



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**March 3, 2022**

Zoning Division

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

**Board Member**

**District**

Thomas Moses

1

John Drago (Vice Chair)

2

Juan Velez

3

Deborah Moskowitz (Chair)

4

Vacant

5

Charles J. Hawkins, II

6

Roberta Walton Johnson

At Large

**BZA Staff**

Ted Kozak, AICP

Chief Planner

Nick Balevich

Planner II

Jenale Garnett

Planner I

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

<b><u>PUBLIC HEARING</u></b>	<b><u>APPLICANT</u></b>	<b><u>DISTRICT</u></b>	<b><u>BZA RECOMMENDATIONS</u></b>	<b><u>PAGE #</u></b>
VA-22-03-002	David Tollman	4	Approved w/Conditions	1
VA-22-03-003	Momtaz Barq	1	Approved w/Conditions	13
VA-21-12-124	Ryan Watt for Osprey Sound	6	Continued to 4/7/22	29
SE-21-09-069	Thomas Sullivan for Devereux School	2	Approved w/Conditions	30
SE-22-03-147	Ryan Woods for Duke Energy	2	Approved w/Conditions	50
VA-22-03-001	Nelson Pineda	6	Approved w/Conditions	70
VA-22-02-139	Deivis Mendez for Deworx	3	Approved w/Conditions	81
SE-21-12-118	Jerry Creel for Brush Arbor Baptist Private School	5	Approved w/Conditions	93

**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 Mar 22, 2022.**



# ORANGE COUNTY ZONING DISTRICTS

## Agricultural Districts

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

## Residential Districts

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

## Non-Residential Districts

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

## Other District

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

# SITE & BUILDING REQUIREMENTS

## Orange County Code Section 38-1501. Basic Requirements

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

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

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

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

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

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

## VARIANCE CRITERIA:

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

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

## SPECIAL EXCEPTION CRITERIA:

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

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

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



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#4**

Case #: **VA-22-03-002**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): DAVID TOLLMAN

OWNER(s): JOHN MORTON, LINDA MORTON

REQUEST: Variance in the A-2 zoning district to allow a 75 ft. lot width in lieu of a minimum 100 ft. lot width.

PROPERTY LOCATION: 12743 Broleman Road, Orlando, FL 32832, east side of Broleman Rd., west side of Lake Hart, north of Tyson Rd., east of Narcoossee Rd.

PARCEL ID: 21-24-31-0000-00-017

LOT SIZE: +/- 0.81 acres (35,286 sq. ft.) (+/- 0.55 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 24

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 seat vacant):

1. Development shall be in accordance with the lot width identified on the site plan received January 11, 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 they received twelve (12) comments in favor of the application, and no comments in opposition to the application.

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 variance by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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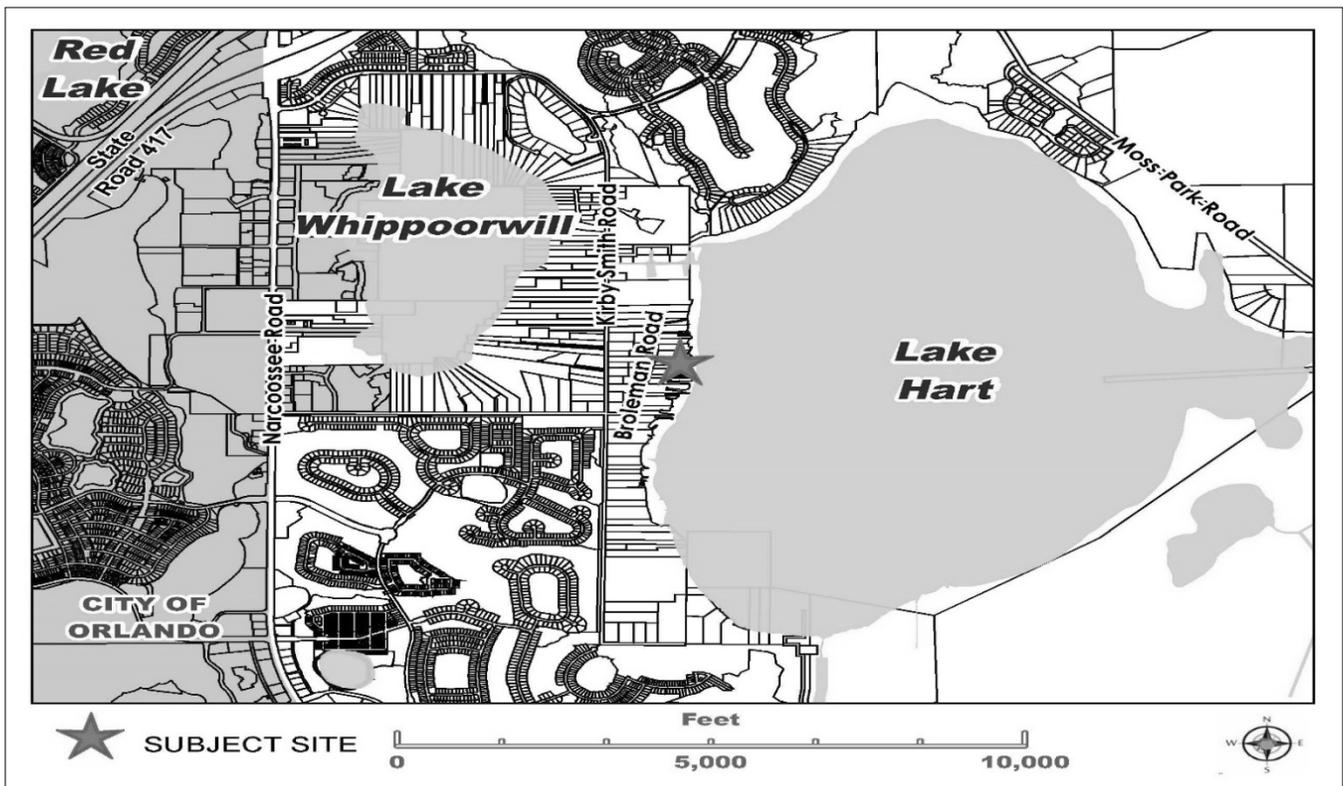
### STAFF RECOMMENDATIONS

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Approval, subject to the conditions in this report.

