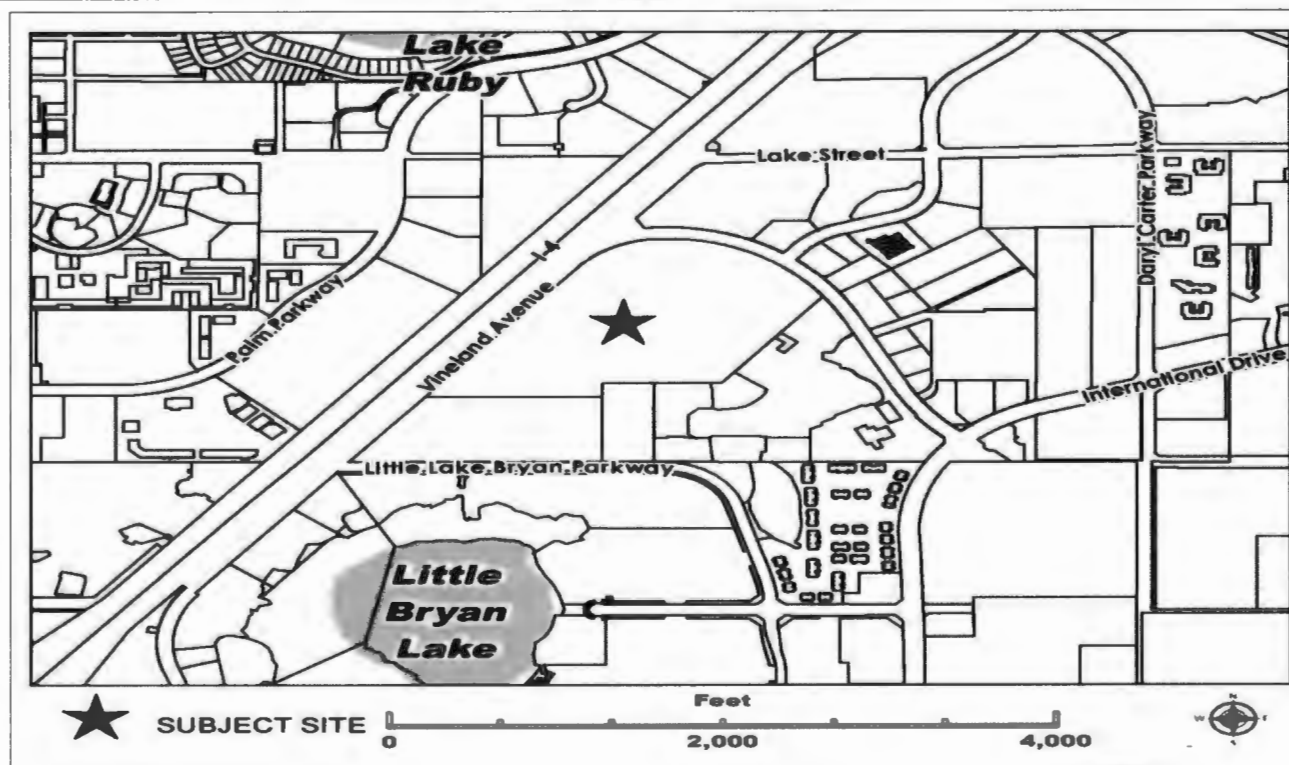
There were three (3) people in attendance who spoke in favor of the request, noting the opportunity for tourism. There was no one in attendance to speak in opposition to the request.

The BZA noted the uniqueness and differences of the operation compared to typical package stores, discussed the distance to the closest package sales store, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 4-0 vote, with three absent, 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	Barry W Corporation PD	PD	PD, R-CE	PD	PD
Future Land Use	ACMU	ACMU	ACMU	ACMU	ACMU
Current Use	Commercial	Commercial	Commercial, timeshare, religious use	Timeshare	Hotel

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Barry W Corporation Planned Development (PD) District, which allows commercial uses. The Future Land Use is Activity Center Mixed Use (ACMU), which encourages a mix of tourist related development within the International Drive Activity Center, and is consistent with the zoning district. The property is also located in the Tourist Commercial Signage Overlay, although there is no signage related to the request.

The subject property is 46 acres in size, and is developed with a 19 building outlet mall, known as “Orlando Premium Outlets” with over 700,000 square feet of commercial space that was constructed in between 2000 and 2008.

The proposal is for a business that will manufacture, blend and bottle alcoholic beverages on site, as well as sell the blended alcohol by the bottle and in mixed drinks from a 2,595 sq. ft. souvenir shop to be constructed within the existing complex at the southeast end of the property, in Suite 750. The business will offer presentations and guided tours and the opportunity to purchase frozen alcoholic drinks made from products blended and bottled on the premises, which requires a craft distillers license (CD license) from the State of Florida. Unlike a package store, only alcoholic beverages under the CD license will be made available for on and off premise sale and consumption, and no other alcohol beverage brands will be sold at the premises.

The Planning Manager and the Zoning Manager have determined that the proposed use is compatible and similar with tourist commercial uses per ID1.1.3 of the International Drive Element, which encourages a mixture of tourist related development, to reflect a tourist orientation with theme attractions. The nearest equivalent license from this operation that is a 3PS or 4COP quota license for package sales is Liquor 192, operating under a 3PS license at 8115 Vineland Avenue, which is located 3,540 feet to the east of the subject property. Sec. 38-1414 requires any package sales vendor to be located at least five thousand (5,000) feet away from another package sales vendor. The distance is measured by following the ordinary route of pedestrian travel along the public thoroughfare from the main entrance of the place of business to the main entrance of the other package sales vendor. Therefore, a variance is required to allow the proposed distillery to be located 3,540 ft. from liquor 192.

The applicant requested a distance measurement (ABA-22-08-0136) from the Zoning Division as part of the process to obtain a CD license. The measurement failed to meet the required distance separation, and the application was denied on September 13, 2022.

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

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The location of another package sales vendor across a major thoroughfare in a different commercial complex is a special condition, as the area is a heavily commercial, tourist-oriented area. The requested license to allow the sale of alcohol by the bottle and in mixed drinks, is different than a typical package sales vendor and will not have any noticeable impacts on adjacent commercial properties.

Not Self-Created

The need for the variance is not self-created, as the proposed business operates differently from any package sales vendor requiring a certain distance separation, as they will not be purchasing alcoholic beverages from licensed distributors for resale to consumers.

No Special Privilege Conferred

Granting the variance as requested will not confer special privilege, as the proposed business operates differently from a package sales vendor and is similar to other businesses in the tourist-oriented area.

Deprivation of Rights

Not allowing the variance as requested would deprive the applicant of the right to establish this particular use in a manner commonly enjoyed by neighboring properties with similar tourist-oriented operations.

Minimum Possible Variance

The variances requested are the minimum possible to allow the sale of alcohol by the bottle and in mixed drinks in an existing commercial plaza.

Purpose and Intent

Approval of this variance will be in harmony with the zoning code as the zoning in the area allows restaurants and bars and package sales. Allowing sale of alcohol mixed on-site by the bottle and in drinks from this location would not be detrimental or injurious to the adjacent properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received October 14, 2022, 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: Brad Berkman
Greenspoon Marder LLP
600 Brickell Avenue Floor 36
Miami, Florida, 33131

C: Louis Terminello
Greenspoon Marder LLP
600 Brickell Avenue Floor 36
Miami, Florida, 33131



Louis J. Terminello, Partner
Brickell World Plaza
600 Brickell Avenue, Suite 3600
Miami, Florida 33131
Phone: 305.789.2770
Fax: 305.537.3900
Direct Phone: 305.789.2747
Direct Fax: 305.537.3947
Email: louis.terminello@gmlaw.com

August 3, 2022

Orange County Zoning Division
201 South Rosiland Avenue,
First Floor
Orlando, Florida 32802

Re: Sunshine Cellars LLC d/b/a Caribbean Moonshine-8200 Vineland Avenue, Suite 701,
Orlando FL 32821 /Request for Variance Letter

To Whom It May Concern:

The undersigned represents Sunshine Cellars d/b/a Caribbean Moonshine ("Sunshine"), which desires to open a small, alcohol beverage blending and bottling facility in Orange County Florida located specifically at 8200 Vineland Avenue, Suite 750, Orlando Florida. As part of the craft distillery, Sunshine will operate a souvenir shop within the same complex. Florida Beverage Law permits the sale of beverage alcohol by the bottle and in mixed drinks from this souvenir shop.

As further explanation, the craft distillers license or "CD" grants the holder the right to manufacture and bottle beverage alcohol and further grants the holder the right to sell bottled product and mixed drinks at the venue from the souvenir shop.

To be precise, the holder of a CD license is treated as a manufacturer of beverage alcohol under Florida Beverage Law and is granted an exception from the requirement of holding a retail liquor license to sell alcohol beverage to consumers. The holder is not treated a vendor or retailer licensee but is permitted to make package sales to consumers.

As the code is drafted in Orange County, there is a distance separation requirement of 5000 feet between any venue that engages in the package sale of alcohol to consumers. Attached to this email is a recent liquor survey showing that the nearest package store to Sunshine is 3,540 feet away from the affected property line.

As such, a variance is required for Sunshine to operate at its desired location and sell its bottled or mixed drink(s) to consumers from its souvenir shop.

With the above in mind, and in accordance with Section 30-43(3) of the Orange County Code, Sunshine submits that the following criteria exists so as to allow for the grant of the necessary variance from the distance separation requirements:

COVER LETTER

1. **Special Conditions and Circumstances:** In the matter at hand, Sunshine will be operating in the I-Drive Activity Center District and within a retail shopping mall. The mall and the activity within the Sunshine venue will be principally a *tourist commercial use*. The commercial and tourist nature of mall is a special condition for the success of Sunshine operations including the package sale of the alcohol it will produce at its venue. As such, the variance should be granted.
2. **Not Self-Created:** The special conditions as noted above are not created by Sunshine but rather by the nature of the I-Drive Activity Center District and its tourist commercial use. Sunshine's operations have been found to be compatible with the tourist commercial use by Orange County Zoning Managers and its souvenir shop with the package sales component is an integral part of the tourist commercial use. As such, the variance should be granted.
3. **Special Privilege Conferred.** The granting of the variance will not confer any special privilege to Sunshine. Sunshine is requesting the variance so it may enjoy the tourist and commercial nature of the I-Drive Activity Center as granted to every other business operating within the zoning district.
4. **Deprivation of Rights.** To deny the variance from the distance separation requirement would deprive Sunshine of the tourist and commercial nature of the zoning district that is essential for the success of its souvenir shop.
5. **Minimum Possible Variance.** The variance difference from the distance requirement is a mere 1,460 feet. Further, this distance is calculated on a radius survey. There is a small body of water, buildings and significant landscaping and trees separating the properties and the properties appear to operate in two distinct selling areas (or neighborhoods). This is the minimal possible variance that can be requested.
6. **Purpose and Intent.** The Sunshine operation and the sale of package alcohol is in harmony with the purpose and intent of the Zoning District. The nature of the Sunshine's operation is tourist and commercial as clearly indicated by the presence of a souvenir shop where the packaged alcohol beverage will be sold to consumers. Further, it will not be injurious to the neighborhood in that the nearest retail seller of alcohol is 3,540 feet away and is not part of the subject retail mall where Sunshine will conduct its operations.

Please let me know if you need additional information or have any questions.

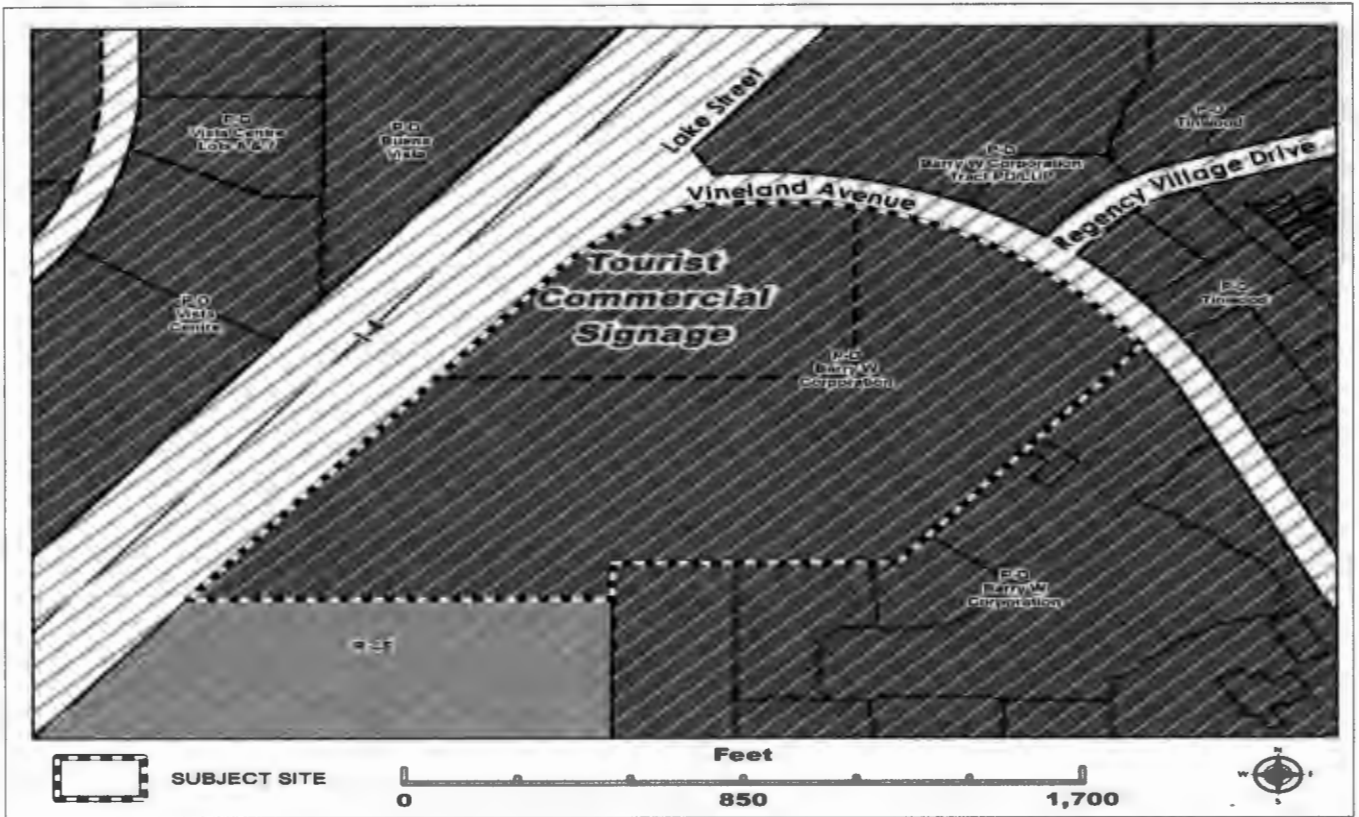
Very truly yours,

GREENSPOON MARDER LLP



Louis J. Terminello, Partner

ZONING MAP



AERIAL MAP



DISTANCE SEPARATION TO PACKAGE SALES VENDOR



SITE PLAN



PARKING DECK SUMMARY
 LEVEL 01 = 520
 LEVEL 02 = 500
 LEVEL 03 = 570
 LEVEL 04 = 500
 TOTAL = 1,090

Site Plan

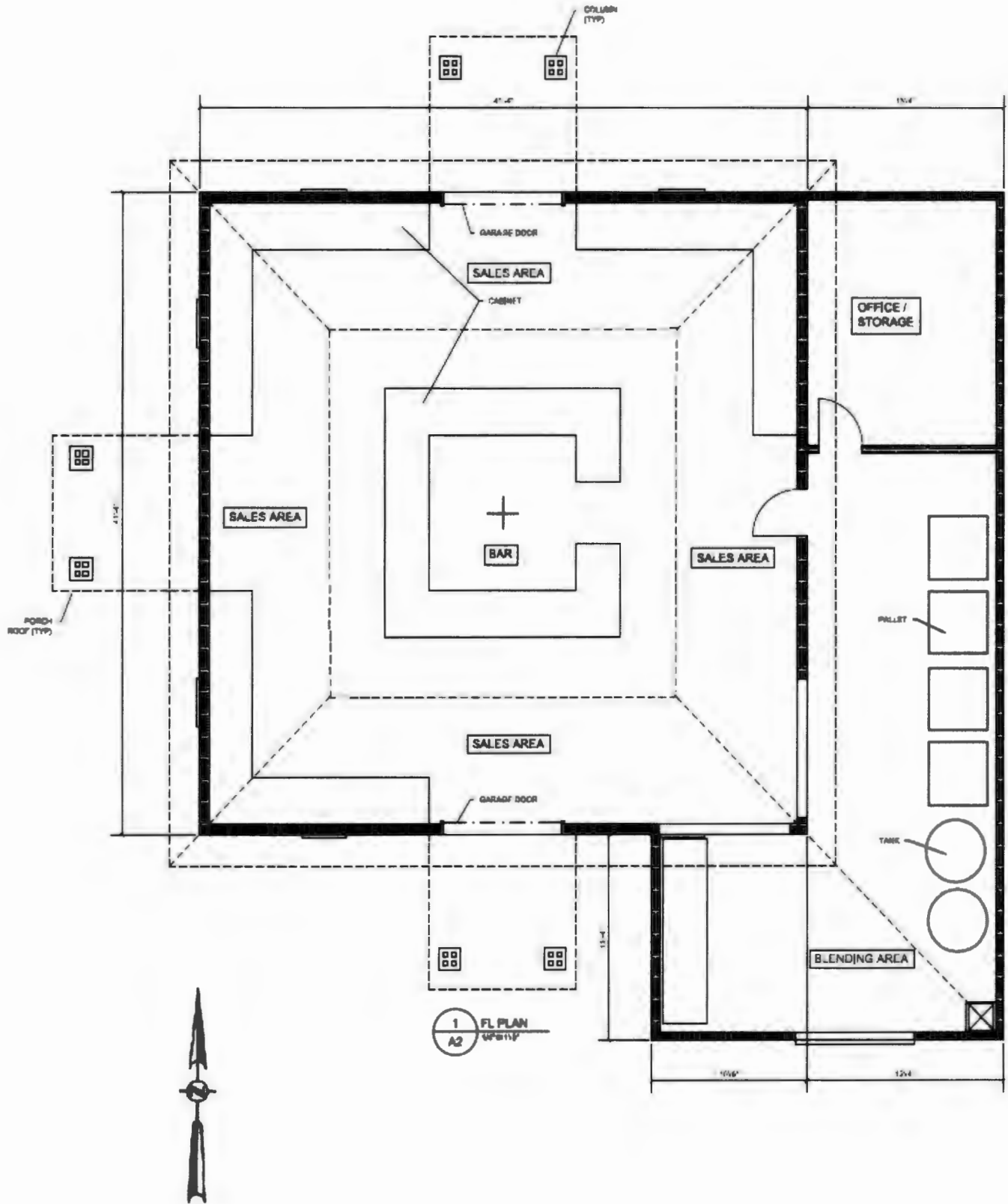


0 140 280

▲ Primary Entrance ▲ Secondary Access

Orlando Vineland Premium Outlets
 8200 Vineland Avenue
 Orlando, FL 32821
 CORP # 7878

FLOOR PLAN



SITE PHOTOS



Proposed Sunshine Cellars location facing north



Nearest equivalent license located at Liquor 192 at 8115 Vineland Ave.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#6**

Case #: **VA-22-08-060**

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

Nick. Balevich @ocfl.net

GENERAL INFORMATION

APPLICANT(s): **MICHAEL MILES FOR ORLANDO COMMERCE CENTER**

OWNER(s): **GREATER ORLANDO COMMERCE CENTER**

REQUEST: **Variances in the Restricted I-1/ I-5 zoning district to allow the construction of warehouses as follows:**

- 1) **To allow a maximum building height of 49 ft. in lieu of 35 ft. within 100 feet of any residential use or district.**
- 2) **To allow an east setback buffer yard of 25 ft. in lieu of 50 ft. abutting any residential zoning district.**

PROPERTY LOCATION: **5410 Old Winter Garden Road, Orlando, FL 32811, south side of Old Winter Garden Rd., east of S. Kirkman Rd., north of Raleigh St.**

PARCEL ID: **30-22-29-0000-00-053**

LOT SIZE: **+/- 13.96 acres**

NOTICE AREA: **1,000 ft.**

NUMBER OF NOTICES: **209**

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II, Roberta Walton Johnson):

1. **Development shall be in accordance with the site plan and elevations received September 21, 2022, 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. Canopy trees shall be installed every 25 feet on-center along the east and south property lines adjacent to a residential district.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the proposal could have been designed in a manner to reduce or eliminate the need for the Variances. Staff noted that no comments were received in support or in opposition.

The applicant stated that the site is unique and constrained, noted that Industrial Future Land Use of the adjacent properties, further noted that the 150-foot-wide power line easement significantly limits the location of the building, and that the requested Variances are the minimum possible to develop the site.

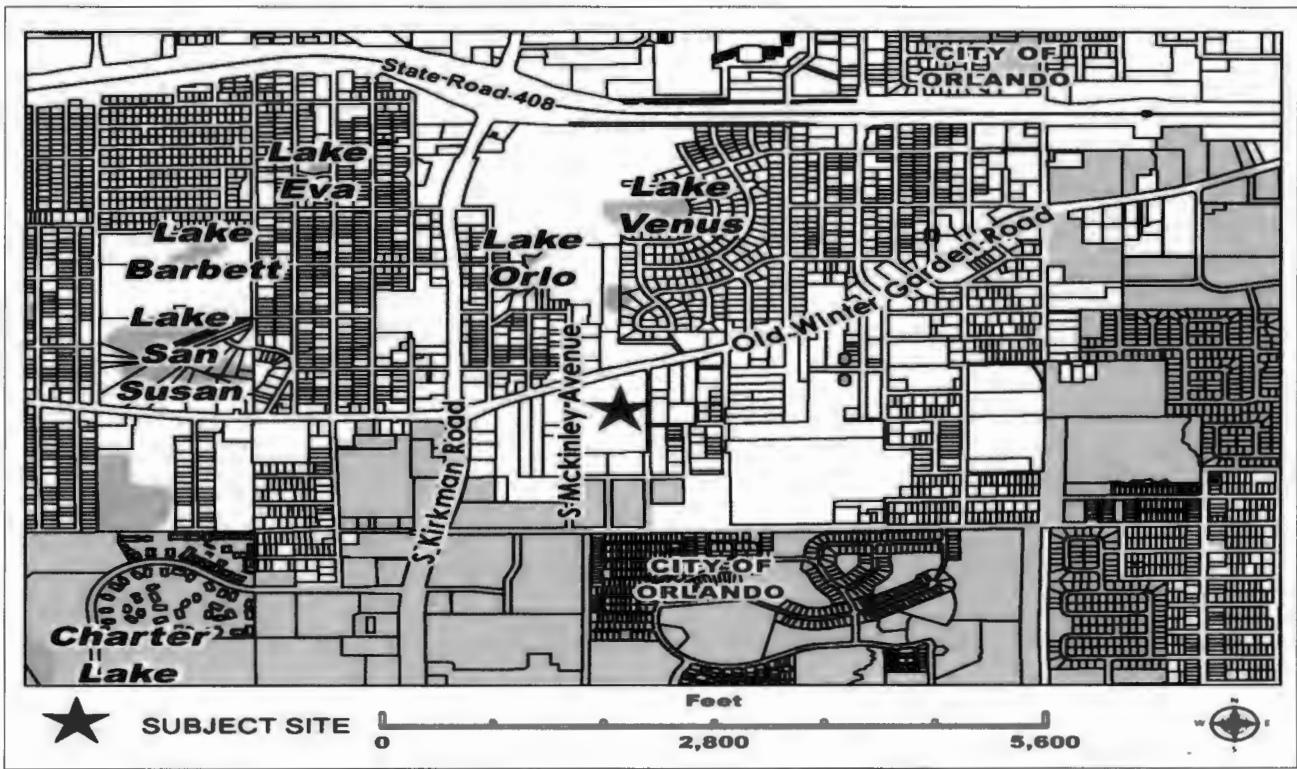
There was no one in attendance to speak in favor or in opposition to the request.

The BZA confirmed the below ground location of the power lines on the site, noted that the building does not encroach into the easement, noted that site design is very restricted, stated that the proposed height is appropriate for industrial uses, noted that the canopy trees will screen the existing residences and stated justification for the six (6) criteria. The BZA unanimously recommended approval of the variances by a 4-0 vote, with three absent, 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 necessary for the granting of the variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Restricted I-1/ I-5	C-1, C-3	R-1, C-3	Restricted I-1/I-5, R-1	C-3, I-1/I-5
Future Land Use	IND	C	IND	IND	IND
Current Use	Vacant	Commercial, Industrial	Vacant, Industrial	Industrial, Vacant, single-family residences	Commercial, Industrial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Restricted I-1/I-5, Industrial district, which allows light manufacturing and low intensity industrial development that will have minimal impact on surrounding areas. The future land use is IND, which is consistent with the zoning district.

The area around the subject site consists of commercial and industrial buildings to the north and west, vacant land and industrial buildings to the south, and industrial buildings, vacant land, and single-family residences to the east. The subject property is a 13.96 acre unplatted lot that conforms with the I-1/I-5 zoning standards. It has frontage on Old Winter Garden Rd., Madison St., and Tremont Ave., with Old Winter Garden Rd. considered to be the front as it is the road with the heaviest traffic usage, and Madison St. and Tremont Ave. are considered to be side streets. The property also has a 150 ft. wide easement for power lines and drainage

utilities that runs across the western portion of the property at an angle. The owner purchased the property in 2021.

In April 2022, the Board of County Commissioners approved a rezoning from C-3 to Restricted I-1/I-5, RZ-22-02-005, in order to allow for the future development of a warehouse (with a restriction prohibiting new billboards and pole signs).

The proposal is for a 170,000 sq. ft. building (labeled as Building #1) that is 49 ft. in height, which abuts R-1 zoning to the east with a 25 ft. setback, which requires variances for: 49 ft. height in lieu of 35 ft. within 100 feet of a residential use or district (Variance # 1), and a setback/buffer yard of 25 ft. in lieu of 50 ft. abutting a residential zoning district (Variance # 2). The proposal also includes an 11,208 sq. ft., building (labeled as Building #2) that is 30 ft. in height, which abuts C-3 zoning to the east with a 25 ft. setback and complies with all zoning regulations.

The request does not meet the standards for variance criteria, due to other options, such as utilizing a different design, utilizing a smaller building(s), or utilizing a conforming location that will comply with setbacks. At the time of the rezone to the I-1/ I-5 district to allow the proposed use the setback requirements of the new district would have been made aware to the owners, and the proposed building could have been designed to meet the new district requirements without the need for Variances. Therefore, staff is recommending denial of Variances #1 and #2.

For buffering, minimum 7 ft. landscape buffers will be provided around the perimeter of the site except for a minimum 25 ft. Type B landscape buffer provided along the east and south property lines adjacent to a residential district. Proposed Condition #4 requires enhanced landscape buffers with canopy trees to be installed every 25 feet on-center along the east and south property lines.

Vehicular access to the site will be from Old Winter Garden Road to the north, and from Madison Street to the west. Parking requirements for the subject property are as follows:

- 1 space for each bay for 28 bays, requiring 28 spaces
- 1 parking space per 1,000 sq. ft. for 181,208 total sq. ft., requiring 181 spaces
- 209 total spaces are required. 212 spaces are provided, thus meeting the parking code requirement.

The Orange County Environmental Protection Division and the Orange County Development Engineering Traffic Division have indicated that they do not have any objections to the request.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	50 ft. or 35 ft. within 100 ft. of any residential district	49 ft. within 100 ft. of any residential district. (Variance #1)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (North - Building #2)
Rear:	25 ft.	200 ft. (South - Building #1)
Side street:	15 ft.	312 ft. (West– Bldg. #1, Madison St.), 25 ft. (East - Bldg. #1, Tremont Ave.)
Increased Setback Bufferyard:	50 ft. when abuts any residential district	312 ft. (West - Building #1), 25 ft. (East -Variance #2 - Building #1)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance is the 150 ft. wide easement for power lines and drainage utilities that runs across the western portion of the property at an angle and restricts the possible locations of buildings.

Not Self-Created

The need for the variances is self-created, as a different size building could be used, or a different location could be utilized that complies with setbacks or negates the need for the Variances by reducing the height.

No Special Privilege Conferred

The requested Variances would grant special privilege, as a different design and/or building size could be utilized that would meet required setbacks.

Deprivation of Rights

The owner is not being deprived of the ability to construct buildings on the property, as they could comply with setbacks by utilizing a different design or relocating to conforming location.

Minimum Possible Variance

The requested Variances are not the minimum necessary, as a modified design or location could be proposed in order to comply with setbacks.

Purpose and Intent

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the adjacent neighbors as the proposed 49 ft. high building will be located approximately 70 ft. from the nearest residences which have a Future Land Use of Industrial and will be required to be rezoned prior to any new development.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received September 21, 2022, 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. Canopy trees shall be installed every 25 feet on-center along the east and south property lines adjacent to a residential district.

C: Michael Miles
100 NE 5th Avenue, Suite B2
Delray Beach, Florida 33483



Dynamic Engineering Consultants, PC
100 NE 5th Avenue, Suite B2
DeKay Beach, FL 33483
T. 561-921-8570

**Greater Orlando Commerce Center
Building Height Restriction and Setback Variance**

Greater Orlando Commerce Center, LLC (“Developer”) is the Owner and Developer of the property described on the attached application for Parcel 30-22-29-0000-00-053 located at 5410 Old Winter Garden Road, Orlando, FL 32811.

The Developer is proposing an approximate 170,000 SF industrial warehouse with associated parking and infrastructure in the area subject to the requested variance. The property was recently rezoned to a zoning designation of I-1/I-5 Restricted (Industrial District – Light) via rezoning application RZ-22-02-005 to be consistent with the County’s Comprehensive Plan and Future Land Use Map designation.