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### LOCATION MAP



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	Lake Hart	R-CE
Future Land Use	Lake Hart/Lake Whipoorwill Rural Settlement RS 1/2	Lake Hart/Lake Whipoorwill Rural Settlement RS 1/2	Lake Hart/Lake Whipoorwill Rural Settlement RS 1/2	Lake Hart	Lake Hart/Lake Whipoorwill Rural Settlement RS 1/2
Current Use	Vacant (with dock)	Single-family residential	Single-family residential	Lake Hart	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-2, Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. The future land use is Rural Settlement (RS) 1/2. The zoning district is consistent with the future land use. The property is located in the Lake Hart/Lake Whipoorwill 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 Lake Hart/Lake Whipoorwill Rural Settlement, the maximum density is one (1) unit per two (2) acres for new development. While the subject site contains only 0.55 acres of upland, Comprehensive Planning reviewed the request and determined that the application is consistent with the policies in the comprehensive plan that allow one single family home to be developed on the property, as it is considered to be an existing lot of record.

The subject property is Lot 15 of the Lake Hart Camp Sites, which is an unrecorded subdivision established in October 1957. It is a +/-0.81 acre unplatted parcel of land, of which +/- 0.55 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Hart. The property is a vacant parcel with the exception of an existing dock. It was purchased by the current owners in 2016, who are proposing to construct a single story 5,430 gross sq. ft. single-family home on the property which complies with all zoning requirements, including setbacks. The area surrounding the subject site consists of single-family homes, many of which are lakefront.

The property was previously developed with a single-family residence that was demolished in September 2008 (B08008561). The subject site was a substandard parcel that was joined through ownership on August 28, 2008, when the parcel was purchased by the owners of the parcel to the north (Parcel #21-24-31-0000-00-017), another substandard parcel of record at the time. Since both parcels were joined under common ownership, County Code Section 38-1401(a) required them to be aggregated, however, the individual lots were sold to separate owners on April 6, 2016, thereby creating two non-conforming parcels. As a result, a variance is required to allow a single-family home to be constructed on the parcel that is 75 feet wide where

a minimum lot width of 100 ft. is required. A permit, B21012788, for the construction of a single-family residence is on hold pending the outcome of this request.

A Conservation Area Determination (CAD) has been completed (CAD-21-10-230), and the Orange County Environmental Protection Division has determined that the proposed site plan appears to be consistent with the approved CAD.

As of the date of this report, twenty 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.	23 ft.
Min. Lot Width:	100 ft.	75 ft. (Variance)
Min. Lot Size:	21,780 sq. ft.	35,286 sq. ft.

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

	Code Requirement	Proposed
Front:	35 ft.	120.1 ft. (West)
Rear:	50 ft.	50 ft. (East)
Side:	10 ft.	10.1 ft. (North) 10.1 ft. (South)
NHWE:	50 ft.	50 ft. (East)

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**STAFF FINDINGS**

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**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 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 A-2 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 small lots in the area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with lot width identified on the site plan received January 11, 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: David Tollman  
16877 E. Colonial Drive  
Orlando, FL 32820

C: John & Linda Morton  
12743 Broleman Road  
Orlando, FL 32832

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## COVER LETTER

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Jan 6 2022

Applicant  
John & Linda Morton  
12743 Broleman Rd  
Orlando, Fl 32832

BZA  
Orange County Zoning  
201 South Rosalind Ave.  
Orlando, Fl 32801

Request for zoning variance for vacant lot located at 12743 Broleman Rd, Parcel ID# 21-24=31-000-00-017 for purpose of construction of a single story, concrete block S.F.R. Lot is zoned A2 that requires a minimum width of 100', subject property is 75' wide. Lot 15 LAKE HART CAMP SITES was created prior to adoption of zoning regulations (October 7, 1957) as where all the lots on the lake side of Broleman Rd. The variance request is consistent with existing homes on Broleman Rd meeting all setback requirement's for A2 zoning.

Rejection of variance request will cause unnecessary and undue hardship on the applicant by making the lot unbuildable.

Proposed S.F.R. sqft:

Living area: 3677 sqft.

Total under roof: 5430 sqft.

Building height: 23' Maximum height 35'

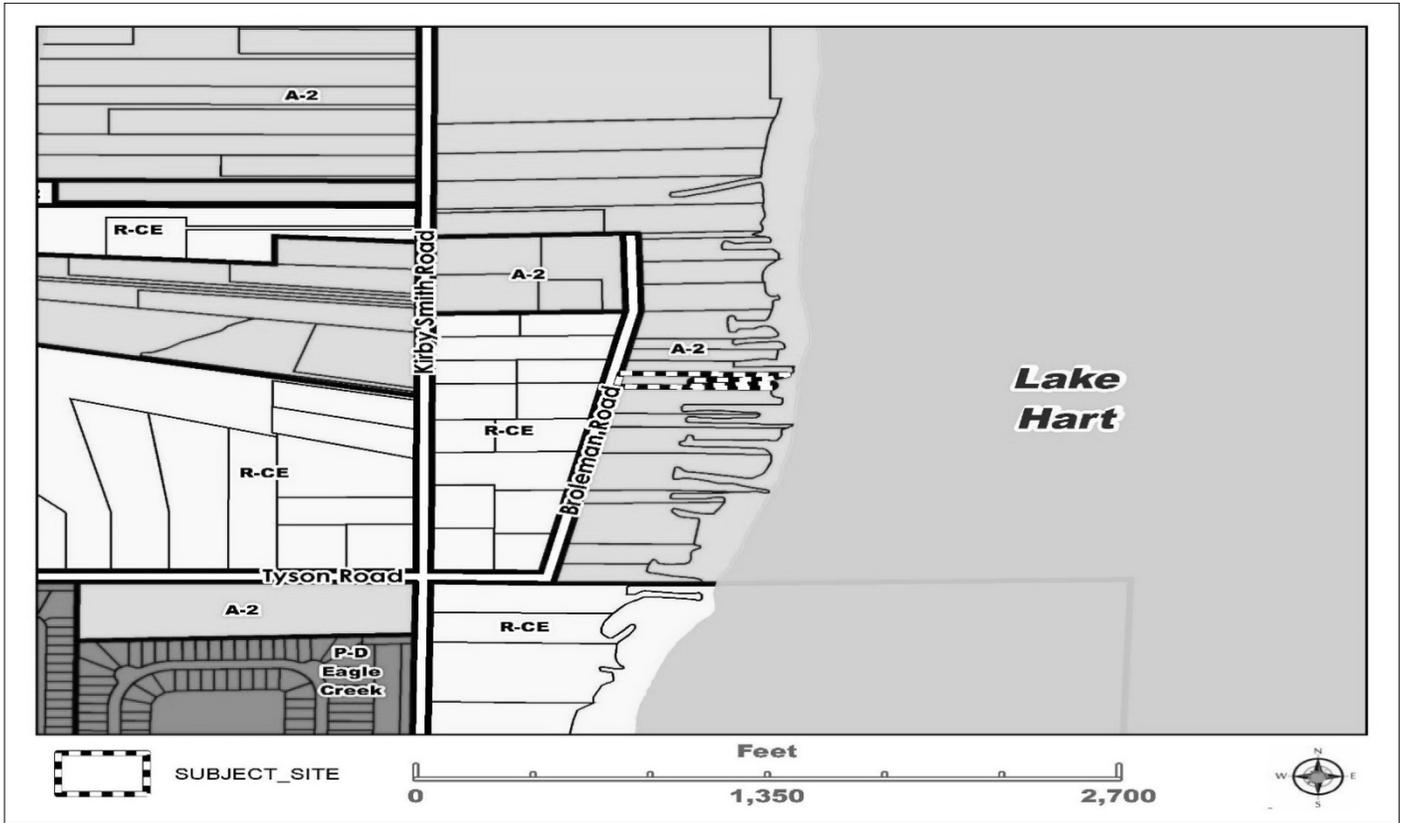
Front yard setback: 120', minimum setback: 35'

Side yard setback: 10', minimum setback 10'

Rear setback: 50' minimum 50.

Dave Tollman  
Grand Bay Design

ZONING MAP



AERIAL MAP



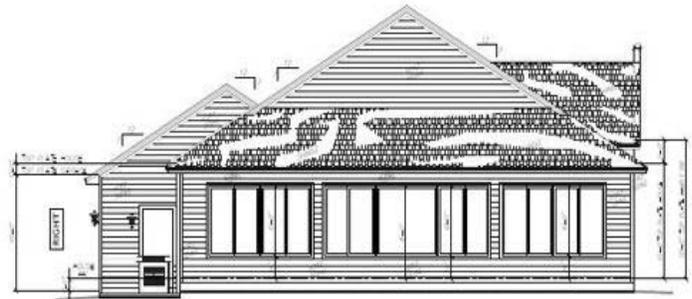


ELEVATIONS



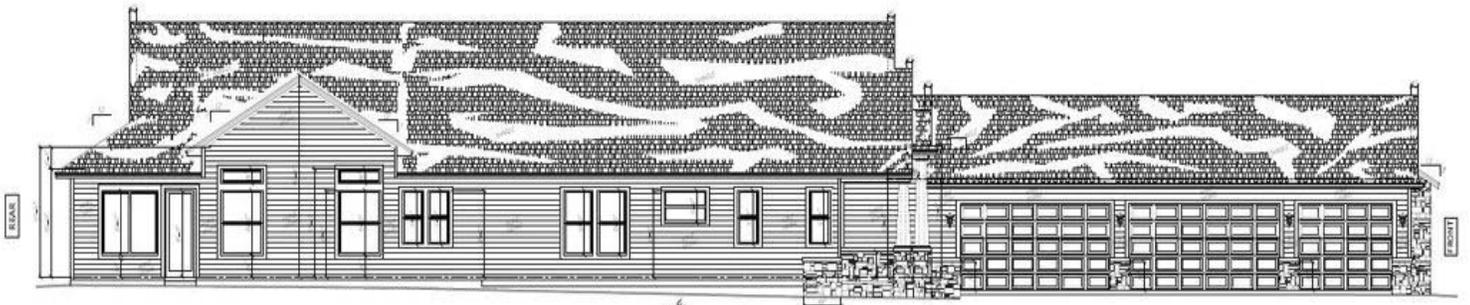
FRONT ELEVATION 8'10" x 11'-0"

West View



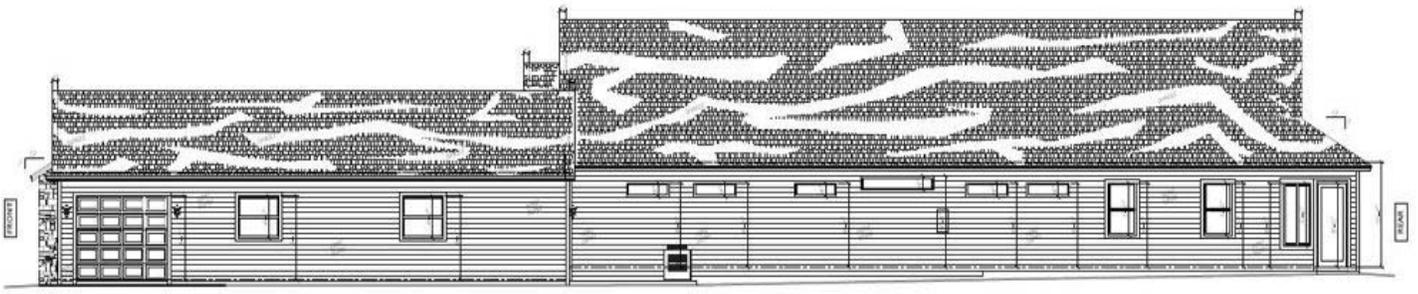
REAR ELEVATION 8'10" x 11'-0"

East View



LEFT ELEVATION 8'10" x 11'-0"

North View



RIGHT ELEVATION 8'10" x 11'-0"

South View

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**SITE PHOTOS**

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**Facing east towards front of subject property**



**Rear yard, facing west towards subject property**

**SITE PHOTOS**



**Rear yard, facing east towards Lake Hart**



**Rear yard, facing west towards subject property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#1**

Case #: **VA-22-03-003**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): MOMTAZ BARQ

OWNER(s): YOUNG PIGEON TRUST

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

1) To allow a 7,860 sq. ft. detached accessory structure (indoor basketball court/gym) in front of the primary structure.