Per the Orange County Code of Ordinances Section 38-932(a)(6) and 38-932(a)(9) I-1/I-5 Industrial District – Performance Standards, the maximum allowable building height is fifty (50) feet, except thirty-five (35) feet within one hundred (100) feet of any residential use or district along with an increased setback buffer of not less than fifty (50) feet in width shall be provided along each I-1/I-5 district line which abuts any residential zoning district, respectively.

The Developer is requesting a variance to allow for the height of the proposed building to exceed 35’ adjacent to the east adjacent property zoned R-1 while providing a standard side setback buffer yard compliant with I-1/I-5 zoning. The east adjacent parcel numbers 29-22-30-0000-00-048 and 29-22-30-6244-03-250 located at 225 Tremont Avenue and 401 Tremont Avenue, Orlando, FL both carry an industrial future land use designation.

I-1/I-5 Industrial District Development Standards

	Code Requirement	Proposed
Max Building Height (adjacent to non-residential):	50'	49'
Max Building Height (within 100' of residential):	35'	49'
Side Yard (east side) (abutting non-residential):	25'	25'
Side Yard (east side) (abutting residential):	50'	25'

www.dynamicce.com

Lake Como, NJ - Chester, NJ - Toms River, NJ - Newark, NJ - Newtown, PA - Philadelphia, PA
Bethlehem, PA - Allen, TX - Houston, TX - Austin, TX - DeKay Beach, FL

The variance requested meets the Orange County Code Section 30-43 (3) criteria for approval of a variance as follows:

a. *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.

In order for future development to occur on the eastern adjacent parcels, a rezone to an industrial designation would be required for consistency with the comprehensive plan and future land use map designations, as was required on the subject property. Once the new development occurs, the subject property would no longer be bound by the 50' buffer requirement and arbitrarily reduced building height, therefore being restricted because of being the first to develop.

There is also a significant 150' power line and drainage utilities easement (ORB 791/Page 331) which encumbers the majority of the west side of the property, confining the proposed building location to the east side of the property, immediately adjacent to the residentially-zoned properties. While these properties are technically zoned residential, a large portion of these parcels are currently being used as trailer storage.

b. *Not Self-Created*

The special conditions and circumstances do not result from the actions of the applicant.

The Developer is not responsible for the County's future land use designations implemented as part of the 2010-2030 Comprehensive Plan and are simply attempting to comply with these designations in a thoughtful manner.

There is also a mostly unimproved a road right-of-way for Tremont Avenue that is adjacent to the eastern parcel limits, depicted partially in PB N, Pg 8 as 'Princeton Ave' and in adjacent deeds obtained during a title search, that provides an additional 30' between the adjacent residentially zoned parcels, providing an effective 55' proposed setback from the proposed warehouse building to the limits of those parcels. This is shown on both the attached conceptual site plan and survey.

c. *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.

Granting a variance as requested would not confer any special privilege as the intent is to comply with the Orange County's Comprehensive Plan and Future Land Use Map goals and objectives in this region of Orange County, but not be arbitrarily restricted as the first of these parcels to develop.

d. 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.

The literal implications of the code as they currently apply to the existing land uses will deprive the owner from maximizing the lot coverage on the subject property, Other properties in the vicinity are not as significantly impacted by the 150' easement encumbering the site for energy transmission and County stormwater conveyance, which affects approximately 3.1 acres (22%) of buildable area, limiting the options for the proposed building placement.

e. Minimum Possible Variance

The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The requested variance will allow for the proposed building to comply with the non-residential buffer and height requirements where the side yard provided will be at least 25' and the building height will not exceed 50'. This variance request will end up being unnecessary once the future land use goals for the County are fulfilled by the adjacent properties and the subject property will be in full compliance with the current regulations.

f. 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.

The adjacent properties would not be detrimentally affected as there are already industrial developments surrounding the few remaining residential properties. Any new developments in this area will be required to be rezoned to industrial to be consistent with the future land use map. The approval of this variance will be in harmony with the intent of the Zoning Regulations in respect to the future land use of industrial, where the proposed 25' side buffer yard is sufficient and building heights up to 50' are permissible.

It is our professional opinion that the granting of this variance will not cause detrimental effects to site layout, architectural features and accessible route paths in the subject property. Furthermore, it will be in harmony with the general purpose and intent of the Code, and will allow for this proposed development to beautify and progress the existing conditions. We respectfully request your review and approval of the Variance for this proposed development.

COVER LETTER

Orange County BZA
May 10, 2022
Page 4 of 4

Sincerely,

Dynamic Engineering Consultants, P.C.

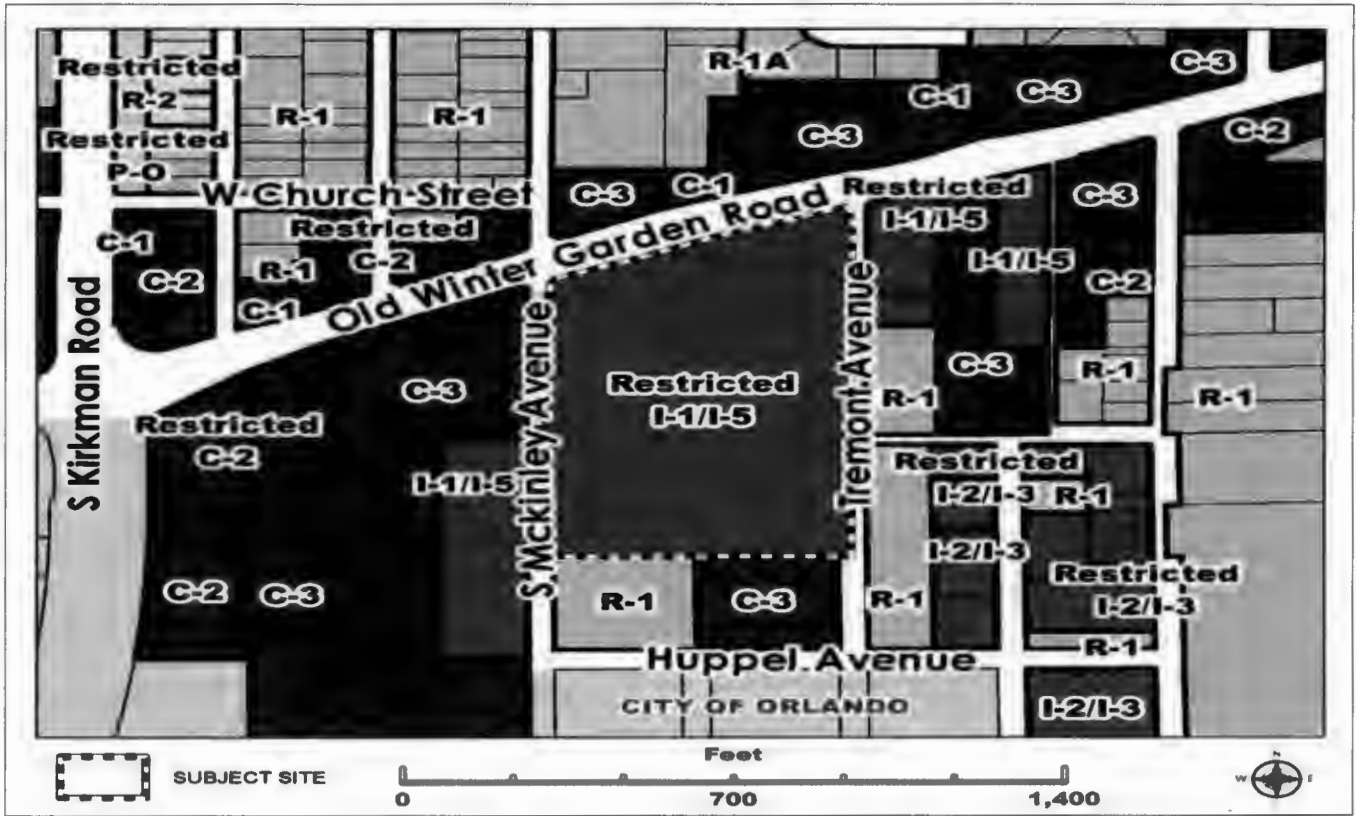


Michael D. Miles, P.E.
Regional Manager/Senior Principal

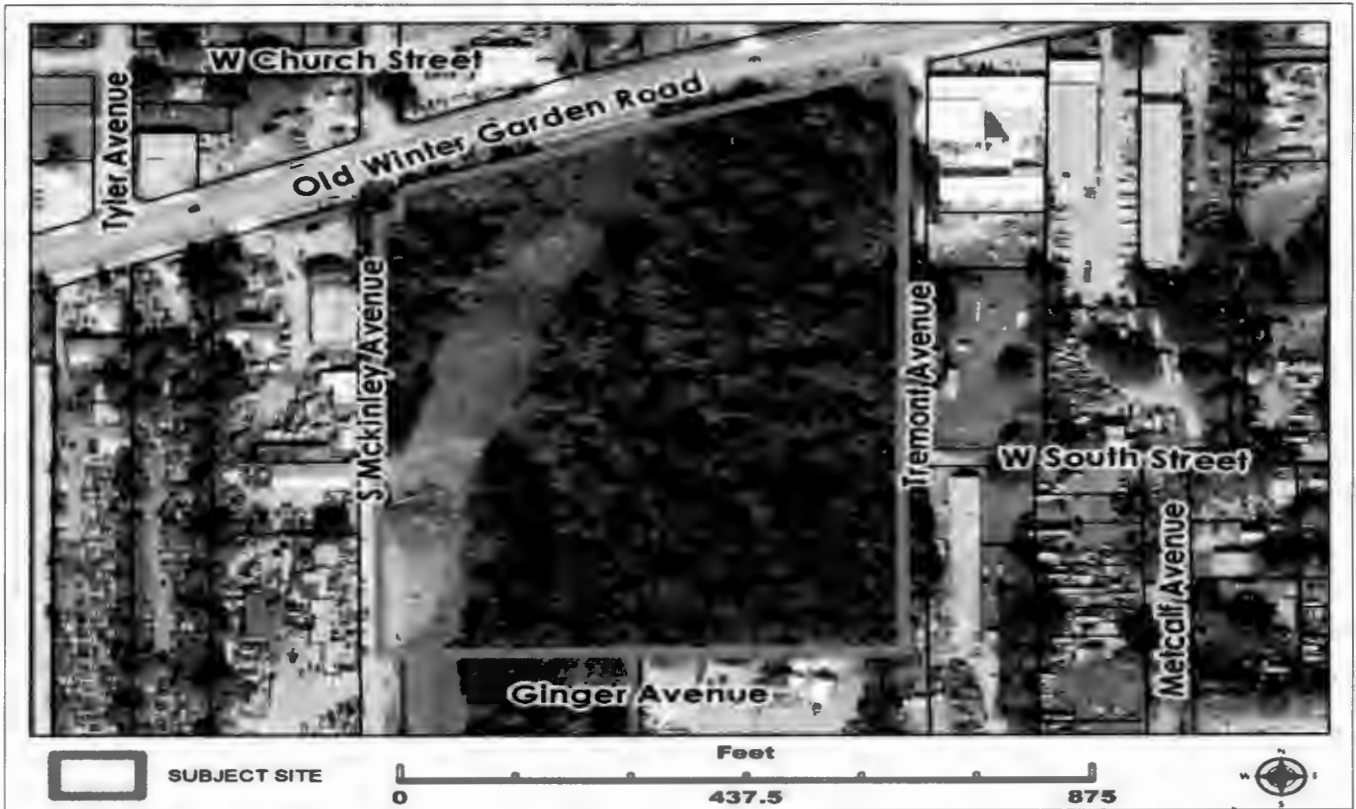
Attachments:

- **Variance Application**
- **Application Fee (\$638)**
- **Agent Authorization Form**
- **Detailed Site Plan and Survey**

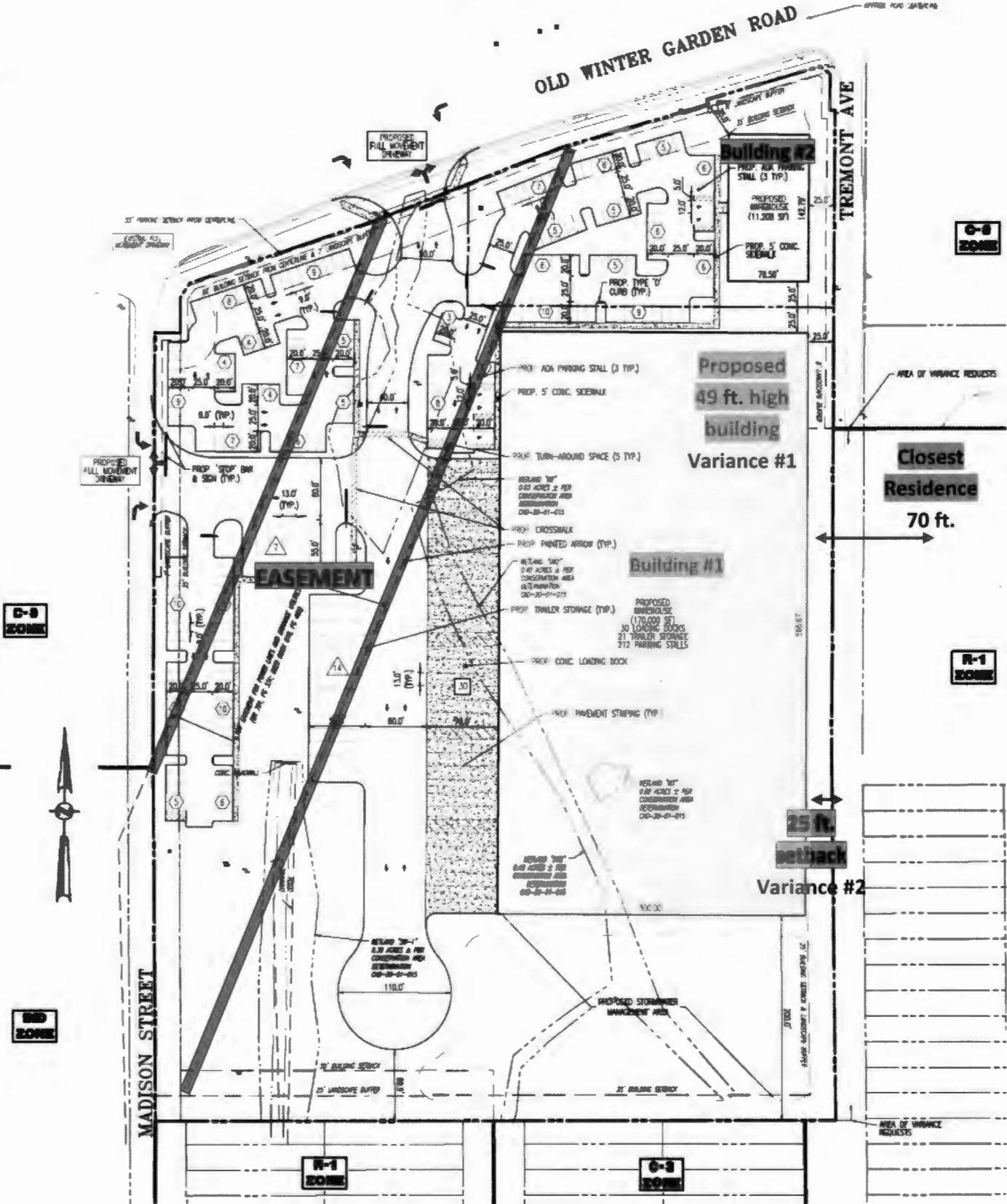
ZONING MAP



AERIAL MAP



SITE PLAN

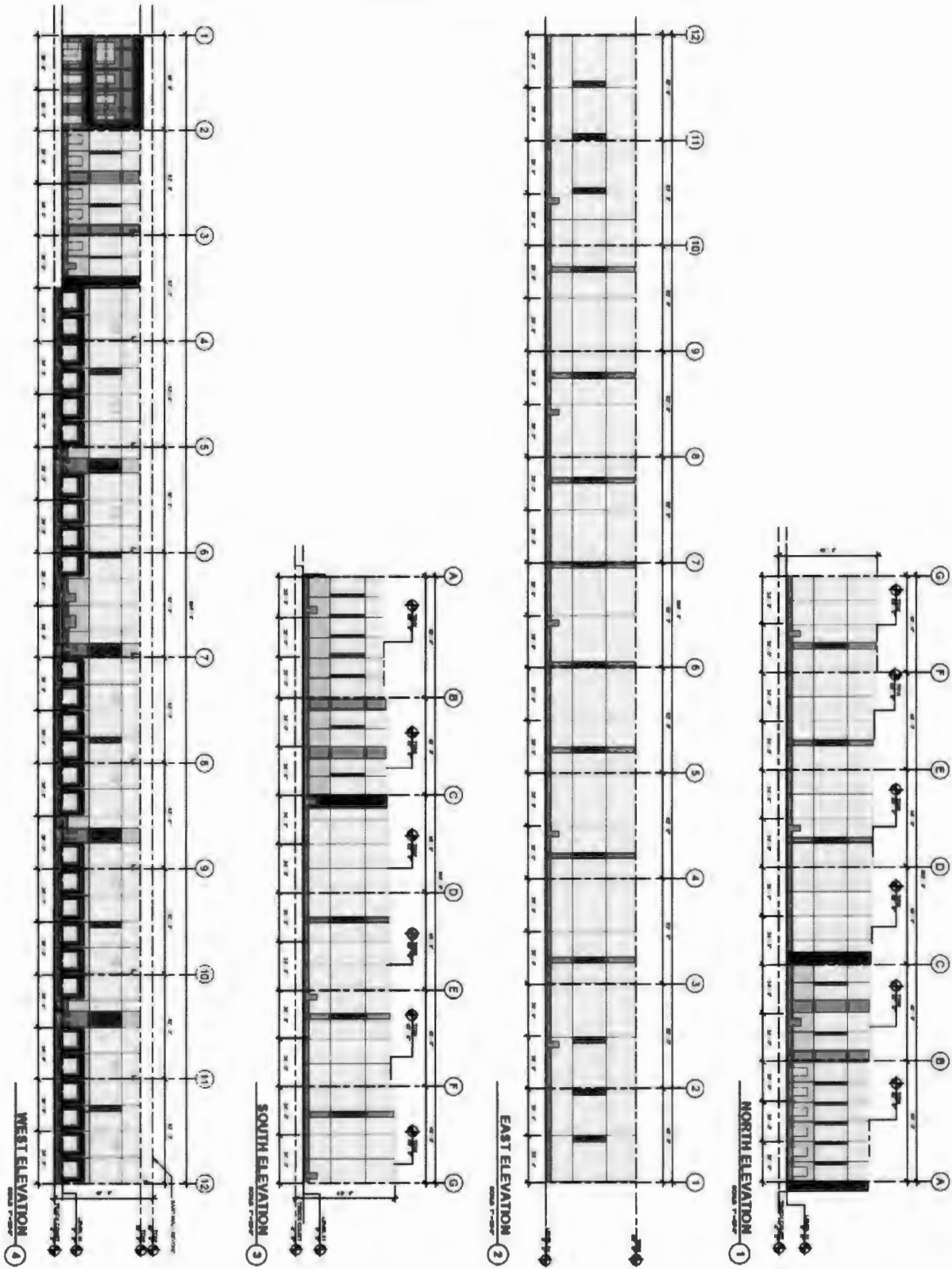


Proposed
49 ft. high
building
Variance #1

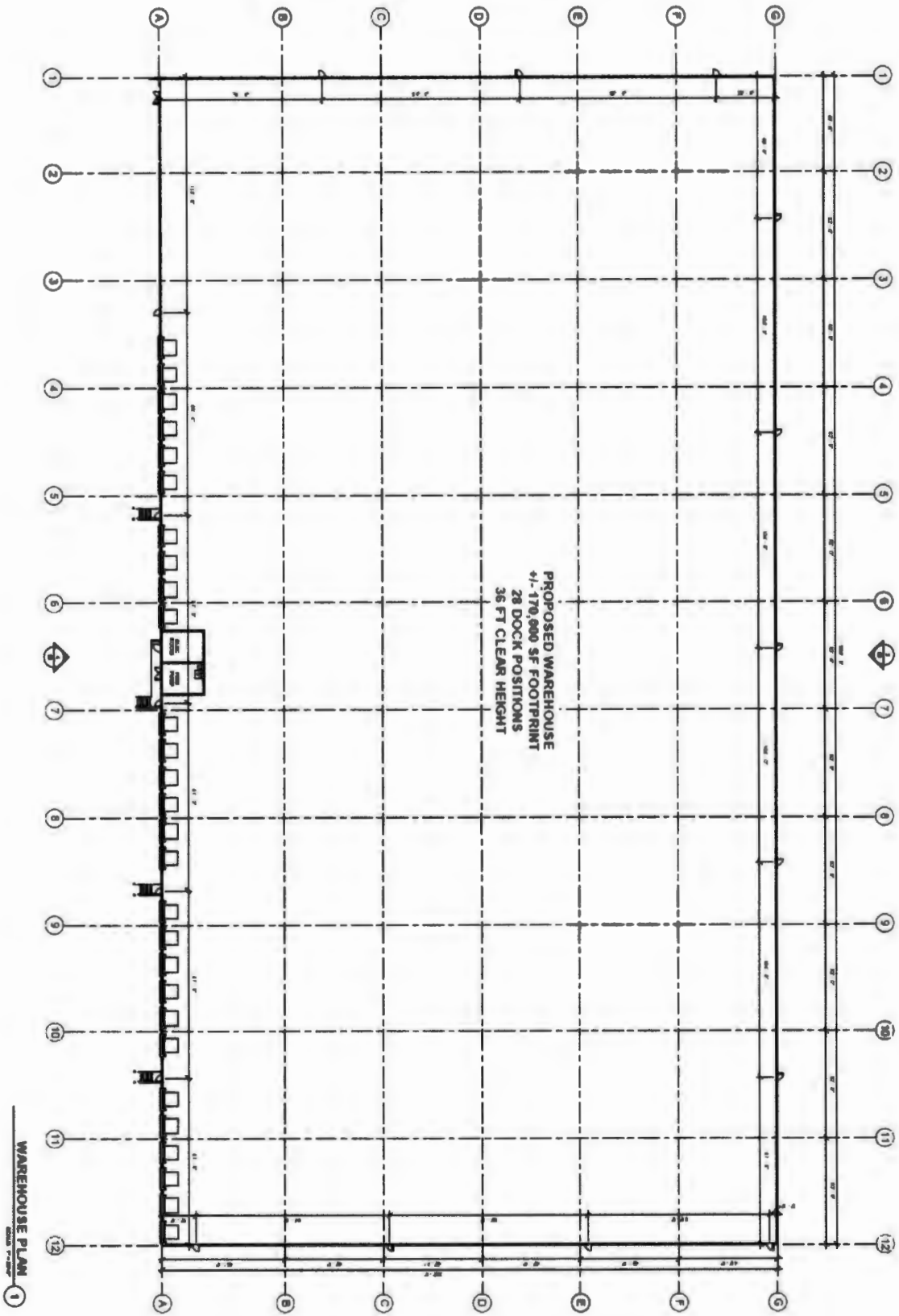
Closest
Residence
70 ft.

25 ft.
setback
Variance #2

ELEVATIONS BUILDING 1



FLOOR PLAN BUILDING 1



SITE PHOTOS



07/06/2022 15:12

Site from Old Winter Garden Rd. facing south



07/06/2022 15:34

Facing residential property to the east from site

SITE PHOTOS



Facing east from interior of site



Facing south, from interior of site

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#6**

Case #: **SE-22-10-106**

Case Planner: **Michael Rosso (407) 836-5592**

Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): RUTH HAMBERG FOR REHOBOTH CHURCH

OWNER(s): REHOBOTH EVANGELICAL BAPTIST CHURCH INC

REQUEST: Special Exception in the Restricted* NR zoning district to allow the construction of a 2,585 sq. ft. religious institution.

*not advertised as Restricted – added for clarity

PROPERTY LOCATION: 1309 23rd Street, Orlando, FL 32805, northeast corner of 23rd St. and S. Nashville Ave., west of S. Orange Blossom Tr., south of W. Kaley Ave.

PARCEL ID: 03-23-29-0180-26-170

LOT SIZE: +/- 1.04 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 92

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by Juan Velez, Second by John Drago; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received October 3, 2022, landscape plans received August 22, 2022, and elevations received October 26, 2022, 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. The existing oak trees as indicated on the site plan and landscape plan shall be protected during construction with temporary fencing at a minimum distance of 10 feet from the trunk and shall be protected after construction as indicated on the site plan as defined by raised curbing.
5. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Hours of operation shall be from 9:00 a.m. to 9:30 p.m. on Sundays; and 7:30pm to 9:30p.m. on Wednesday and Friday. There may be special earlier or later hours for major Christian holiday services and events, such as Easter and Christmas.
7. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
8. All installed exterior lighting, including exterior wall or soffit or canopy lighting shall be compliant with the county's exterior lighting ordinance, as described in Chapter 9, of the County Land Development Regulations. All exterior light fixtures, including wall and soffit fixtures, shall meet the full cutoff mandate. The fixture color temperature may not exceed 3,500 K. In addition, glare visors shall be installed, and field-adjusted, on any fixtures which may generate off-site light spill. The photometric plan shall be submitted and approved by Orange County staff as part of the Building Permit process.
9. The facility shall be limited to 120 seats.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, landscape plan, elevations, 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 or in opposition.

The applicant agreed with the staff presentation.

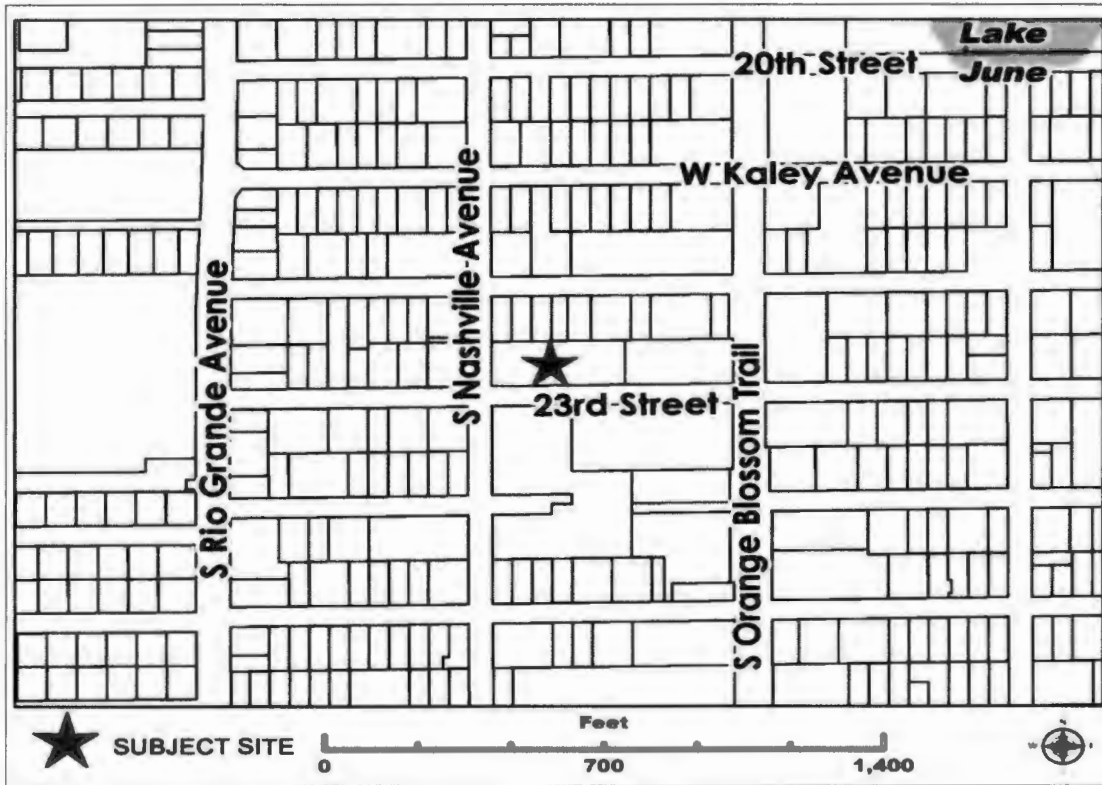
There was no one in attendance to speak in favor or in opposition to the request.

The BZA briefly discussed the Special Exception and unanimously recommended approval of the Special Exception by a 4-0 vote, with three absent, subject to the nine (9) 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	Restricted NR	R-2/C-2/C-3	R-1A/C-2	C-2	R-1A
Future Land Use	Restricted NR	NR/NAC	NR/NAC	NAC	NR
Current Use	Vacant	Single-Family Residences/Outdoor Storage	Stormwater/Vacant	Vacant	Single-Family Residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Restricted NR, Neighborhood Residential District, which allows single-family homes, townhomes, duplexes, and multi-family development, and provides a transition from mixed-use areas to lower-density residential areas. A religious institution, such as the church being proposed, requires a Special Exception to be permitted in the NR zoning district. The Future Land Use is Neighborhood Residential (NR), which is consistent with the zoning.

In 2016, this parcel was the subject of SE-16-11-148, which was a request for a Special Exception and Variances in the C-1, C-2, and R-2 zoning districts as follows:

1. Special Exception to construct a religious use facility institution with approximately 10,000 sq. ft. of floor area and seating for up to 150 members (APPROVED W/CONDITIONS);

2. Variance to allow partial grassed parking in lieu of paved (APPROVED W/CONDITIONS);
3. Variance to allow 47 parking spaces in lieu of 50 (APPROVED W/CONDITIONS); and,
4. Variance to allow a 6 ft. setback side street on south for the sign in lieu of 10 ft. (DENIED).

This recommendation by the BZA was confirmed by the BCC on November 29, 2016. A building permit (B21900592) was submitted in February 2021 for a church, utilizing the approved Special Exception. However, there was a condition of approval which required construction plans to be submitted within 2 years of the approval, or that approval becomes null and void. Therefore, because the building permit was submitted more than 2 years after the Special Exception was approved, the permit was denied.