2) To allow 8,806 sq. ft. of cumulative detached accessory structure area in lieu of 3,000 sq. ft.

PROPERTY LOCATION: 9103 Charles E. Limpus Road, Orlando, FL 32836, north side of Charles E. Limpus Rd., south side of Pocket Lake, west of S. Apopka Vineland Rd.

PARCEL ID: 09-24-28-0000-00-013

LOT SIZE: +/- 2.7 acres (+/- 1.82 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 55

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 seat vacant):

1. Development shall be in accordance with the site plan and elevations received January 28, 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 shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that one (1) comment was received in favor of the application and one (1) comment was received in opposition.

The applicant's team noted the approved prior variances within the surrounding area relative to the proposal and stated that the proposed accessory structure will not be visible to any of the surrounding properties due to the substantial existing landscaping in the front of the property.

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

The BZA discussed the prior nearby comparative request for a similar sized gym and unanimously recommended approval of the variances by a 5-0 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

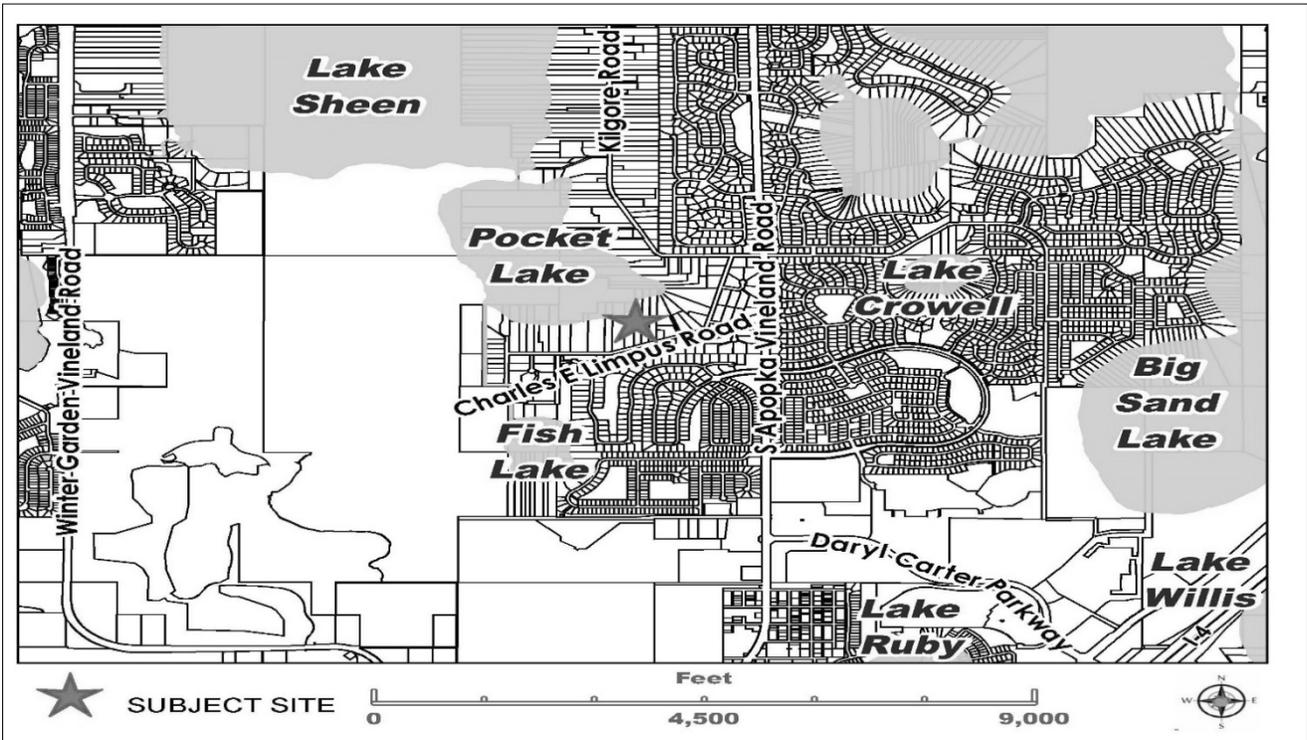
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-CE	Pocket Lake	R-CE	R-CE	R-CE
Future Land Use	R	Pocket Lake	LDR	R	R
Current Use	Single-family residential	Pocket Lake	Single-family residential	Single-family residential	Single-Family Residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

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

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is a +/- 2.7 acre unplatted parcel of land, of which 1.82 acres are upland, with the remainder either wetland or submerged property under Pocket Lake. It is considered to be a nonconforming parcel of record, as it has been in the same configuration since 1955, according to Orange County records. The current owners acquired the property in February 2021.

The property is currently developed with a 9,852 gross sq. ft. two-story single-family home with an attached 4-car garage (B95000924), outdoor pool with spa, boat dock (B95004602), tennis court, and a detached 600 sq. ft. one-story Accessory Dwelling Unit (ADU) with an attached archway over the entrance to the parking court. On March 2, 1994 the BZA (#5), confirmed by the BCC, recommended approval of variances to allow a single-family residence 42 ft. in height in lieu of 35 ft.; to allow an accessory use (tennis court) in front of a principal structure, to allow a 3 ft. east side setback in lieu of 5 ft; and to allow a guest house (ADU) in front of the principal structure.

The proposal is to remodel the existing main residence and enclose the existing summer kitchen, expand the pool/pool deck, expand the existing ADU to a total of 936 sq. ft., and demolish the arched entryway, all of which will comply with all zoning requirements.

Also proposed is the construction of a 7,860 sq. ft. detached accessory structure (indoor basketball court/gym) in front of the primary structure where the existing tennis court is located, which will meet setbacks for the R-CE zoning district. However, per Section 38-1426 (3) of the Orange County Code, a detached accessory structure shall not be located in front of the principal structure unless the principal structure is located in the rear half (1/2) of the lot/parcel. The principal structure, extends beyond midpoint line of the subject property, requiring Variance #1.