This parcel was rezoned from C-1, C-2, and R-2 to Restricted NR on July 12, 2022, subject to the following restrictions:

1. New billboards and pole signs shall be prohibited;
2. The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any NR uses; and
3. Vehicular access from S. Nashville Avenue shall be prohibited.

The request for the rezoning case (RZ-22-06-055) was: "To rezone from C-1 (Retail Commercial District), C-2 (General Commercial District) and R-2 (Residential District) to NR (Neighborhood Residential District) in order to construct a religious institution, pending an approved Special Exception." Thus, the approval of the rezoning request was given with the understanding that the intended use of the site would be for this proposed church.

The subject property consists of approximately 1.04 acres and is considered a conforming parcel. To the east of the subject parcel, there are commercial uses along S. Orange Blossom Trail, residential uses to the north and west, and a large county-owned stormwater pond to the south. The parcel is comprised of Lots 13 through 18, and a portion of Lot 19, of Block 26 of the Angebilt Subdivision, which was platted in 1923. The parcel is a corner lot, with frontage on both 23rd Street and S. Nashville Avenue. For the purpose of determining setbacks, the frontage of this property is considered to be S. Nashville Avenue since it is the narrowest width of the lot adjacent to a right-of-way; and the side street is 23rd Street. Neither roadway is classified right-of-way, and therefore the required setbacks are the 20 ft. front setback along S. Nashville Avenue and the 15 ft. side street setback along 23rd Street.

The applicant is requesting a special exception for a 2,585 sq. ft. religious institution (church), with a maximum of 120 seats. Based on the number of seats, the project requires 41 parking spaces which was calculated using the Orange County Code requirement of 1 parking space per 3 seats for religious institutions (120 seats) for a total of 40 required spaces, and 1 parking space per employee (1 employee) for a total of 1 required space. A total of 41 parking spaces are provided, meeting the requirement. All parking spaces will be paved.

The County Transportation Planning Division reviewed the proposal and found it to be De Minimis, and therefore did not require a traffic study. The proposed hours of operation as stated by the applicant are 9:00 a.m. to 9:30 p.m. on Sundays; and 7:30pm to 9:30p.m. on Wednesday and Friday. There may be special earlier or later hours for major Christian holiday services and events, such as Easter and Christmas.

The project site will be landscaped and buffered according to Orange County Code requirements, with a Type C Buffer along residential properties to the north. In addition, the proposed site plan is saving several mature large Oak trees that currently exist on site. Furthermore, exterior lighting will be required to be compliant with the County's exterior lighting ordinance.

The property is located 270 ft. west of S. Orange Blossom Tr., just beyond an established commercial corridor, and is essentially a transition parcel between that commercial zone and the single-family residential neighborhood further to the west. This transition from commercial uses, to the proposed church, and on to detached single-family residential, meets the purpose and intent of the NR zoning district, which is meant to provide that transition from mixed-use areas to lower-density residential areas.

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

A virtual community meeting was held on October 24th, 2022. County Zoning Staff attended the meeting, but no residents attended.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	30.5 ft.
Min. Lot Width:	45 ft.	135 ft.
Min. Lot Size:	4,500 sq. ft.	45,171 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front (S. Nashville Avenue):	20 ft.	260 ft. (West)
Rear:	20 ft.	20 ft. (East)
Side Street (23 rd St.):	15 ft.	30 ft. (South)
Side:	5 ft.	60 ft. (North)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan provides that certain uses, such as religious institutions, are consistent with the Neighborhood Residential Future Land Use, as conditioned through the Special Exception process. The NR FLU designation provides for diverse residential densities at higher densities. Therefore, the use of a church on this lot as a transitional use from a commercial area to a lower-density residential area would be consistent.

Similar and compatible with the surrounding area

The proposed use is compatible with the surrounding area as it provides a transition from the commercial uses along S. Orange Blossom Tr. to the residential neighborhood which begins to the north and south of this parcel and continues west, away from S. Orange Blossom Trail.

Shall not act as a detrimental intrusion into a surrounding area

The scale and intensity of the proposal will not be a detrimental intrusion into the surrounding area since it is a relatively small church, which is not likely to produce undue levels of noise or traffic. Furthermore, there are C-

2 and C-3 zoned properties directly abutting this parcel which are far more likely to have uses that could be considered detrimental to surrounding residential properties.

Meet the performance standards of the district

The use meets all setbacks, height limits, parking requirements, and other performance standards as required for a religious institution in the NR zoning district.

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

The applicant has not proposed any activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent and nearby uses and will not be impacting the adjacent properties since the property will be landscaped and buffered.

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

The proposal includes a landscape plan that complies with all landscape requirements and is saving several large existing trees on site.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received October 3, 2022, landscape plans received August 22, 2022, and elevations received October 26, 2022 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. The existing oak trees as indicated on the site plan and landscape plan shall be protected during construction with temporary fencing at a minimum distance of 10 feet from the trunk and shall be protected after construction as indicated on the site plan as defined by raised curbing.
5. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

6. Hours of operation shall be from 9:00 a.m. to 9:30 p.m. on Sundays; and 7:30pm to 9:30p.m. on Wednesday and Friday. There may be special earlier or later hours for major Christian holiday services and events, such as Easter and Christmas.
7. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
8. All installed exterior lighting, including exterior wall or soffit or canopy lighting shall be compliant with the county's exterior lighting ordinance, as described in Chapter 9, of the County Land Development Regulations. All exterior light fixtures, including wall and soffit fixtures, shall meet the full cutoff mandate. The fixture color temperature may not exceed 3,500 K. In addition, glare visors shall be installed, and field-adjusted, on any fixtures which may generate off-site light spill. The photometric plan shall be submitted and approved by Orange County staff as part of the Building Permit process.
9. The facility shall be limited to 120 seats.

C: Ruth Hamberg
1573 George Street
Orlando, Florida 32806

C: Rehoboth Evangelical Baptist Church Inc.
1345 W Kaley Street
Orlando, Florida 32805

RH Ruth Hamberg

Landscape Architecture & Urban Design LLC
Green Town Planning

100 E. Orange Blvd.
Orlando, FL 32801
LA #0000000
Phone: 407 896 9656
www.greentownplan.com

July 29, 2022

ORANGE COUNTY, FL BOARD OF ZONING ADJUSTMENT
Orange County Administration Building
201 Rosalind Avenue
Orlando, FL 32801

Re: APPLICATION FOR SPECIAL EXCEPTION 1309 23rd Street, Orlando, FL 32805

Dear Board of Zoning Adjustment,

I am representing the Rehoboth Evangelical Baptist Church, currently located on W. Kaley Street in Orlando, FL. The Church purchased a vacant property located at 1309 23rd Street to build a new church. The site location is on the northeast corner of 23rd Street and Nashville Avenue in the Holden Heights Neighborhood of Orlando, FL.

Orange County Planning Staff confirmed Churches must apply for a Special Exception in the Neighborhood Residential Restricted (NR) zoning district. The site is in the Holden Heights Overlay district. The Future Land Use (FLU) and Zoning for the site are Neighborhood Residential.

This site recently went through a re-zoning from C-1 and R-2 to NR because the FLU and Zoning designations didn't not match (Case RZ- 22-08-55). Zoning of NR was approved. Conditions of approval are:

- 1) New billboards and pole signs shall be prohibited;
- 2) The applicant / developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any NR uses; and
- 3) Vehicular access from S. Nashville Avenue shall be prohibited.

A Special Exception is intended to ensure the proposed use is compatible with the surrounding neighborhood. The staff and board will consider the use, building size, appearance, height, scale, parking, other exterior uses, fencing, existing trees, landscape, etc. The board will also consider whether there is support or opposition to the proposed use.

The site is undeveloped. Adjacent land uses include single family residential, a church, commercial uses and an Orange County stormwater retention pond. The Holden Heights Overlay District provides for increased residential densities. Comprehensive Plan policies for the District state that a proposed use be compatible with and serve the neighborhood.

Compatibility with the Neighborhood

The Church site is located on a block that includes commercial uses along US 441/ Orange Blossom Trail, serving as a transition from commercial. Commercial properties adjacent to the north on the same block include Trail-R-Sign, Big Apple Taxi and a warehouse/ garage. The commercial site to the east is vacant. The new church building is to be situated on the east of the site closer to commercial uses. Thus configured, the church will facilitate the transition from commercial to the east to residential on the west. There are a few residential homes adjacent to the site to the north and east across Nashville. There is also a church adjacent to the north. Most surrounding single family buildings are single story ranch or front gable style homes. A nearby apartment two blocks away on west Kaley Street is two stories. An Orange County storm water retention facility is located across the street to the south.

The following aerial photo shows the context of the site, the residential area to the west, the nearby commercial uses near Orange Blossom Trail (mostly white roof buildings) and the numerous other churches in the neighborhood.

There are many other small churches near the site in the surrounding neighborhood, including Greater Central Church of God adjacent to the north at 1316 22nd Street. The Bethel Tabernacle is at 1401 W. Kaley Street, The Lord is There church at 2023 S. Rio Grande Ave., the Eglises Pentecosiste Primitive Hatiaenne church at 2402 S. Nashville Ave. and the House of Prayer Church of the Living God at 1401 25th Street.

The proposed church use and building on the corner lot site will be compatible with the surrounding uses because it will be a modestly sized, single story hipped roof church in scale with nearby residential uses. The proposed building size is approximately 2,585 square feet and will include a small gabled front porch on the south side where the main entrance/ front door will be located. The building will meet the Architectural design standards in Article XII Chapter 9-555.



The proposed church use and building on the corner lot site will be compatible with the surrounding uses because it will be a modestly sized, single story hipped roof church in scale with nearby residential uses. The proposed building size is approximately 2,585 square feet and will include a small gabled front porch on the south side where the main entrance/ front door will be located. The building will meet the Architectural design standards in Article XII Chapter 9-555.

The church site will be landscaped and buffered according to code. Several large existing oak trees will be saved on the site. The trees will help to moderate the scale of the church. A minimum of 25% open space is required. The front yard along Nashville Ave. will be landscaped with perimeter trees and shrubs that will screen and soften the view from homes across the street. Stormwater storage areas are to be located mainly along 23rd Street and will be dry with shallow slopes. Nashville Ave. would be considered the front with a 20 foot front yard setback. There will be a 15 foot street side yard setback on 23rd street. A 15' wide Bufferyard 'C' is required along residential properties to the north. A 20 foot rear yard setback is required along the west property line. These setbacks are the same as for adjacent residential uses, which will aid in compatibility.

The church is proposed to have a maximum of 120 persons per service. The seating will be moveable rather than fixed in the sanctuary. The worship services will occur on Sundays between the hours of 9:00 a.m. to 9:30 p.m., bible study,

committees and choir practice Wednesdays and Fridays 7:30 to 9:30 p.m. The church may have special earlier or later hours for major Christian holiday services and events such as Easter and Christmas. The active beneficial uses of the site will help to discourage undesirable activity in the vicinity and provide "eyes on the street". The church does not anticipate generation of loud noise or other impacts that would disturb neighbors.

Parking and Transportation

Traffic should not be a concern to neighbors as it will be routed onto 23rd Street to and from Orange Blossom Trail. There will be no vehicular access onto Nashville Ave. The parking lot will be broken up into smaller paved areas separated by green spaces with trees. The church may have a minimum of 34 parking spaces and a maximum of 39; 36 spaces are proposed. There is also on-street parking along 23rd Street. Sidewalks will connect from Nashville Ave. and 23rd Street to the building. A bicycle rack/parking spaces will be provided.

Sign

The Church will propose a small ground mounted sign facing 23rd Street, as permitted by code. The sign may be a changeable message sign. This sign may have modest lighting. A smaller building mounted sign may also be installed.

Criteria

The proposed Special Exception for a Church meets Orange County's Criteria:

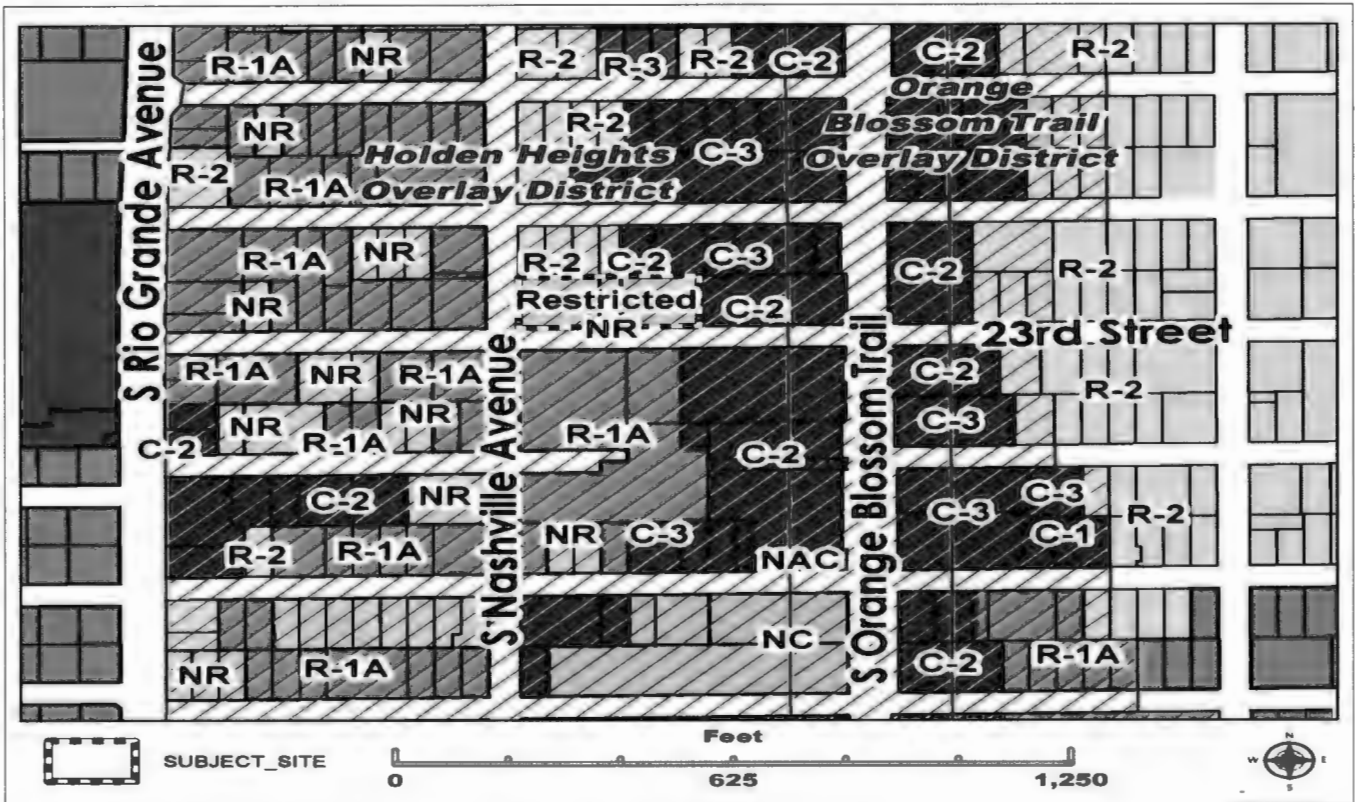
1. The church will be consistent with the Comprehensive Plan and FLU map.
2. The church building will be similar to surrounding residential in height, size, scale and development pattern.
3. The proposed church use will not be detrimental or intrusive to the neighborhood.
4. The church will meet the performance standards in the Orange County code.
5. The church will have similar or lower impacts such as noise, dust, odor, glare as the majority of surrounding uses in the district.
6. A landscape bufferyard along the north property line is proposed per Orange County Code section 24-5.

Sincerely,



Ruth C. Hamberg, RLA ASLA AICP

ZONING MAP

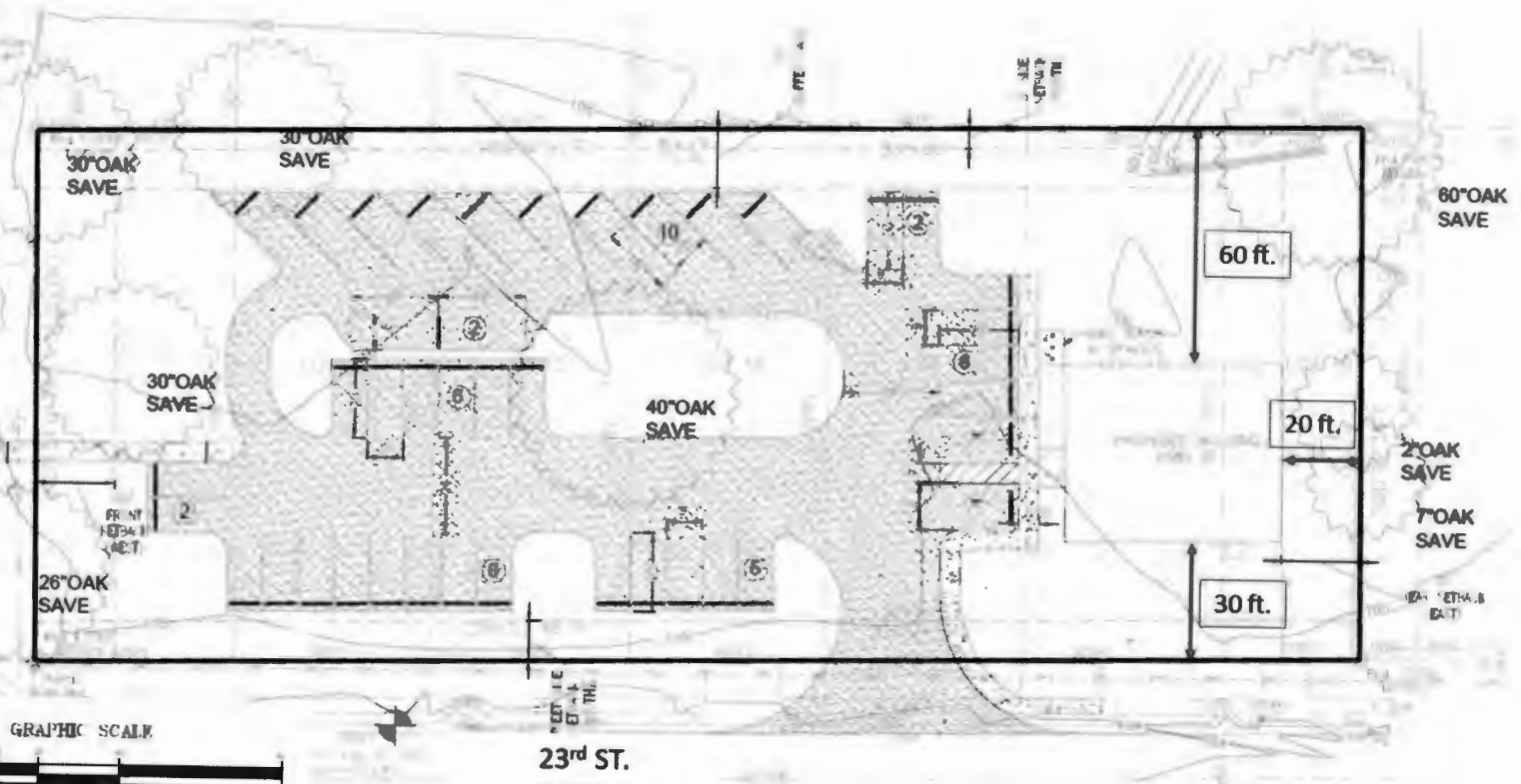


AERIAL MAP

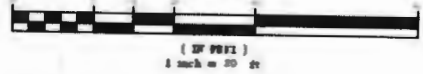


SITE PLAN

S. NASHVILLE AVE.

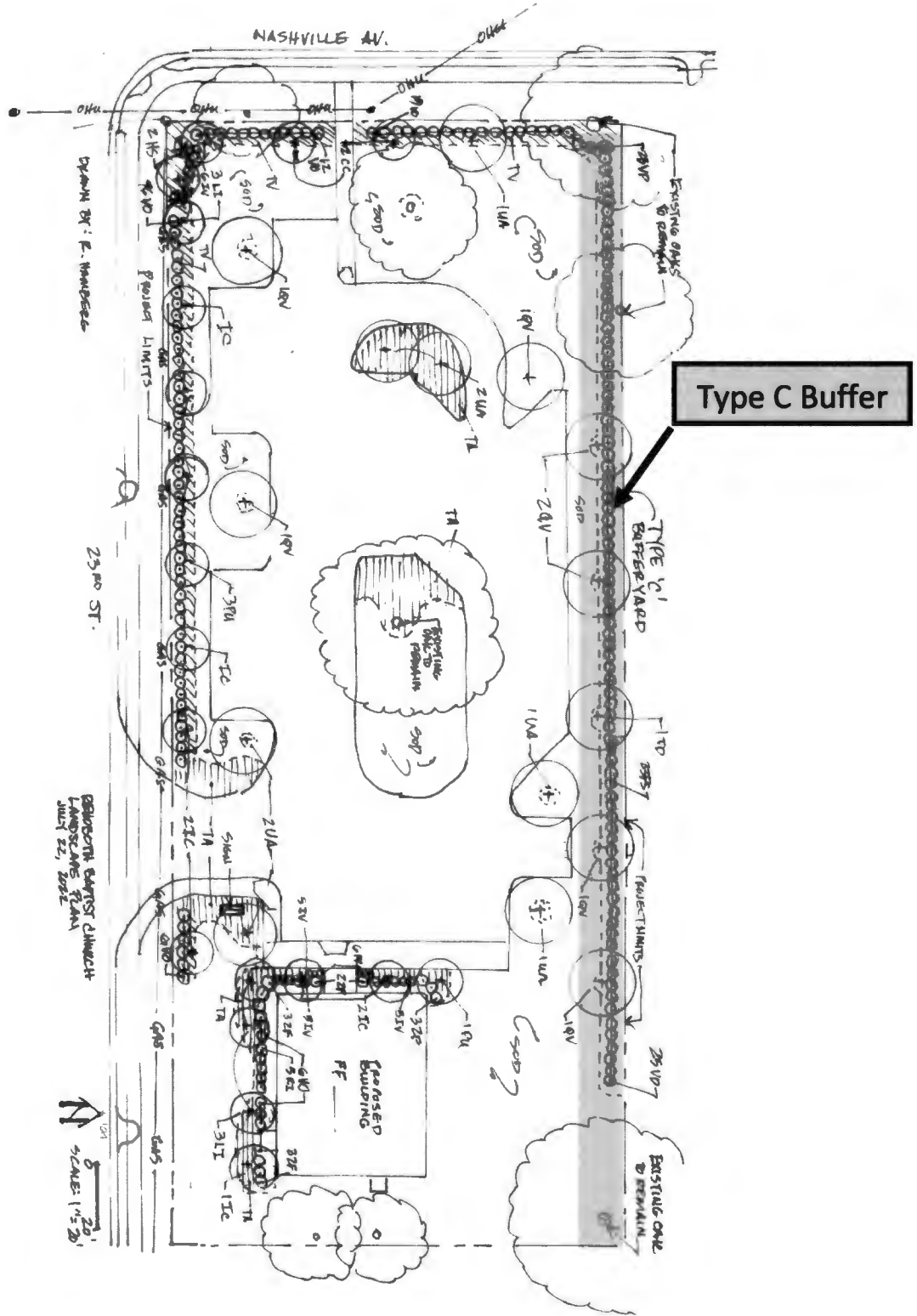


GRAPHIC SCALE

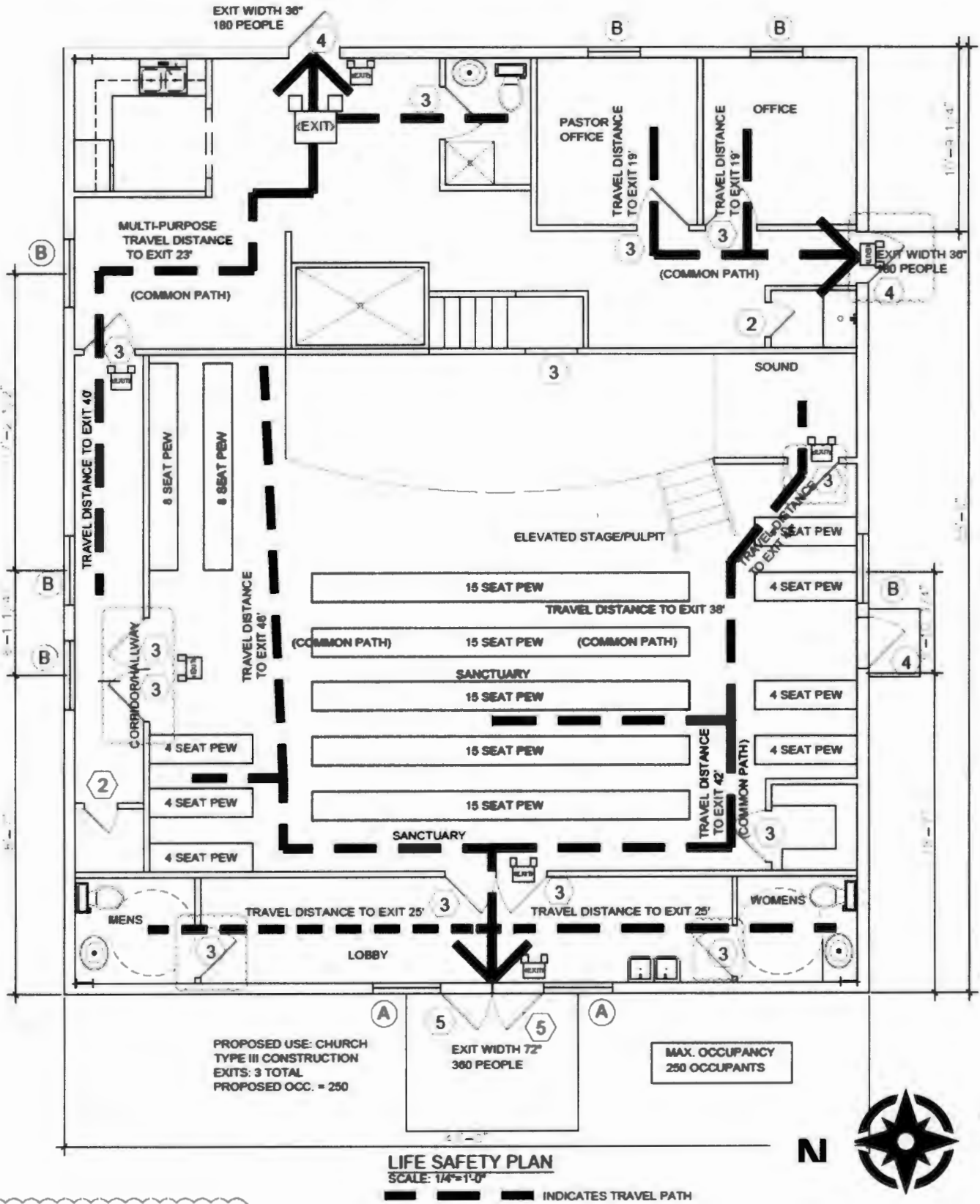


23rd ST.

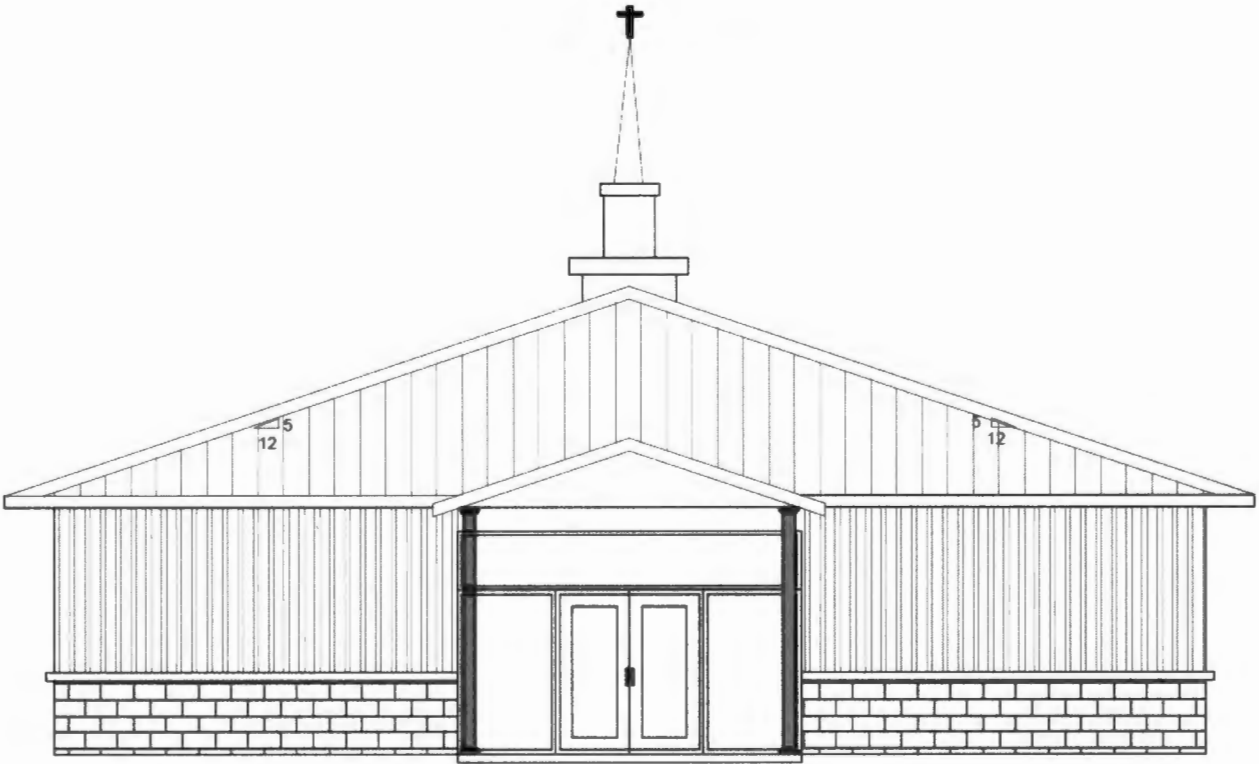
LANDSCAPE PLAN



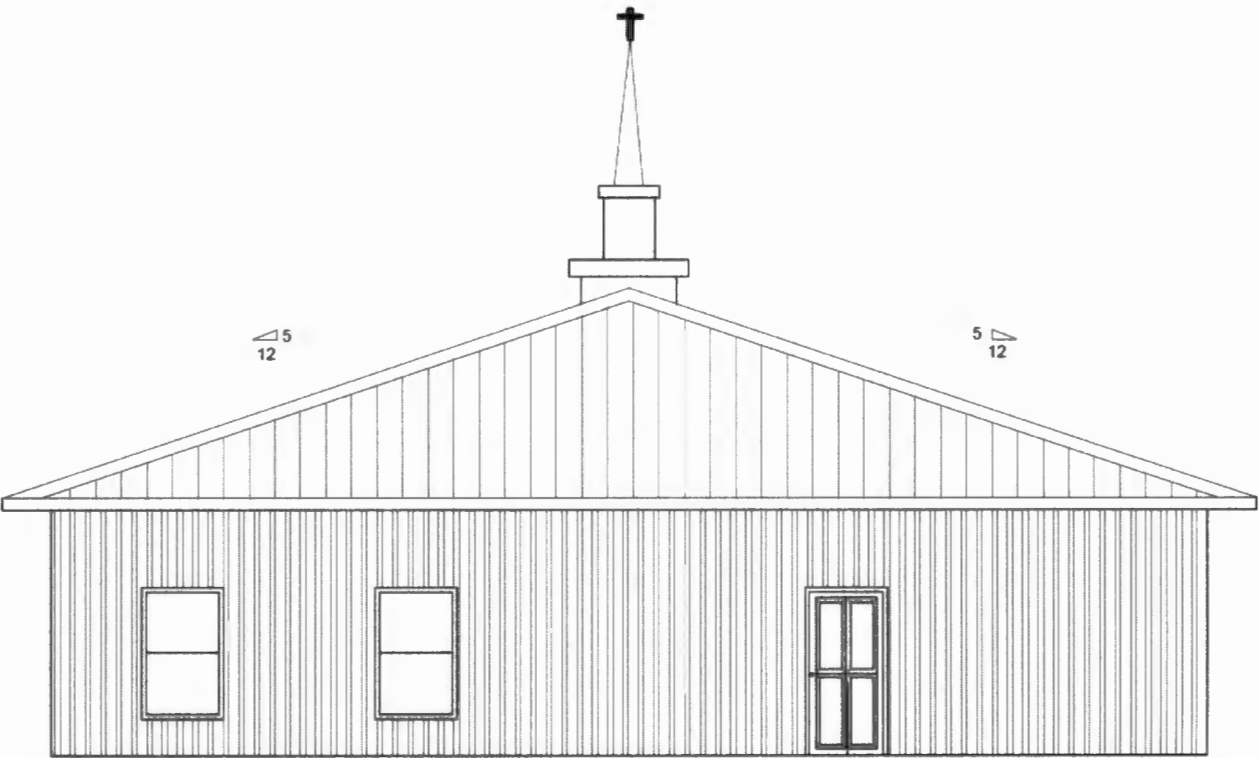
FLOOR PLAN



ELEVATIONS

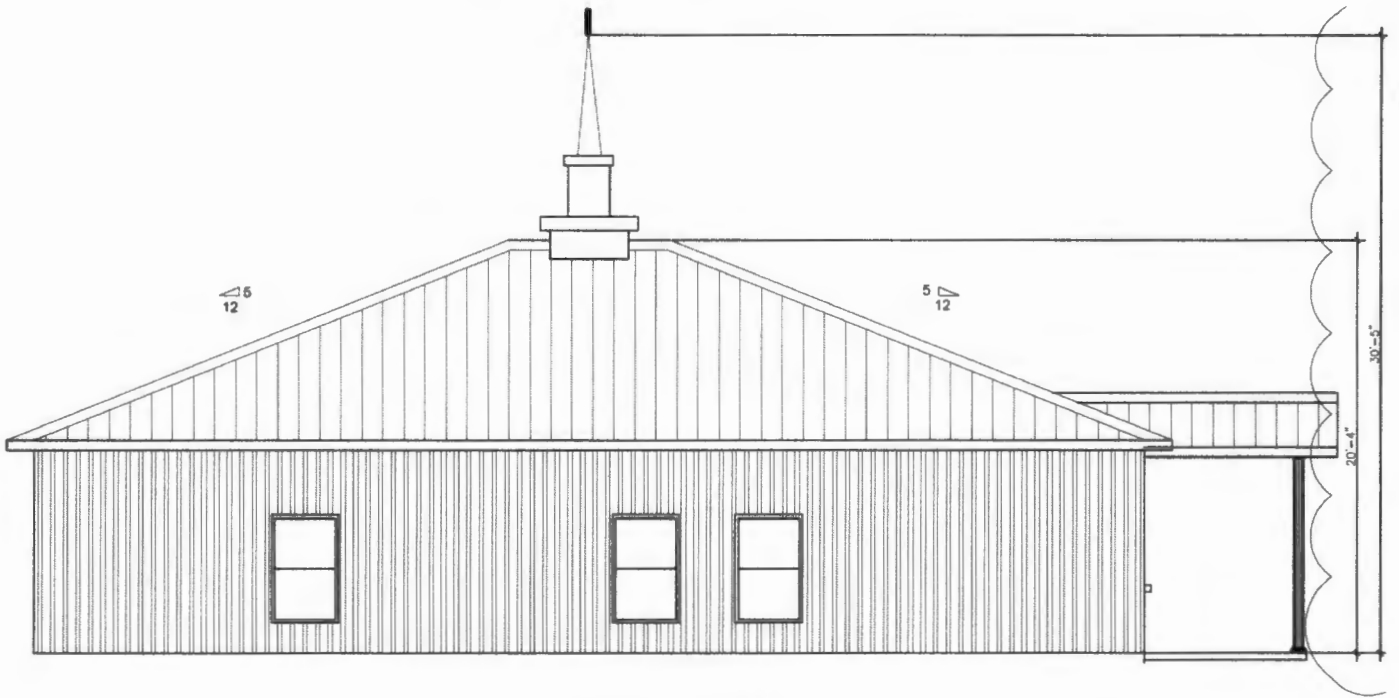


1 FRONT (WEST ELEVATION)
SCALE: 1/4" = 1'

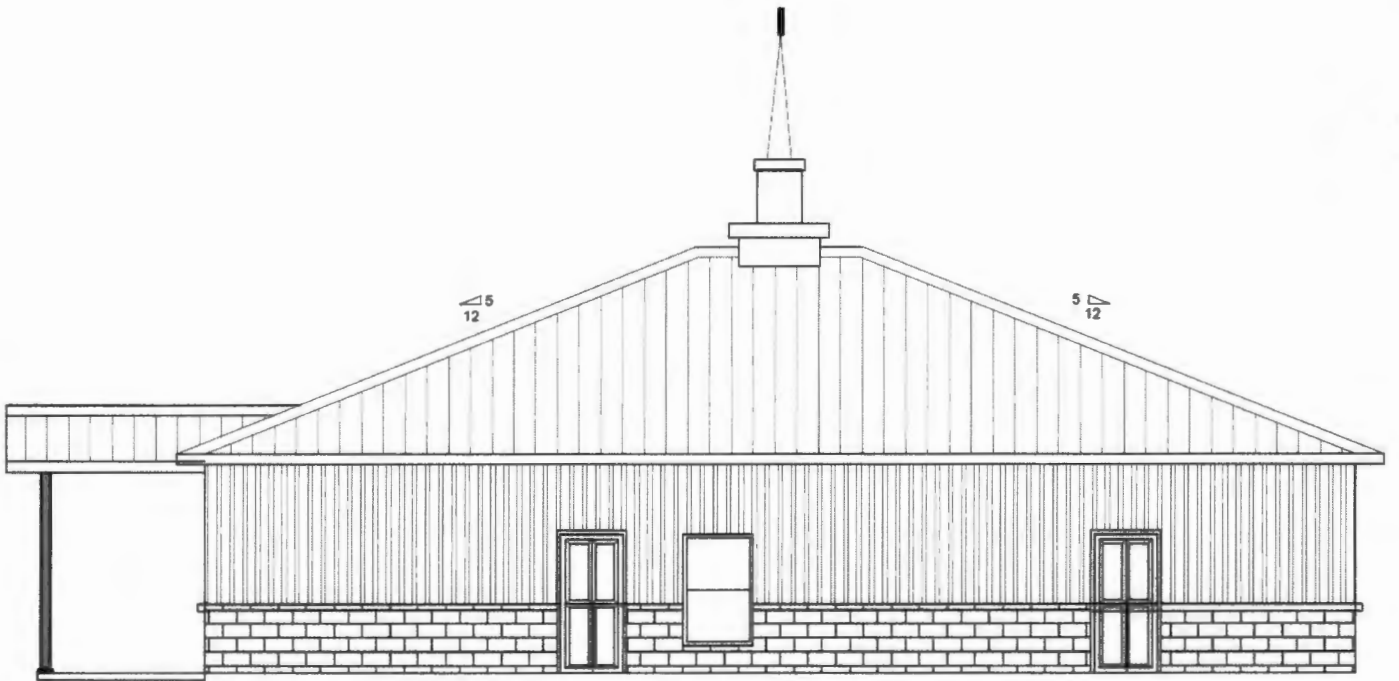


1 REAR (EAST ELEVATION)
SCALE: 1/4" = 1'

ELEVATIONS



2 LEFT SIDE (NORTH ELEVATION)
SCALE: 1/4" = 1'



2 RIGHT SIDE (SOUTH ELEVATION)
SCALE: 1/4" = 1'

SITE PHOTOS



Facing southeast from S. Nashville Ave. towards west side of subject property



Facing northeast from corner of S. Nashville Ave. & 23rd St. towards subject property

SITE PHOTOS



Facing northwest from 23rd St. towards subject property



Facing northeast from 23rd St. towards subject property

SITE PHOTOS



Facing northwest from 23rd St. towards subject property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#1**

Case #: **VA-22-12-122**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JAN-MICHAEL LAMBDIN

OWNER(s): JAN-MICHAEL LAMBDIN, RACHEL LAMBDIN

REQUEST: Variances in the A-1 Zoning district for a front and rear addition to an existing single-family residence as follows:

1) To allow a front north setback of 26.5 ft. in lieu of 35 ft.

2) To allow a south rear setback of 47.5 ft. in lieu of 50 ft.

3) To allow a Normal High Water Elevation (NHWE) setback of 47.5 ft. in lieu of 50 ft.

4) To allow a screen enclosure with a south rear setback of 35 ft. in lieu of 50 ft.

PROPERTY LOCATION: 6558 Sawyer Shores Ln., Windermere, FL 34786, south side of Sawyer Shores Ln., northeast of Lake Sawyer, south of Winter Garden Vineland Rd., north of Chase Rd.

PARCEL ID: 24-23-27-7820-01-070

LOT SIZE: +/- 0.38 acres (+/- 0.28 acres upland)

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 72

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Thomas Moses, Second by John Drago; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II and Roberta Walton Johnson):

1. Development shall be in accordance with the site plan and elevations received October 12, 2022, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the variance request and, which shall inform all interested parties that Addition #2 is located no closer than 47.5 feet south and Addition #3 is located no closer than 35 feet south from the Normal High Water Elevation (NHWE) of the canal.

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 four comments were received in favor and no comments were received in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

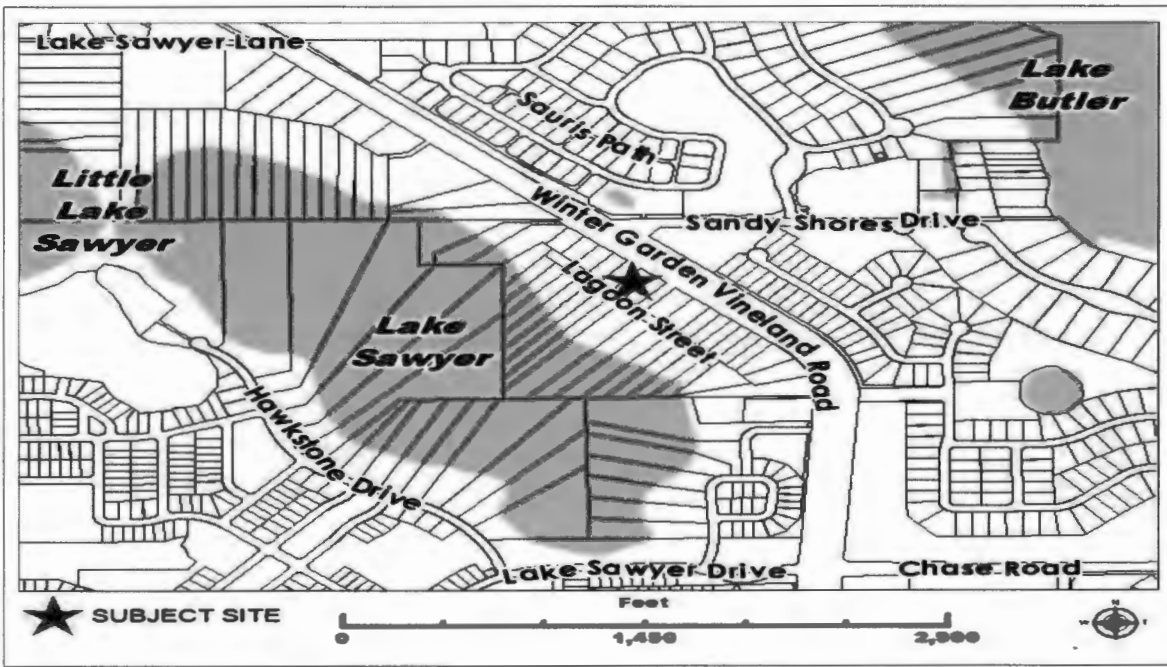
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variances by a 4-0 vote, with three absent, subject to the four (4) conditions in the staff report, with an amended Condition #4, which states "Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the variance request and, which shall inform all interested parties that Addition #2 is located no closer than 47.5 feet south and Addition #3 is located no closer than 35 feet south from the Normal High Water Elevation (NHWE) of the canal."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	Islesworth West PD	A-1	A-1	A-1
Future Land Use	Village	West Windermere Rural Settlement	Village	Village	Village
Current Use	Single-family residential	Vacant/Retention	Canal, Lagoon St.	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1, Citrus Rural zoning district, which primarily allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The future land use is Village (V), which is consistent with the zoning district for a single-family home on a lot of record.

The area surrounding the subject site consists of single-family homes that run along a canal. The subject property is a +/- 0.38 acre lot located on the north side of the canal, of which +/- 0.28 acres is upland. The property is Lot 7 of the Sawyer Shores Subdivision, platted in 1956, and is considered to be a non-conforming lot of record with an existing 82 ft. lot width, and 0.28 acre lot size. This property is considered to be a through lot with two street frontages, with Sawyer Shores Lane to the north and Lagoon Street to the south. Given the unique character of this property and all of the properties with double street frontage where the canal is between the street and their properties, the Zoning Manager has determined that for the purposes of zoning in relation to the yards, the front yard is along Sawyer Shores Lane, and since there is no reasonable site access to the south because there is a canal located between the residence and Lagoon Street, the yard facing Lagoon Street shall be considered the rear yard. It is considered a non-conforming lot as the lot was created

prior to the implementation of the County Code requirements in 1957. The property is developed with a 1-story, 1,506 gross sq. ft. single-family home constructed in 1959 and a rear wooden deck that was installed in 2018 with no permit. The property was purchased by the current owners in 2018.

The proposal is to construct a 658 sq. ft. attached two-car garage (Addition #1) at the front of the house, a 955 sq. ft. rear addition (Addition #2), a deck with a screen enclosure (Addition #3), a 783 sq. ft. two story addition on the front of the home (Addition #4), and an uncovered deck on the west side of the home (Addition #5). The garage is proposed with a front north setback of 26.5 ft. in lieu of 35 ft., requiring Variance #1. Proposed Addition #2 has a 17.5 ft. by 54.5 ft. attached area that consists of a new kitchen, living room, and dining area with a 47.5 ft. south rear setback in lieu of 50 ft., requiring Variance #2. The same addition also requires a 47.5 ft. south NHWE setback in lieu of 50 ft., requiring Variance #3, since there is a canal at the rear of the property which requires a Normal High Water Elevation (NHWE) setback of 50 ft. Addition #3 also requires a variance (variance #4) to allow a south rear setback of 35 ft. in lieu of 50 ft. Additions #4 and #5 meet the 35 ft. north front, 10 ft. east side and 10 ft. west side code requirements, respectively.

After the improvements, the home will be a 2-story 4,571 gross sq. ft. single family home, with a 3rd story balcony at 29.5 ft. in height. The surrounding community consists of many homes with similar setbacks for the front, rear, and NHWE due to the configuration and location of the existing homes on the property. There are three homes to the immediate northwest of the subject property that received variances for improvements that did not meet the rear setbacks for the A-1 zoning district. The current request is in harmony and consistent with the surrounding adjacent properties.

The Orange County Environmental Protection Division has no objection to the request.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	29.5 ft. (Additions #1 and #2) 14 ft. (screen enclosure – Addition #3)
Min. Lot Width:	100 ft.	82 ft. (existing)
Min. Lot Size:	21,780 sq. ft. (1/2 acre)	16,715 sq. ft. (existing)

Building Setbacks

	Code Requirement	Proposed
Front:	35 ft.	26.5 ft. Addition #1 (North – Variance #1)
Rear:	50 ft.	47.5 ft. Addition #2 (South – Variance #2)
Side:	10 ft.	10.1 ft. (East – Addition #4) 10.1 ft. (West – Addition #5)
NHWE	50 ft.	47.5 ft. Addition #2 (South – Variance #3) 35 ft. Addition #3 (South – Variance #4)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property is the placement of the house in relation to the front property line. Also, any sizeable addition or improvements would be difficult without variances given the location of the canal on the south side of the property.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration and location of the home in relation to the front property line. The rear of the home in relation to the canal limits the area where an addition or accessory structure with useable area could be built that conforms to setback requirements.

No Special Privilege Conferred

Due to the orientation of the house on the lot, and the year the house was built, granting the requested variances will not confer any special privilege conferred to others under the same circumstances. Additionally, several other properties in the area appear to have approved variances for additions or accessory structures with rear setbacks similar to the request.

Deprivation of Rights

Denial of the variances would deprive the owner of improvements that are commonly enjoyed by neighboring properties.

Minimum Possible Variance

The request is the minimum possible to allow an addition and improvements in the proposed location.

Purpose and Intent

Approval of the requested variances will allow improvements to the site which will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to adjacent properties. The additions and improvements will be consistent with the predominant construction of similar sized single-family residences surrounding the subject property.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received October 12, 2022, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages caused by flooding and, which shall inform all interested parties that Addition #2 is located no closer than 47.5 feet south and Addition #3 is located no closer than 35 feet south from the Normal High Water Elevation (NHWE) of the canal.
- C: Jan-Michael Lambdin and Rachel M. Lambdin
6558 Sawyer Shores Lane
Windermere, FL 34786

COVER LETTER

Letter of Intent
In Support of Request for Variance
6558 Sawyer Shores Ln, Windermere, Florida 34786

This Letter of Intent is in support of our request for variances to the front and rear yard setbacks for our single-family home at 6558 Sawyer Shores Lane, Windermere. Our intent is to add on to the front and to the rear of the existing house. The property is zoned A-1, requiring a front yard setback of 35' from the Sawyer Shores Lane Right of Way, side yard setbacks of 10' from the property line, and a rear yard setback of 50' from the Normal High Water Line of the man-made canal that runs through our backyard.

The existing structure on the property is a three bedroom, two bath, single-family residence, originally built in 1959 and has been added on to haphazardly, prior to our ownership of the property, for a current total of 1,300 square feet of conditioned living space. The existing 1,300 square foot structure is composed of a series of 12'x12' rooms and made up of predominantly load bearing walls due to the older nature of the construction of the house and the disorganized addition of rooms over the years.

To create more square footage for us, our growing family, and aging parents we must build additions to the existing house. This matter is complicated by the setbacks of our property and exacerbated by the location of the existing house. The property is zoned A-1 but at 0.39ac and lot width of 82.24' the property is less than the minimum of 0.5 acres and 100' width for A-1 zoned properties, meaning the setbacks deprive us the ability to add to and enhance the primary structure as other properties that meet the minimum size and width requirements are allowed to do without undue cost and hardship. The existing house is built in the middle of the "buildable area" within the setbacks of an A-1 zoned property, creating no opportunities for purposeful or meaningful expansion in any one direction. Due to the location of the existing house within the setbacks we would only have 14.5' to build off the front of the house, 6' to each side of the house, and 15' from the back of the house.

The requested variances are no more than have been granted to other properties within our zoning district, including the properties on either side of our property. The proposed additions to the structure are in keeping with the size and style of the residences within this neighborhood and will not be a detriment to the character of the neighborhood or public welfare. The proposed additions will add to the value of the property and enhance overall aesthetic appeal of the street front. It is these reasons that we are requesting variances to both the front and rear setbacks.

In total we are asking that three variances be considered. One variance requesting a reduction in the front setback and two variances that, when combined, request a reduction in the rear setback. An itemized account of those requests are as follows:

We are asking for an 8.5' reduction in the A-1 front setback of 35' to a new 26.5' setback. This new 26.5' setback allows us 23' of buildable space off the front wall of the existing house to build a 658 -SF (23' x 28'8") concrete block garage capable of accommodating a large SUV that is 19' in length. This demonstrates that our requested reduction in the setback is not excessive and is the minimum variance needed to add a garage, which most comparable houses in our neighborhood already have, to our existing house.

The proposed garage would be 10'3" from one side property line, 42'4" from the other side property line, and 26'6" from the front property line.

COVER LETTER

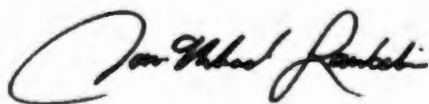
The maximum height of a structure located within an A-1 zoned area is 35'. The max height of the garage addition will be 17', well below the 35' limit.

For the 940-SF (17'3" x 54'6") concrete block addition off the rear of the house, containing the new kitchen, living, and dining areas, we are asking for a 2' reduction in the A-1 setback of 50' to a new 48' setback. This new 48' setback gives us the 17'3" of buildable space off the back of the existing house to create a comfortable 16' interior width needed for functioning kitchen, dining, and living areas. In addition to the 2' reduction to the rear offset for the added structure, we are asking for an additional 13' reduction in the rear setback to bring the total reduction to 15'. This would create a new rear offset of 35' which would allow the needed 2' for the new kitchen, living, dining area structure, but also an additional 13' to build a 708-SF (13' x 54'6") screen enclosed concrete porch off the new structure. This total of 15' is the minimum necessary to create purposeful and meaningful additions to our existing house that are in keeping with the size and style of other houses in our neighborhood. This 15' reduction in the rear setback would also bring the new rear screen enclosed rear porch even with the rear limit of our neighbors' houses on each side of our property. One of which was granted a 15' rear setback reduction in 2005 to expand their living, kitchen, and dining areas. This demonstrates that our requested 15' reduction in the setback is not excessive, is the minimum variance needed, and is in keeping with the overall style and size of existing houses in our neighborhood, specifically the houses adjacent to each side of our property.

The proposed kitchen/dining/living area addition, when combined with the proposed screen enclosed rear porch, would be 10'2" from one side property line, 17'5" from the other side property line, and 35' from the Normal High Water Line of the Lake Sawyer Canal that runs through our backyard. The maximum height of a structure located within an A-1 zoned area is 35'. The height of the rear kitchen/dining/living area addition will be 18' and the height of the screen enclosed rear porch will be 14', both well below the 35' limit.

Thank you for your consideration.

Respectfully submitted,



Jan-Michael Lambdin



Rachel Lambdin

COVER LETTER

- 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 property is zoned A-1 but at 0.38ac and lot width of 82.24' the property is less than the minimum 0.5 acres and 100' width for A-1 zoned properties. The existing house is built in the middle of the "buildable area" within the setbacks of an A-1 zoned property, creating no opportunities for purposeful or meaningful expansion in any one direction. Due to the location of the existing house within the setbacks we would only have 14.5' to build off the front of the house, 6' to each side of the house, and 15' from the back of the house, in a similar fashion to our neighbors on either side.

- 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.**

The property was zoned A-1 but at 0.38ac and lot width of 82.24' the property is less than the minimum 0.5 acres and 100' width for A-1 zoned properties, which is neither self-created nor self-imposed. The existing single-family residence on the site, originally built in 1959 has been added on to haphazardly, prior to our ownership of the property, for a current total of 1,300 square feet of conditioned living space. The existing 1,300 square foot structure is mainly composed of a series of 12'x12' rooms and made up of predominantly load bearing walls due to the older nature of the construction of the house and the disorganized addition of rooms over the years, is built in the middle of the "buildable area" within the setbacks of the A-1 zoned property, creating no opportunities for purposeful or meaningful expansion in any one direction, similar to our neighbors on either side of our property.

- 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.**

The requested variances are no more than what has been granted to other properties within our zoning district, including the properties on either side of our property. The 15' rear variance would also bring the new rear porch even with the rear limit of our neighbors' houses on each side of our property. The northeast neighboring property was granted a 15' rear setback reduction in 2005 to expand their living, kitchen, and dining areas. This demonstrates that our requested 15' reduction in the setback does not confer a special privilege.

- 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.**

The property is zoned A-1 but at 0.38ac and lot width of 82.24' the property is less than the minimum of 0.5 acres and 100' width for A-1 zoned properties, meaning the setbacks deprive us the ability to add to and enhance the primary structure as other properties that meet the minimum size and width requirements are allowed to do without undue cost and hardship. The requested variances are no more than what has been granted to other properties within our zoning district, including the properties on either side of our property.

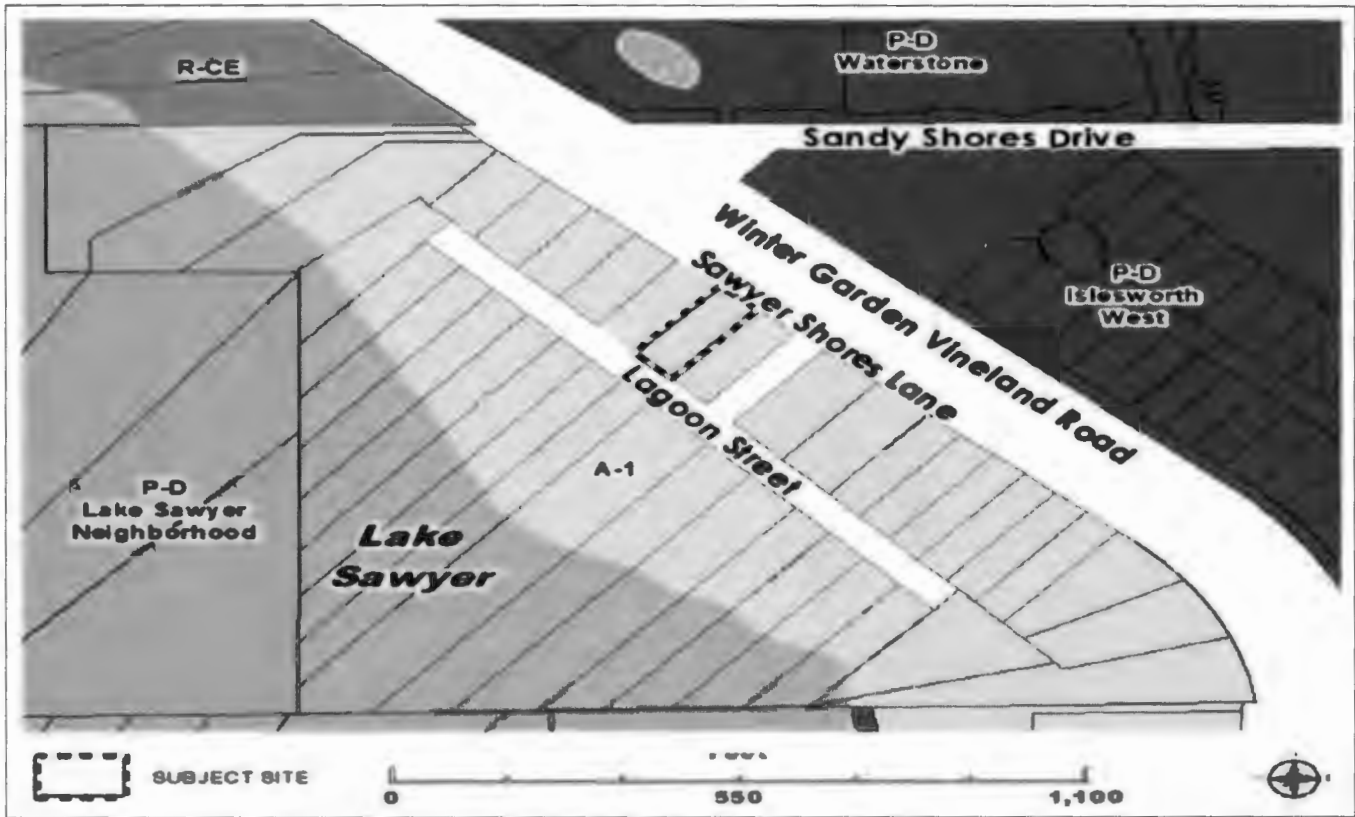
-
- 5. Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

The front variance is the minimum dimension needed to allow a garage that will accommodate the length of an SUV. If we are to have a garage, as most other properties within our neighborhood have, the front setback request is the minimum possible variance. The rear variance is the minimum needed to create a meaningful and purposeful addition to our living, kitchen, dining room space, similar to our neighbor's houses to either side of our property and within our neighborhood.