With the increased size of the ADU to 936 Sq. ft., and the proposed new construction of the 7,860 sq. ft. detached accessory structure, a total of 8,806 sq. ft. of cumulative detached accessory structure area is proposed, where a maximum of 3,000 sq. ft. is permitted, requiring Variance #2. Per Section 38-1426 (6), the

cumulative square feet of all detached accessory structures shall be limited to ten (10) percent of the net land area, or five hundred (500) square feet, whichever is greater, and in no case shall the cumulative total exceed three thousand (3,000) square feet.

While the request meets some of the standards for variance criteria, it does not meet all of the standards. Therefore, staff is recommending denial of this request. Based on staff analysis, a smaller, code compliant detached accessory structure up to 2,064 sq. ft. may be proposed in addition to the proposed expanded ADU at 936 sq. ft., which could easily accommodate the proposed 20 ft. by 41.8 ft. gym. An outdoor basketball court could be constructed instead of an indoor basketball court, which would significantly reduce the cumulative square footage to be within the standards of code.

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.	25 ft.
Min. Lot Width:	130 ft.	109.75 ft. (legal, existing)
Min. Lot Size:	5,000 sq. ft.	117,633 sq. ft.

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

	Code Requirement	Proposed
Front:	35 ft.	115.4 ft. (South)
Rear:	50 ft.	73.4 ft. (North)
Side:	10 ft.	28 ft. (West) 10 ft. (East)
NHWE	50 ft.	73.4 ft.

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The 100-year flood zone and Normal High Water is located at the rear of the main residence, which makes it difficult to locate a similar sized accessory structure behind the principal structure. Further, the placement of the existing home restricts the area where an addition could be built which conforms to setback requirements and is of sufficient size.

**Not Self-Created**

**Variance #1:** The need for the variance is not self-created as the existing home restricts the area where an addition could be built that conforms to the setback requirements.

**Variance #2:** The need for the variance is self-created, as a smaller accessory structure could be constructed in a manner which would be of lesser square footage.

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

**Variance #1:** Granting the variance as requested would not confer special privilege as this is a lakefront community and is not uncommon to request a variance to locate accessory structures in the front of the principal structure to preserve lake views, especially on narrow lots.

**Variance #2:** Granting the variance as requested would confer special privilege as the square footage is excessive in comparison to any accessory structure in the surrounding area.

#### **Deprivation of Rights**

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and the ADU and accessory structure can be constructed in a way which complies with code requirements.

#### **Minimum Possible Variance**

**Variance #1:** The request is the minimum possible as the existing residence restricts the area in the rear where and addition can be constructed that will conform to the required setbacks.

**Variance #2:** The request is not the minimum possible as the proposed ADU and gym can be constructed with an outdoor basketball court, which would meet code requirements.

#### **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 neighborhood. The accessory structure will not be significantly visible from any of the surrounding properties due to the landscape surrounding the property, front entry iron gate, and high wall in front of the property, thereby limiting any quantifiable negative impact to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received January 28, 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 shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

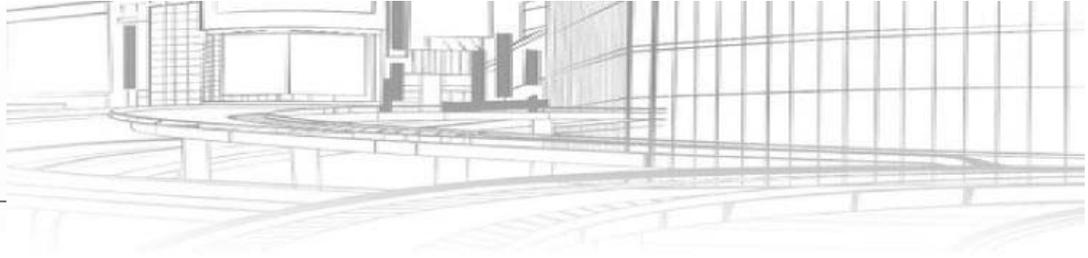
C: Momtaz Barq  
1507 S. Hiawassee Road, Ste.211  
Orlando, FL 32835

C: Jaafar Choufani  
11766 Wilshire Boulevard, Ste. 500  
Los Angeles, CA 90025

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## COVER LETTER

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January 28, 2022

**RE: Variance Request Narrative**  
Pascal Residence  
9103 Charles E Limpus Road, Orlando, FL

The applicant is requesting variances to allow for a detached accessory structure(s) at the above referenced residential property. The existing house, associated garage, and guest house on this property were built in 1995.

The applicant/owner is proposing a new detached single story multi-purpose building approximately 7,020 SF and 24'-8" in height with an attached 840 SF spa/gym. The existing guest house / ADU is included in the variance request. The size of the guest house after remodeling is approximately 946 s.f. The applicant/owner is also remodeling the existing main residence and adding a 540 s.f. enclosed summer kitchen and remodeling the pool area with a bigger pool. The Main residence remodeling and additions should not require any additional variances. The new detached accessory structure is setback 10'-0" from the side property line and approximately 115'-4" from the front property line.