-
- 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.**

The proposed additions to the existing structure are in keeping with the overall style and size of existing houses in our neighborhood, specifically the houses adjacent to each side of our property. The proposed character and scale will be in harmony with the established character and scale of the neighborhood and will not be a detriment to the neighborhood or public welfare. The proposed additions will add to the value of the property and enhance overall aesthetic appeal of the street front.

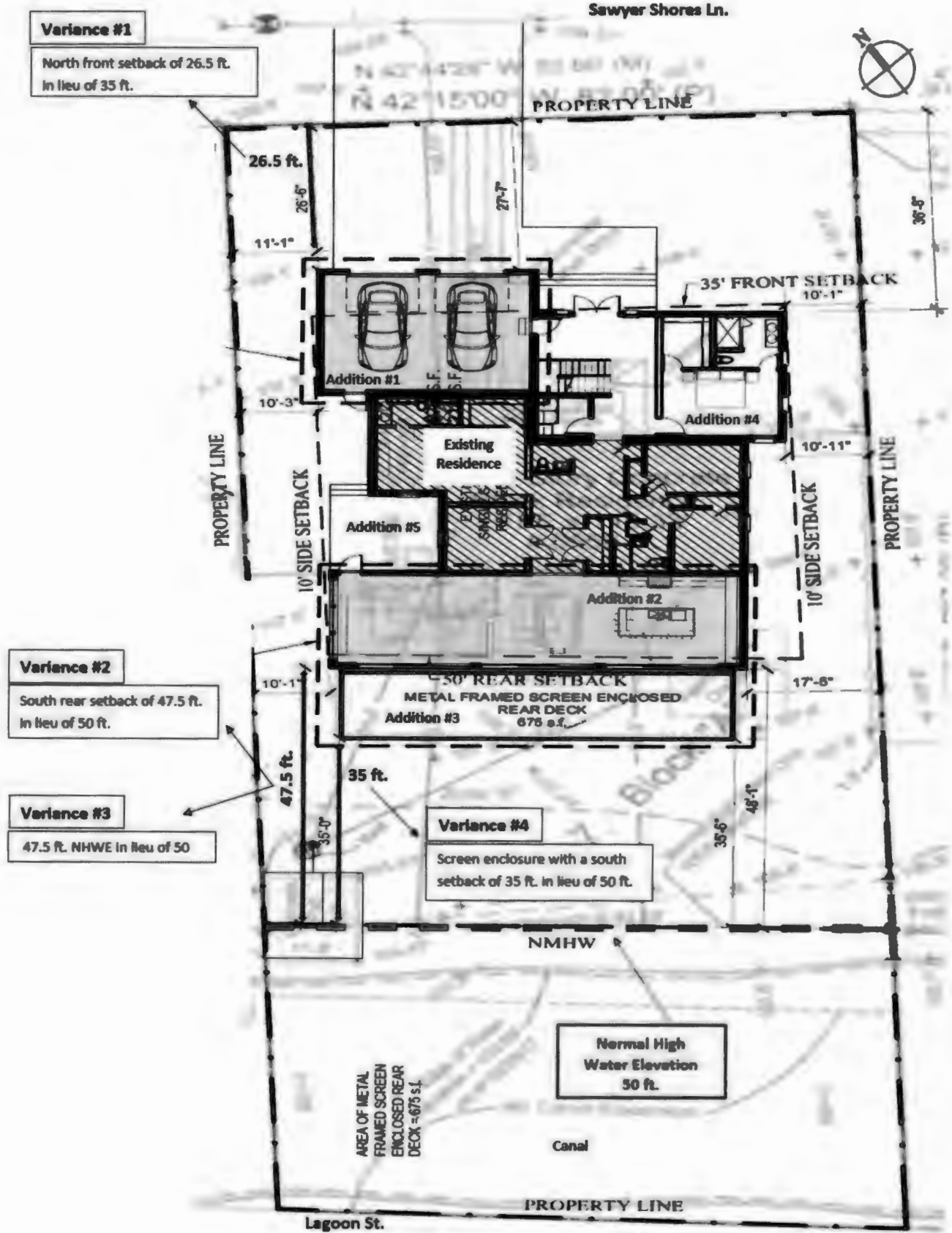
ZONING MAP



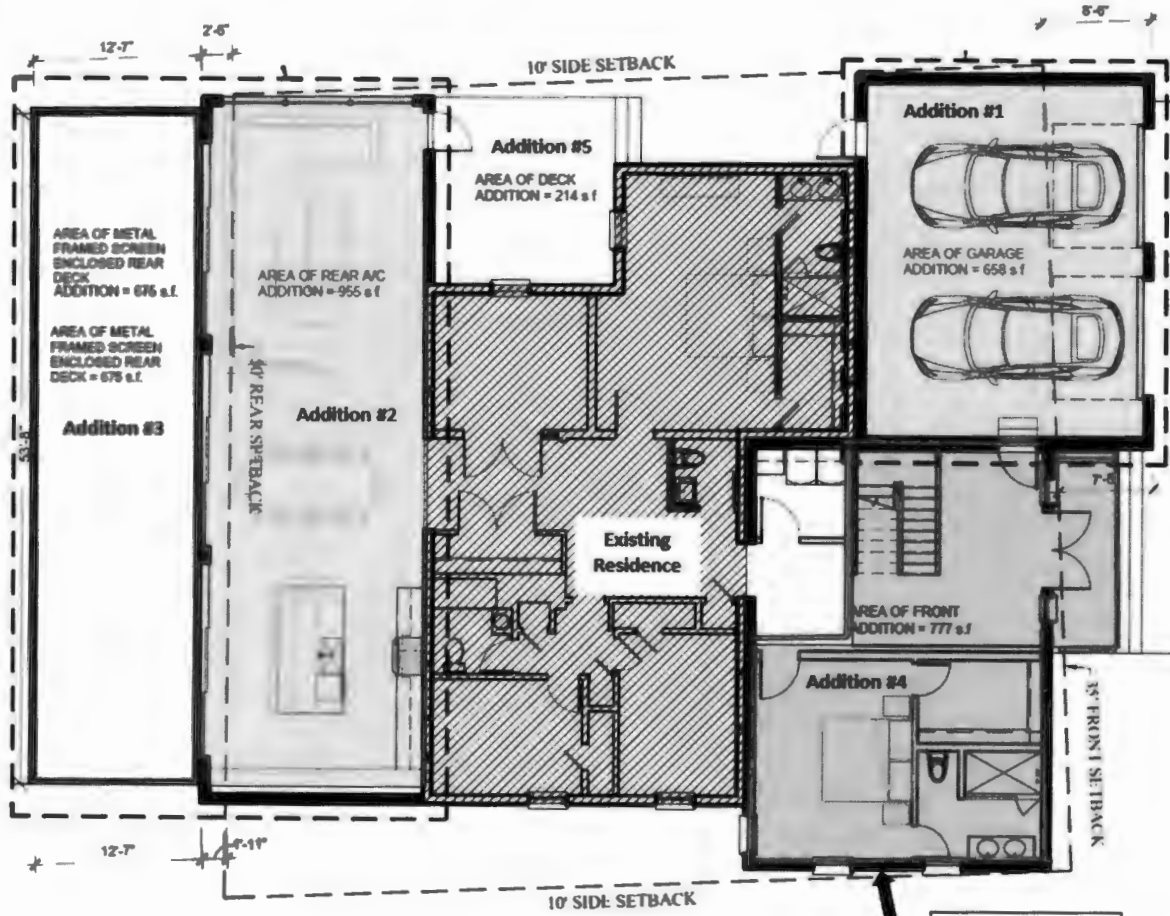
AERIAL MAP



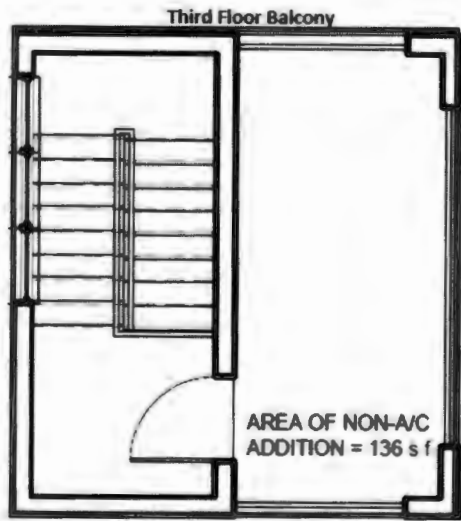
SITE PLAN



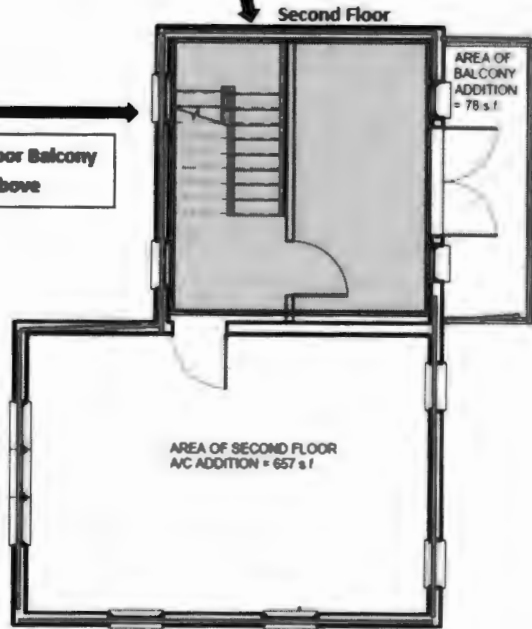
FLOOR PLAN



Second Floor Above



Third Floor Balcony Above



AREA OF STAIR A/C ADDITION = 133 s.f.

ELEVATIONS

Front Elevation – North



El. 29'-6"
MAX HEIGHT A.F.F.

Rear Elevation – South



El. 0'-0"
T.O. SLAB
El. -1'-6"
GRADE

Left Elevation – East



El. 29'-6"
MAX HEIGHT A.F.F.

Right Elevation – West



El. 0'-0"
T.O. SLAB
El. -1'-6"
GRADE

SITE PHOTOS



Facing south from Sawyer Shores Ln. towards proposed Additions #1 and #4



Front yard, facing north towards side of proposed Addition #1

SITE PHOTOS



Rear yard, facing north towards proposed Additions #2 and #3



Rear yard, facing northeast towards proposed Addition #5

SITE PHOTOS



Rear yard, facing southwest from existing porch towards canal and Lagoon St.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#2**

Case #: **VA-22-11-114**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): SALVADOR CASTRO

OWNER(s): SALVADOR CASTRO

REQUEST: Variance in the R-1 zoning district to allow a 40 ft. lot width in lieu of a minimum 50 ft. lot width.

PROPERTY LOCATION: 68 Campus View Dr., Orlando, FL 32810, west side of Campus View Dr., south of W. Kennedy Blvd., west of Interstate 4.

PARCEL ID: 34-21-29-7542-00-300

LOT SIZE: +/- 0.11 acres (5,199 sq. ft.)

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 169

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Thomas Moses; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II, Roberta Walton Johnson):

1. Development shall be in accordance with lot width identified on the site plan received October 17, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

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

The applicant agreed with the staff presentation and had nothing further to add.

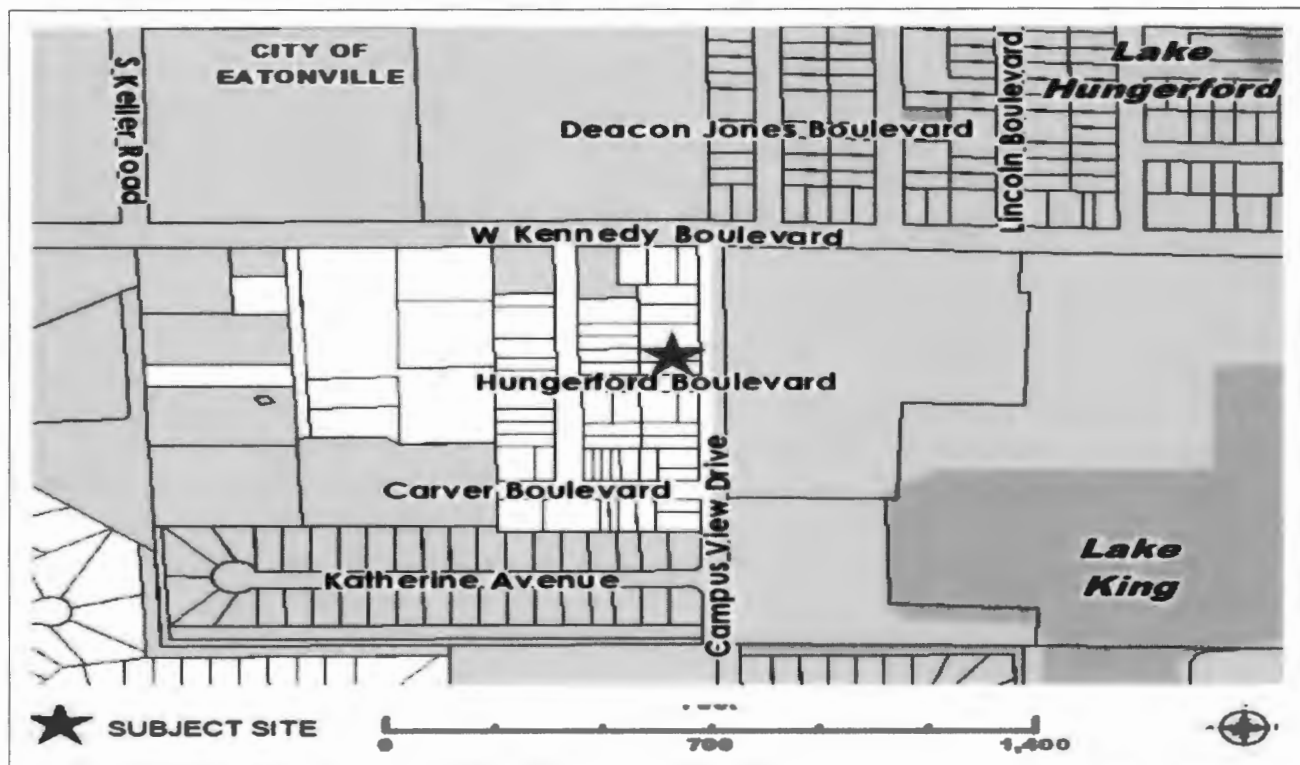
There were two (2) in attendance to speak in opposition to the requested lot width. There was no one in attendance to speak in favor of the request.

The BZA unanimously recommended approval of the Variance by a 4-0 vote, with three absent, 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-1	R-1	R-1	City of Eatonville	R-1
Future Land Use	LMDR	LMDR	LMDR	City of Eatonville	LMDR
Current Use	Vacant	Single-family residential	Single-family residential	City of Eatonville	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum 5,000 square ft. lot. The future land use is Low Medium Density Residential (LMDR), which is consistent with the R-1 zoning district.

The area surrounding the subject site consists of single-family homes. The city of Eatonville is to the east of the property across Campus View Drive. The subject property is a vacant 0.12 acre lot, platted in 1924 as Lot 30 of the Robinson & Samuel's Addition. The property was under the same ownership as the parcel to the south (Parcel # 34-21-29-7542-00-310) from 1973 to 2019, at which time they were sold separately. The current owners acquired the property in March 2019.

The proposal is to construct a new one story 1,326 gross sq. ft. single-family home on the property, meeting all R-1 zoning district setbacks, and will consist of 2 bedrooms, 2 baths, and an attached 1-car garage. 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. As stated previously, since the lot was under common ownership with an adjacent one, it cannot be considered to be a substandard lot of record. The parcel is 40 feet wide, but the R-1 zoning district requires a minimum lot width of 50 ft., requiring the Variance. There is an approved variance to the immediate southwest of the subject property to construct a new home on a lot that did not meet the minimum lot width for the R-1 zoning district. The current request is in harmony and consistent with surrounding neighborhood due to developed parcels with similar sized lots. A permit, B22012921, to construct a new single-family home is on hold pending the outcome of this request.

The Development Engineering Division provided comments that the septic tank is required to meet the minimum clearance of 8 ft. for access on one side of the lot and be located 20 ft. from any swales. As proposed, the north side setback is meeting this requirement.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12.9 ft.
Min. Lot Width:	50 ft.	40 ft. (Variance)
Min. Lot Size:	5,000 sq. ft.	5,199 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (East)
Rear:	25 ft.	49.9 ft. (West)
Side:	6 ft.	8 ft. (North) 6 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstance particular to the subject property is that it will be undevelopable without the variance for lot width.

Not Self-Created

The owners are not responsible for the existing lot configuration or the combination of the lots through ownership. Therefore, the substandard aspects of the lot are not self-created.

No Special Privilege Conferred

Granting the variance will not establish special privilege since there are other properties in the area developed with single-family homes with similar width.

Deprivation of Rights

Without approval of the requested variance, the owners will be deprived of the ability to construct a residence on the parcel.

Minimum Possible Variance

The requested variance is the minimum necessary to construct any improvements on the property. The lots to the north and south are already developed with a single-family home, so there is no possibility of acquiring additional land to meet the code requirements.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the of the Code, which is to allow infill development of lawfully constructed residences. The construction of a new home which meets all the setback requirements for the R-1 district with the lot width as proposed will not be detrimental to the neighborhood as the proposed residence will be consistent with the predominant construction of similar sized single-family residences on lots in the area with similar lot widths.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with lot width identified on the site plan received October 17, 2022, 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: Salvador Castro
68 Campus View Drive
Orlando, FL 32810

8-22-22

To: whom it may concern

I Salvador Castro Owner of Lot ID#
34-21-29-7542-00-300.

I purchase this lot with intetion to built
a 1 story home.

The propose construction is a 2/2 home
with 1 car garage. 1300 SQ Foot

The lot was never develope; i would like
to improve this neighborhood by building
this new home.

The house meets all require zoninging
Distric Set backs.

Thank
Salvador Castro
Schule Cast

COVER LETTER

I am requesting a variance for the above address to seek relief of the required minimum frontage width under the current code.

1. Special Conditions and Circumstances

Due to the shape and narrowness of this lot combined with the inability to join this parcel with others, the strict application of the requirements of the zoning chapter would deprive me, as the current property owner, the privilege to construct a single-family home on this parcel.

2. Not Self Created

Buy purchasing this lot for development of a single family home and being unaware of this lot being bought together with an adjoining lot by the previous owner, thereby creating a circumstance in which the purchase of 2 lots by the previous owner renders this lot undevelopable the lot size issue was created solely by the former property owner's actions.

3. No Special Privelege Conferred

The granting of the variance would have no effect on any adjoining properties. This request will not cause any detriment to the common good and simply allow the construction of a much needed single family home in keeping with the neighboring properties.

4. Deprivation of Rights

The literal interpretation and strict application of the applicable zoning requirements would cause substantial, undue and unnecessary hardship to me as the property owner and deprive me of the right to use this property as originally intended.

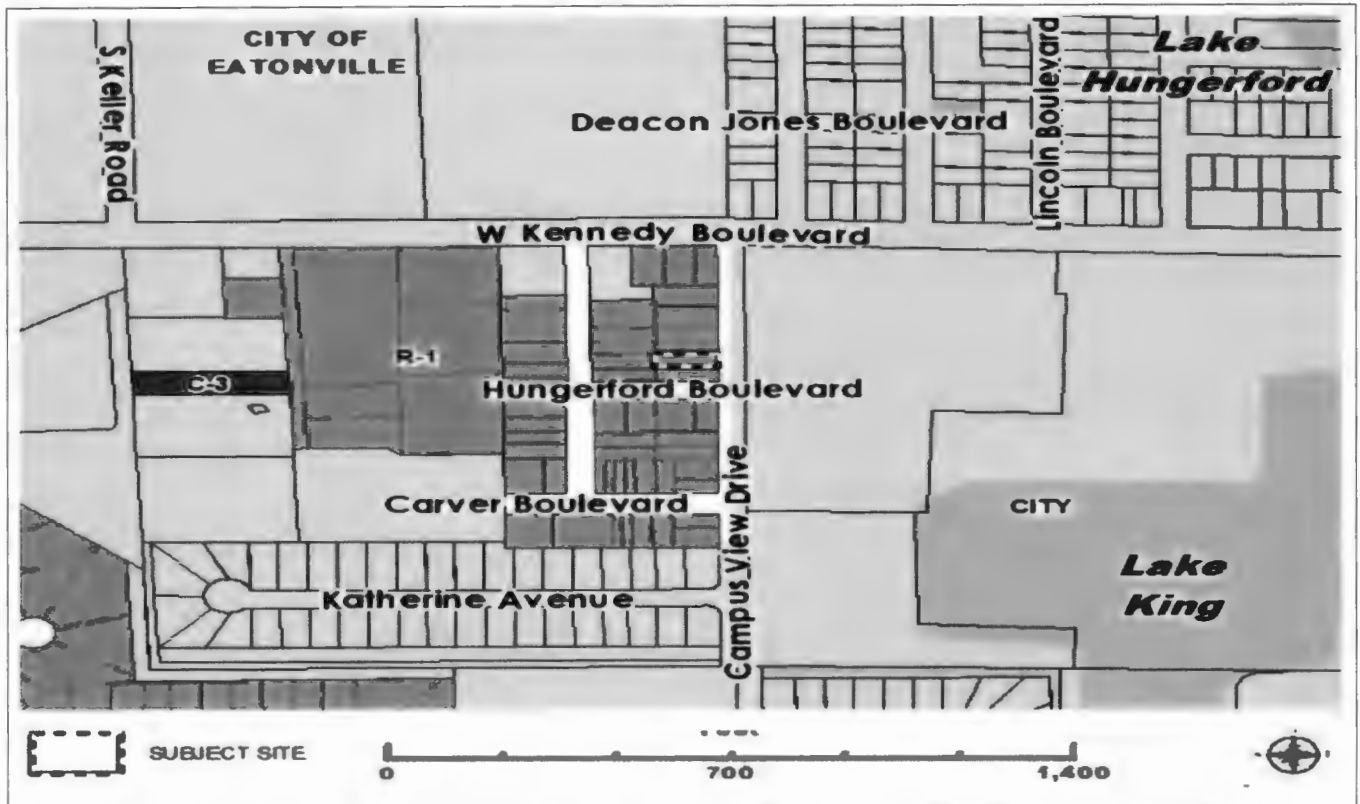
5. Minimum Possible Variance

The request being presented is the minimum possible variance as I am only asking for the relief necessary for development of this parcel.

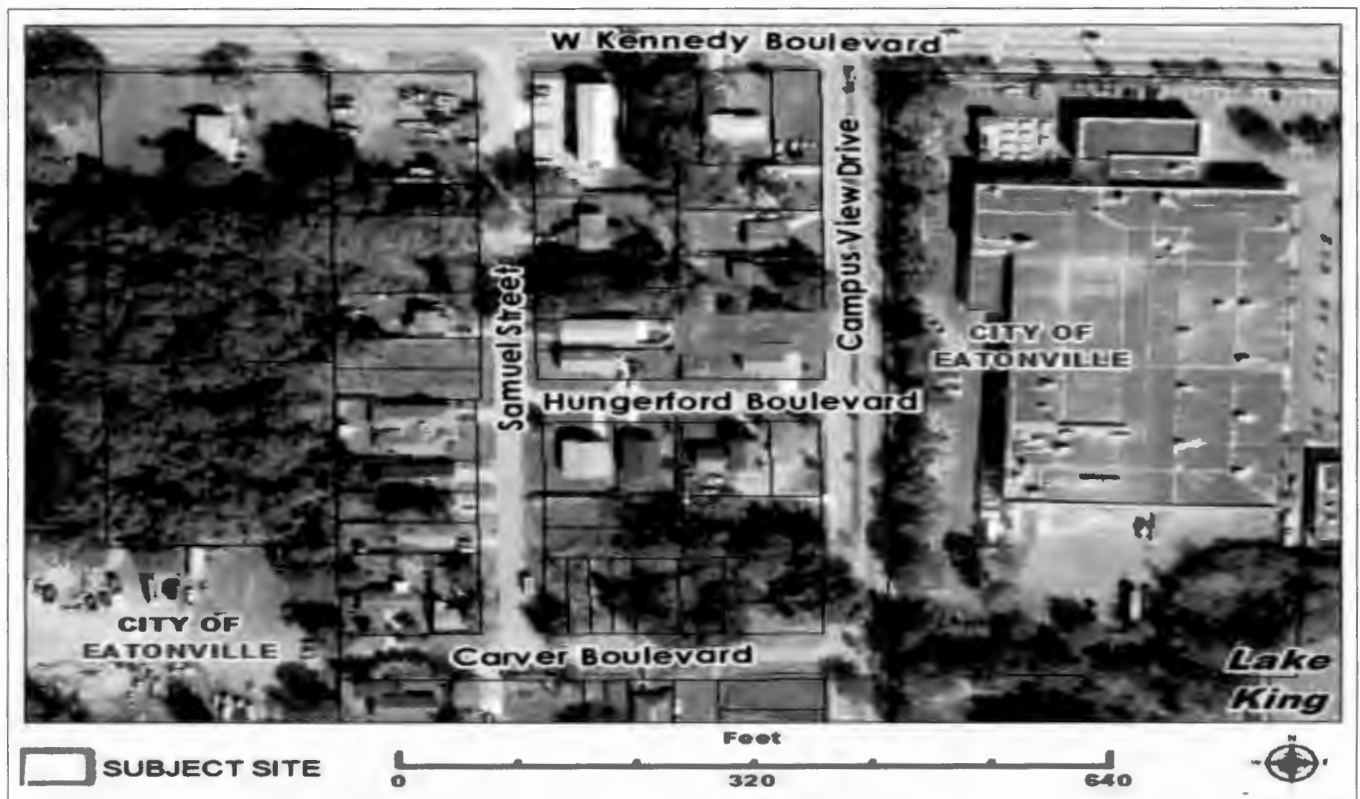
6. Purpose and Intent

The requested variance would be consistent with the spirit, purpose, and intent of the Orange County Zoning Division as the new residence being built will blend with the homes in the neighborhood and will be well within the spirit of the street and community.

ZONING MAP

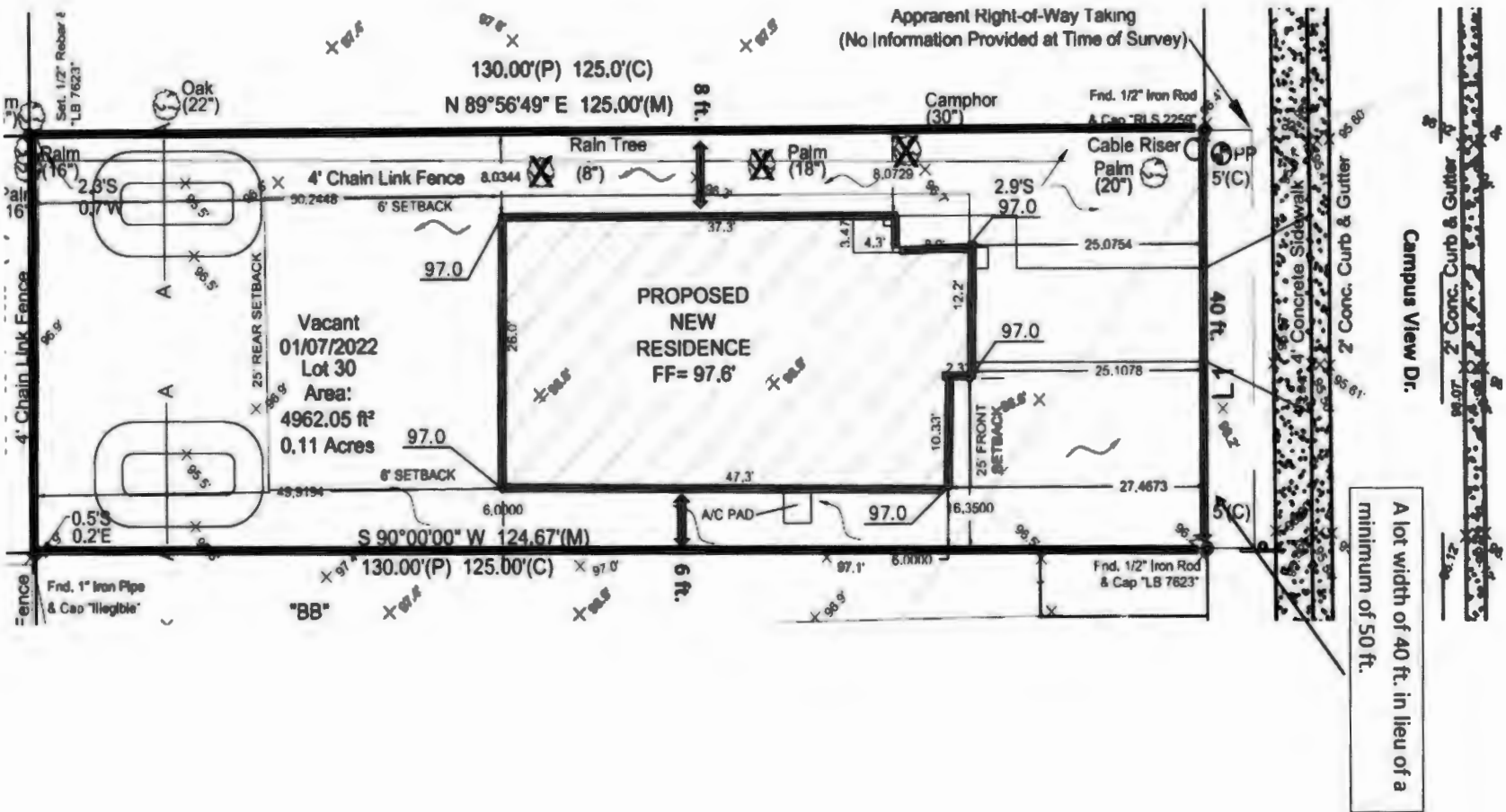


AERIAL MAP



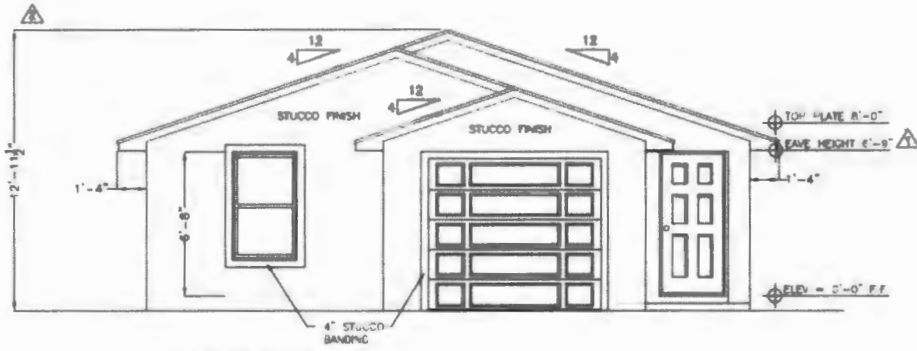


SITE PLAN

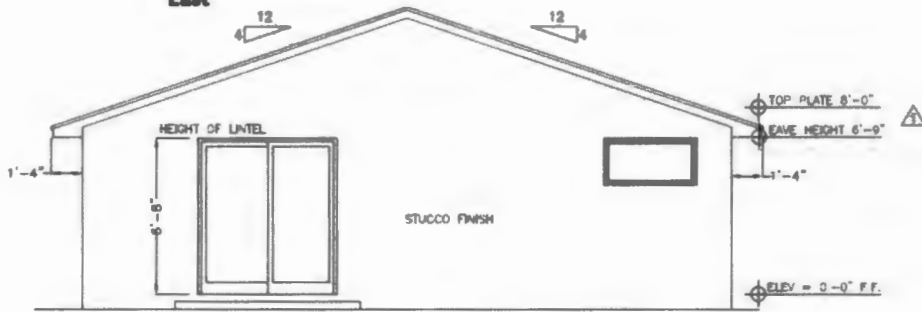


A lot width of 40 ft. in lieu of a minimum of 50 ft.

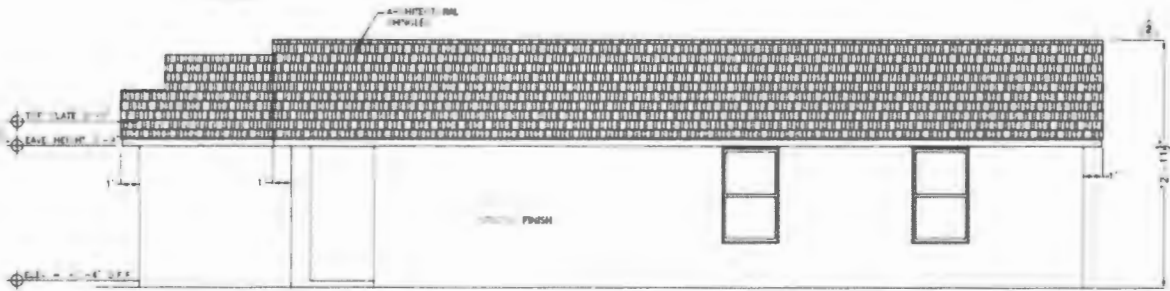
ELEVATIONS



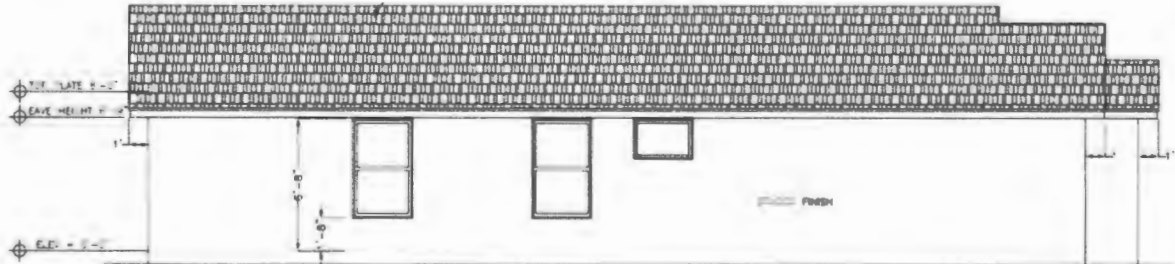
FRONT ELEVATION
East



REAR ELEVATION
West



RIGHT ELEVATION
North



LEFT ELEVATION
South

SITE PHOTOS



Facing west from Campus View Dr. towards front of subject property



Rear yard, facing east towards proposed house

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#3**

Case #: **SE-22-09-095**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JUSTIN BAUKNIGHT FOR KIWANIS CLUBHOUSE

OWNER(s): SOUTH ORLANDO KIWANIS EDUCATION FOUNDATION INC.

REQUEST: Special Exception and Variances in the R-1 zoning district as follows:

- 1) Special Exception to allow the use of a Community Center for the existing structure (Kiwanis Clubhouse).
- 2) Variance to allow unpaved parking in lieu of paved.
- 3) Variance to allow unpaved drive aisles in lieu of paved.

PROPERTY LOCATION: 1940 Conway Gardens Rd, Orlando, FL 32806, southwest corner of Conway Gardens Rd. and Sebring Ave., east of S. Crystal Lake Dr., south of Curry Ford Rd.

PARCEL ID: 05-23-30-0030-01-060

LOT SIZE: +/- 0.34 acres (15,075 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 138

DECISION: Recommended **APPROVAL** of the Special Exception request **#1**, in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, **APPROVAL** of the Variance requests **#2** and **#3**, in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by John Drago; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 3 absent: Joel Morales, Charles Hawkins, II, Roberta Walton Johnson):

1. Development shall be in accordance with the site plan received October 14, 2022, 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. Hours of operation shall be from 7:00 a.m. to 8:00 p.m., Monday through Friday for general use.
5. No more than four (4) advertised outdoor events open to the public per calendar year, and the hours of such events shall be limited from 6:00 a.m. to 10 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
6. The facility shall be limited to 45 patrons.
7. A permit shall be obtained for the sign, trailer, propane tank, and fence or they shall be removed.
8. A demolition permit shall be obtained for the removal of the shed prior to issuance of a site work permit for installation of landscaping, the dumpster enclosure and wheel stops.

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) Special Exception and Variance criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in favor or in opposition to the request.

The applicant agreed with the staff presentation and mentioned a brief history of the non-profit organization.

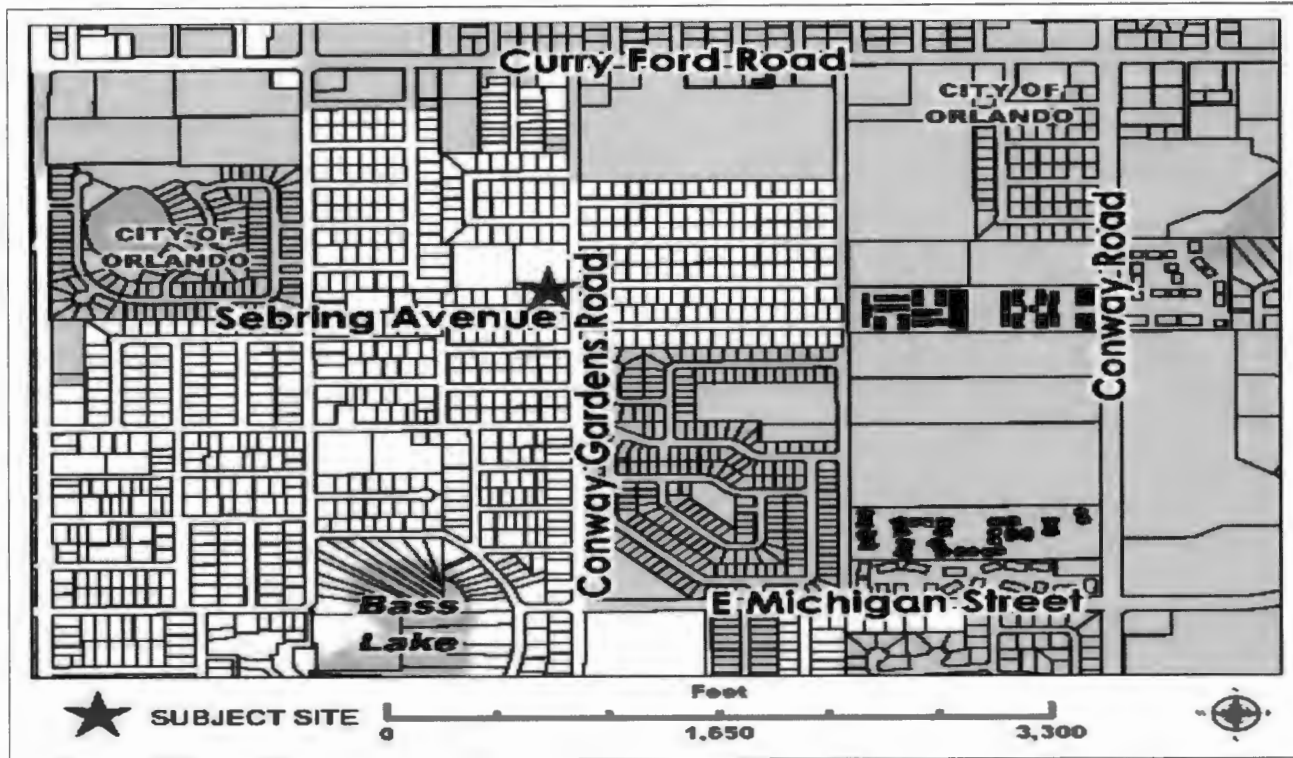
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Special Exception and Variances by a 4-0 vote, with three absent, subject to the eight (8) 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-1	R-1	R-1	R-1	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Clubhouse	Religious Institution	Single-family Residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum 5,000 square ft. lot. Certain uses, such as Community Centers, are permitted through the Special Exception process. The future land use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The subject property is a +/- 0.59 acre lot, platted in 1959 as Lots 65 thru 67 in Block A of the Agnes Heights plat, and is considered to be a conforming lot of record. The area around the subject site consists of single-family homes and a church to the immediate north. The property is located on the corner of Conway Gardens Road and Sebring Avenue and is developed with a 1-story 2,488 gross sq. ft. clubhouse constructed in 1959. The site also contains other unpermitted improvements such as a fenced area containing propane tanks, a dumpster, a sign, a small shed adjacent to the rear of the building and a temporary trailer. The year the improvements were installed cannot be ascertained via aerials due to heavy vegetation.

The frontage is considered Conway Gardens Road since it is the narrowest portion of the lot abutting a public street and the side street is Sebring Avenue. According to the Property Appraiser's site, the property was purchased by the current owner in 2001.

In June 1959, the Planning and Zoning Board (Case #30) approved a Variance to allow a garden club and a clubhouse building, for the Conway Women's Garden Club.

The proposal is to use the existing structure for a Community Center. A Special Exception is required to establish the Community Center use, although no new construction is proposed. The site is currently used to host non-profit meetings that occur twice a month and two scheduled annual events by the South Orlando Kiwanis Education Foundation, which is a non-profit organization. Today, the non-profit organization consists of 18 members and 7 board members. A volunteer helps maintain the grounds of the property. The two scheduled events are the annual Turkey Smoke which is a three-day event with an attendance of 35 participants, and a 4-hour Annual Bike Build event that hosts 45 participants at any given time. The request is to use the property as a community-wide operation instead of specifically for the benefit of the membership organization, allowing the existing operations to continue in a similar manner, while serving the surrounding community.

Parking requirements for the subject property are as follows:

- 1) Assembly place without fixed seats (Community Center): 1 parking space per each 3 patrons., requiring 15 spaces.
- 2) The site plan shows a total of 17 spaces (16 unpaved parking spaces, 1 paved handicap space), meeting parking requirements per Orange County Code Sec. 38-1476 for quantity of off-street parking for assembly places without fixed seats. There is a joint use off-street parking agreement with the religious institution abutting the subject property to the north, which offers an additional 37 paved parking spaces, when needed.

Per Sec. 38-1479 (a) of the Orange County Code, "All parking areas shall have durable all-weather surfaces for vehicle use areas, shall be properly drained, shall be designed to separate pedestrian and vehicle circulation for safety, and shall meet all accessibility requirements of the most recent editions of applicable federal and state standards as adopted. For purposes of this article, a durable, all-weather surface shall consist of an improved surface, including concrete, asphalt, stone and other permanent surfaces, but not including gravel, wood chips, mulch or other materials subject to decay". The request is to allow the 16 existing unpaved parking spaces in lieu of paved and unpaved drive aisles in lieu of paved, which have been in this condition since operations began in 1959, requiring Variances #1 and #2.

Other proposed site improvements include removal of the unpermitted shed and trailer, relocating the existing dumpster to the west rear of the property and installing a dumpster enclosure with a 6 ft. high wall on three sides. The preservation of the existing landscaping and the addition of hedges abutting the north and south side of the building is proposed, with a 7 ft. wide landscape strip proposed along the adjacent rights-of-way which are Conway Gardens Road and Sebring Avenue, as required per Sec. 24-4 (1) (a) of the Orange County Code.

The limited use of the property and low number of pedestrians in attendance to the events will have no impact to a parking surface that has been maintained in the same manner for 63 years. Furthermore, the addition of wheel stops to prevent parking in undesignated areas will contribute to the preservation of the existing trees on the property.

The Orange County Transportation Planning Division has reviewed the request and has determined that no traffic study is required.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft.
Min. Lot Width:	50 ft.	75 ft.
Min. Lot Size:	5,000 sq. ft.	7,499 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front (Conway Gardens Rd.):	25 ft.	49.8 ft. (East)
Rear:	30 ft.	101 ft. (West)
Side:	7.5 ft.	57 ft. (North)
Side Street (Sebring Ave.):	15 ft.	24.7 ft. (South)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

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

Similar and compatible with the surrounding area

The Community Center will be in an existing structure located on the site, which contains some existing landscaping and buffers, supplemented by additional landscaping, and as such will be compatible with the surrounding properties.

Shall not act as a detrimental intrusion into a surrounding area

The Community Center will not act as a detrimental intrusion and will not negatively impact the surrounding area, as it will provide a benefit to the adjacent residential neighborhood.

Meet the performance standards of the district

The proposed Community Center, with the approval of the requested Variances, will meet the performance standards of the district.

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

There are no proposed activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing use of the site for the past 63 years. Furthermore, the subject property has a similar use to the church and school abutting the property on the north.

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

The use is similar to the use that was approved in 1959, therefore maintaining the landscaping that is consistent with the original approval and supplementing a 7 ft. wide landscape strip adjacent to the rights-of-way which are Conway Gardens Road and Sebring Avenue will meet code requirements.

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition and circumstances are the limited use of the subject property and the minimal number of patrons when the building is in use. Furthermore, the proposed use is similar to the existing use, which was approved in 1959.

Not Self-Created

The requests are not self-created since the paving area has been in this condition since 1959.

No Special Privilege Conferred

Granting the Variances as requested will not confer special privilege as the organization is proposing new improvements to comply with parking requirements and continuing to use the property similar to the existing use that has been for 63 years.

Deprivation of Rights

Without the requested Variances, the owner would be deprived of the right to continue to enjoy the use of the property and parking area that has been used in a similar manner since being approved in 1959.

Minimum Possible Variance

The requested variances are the minimum possible to continue the use of the parking area in the same manner as the past 6 decades.

Purpose and Intent

Approval of the requested variances will be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed will not be detrimental to the neighborhood since the parking area has been used in this manner for over 60 years.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received October 14, 2022, 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. Hours of operation shall be from 7:00 a.m. to 8:00 p.m., Monday through Friday for general use.
5. No more than four (4) advertised outdoor events open to the public per calendar year, and the hours of such events shall be limited from 6:00 a.m. to 10 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
6. The facility shall be limited to 45 patrons.
7. A permit shall be obtained for the sign, trailer, propane tank, and fence or they shall be removed.
8. A demolition permit shall be obtained for the removal of the shed prior to issuance of a site work permit for installation of landscaping, the dumpster enclosure and wheel stops.

C: Justin Bauknight
1940 Conway Gardens Rd.
Orlando, FL 32896

C: South Orlando Kiwanis Education Foundation, Inc.
1940 Conway Gardens Rd.
Orlando, FL 3289

COVER LETTER

South Orlando



South Orlando Kiwanis Education Foundation, INC

1940 Conway Gardens Rd, Orlando, FL 32806

407-925-3411 www.southorlandokiwanis.com

Orange County Florida Board of Zoning Adjustments

9/22/2022

201 South Rosalind Ave

Orlando, FL 32801

Dear Board of Zoning Adjustment,

The South Orlando Kiwanis Education Foundation is located at 1940 Conway Gardens Rd, Orlando FL 32806. We are a non-profit established to help care for the needs of children in the local community by serving our local schools and fellow non-profits and providing resources to those in need. Our request is to update the zoning definition to our property to better represent the services provided at the location. The current zoning definition was established before the changes set in the 1960s and we are applying for special circumstance to make sure our zoning is accurate to the new definition applicable to its use. Our property already is properly set to code, is ADA compliant, and has multiple bathrooms. There are no daily operations at the location, which has been the case for decades. The building is closed and locked only to be utilized for the non-profit meetings which occur twice a month and for special requests, which can include small community functions such as meetings for other non-profits, luncheons for other community organizations, and the rare birthday celebration (only for children). There are two events scheduled each year, the annual Turkey Smoke and the Annual Bike Build. The Turkey smoke is a three-day event that hosts 15-20 volunteers, and the Bike build is a four-hour event that hosts 20-30 volunteers.

Our clubhouse is upheld by non-profit donations from 18 current members, down from the peak of nearly 250 in the 1980s. The usage of the building does not consist of granting access to members, but rather acts as a central location for board meetings and planning sessions to plan how to use the best utilize the funds in our community. Our board consists of 7 paying members who gather once each month in the building to discuss how to serve our community. There is no paid staff at our location and the building is vacant and locked 95% of the time. The building is not sublet to any other persons or institutions, and is not used for large functions such as weddings. We sometimes open our building to fellow non-profit organizations such as the adjacent school and churches located at 1900 Conway Gardens Rd when needed. We would like to continue to serve our community with confidence and were informed during a visit to city planning that updating our zoning to a Community Center would bring us up to proper compliance if we wish to continue opening our building to other organizations.

The variance requested is a request to maintain the current standard of parking on the premises. Our property was designed and built in 1955 for and by the Conway Women's Garden Club where they maintained a beatification standard of a natural FL setting in the community until the Kiwanis Club of

COVER LETTER

South Orlando purchased the premises in 1999, with which the Kiwanis Club has upheld their horticultural standard on the premises ever since. The Women's Garden Club and the Kiwanis Club are the only two owners in the history of this property. It is our observation that disrupting the land to add unnatural pavement and/or gravel will detract from the natural efforts that have been maintained by the property for 67 years. Due to the rarity of frequency that the building is utilized and how infrequent it is accessed; we wish to keep natural area remaining beautified with the ancient oaks and aged floral trees on the property structure to best represent the traditions of the neighboring community. Parking accommodations on the premises are sufficient for all Kiwanis meetings, and we use the adjacent church named Eastside Baptist Church for our two events. A parking contract between Kiwanis and the Church has been provided in this packet. Maintenance for the parking lots is kept up by volunteers and is monitored weekly.

Thank you for considering our request.

Sincerely,



Justin Bauknight

South Orlando Kiwanis Club

Assigned Agent and President

COVER LETTER

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

Comprehensive policy plan was reviewed by the Kiwanis Board President on 4/27/22 and all usage for the building is found more deemed consistent with the requirements therein.

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

The adjacent property located at 1000 Curry Ford Rd. applied for a special exception on 1/4/15 and approved - case # 15-15-01-150. A large motivation for this special exception is to further accommodate the adjacent property under the current zoning as a Community Center.

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

Usage of building will remain the same as its served the community for over 50 years, which does not intrude on or into any surrounding areas.

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

The current President of District Curry Ford West frequently utilizes the clubhouse for community meetings (as did past presidents). This building is very well known & beloved to the district.

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.

No change to use of building will be enacted in strict adherence to proper zoning rules in accordance, but not limited to, noise, vibration, odor, glare, heat producing, & other relevant characteristics will be followed.

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.

Section 24-5 was reviewed by Kiwanis Board President along with comprehensive plan on 4/27/22. All items as required in a section 24-5 are, and have been, compliant. No changes to landscaping is being requested.

COVER LETTER

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.

Zoning has not been updated since 1955. Special exception is requested to zone existing property use (7700-East-42nd/Union) to in R-1 to current zoning classification Community Centers in R-1
2) Variance to allow unpaved parking in lieu of paved. 3) Variance to allow unpaved drive exists in lieu of paved.

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.

No actions of the foundation or applicant resulted in the variance request. The special exception is desired to maintain the property's current usage.

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.

NOT special privilege is requested. Our request is to maintain the property at its current standards.

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.

Our request does not deprive any rights of other properties but instead is designed to enrich & improve all surrounding properties.

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 keeping property & building at it's original intended use, which has been maintained & unchanged to it's current use.

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.

It is our relative desire to rectify the property into the correct purpose & intent which reflects proper harmony of the 4-story and 13' height of the neighborhood.

Appendix 1

Special Exception: SE-22-09-095 1940 Conway Gardens Rd.

The details in this appendix are in response to the inquiries provided by the Chief Planner on 10/07/2022. Please consider all information below as additional information from the original submission:

Cover Letter

- Please be advised that the attendance for the Annual Turkey smoke ranges from 30-35 adults and children at any given time. The attendance for the Annual Bike Build Ranged from 40-45 adults and children at any given time.
- The adjacent church has 36 paved parking spots available.
- Church Hours are from 9:00-12:30 on Sundays. The Kiwanis Clubhouse is always closed on Sundays.

Site Plan

- Please be advised that our Board has agreed to build a dumpster wall that is 6 ft high on 3 sides in order to accommodate the standards of the special exception. The location of the dumpster wall to be built is detailed in Picture 1 on this document (on p.2).

Parking Overview

- We agree to place railway ties on both the borders of the designated parking areas AND the drive-in entrance (to prevent parking on the front lawn area). Please see Picture 1 on this document for location on railway ties.

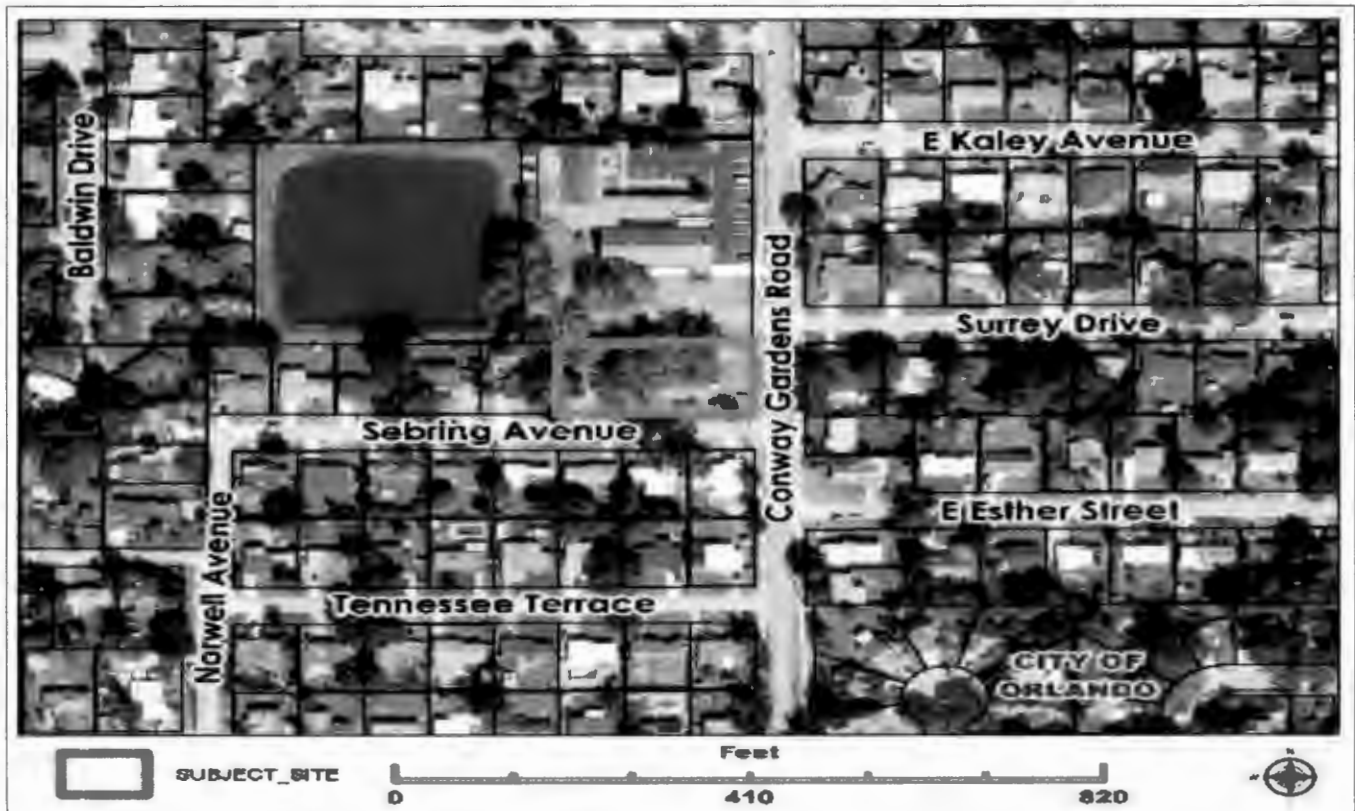
Additional Notes:

- The trailer depicted in Picture 2 (on p.2) is not owned by the Kiwanis Club. The trailer belongs to the owner of St. Vicks BBQ, who is currently waiting city permits to move into his permanent location for his restaurant. Unfortunately, the permitting for this small business has been delayed significantly, so the Kiwanis Club agreed to help accommodate his equipment while he waits for the permits to clear. We expect the trailer to be gone in the next month or two and have a board review to discuss the trailer pending for November. If we must inform the owner to remove his trailer from the property, then please advise and we will prompt have it removed off the premises.
- The smokers secured in the gate on the back of the property are used once a year for the annual turkey smoke.

ZONING MAP

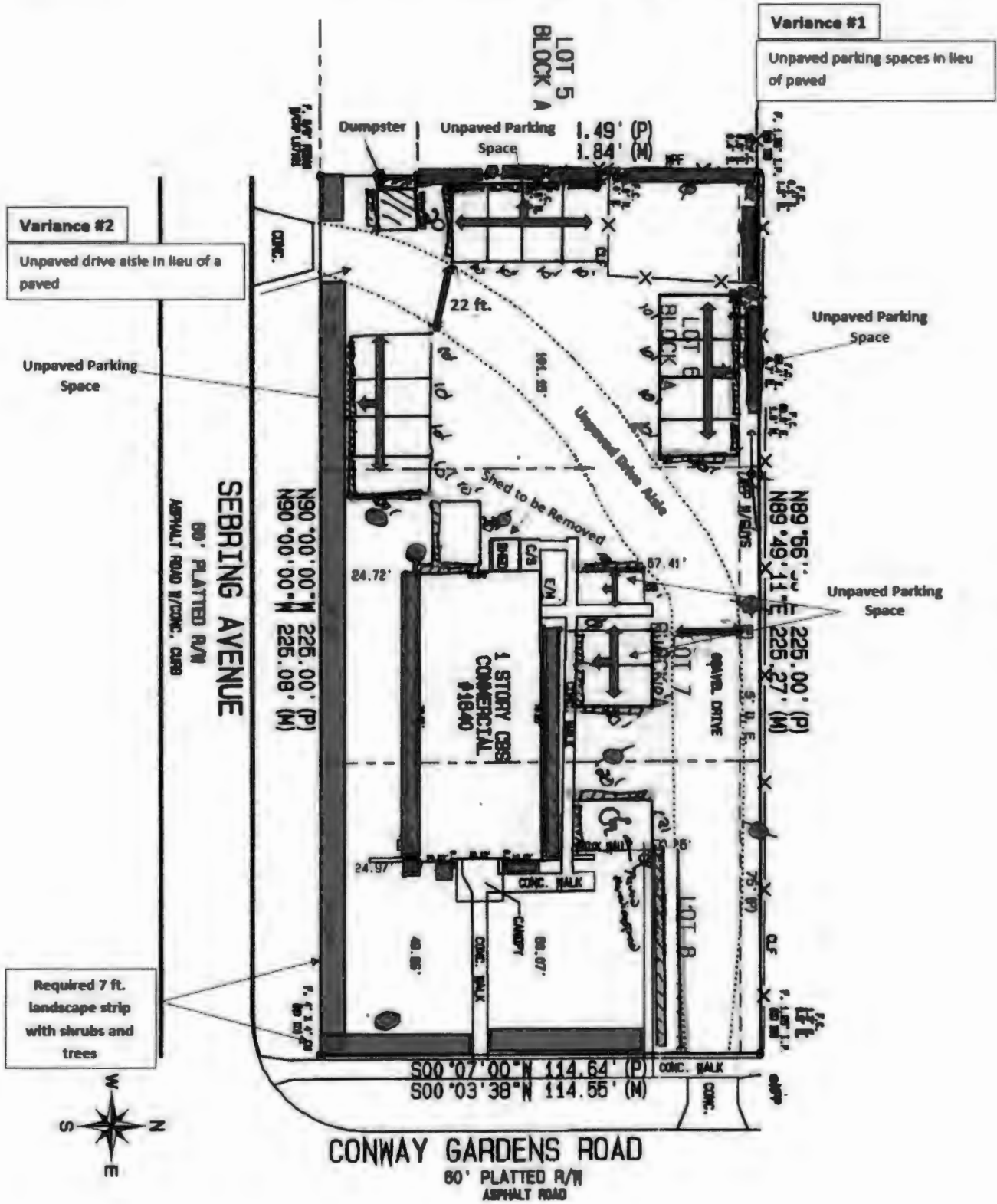


AERIAL MAP



SITE PLAN

= Fiberglass = Old Oak = Mature Plant tree = PL Tables = Railway Ties



SITE PHOTOS



Facing west from Conway Gardens Rd. towards front of subject property



Facing northwest from corner of Conway Gardens Rd. and Sebring Ave. towards property

SITE PHOTOS



Facing west from Conway Gardens Rd. entrance towards proposed front with unpaved drive aisles



Facing north from Sebring Ave. towards rear entrance of property

SITE PHOTOS



Rear yard, facing east towards proposed unpaved parking spaces with building in background

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 03, 2022**

Commission District: **#2**

Case #: **SE-22-08-064**

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

GENERAL INFORMATION

APPLICANT(s): MATTANIAH JAHN FOR CORAL TOWERS LLC

OWNER(s): ORRIN BARNES

REQUEST: Special Exception in the A-1 zoning district to allow the construction of a 140 ft. high camouflaged monopole communication tower.