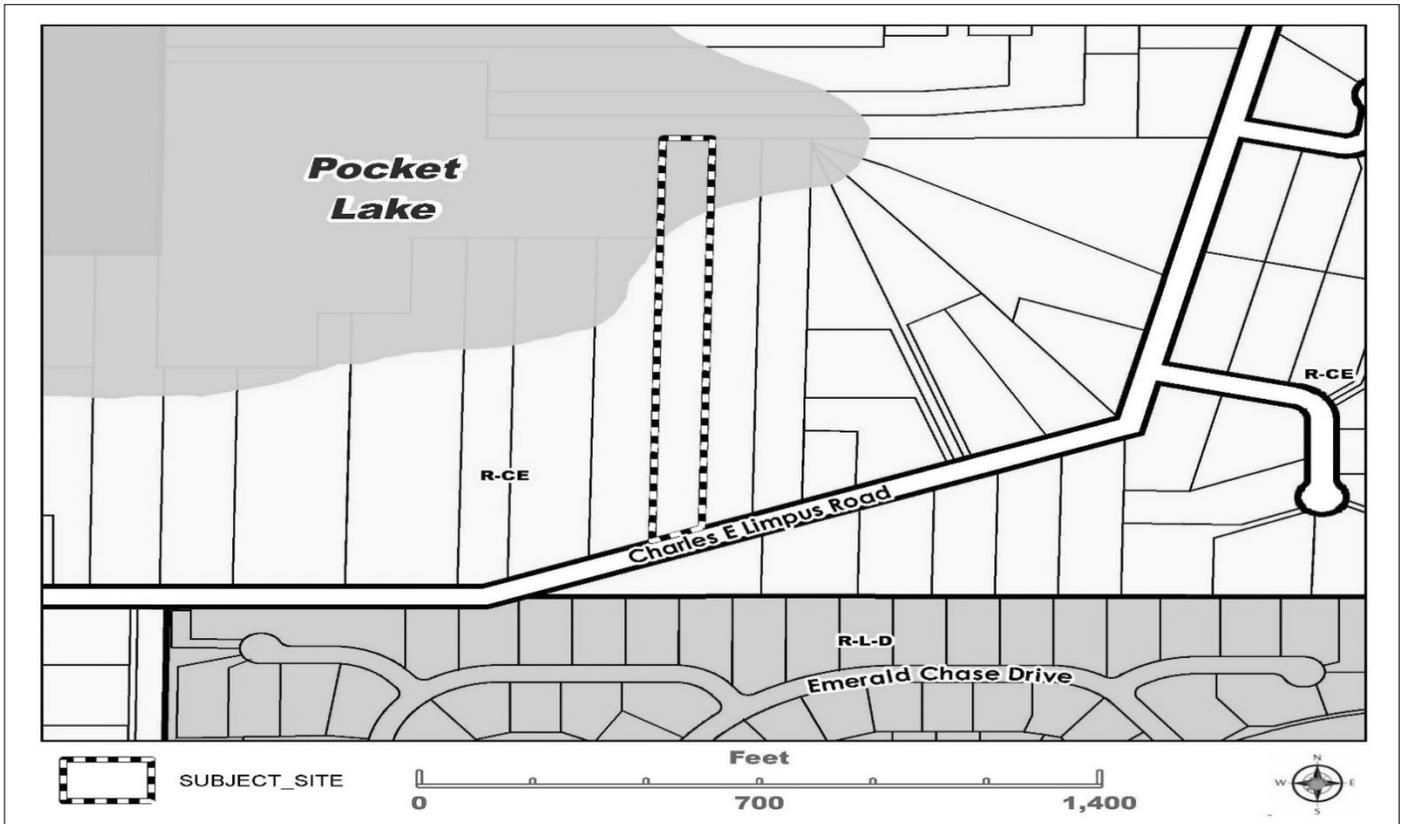
The existing structures on the site are composed by a 2-levels Main Residential Building approximately 6,045 s.f. x 26'-6" high Hip Roof, a single-story Guest House, approximately 820 s.f. by 20'-0" high Hip Roof and a single-story garage building, approximately 915 s.f. by 16'-0" high. The Guest House is connected to the garage building with covered walkway open from both sides. Additionally, the garage building is connected to the main residence building with a covered walkway open from both sides. The site also includes a boat dock.

The requested Variances in R-CE zone:

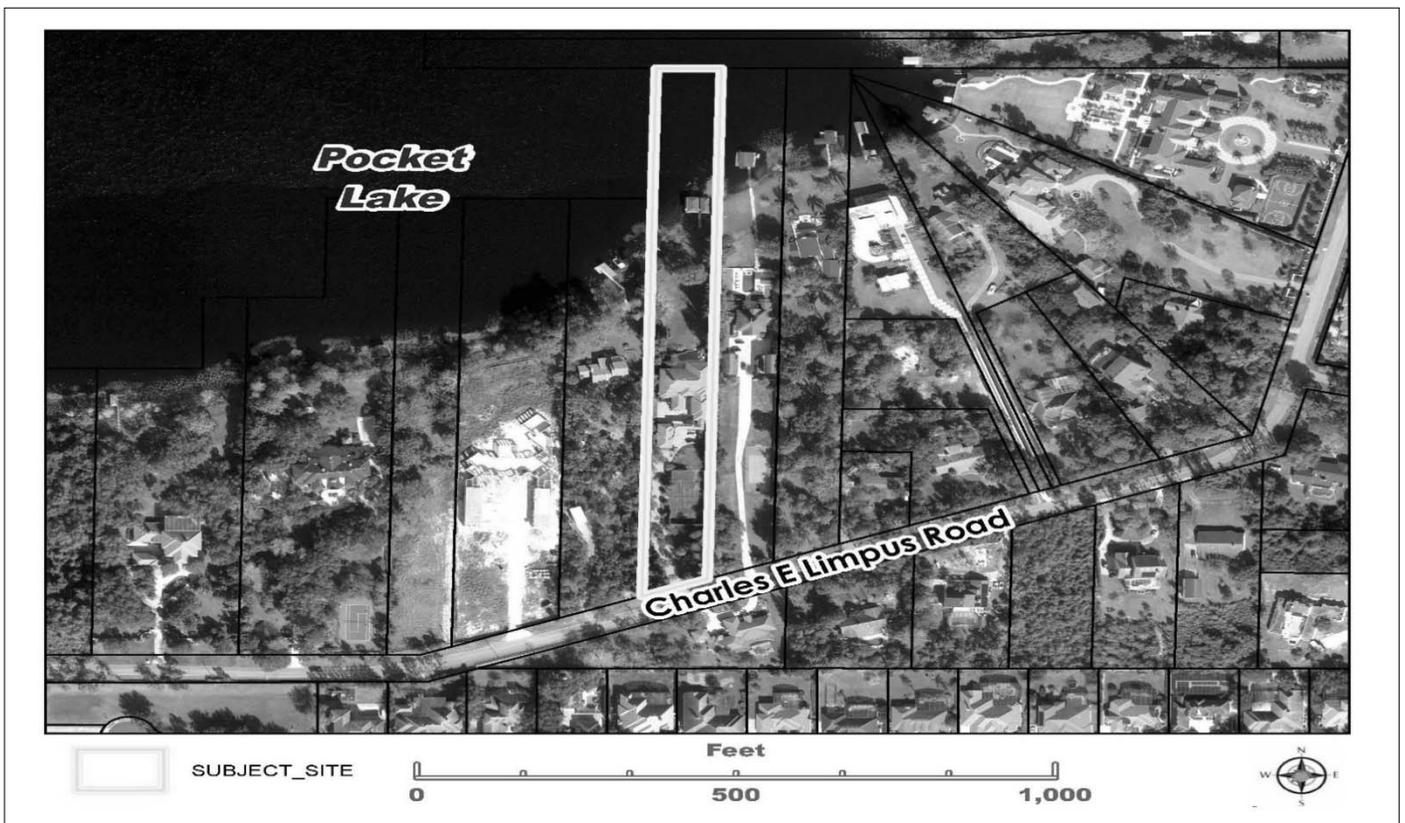
- A. Construct detached accessory multi-purpose building(s) (personal athletic training facility) as follows:
  - 1. 7,860 sq. ft. (Basketball Court and Gym) in size;
  - 2. 25 ft. in height in lieu of 15 ft.;
  - 3. In front of yard in lieu of rear yard.
- B. Include the existing ADU (+/- 946 s.f. ) as part of this variance request.
- C. Total requested gross areas including the multi-purpose and existing ADU is approximately +/- 8,806 s.f. in lieu of 3,000 s.f. allowed under current code