PROPERTY LOCATION: 1755 W. McCormick Rd., Apopka, FL 32703, north side of W. McCormick Rd., west side of SR. 429, east of Ocoee Apopka Rd.

PARCEL ID: 32-21-28-0000-00-016

LOT SIZE: +/- 2.4 acres

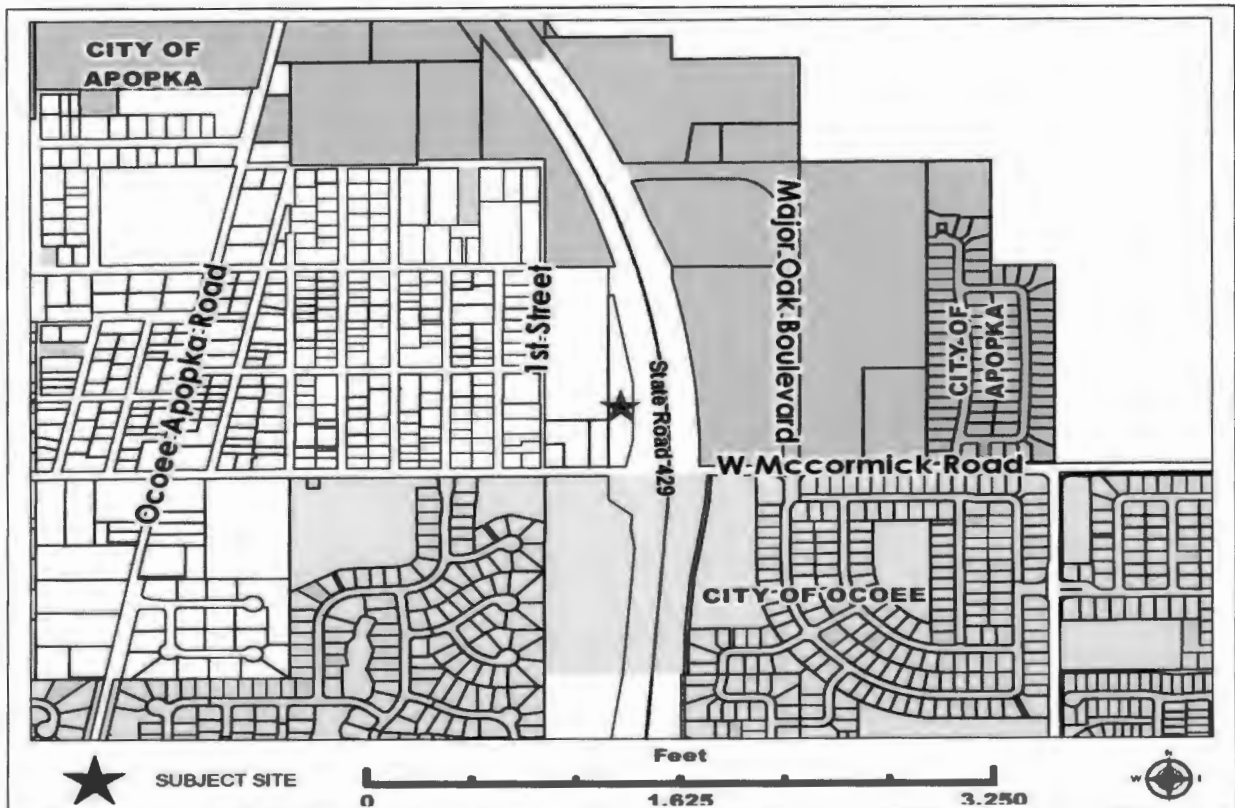
NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 311

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT TO THE FEBRUARY 2, 2023 BZA MEETING.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	S.R. 429	Ocoee	S.R. 429/ Apopka	Ocoee, A-1
Future Land Use	R	S.R. 429	Ocoee	S.R. 429/ Apopka	Ocoee, Rural
Current Use	Single-Family Residence	Toll Highway	Expressway staging area/ Toll Highway	Toll Highway	Single-Family Residence, County Retention

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1, Citrus Rural district, which primarily allows agricultural uses, nurseries, and greenhouses, as well as mobile homes and single-family homes on larger lots. A monopole communications tower is permitted by right or by Special Exception in the A-1 zoning district, depending on whether or not it meets a variety of requirements. The Future Land Use is Rural, which is consistent with the A-1 zoning district.

The subject property is 2.4 acres in size and is a conforming lot. The property contains a 2,098 square foot mobile home with carport and porch which were constructed in 1984. The property is an unusually shaped lot that is very long and narrow. It is bounded on the north and east sides by the S.R. 429 toll highway, on the west by a single-family residence and a County retention area, and to the south by McCormick Rd.

The subject request is to erect a 140 ft. high monopole camouflaged communication tower, designed for multiple carriers and colocation opportunities, within an approximately 45 ft. by 75 ft. leased compound facility at the north side of the property, to the east of the County retention pond. The site plan also indicates a future development area to the north of the proposed compound facility to be used for future communication equipment, although it is not a part of the current request. No buildings, trees or vegetation will be removed for installation.

Orange County Code Section 38-1427 provides performance standards for communication towers, including but not limited to, separation from off-site uses and distance separation between communication towers. Additional conditions related to permitted towers and those requiring a special exception are found in Section 38-79, conditions 32 and 143. Condition 32 allows a communication tower by-right in agriculturally and residentially zoned lands not located within a Rural Settlement. Condition 143 allows a monopole up to 170 ft. in height by right if there is co-location and distance separations are met, otherwise a Special Exception is required. Although it is being designed for colocation opportunities, the proposed tower will have no colocation at the time of installation, and therefore the applicant is requesting a Special Exception.

The proposed monopole tower complies with the required performance standards. It is 401 ft. from the nearest off-property residential use or district, where a minimum of 375 ft. is required. The nearest off-site use, the existing single-family residence located on-property is located 264'-11" in lieu of 350 ft. from the tower, which has been administratively approved by the Zoning Manager as permitted under Section 38-1427(d)(2)a. and 38-1427(d)(2)d. Further, it is 2,640 ft. from the nearest lattice or guyed communication tower where a minimum of 2,500 ft. is required.

Proposed is a camouflaged monopole tower, identified as a monopine tower by the applicant, which is camouflaged to resemble a pine tree. It is proposed to be sited adjacent to the wooded portion of the site located next to the toll expressway. When a camouflaged tower is proposed, the BZA determines whether or not a tower as a camouflaged facility is appropriate in a given area based upon compatibility with the nature and character of the surrounding with respect to: land use, surrounding environment, building heights and designs, and building/environment density. Based on the proposal, staff recommends that the BZA determine that the tower is appropriate with the character of the area.

A balloon test was conducted on October 27 and 28, 2022, as required by the Orange County Code for Special Exception requests, which provided visual evidence that the proposal will have a limited aesthetic impact with respect to height and closeness of the communication tower in proximity to the nearest residential use or district.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. building 170 ft. tower (if meets 6 standards)	140 ft. (Special Exception)
Min. Lot Size:	0.5 acres	+/- 2.4 acres

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

	Code Requirement	Proposed
Front:	35 ft.	647 ft. (South)
Rear:	50 ft.	467.3 ft. (North)
Side:	10 ft.	15.3 ft. (East) 58.5 ft. (West)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA FOR COMMUNICATION TOWERS

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

Consistent with the Comprehensive Plan

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

Similar and compatible with the surrounding area

The new communication tower will be located at the rear portion of the property, over 25 feet from the nearest adjacent property line to the west, which is a retention area in the City of Ocoee, over 401 feet from the nearest

off-property residential use or district and over 2,650 feet from the nearest communication tower. It will be similar and compatible with the surrounding area directly adjacent to the use, which is S.R. 429 to the north and east and a County retention area to the west.

Shall not act as a detrimental intrusion into a surrounding area

The proposed communication tower will be completely surrounded by public uses such as the S.R. 429 highway and a County retention area and will not negatively impact the surrounding area since it will be over 401 feet from the closest off-property residential use or district, and as such will not be a detrimental intrusion to the surrounding area.

Meet the performance standards of the district

With the approval of the administrative reduction in distance separation to the off-site use, the proposed communication tower meets the performance standards of the district.

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

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

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

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

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

The tower is proposed to be located over 401 feet from the nearest off-property residential use or district and over 2,650 feet from the nearest communication tower. Furthermore, as affirmed by the visuals provided by the conducted balloon tests, the camouflaged tower will have a limited aesthetic impact.

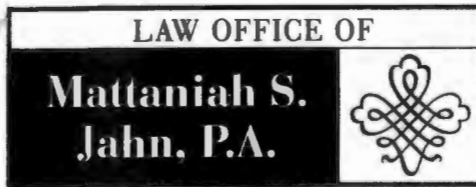
Compatibility. The degree to which the proposed tower is designed and located is compatible with the nature and character of other land uses and/or with the environment within which the tower proposes to locate. The proposed tower will be placed and designed to assist with mitigating the overall aesthetic impact of a tower and will be surrounded by non-residential, public uses.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and tower specifications received May 26, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the communication tower facility shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
6. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
7. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

C: Law Office of Mattaniah Jahn, P.A.
935 Main Street, Suite D1
Safety Harbor, FL 34695

Aya Abunada
935 Main Street, Suite D1
Safety Harbor, FL 34695



935 Main Street, Suite D1
Safety Harbor, FL 34695
Telephone: (727) 773-2221
Facsimile: (727) 773-2616

SENT VIA UPS OVERNIGHT DELIVERY

June 02, 2022

Orange County Zoning Division
Ted Kozak
201 S. Rosalind Avenue
Orlando, FL 32801
Ted.Kozak@ocfl.net

**RE: Coral Towers, LLC – McCormick
1775 W. McCormick Road, Apopka Florida – Parcel #32-21-28-0000-00-016
Special Exception Request for 140’ AGL Monopine style Communication Tower.**

Dear Mr. Kozak

On behalf of my client, Coral Towers, LLC please find the included supplement to a Special Exception application, filed on May 18th, 2022, to allow a 140’ AGL monopine style telecommunication tower and support facility on parcel #32-21-28-0000-00-016 along with supporting documentation:

- Site Plan Sets – signed and sealed
 - 4 sets of at 11 x 17
 - 1 set at 24 x 36

Summary of Request

Coral respectfully supplements a Special Exception application filed on May 18th, 2022 for 1755 McCormick Road, Apopka, FL 32703 on Parcel 32-21-28-0000-00-016, to allow the construction of a 140’ AGL monopine style camouflage telecommunication tower (“Monopine”) and related fenced compound and power meter/telco rack. The 2.52 Acre parcel is currently developed with open space and is situated on the West site of State Road 429. Coral’s leased area consists of approximately 3,000 square feet and the monopine will be contained within a trapezoidal locked compound. The parent parcel currently carries a Rural Future Land Use designation and an A-1 zoning designation.

Applicable Land Development Code

Sec. 38-78. - Special exception criteria.

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

- (1) The use shall be consistent with the comprehensive plan.

Section 38-1427, LDC, is the expression of the Comprehensive Plan in relation to communication towers within Orange County. The Monopine meets or exceeds all requirements of this section as well as the dimensional requirements for A-1 zoning. Therefore, the Monopine is 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.

The Monopine is proposed on a parent parcel with an Rural Future Land Use designation and A-1 zoning designation. Camouflage towers such as the Monopine are allowable on such parcels on a special exception basis to ensure that the camouflage is contextually logical to the area. The Monopine is proposed to be sited in the wooded portion of a parent parcel that is located next to a limited access expressway. A retention pond and mature tree coverage exists to the West and Southwest. Mature urban canopy exists through all developed areas and helps break up view sheds in the area, further buffering the Monopine from off-site residential uses. Finally, the Monopine exceeds the codes required residential and tower to tower separations. Therefore, the Monopine is compatible with the surrounding area and consistent with the pattern of surrounding development.

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

The contrary is true, the Monopine will benefit the surrounding area by providing reliable wireless coverage to it. As of 2019, 88.45% of all 911 calls in Orange County were made on wireless phones. Please see the enclosed 911 call statistics.

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

The Monopine meets or exceeds all A-1 district performance standards.

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

The Monopine, which is located in a wooded portion of a lot zoned A-1 will be unstaffed, camouflaged, with dull, brown and green colors, and completely dark at night. Therefore, it will not emit noise, vibration, dust, odor, glare, or heat. Please see Sheets C-7 and C-4, as well as the enclosed RF Package and FAA Determination of No Hazard.

- (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.

Section 38-1427, LDC, controls landscape buffer yards in this instance. Coral will meet the codes landscaping requirements. Please see Sheet L-1.

Sec. 38-1427. - Communication towers.

- (a) *Legislative findings, intent and purpose.* The board of county commissioners has on numerous occasions and with increasing frequency been confronted with requests to site communications towers. Prior to the adoption of this section, no specific procedures existed to address recurrent issues related to siting communication towers. Accordingly, the board of county commissioners finds that the promulgation of this section is warranted and necessary:

...

- (4) To accommodate the growing need for communication towers;

The proposed Monopine will support Orange County's growing need for communication tower infrastructure by providing coverage for AT&T. Additionally, the Monopine will have collocation capacity to accommodate up to 4 carriers total. Please see Sheet C-4 as well as the enclosed Collocation Affidavit and RF Package.

- (5) To promote and encourage shared use/co-location of existing and new communication towers as a primary option rather than construction of additional single-use towers;

The proposed Monopine will be constructed for AT&T initially and will have collocation capacity to accommodate up to 4 carriers total. Please see Sheet C-4.

- (6) To consider the public health and safety of communication towers;

The proposed Monopine will be equipped with antennas and computer technologies. Further, it will be in compliance with the latest Florida Building Code and designed with a 45' Fall Zone Radius. The tower will be in full compliance with FCC and FAA regulations for new cell towers. As of 2019, 88.45% of all 911 calls in Orange County were made on wireless phones. Please see the enclosed 911 statistics.

COVER LETTER

- (7) To avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

The proposed Monopine will be designed to the 2020 Florida Building Code. In the unlikely event that the structure ever should fail, it will not collapse, instead it will buckle at a pre-determined point and fold over onto itself within a 45' Fall Zone Radius and will be completely contained on the parent parcel. Please see Sheet C-1.

(b) *Applicability.*

(1) ...

(c) ...

(d) *Performance standards.*

(1) *Setbacks.*

- a. Communication tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Communication towers shall comply with the minimum setback requirements of the district in which they are located and the major street setbacks outlined in article XV of this chapter, zoning, of the County Code. In cases where there is a conflict between the minimum setback requirements and the major street setbacks, the greater setback shall apply.

The Monopine will be located in the wooded portion of a parent parcel that is situated to the West of State Road 429, the Western Beltway. SR 429 neighbors the parent parcel to the North, South and East. A detention pond exists to the West of the parent parcel. The parent parcel is zoned A-1 with a Rural Future Land Use designation. The proposed Monopine will be set back from the lot lines as follows:

Tower Setbacks:

	Required:	Provided:
North:	50'	467'- 4"
South:	30'	647'- 0"
East:	15'	45'- 0"
West:	15'	58'- 6"

Compound Setbacks:

	Required:	Provided:
North:	50'	456'- 3"
South:	30'	620'- 11"
East:	15'	15'- 4"
West:	15'	25'- 3"

Therefore, the Monopine exceeds all required lot setbacks. Please see Sheet C-1A.

b. ...

(2) *Separation from off-site uses/designated areas.*

- a. Communication tower separation shall be measured from the base of the tower to the closest point of off-site uses and/or designated areas as specified in the table set forth in subsection (d)(2)d.
- b. Separation requirements for communication towers shall comply with the minimum standards established in the table set forth in subsection (d)(2)d.
- c. Separation distances may be reduced by the zoning manager when notarized written consent is obtained from those affected property owners within the applicable separation distance.
- d. Communication tower separation from off-site uses/designated areas. (See "Exhibit B," below.)

EXHIBIT B COMMUNICATION TOWER SEPARATION FROM OFF-SITE USE OR DESIGNATED AREA

Proposed Tower Types	Single-Family or Duplex Residential Units ^{1,4}	Vacant Single-Family or Duplex Residentially-Zoned Platted Lands ²	Vacant Unplatted Residentially-Zoned Lands ^{2,3}	Existing Multiple-Family Residential Units	Non-Residentially Zoned Lands or Non-Residential Uses
Lattice tower	1,250 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	1,undred feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	825 feet or 200% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	825 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	None; only district setbacks apply

COVER LETTER

Lattice tower	1,250 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	1,250 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	825 feet or 200% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	825 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	None; only district setbacks apply
Guyed tower	1,000 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	1,000 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	625 feet or 200% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	625 feet or 700% of height of tower, whichever is greater, but limited to a maximum of 1,500 feet	None; only district setbacks apply
Monopole higher than 140 feet	980 feet or 700% of height of tower, whichever is greater	980 feet or 700% of height of tower, whichever is greater	280 feet or 200% of height of tower, whichever is greater	980 feet or 700% of height of tower, whichever is greater	None; only district setbacks apply
Monopole between 80 feet and 140 feet	400 feet or 500% of height of tower, whichever is greater	400 feet or 500% of height of tower, whichever is greater	160 feet or 200% of height of tower, whichever is greater	400 feet or 500% of height of tower, whichever is greater	None; only district setbacks apply
Monopole lower than 80 feet	175 feet or 500% of height of tower, whichever is greater	175 feet or 500% of height of tower, whichever is greater	70 feet or 200% of height of tower, whichever is greater	175 feet or 500% of height of tower, whichever is greater	None; only district setbacks apply

...
The Monopine will be a 140' AGL camouflaged tower, therefore, the required residential separation is 375' (2.5x Tower Height). The Monopine will exceed the Code's required separation. Please see Sheets C-3 and C-7.

EXISTING TOWERS—TYPES

Proposed towers—			Monopole greater than 170 ft. in height	Monopole 80 ft. to 170 ft. in height	Monopole less than 80 ft. in height
Types	Lattice	Guyed			
Lattice	5,000	5,000	3,500	2,500	500
Guyed	5,000	5,000	3,500	2,500	500
Monopole greater than 170 ft. in height	3,500	3,500	3,500	2,500	500
Monopole 80 ft. to 170 ft. in height	2,500	2,500	2,500	1,500	500
Monopole less than 80 ft. in height	500	500	500	500	500

(emphasis supplied)

NOTE: Tower separation requirements shall not be applicable where the existing tower(s) and the proposed tower are both located within any industrial (I-1 through I-4) and heavy commercial (C-3) zoning districts.

- b. The separation distances listed in subsection 38-1427(d)(3)a. above for proposed monopole towers shall be decreased by 500 feet for proposed towers eighty (80) feet and higher in height and decreased by one hundred (100) feet for proposed towers less than eighty (80) feet in height provided such proposed monopole towers provide a permit for an up-front, co-located facility (two (2) communication antennas detailed on the permit application and erected prior to certificate of completion).

The Monopine will be 140' tall, therefore it must be located 2,500 from other towers in the area. The Monopine is located 0.5 miles from the nearest tower. Therefore, the Monopine exceeds the Code's tower to tower separation requirements. Please see Sheet C-3A.

- (4) *Method of determining communication tower height.* Measurement of communication tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel.

The Monopine will be 140' AGL, please see Sheet C-4.

COVER LETTER

- (5) *Illumination.* Communication towers shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration. At time of construction of the communication tower in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower from the tower, dual mode lighting shall be requested from the FAA.

The Monopine will not be illuminated. Please see Sheet C-4 and the enclosed FAA Determination of No Hazard.

- (6) *Finished color.* Communication towers not requiring FAA painting/markings shall have either a galvanized finish or painted a noncontrasting blue, gray, or black finish.

The Monopine will have a dull beige trunk and branches with green foliage. Please see Sheet C-6 and the enclosed Photo Simulations.

- (7) *Structural design.* Communication towers shall be constructed to the EIA/TIA 222-E Standards, as published by the Electronic Industries Association, which may be amended from time to time, and all county construction/building codes. Further, any improvements and/or additions (i.e., antenna, satellite dishes, etc.) to existing communication towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIT/TIA 222-E Standards in effect at the time of such improvement or addition. Such plans shall be submitted to and reviewed and approved by the county building department at the time building permits are requested.

The Monopine will comply with the LDC, please see Sheet T-1.

- (8) *Public notice.* For purposes of this section, any special exception request, land use plan approval in a P-D, substantial change in a P-D land use plan, or appeal of the zoning manager's decision regarding this section, shall require public notice to all abutting property owners and all property owners of properties that are located within five hundred (500) feet of the perimeter of the parent parcel upon which the proposed communication tower is located. Further, authorized representatives of homeowners' and property owners' associations registered with or known to the county planning department within one thousand five hundred (1,500) feet of the perimeter of the parent parcel upon which the proposed communication tower is located will be provided public notice on a courtesy basis; however, inadvertent failure to supply such courtesy notice shall not invalidate the hearing procedure. For purposes of this section, any variance request shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in subsection (d)(2).

Noted.

(9) *Public information signage.*

- a. Within twenty (20) days after final approval of a special exception, variance, land use plan approval in a P-D, substantial change to a P-D land use plan, or appeal of the zoning manager's decision by the applicant regarding this section, the communication tower owner/operator shall cause to be placed on the parcel signage designating the site as a future communication tower site.
- b. One four-foot by four-foot sign shall be placed along each right-of-way frontage bordering the parcel within a distance such that the copy is visible and legible from the right-of-way.
- c. Each sign shall be weather durable and include in addition to the designation, the company name of the communication tower owner/operator, and a phone number and contact person from whom additional information may be obtained.
- d. Appropriate county building permits shall be obtained prior to installation of the signage.
- e. Such signage may not be removed prior to the start of construction of the communication tower but shall be removed prior to the issuance of a certificate of completion for the communication tower. If the approval listed in subsection (d)(9)a. expires or otherwise becomes void, the signage shall be removed immediately.
- f. Other than the above requirements, such signage shall be exempt from all other provisions of the County Code regarding outdoor signs.

Coral will comply with the LDC.

- (10) *Fencing.* A chain link fence or wall not less than eight (8) feet in height from finished grade shall be provided around each communication tower. Barbed wire shall be used along the top of the fence or wall. Access to the tower shall be through a locked gate.

The Monopine will be enclosed by an 8' tall chain link fence with barbed wire mounted on top. The Monopine's compound shall be accessed securely by a locked gate. Please see Sheets C-4 and C-5.

- (11) *Landscaping.* The visual impacts of a communication tower shall be mitigated for nearby viewers through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of communication tower shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the zoning manager for those sides of the proposed tower that are located adjacent to undeveloped lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, the use of existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements.
- a. A row of shade trees a minimum of eight (8) feet tall and a maximum of ten (10) feet apart shall be planted around the perimeter of the fence;

COVER LETTER

- b. A continuous hedge at least thirty (30) inches high at planting capable of growing to at least thirty-six (36) inches in height within eighteen (18) months shall be planted in front of the tree line referenced above;
- c. All landscaping shall be of the evergreen variety;
- d. All landscaping shall xeriscape tolerant or irrigated and properly maintained to ensure good health and viability.

The Monopine's compound will be surrounded on all sides by a 5' landscape buffer containing all code required plantings. Please see Sheet L-1.

- (12) *Documentation, performance bond or deposit for removal.* Prior to receiving a building permit for construction of the communication tower if the applicant does not provide a recorded memorandum of lease of co-location then the applicant shall provide either:
 - a. Documentation supplied to the zoning manager sufficient to demonstrate that an adequate methodology and/or sufficient funds are dedicated to and available for removal of the tower structure upon abandonment (by way of example and not limitation, sufficient documentation would include evidence that the tower owner has the obligation under the governing lease to dismantle and remove the tower upon abandonment); or
 - b. A twenty-year performance bond which shall be posted with the county in an amount sufficient to remove the tower structure upon abandonment. Upon construction of multiple towers under the control of one (1) service provider, the service provider may provide the county with one (1) twenty-year performance bond in an amount not to exceed sixty thousand dollars (\$60,000.00) applicable to all of the service provider's towers for removal upon each tower's abandonment; or
 - c. For placement into a communication tower removal account established with the county comptroller's office, the adequate amount of an irrevocable cash deposit to cover the cost of removal of the tower. The county shall be entitled to use the funds deposited into such account for the necessary removal of any communication tower within unincorporated Orange County. The adequate amount shall be thirty dollars (\$30.00) per foot of height for monopole towers and one hundred dollars (\$100.00) per foot of height for lattice or guyed towers. In no event shall any one (1) service provider be required to place more than thirty thousand dollars (\$30,000.00) into the account for the cumulative number of towers under its control and located within unincorporated Orange County.

Noted.

(e) ...

(f) *Abandonment of communication towers.*

(1) ...

(2) *Abandonment.* In the event the use of any communication tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the zoning manager who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Failure or refusal for any reason by the owner/operator to respond within twenty (20) days to such a request shall constitute prima facie evidence that the communication tower has been abandoned. Upon a determination of abandonment and notice thereof to the owner/operator, the owner/operator of the tower shall have an additional one hundred eighty (180) days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower within the one-hundred-eighty-day period, or (ii) dismantle and remove the tower. At the earlier of one hundred eighty-one (181) days from the date of abandonment without reactivation or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

Noted. Please see Sheet C-6, Abandonment Note.

(3) *Duty to remove abandoned towers.* Notwithstanding the provisions of subsection (2), upon abandonment of a communication tower as determined under subsection (2) by the zoning manager and the failure or refusal by the owner/operator of the tower to either reactivate the tower or dismantle and remove it within one hundred eighty (180) days as required by subsection (2), the following persons or entities (the "responsible parties") shall have the duty jointly and severally to remove the abandoned tower:

- a. The owner of the abandoned tower (and, if different, the operator of the abandoned tower);
- b. The owner of the land upon which the abandoned tower is located;
- c. The lessee, if any, of the land upon which the tower is located;
- d. The sublessee or sublessees, if any, of the land upon which the tower is located;
- e. Any communication service provider who or which by ceasing to utilize the tower or otherwise failing to operate any of its transmitters or antennas on the tower for which it leased space or purchased the right to space on the tower for its transmitters or antennas and such ceasing or failure to utilize the tower in fact caused the tower to become abandoned;
- f. Any person to whom or entity to which there has been transferred or assigned any license issued by the Federal Communications Commission and under which the tower owner/operator operated the tower;
- g. Any person or entity which has purchased all or a substantial portion of the assets of the tower owner or operator;

COVER LETTER

- h. Any entity which has merged with, or which has arisen or resulted from a merger with, the tower owner or operator;
- i. Any person or entity which has acquired the owner or the operator of the abandoned tower;
- j. Any parent or subsidiary of any of the foregoing which happens to be a corporation;
- k. Any managing partner of any of the foregoing which happens to be a limited partnership; and
- l. Any partner of any of the foregoing which happens to be a general partnership.

The abandoned tower shall be removed on or before the ninetieth day after receipt by the responsible party or parties of a notice from the zoning manager ordering its removal. The duty imposed by this subsection shall supersede and otherwise override any conflicting provision of any contract, agreement, lease, sublease, license, franchise or other instrument entered into or issued on and after June 10, 1997.

Noted. Please see Sheet C-6, Abandonment Note.

...

- (h) *Co-location of communication antennas.* To minimize adverse visual impacts associated with the proliferation and clustering of communication towers, co-location of communication antennas by more than one (1) carrier on existing or new communication towers shall take precedent over the construction of new single-use communication towers as follows:
 - (1) Proposed communication antennas may, and are encouraged to, co-locate onto existing communication towers. Provided such co-location is accomplished in a manner consistent with subsections (h)(2) through (h)(4), then such co-locations are permitted by right and new or additional special exception approval shall not be required.
 - (2) *Type of construction.* A communication tower which is modified or reconstructed to accommodate the co-location of an additional communication antenna shall be either of the same tower type as the existing communication tower or a monopole tower that is replacing an existing lattice or guyed tower.

Please see the enclosed RF Package showing that there are no existing towers in the area suitable for colocation in this instance.

...

- (i) *Certification of compliance with Federal Communication Commission (FCC) NIER Standards.* Prior to receiving final inspection by the county building department, documented certification shall be submitted to the FCC, with copy to the county zoning department, certifying that the communications facility complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER).

Coral will comply with the LDC.

...

- (l) *Application submission requirements for special exception, variance, appeal of zoning manager decision, and building permit requests.* The following information shall be submitted concurrent with special exception, variance, appeal of zoning manager decision, or building permit applications. The application may utilize any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information.

- (1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures.

Please see the enclosed Site Plan Set.

- (2) A current tax map and aerial as provided by the county property appraisers office showing the location of the proposed tower.

Please see the enclosed Property Card and Tax Map.

- (3) Legal description of the parent tract and leased parcel (if applicable).

Please see Survey Sheet 1.

- (4) If not within the subsection (d)(2)d. separation distance from residential areas, approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties. If within the subsection (d)(2)d. separation distance requirements, then exact distances, locations and identifications of said properties shall be shown on an updated tax map.

Please see Sheet C-3.

- (5) If within the subsection (d)(3) separation distance from another tower, then the exact distance, location, and identification of other towers shall be shown on an updated tax map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

N/A.

- (6) A landscape plan showing specific landscape materials.

Please see Sheet L-1.

COVER LETTER

- (7) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

The Monopine will be enclosed by an 8' tall chain link fence with barbed wire mounted on top. The Monopine's compound shall be accessed securely by a locked gate. The Monopine will be camouflaged and it will be completely dark at night. Please see Sheet C-4 and C-5.

- (8) A notarized letter signed by the applicant stating the tower will comply with all EIT/TIA 222-E Standards and all applicable county codes.

Please see the enclosed FBC and TIA-H Letter.

- (9) A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

Please see the enclosed Colocation Affidavit.

- (10) An inventory of all communication towers located in Orange County which are under the applicant's control and/or are being used by the applicant. Information on each tower listed shall include:
- a. The type of tower or structure;
 - b. The height of the tower including antennas;
 - c. Latitude and longitude location;
 - d. Street address; and
 - e. Indication whether the site is co-located and, if so, with whom.

Coral Towers, LLC does not own any other towers within Orange County. Please see the enclosed Tower Inventory Letter.

- (11) A copy of the recorded memorandum of lease evidencing co-location, if such memorandum exists.
- b. When there is no memorandum of lease filed with the permit application, the application shall be held by the zoning manager for forty-five (45) days, and:
 1. Within fifteen (15) days of permit application being submitted to the county the applicant shall send by registered mail notice to each FCC-licensed service provider in the applicant's search ring and each FCC-licensed service provider who has registered for notice under this provision with Orange County. The notice shall include the location of the proposed tower (by street address and longitude and latitude), the height of the proposed tower, and a statement identifying the fair market value of leasing space on the tower for a second antenna by another service provider;
 2. After notice, if another service provider desires to locate on the proposed tower, but cannot reach agreement with the tower applicant then, prior to expiration of

the forty-five-day period, the service provider may request a hearing under subsection 38-1427(m);

3. The zoning manager shall take action on the permit application either after the forty-five-day period has run or upon final resolution of a matter forwarded to the hearing officer pursuant to subsection 38-1427(m), whichever is later;
4. The applicant may provide registered mail notice to those service providers as required in subsection 1. above any time thirty (30) days before application is made to the county. Upon documentation of registered mail being sent, the forty-five-day period shall be reduced by the amount of days notice was sent prior to the application being filed.

Please see the enclosed Ground Lease allowing colocation on the site, which will be recorded in memorandum format and submitted with the Monopine's building permit application.

- (12) If deemed necessary by the county, the zoning manager may require the applicant to hold a community meeting prior to the board of zoning adjustment hearing meeting in addition to the other requisite notice requirements.

Coral will comply with the zoning manager's request if it is made.

(Ord. No. 97-11, § 12, 6-23-97)

- (13) For all special exception and/or variance requests the applicant shall provide the RF search ring used to determine the location of the applicant's request. In addition, the applicant shall supply a report that other parcels within the applicant's search ring have been reviewed and, where appropriate, contacted. The applicant shall provide adequate documentation to substantiate the applicant's determination of feasibility of the selected site.

Please see the enclosed RF Package.

...

(m) *Co-location condition for towers eighty (80) feet in height and taller.*

- (1) Every special exception for a communication tower which is eighty (80) feet in height or taller and which is issued after June 23, 1997, shall include the following conditions:
 - a. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.

The Monopine will be designed to accommodate up to 4 carriers total, which exceeds the Code's colocation requirement. Please see Sheet C-4.

- b. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.

Please see the enclosed Colocation Affidavit.

- c. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

Coral will offer the proposed Monopine's available colocation positions on commercially reasonable terms in good faith. Please see the enclosed Colocation Affidavit.

...

- (n) *Standards and criteria for review of special exception requests on communication tower facilities.*

...

- (2) *Balloon test.* The purpose of this test is to assist the BZA in determining aesthetic impact with respect to height and closeness of a communication tower in proximity to nearby residential uses and zoning. The following criteria shall be met:

- a. Balloon specifications:
 - 1. Balloon diameter no less than four (4) feet;
 - 2. Balloon color restricted to red, orange, or yellow;
 - 3. Balloon is anchored to the ground;
 - 4. The height at which the balloon is flown shall be the same as the combined height of the tower and its antennas up to one hundred ninety-nine (199) feet; balloons for towers taller than one hundred ninety-nine (199) feet shall be flown at one hundred ninety-nine (199) feet;
- b. The balloon shall be flown after the public hearing poster is required to be erected on-site. Balloons shall be flown at a minimum, continuously between the hours of 7:00 a.m. and 10:00 a.m. each day it is required to be flown. The balloon shall be flown for a minimum of two (2) days. Failure to maintain the balloon as specified above may result in a delay of the public hearing in order to achieve compliance with same.
- c. Each notice required pursuant to section 30-44 of this Code shall include a statement that the balloon will be flown at least two (2) days during the morning hours prior to the public hearing date.

Noted.

- (3) *Visual aides.* In addition to the balloon test, the applicant may take and submit for BZA review photographs and/or a video taping of the subject site showing the balloon and of the subject site depicting the balloon in its relationship and proximity to neighboring residential lands and uses. The photographs/video may be accompanied by a corresponding written visual impact analysis prepared by the applicant.

Noted.

- (4) *Additional information.* The applicant may submit any other bona fide documentation or evidence that he or she feels may assist the BZA in determining visual impact. Any person or party opposing the applicant's special exception request should submit bona fide evidence or documentation that a proposed tower will have a substantial adverse aesthetic impact on his/her property.

Noted.

...

- (7) *BZA special exception criteria.* In determining a special exception request for a communication tower in addition to those criteria set forth in subsection 30-43(2) of this Code and section 38-78 of this chapter, the BZA shall take into consideration whether or not the proposed tower will have substantial adverse aesthetic impact on neighboring residential lands and compatibility of a camouflaged tower in a given area. The BZA's determination shall be based on relevant and competent evidence, documentation, and testimony received at the public hearing from the staff, the applicant and any party in support or opposition, or their respective representatives. The BZA shall utilize the following criteria in determining if a special exception is deemed approvable:
- a. *Aesthetic impact.* This means view of a tower that is not camouflaged. Aesthetic impact shall take into consideration, but not be limited to, the amount of the tower that can be viewed from surrounding residential zones in conjunction with its proximity (distance) to the residential zone, mitigation landscaping, existing character of surrounding area, or other visual options proposed by the applicant.

The Monopine is proposed on a parent parcel with an Rural Future Land Use designation and A-1 zoning designation. Camouflage towers such as the Monopine are allowable on such parcels on a special exception basis to ensure that the camouflage is contextually logical to the area. The Monopine is proposed to be sited in the wooded portion of a parent parcel that is located next to a limited access expressway. A retention pond and mature tree coverage exists to the West and Southwest. Mature urban canopy exists through all developed areas and helps break up view sheds in the area, further buffering the Monopine from off-site residential uses. Finally, the Monopine exceeds the codes required residential and tower to tower separations. Therefore, the Monopine is compatible with the surrounding area and consistent with the pattern of surrounding development.

(7) *BZA special exception criteria.* In determining a special exception request for a communication tower in addition to those criteria set forth in subsection 30-43(2) of this Code and section 38-78 of this chapter, the BZA shall take into consideration whether or not the proposed tower will have substantial adverse aesthetic impact on neighboring residential lands and compatibility of a camouflaged tower in a given area. The BZA's determination shall be based on relevant and competent evidence, documentation, and testimony received at the public hearing from the staff, the applicant and any party in support or opposition, or their respective representatives. The BZA shall utilize the following criteria in determining if a special exception is deemed approvable:

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

The Monopine is proposed on a parent parcel with an Rural Future Land Use designation and A-1 zoning designation. Camouflage towers such as the Monopine are allowable on such parcels on a special exception basis to ensure that the camouflage is contextually logical to the area. The Monopine is proposed to be sited in the wooded portion of a parent parcel that is located next to a limited access expressway. A retention pond and mature tree coverage exists to the West and Southwest. Mature urban canopy exists through all developed areas and helps break up view sheds in the area, further buffering the Monopine from off-site residential uses. Finally, the Monopine exceeds the codes required residential and tower to tower separations. Therefore, the Monopine is compatible with the surrounding area and consistent with the pattern of surrounding development.

- b. *Compatibility.* This means the degree to which a tower is designed and located to be compatible with the nature and character of other land uses and/or with the environment within which the tower proposes to locate. The tower may be placed, designed or camouflaged to assist with mitigating the overall aesthetic impact of a tower. A camouflage agent shall be designed to be compatible with the surrounding land uses and the environment.

The Monopine is proposed on a parent parcel with an Rural Future Land Use designation and A-1 zoning designation. Camouflage towers such as the Monopine are allowable on such parcels on a special exception basis to ensure that the camouflage is contextually logical to the area. The Monopine is proposed to be sited in the wooded portion of a parent parcel that is located next to a limited access expressway. A retention pond and mature tree coverage exists to the West and Southwest. Mature urban canopy exists through all developed areas and helps break up view sheds in the area, further buffering the Monopine from off-site residential uses. Finally, the Monopine exceeds the codes required residential and tower to tower separations. Therefore, the Monopine is compatible with the surrounding area and consistent with the pattern of surrounding development.

COVER LETTER

STATE OF FLORIDA
COUNTY OF PINELLAS

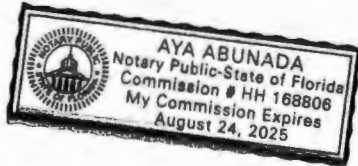
The foregoing instrument was acknowledged before me this 2nd day of June, 2022, by Mattaniah S. Jahn who _____ produced _____ as identification, _____ is personally known to me.

A. C.
Notary Public

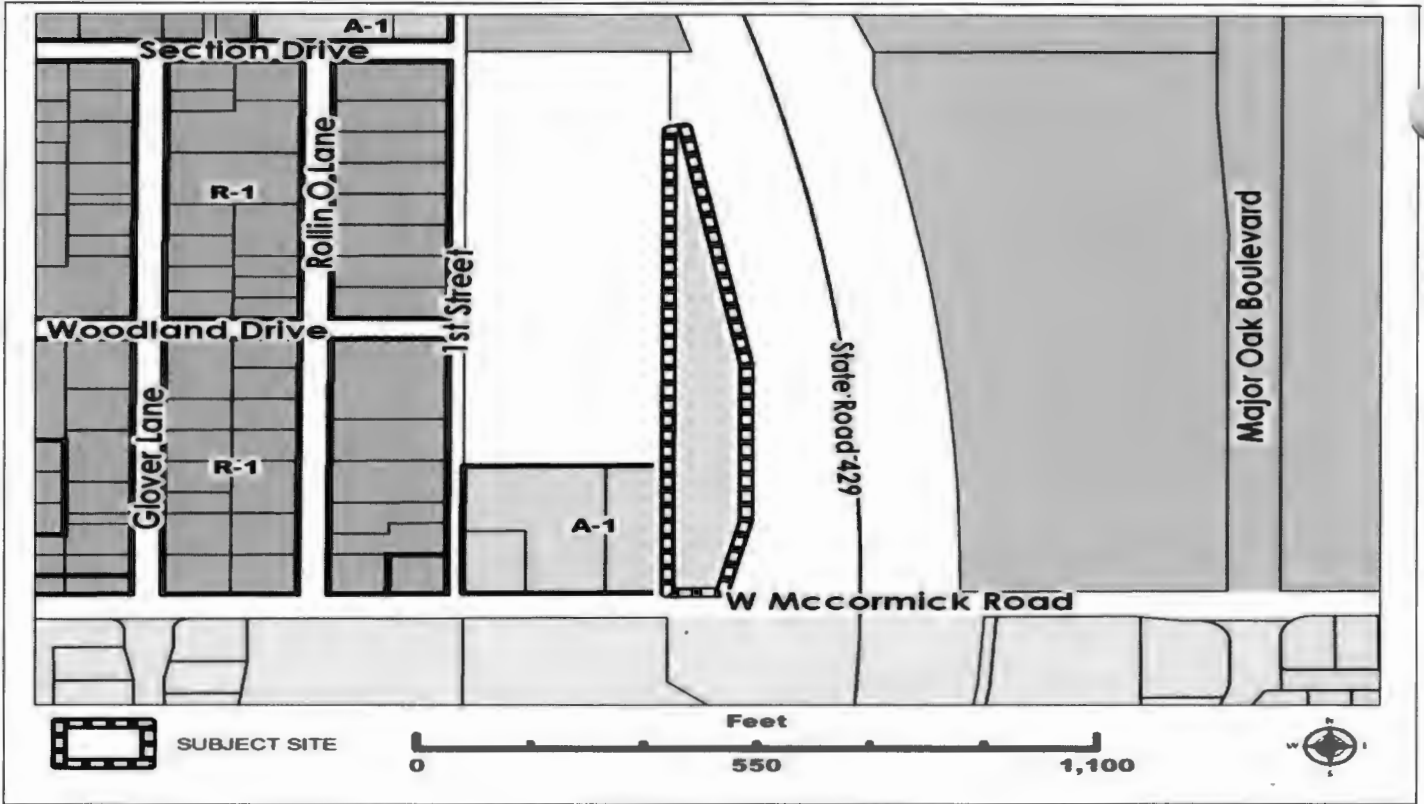
Aya Abunada
Printed Name of Notary

[AFFIX SEAL]

enclosures



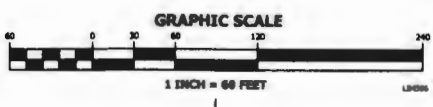
ZONING MAP



AERIAL MAP



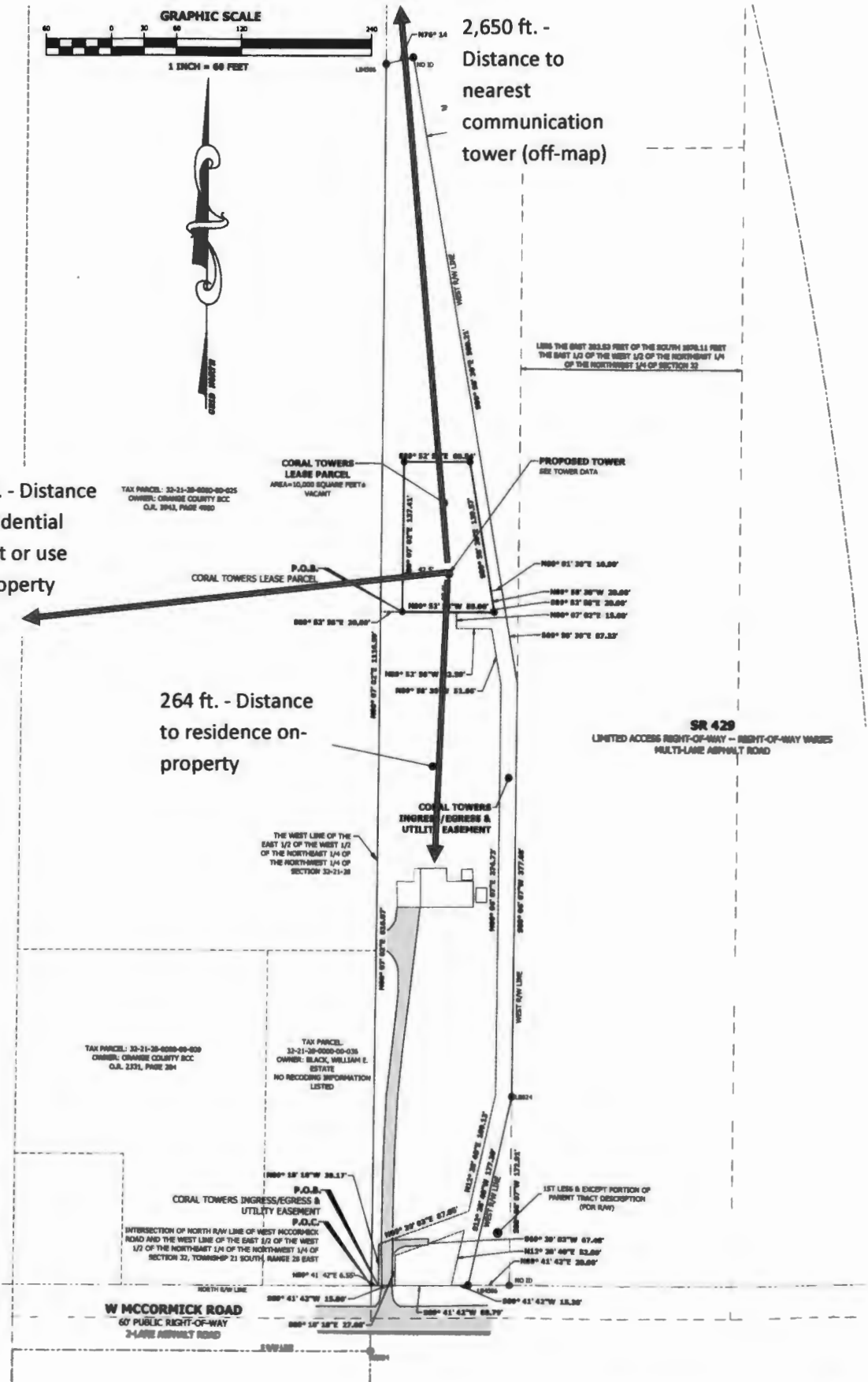
SITE PLAN



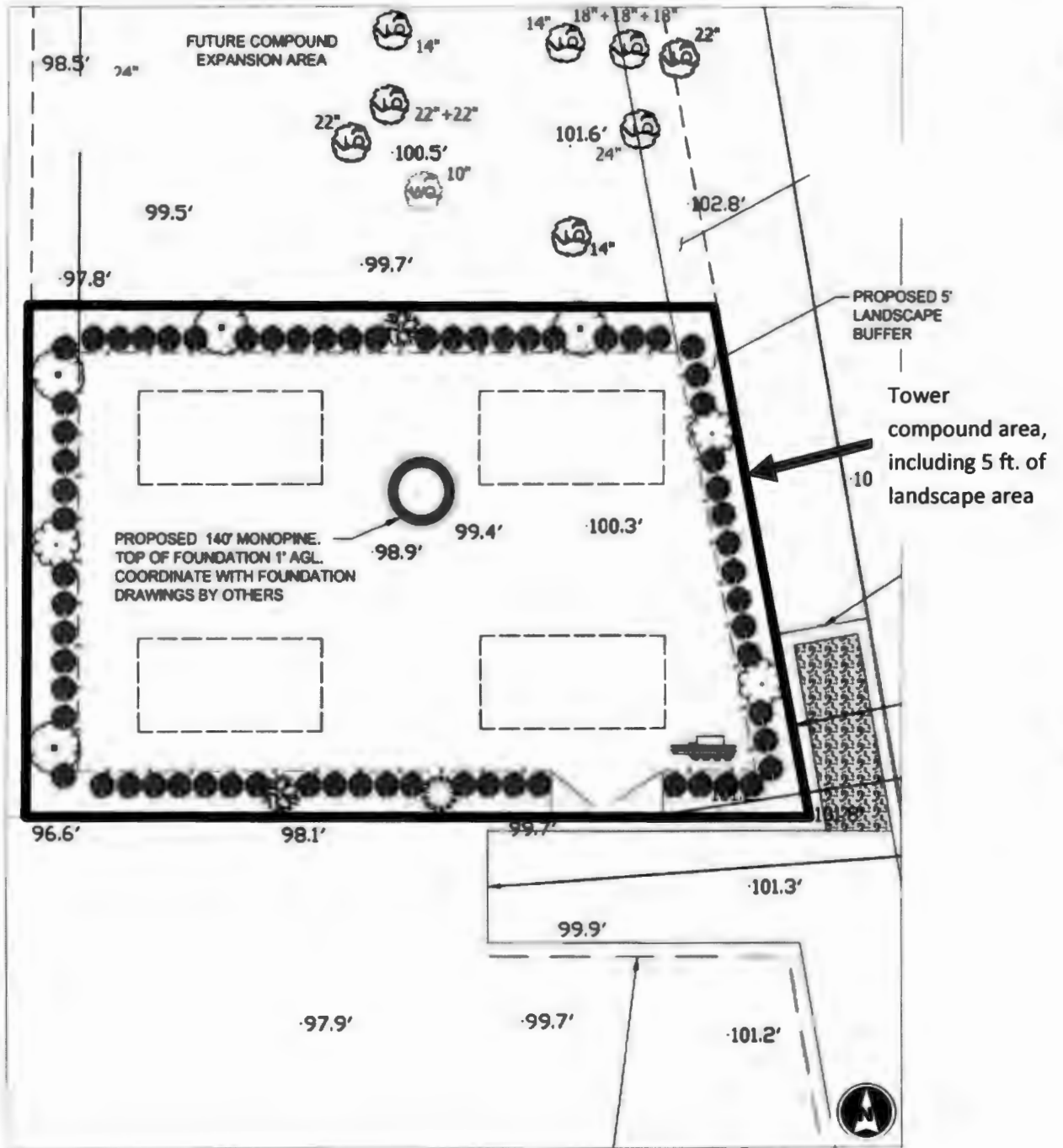
2,650 ft. -
Distance to
nearest
communication
tower (off-map)

401 ft. - Distance
to residential
district or use
off-property

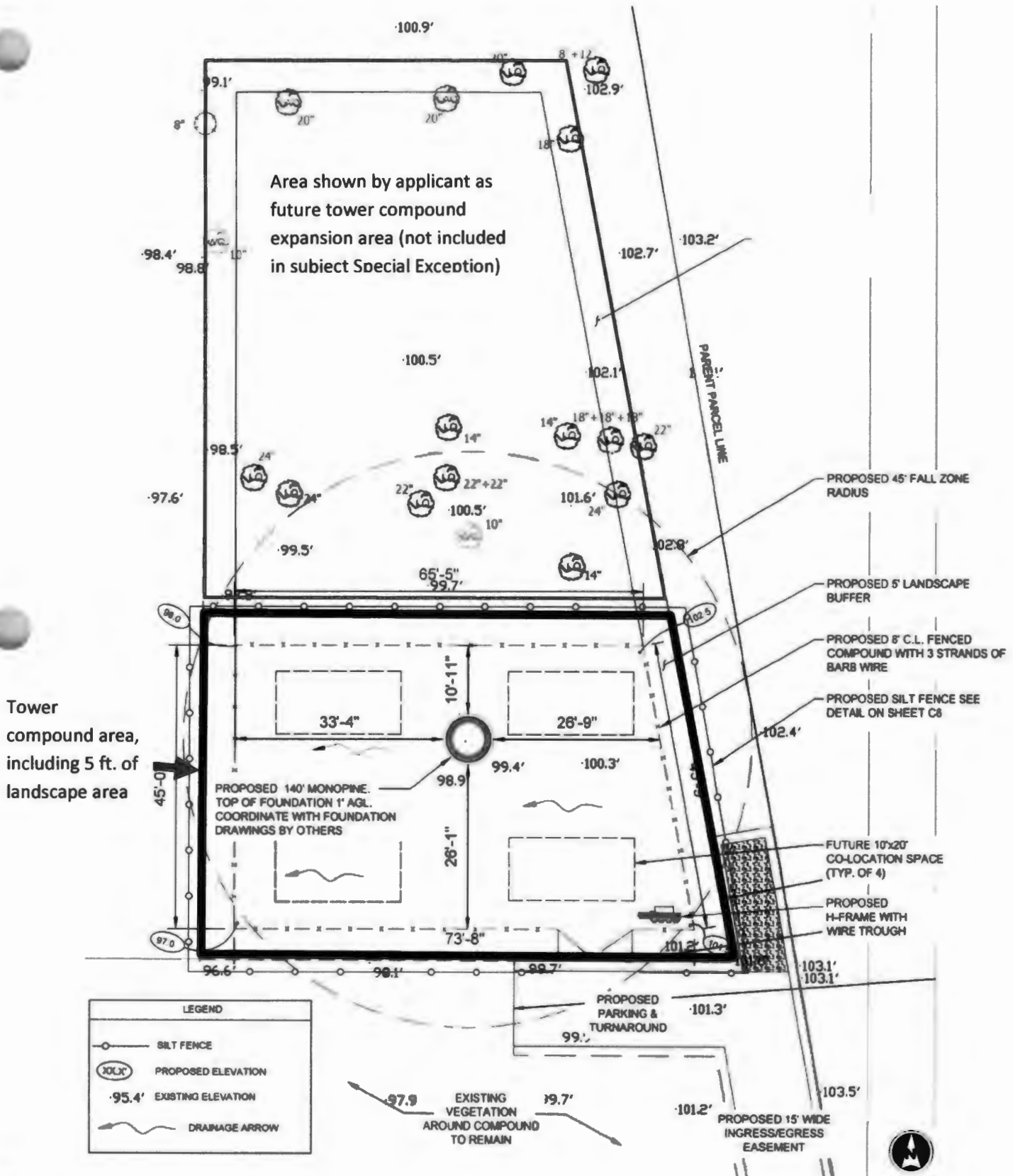
264 ft. - Distance
to residence on-
property



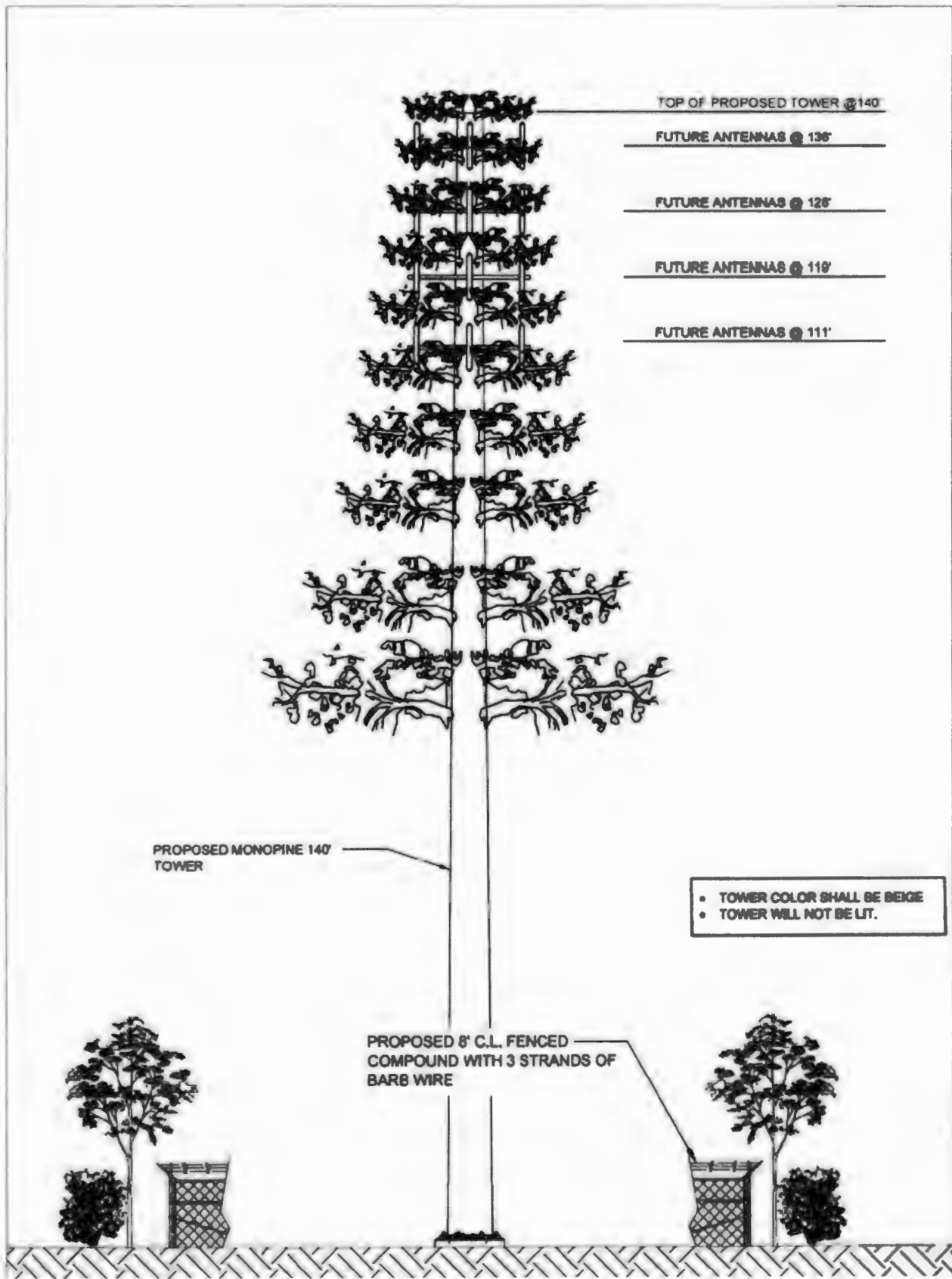
LANDSCAPE PLAN



TOWER LOCATION LAYOUT



TOWER ELEVATION



SITE PHOTOS



Front of property towards proposed tower location facing north from W. McCormick Rd.



Facing west along W. McCormick Rd. with property to the right, Expressway staging area on the left

SITE PHOTOS



Facing north on property, proposed facility location in background, S.R. 429 on the right



Facing south towards W. McCormick Rd., existing residence on the right, S.R. 429 on the left

SITE PHOTOS



Property facing west towards proposed tower location at western portion of site



Facing east towards proposed tower location, S.R. 429 is over the bank

SITE PHOTOS



Facing northeast towards development in Apopka from top bank of S.R. 429



Facing south adjacent to S.R. 429 to the property in distance from closest tower on the left - 2,650 ft. N.

BALLOON TEST PHOTOS



Facing northeast towards property from the southeast corner of McCormick Rd. and Starbird Dr.



Facing west to the property from adjacent neighborhood in Apopka across S.R. 429



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