Additionally, the requested variances are commensurate with similarly Orange County approved variances in the immediate area and doesn't not encroach or infringe on any neighboring properties, nor would it impose any hardship on any neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected.

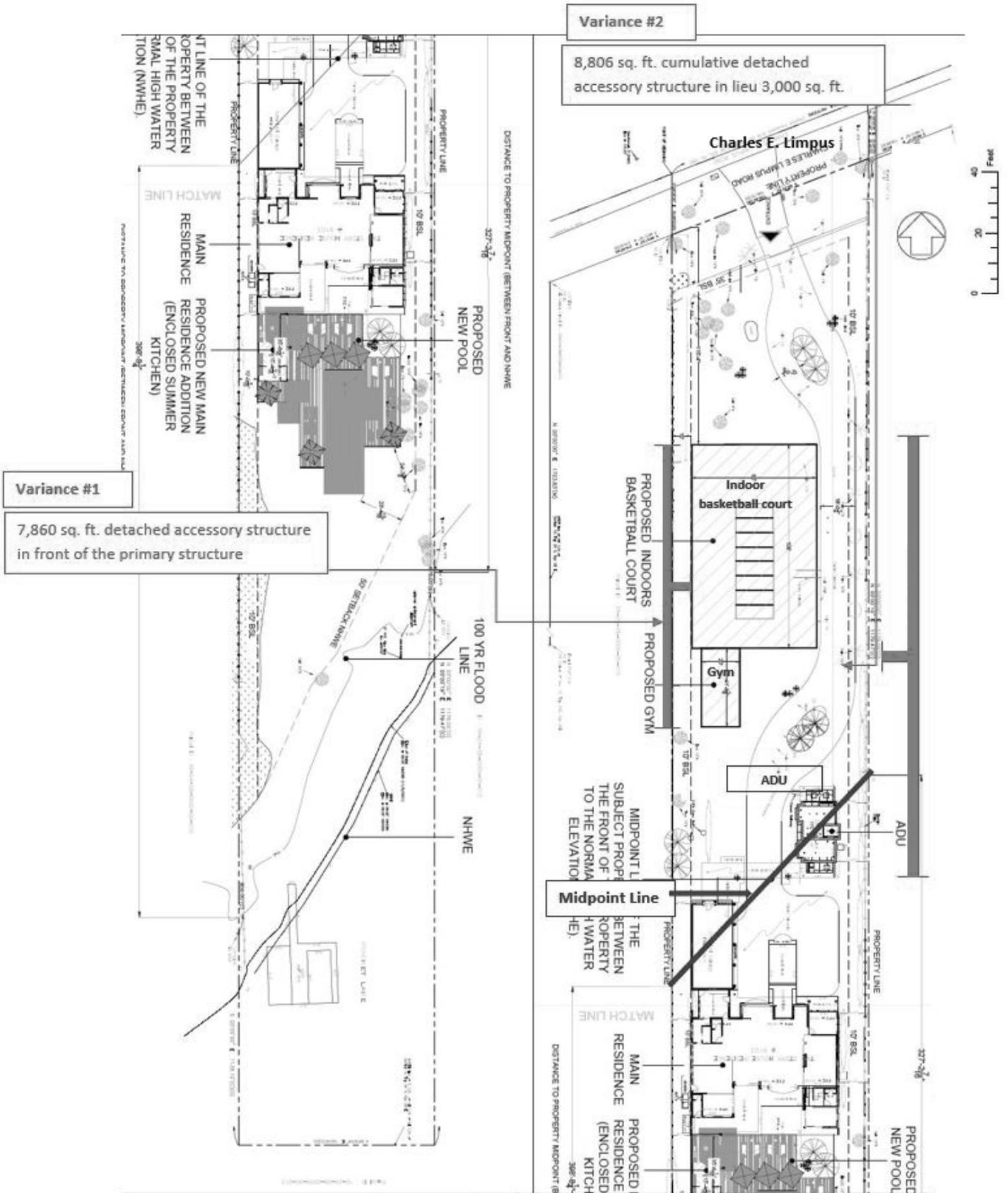
ZONING MAP



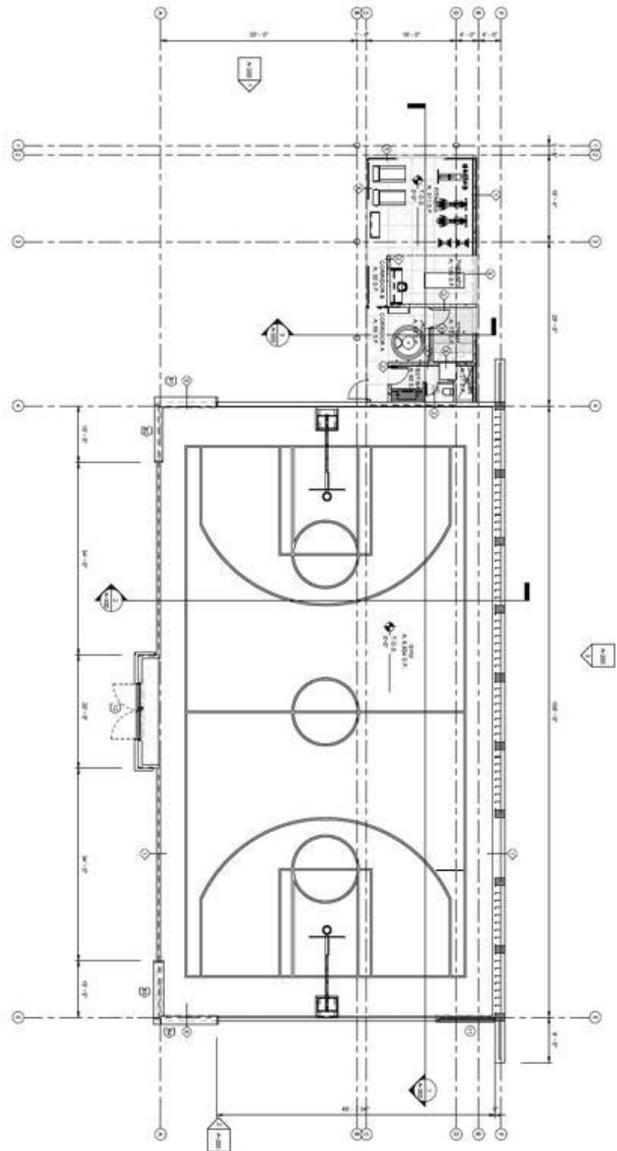
AERIAL MAP



**SITE PLAN**



# FLOOR PLAN

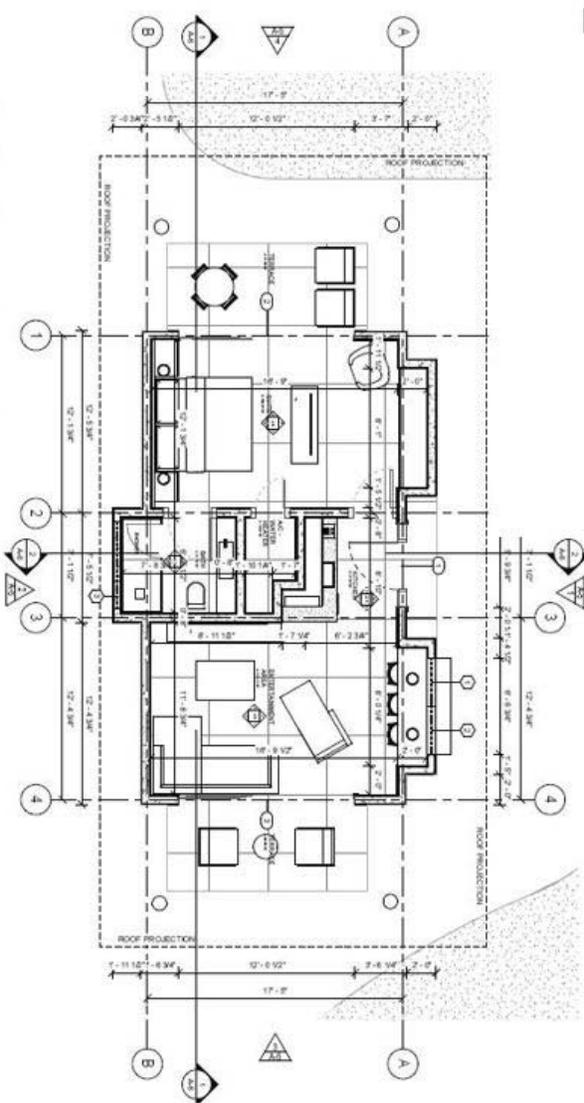


Indoor Basketball Court/ Gym

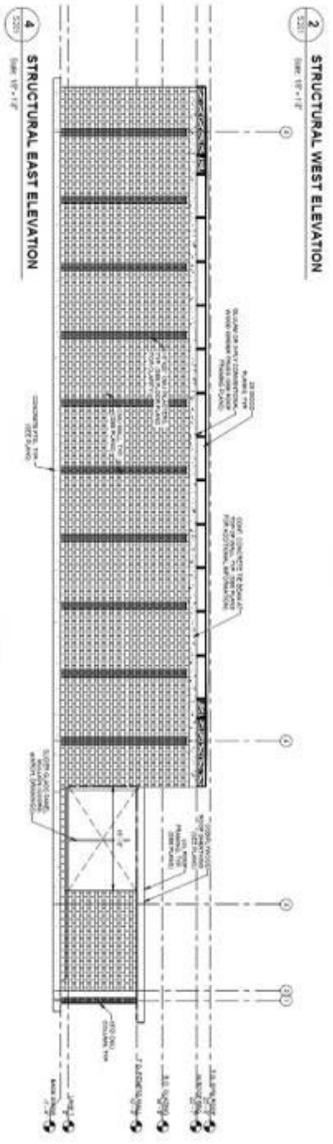
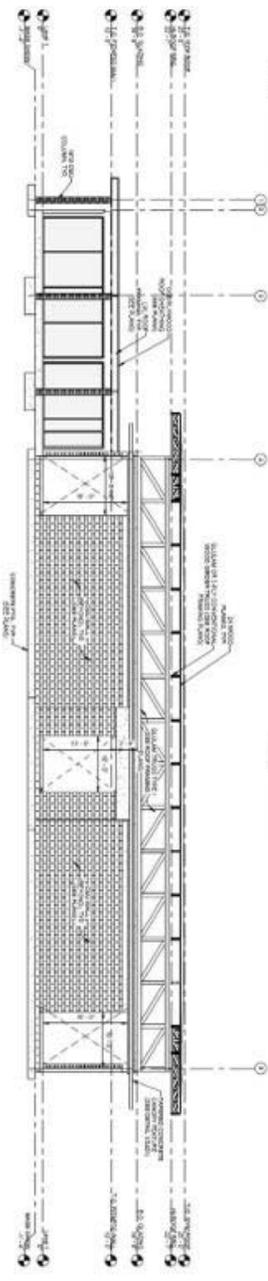
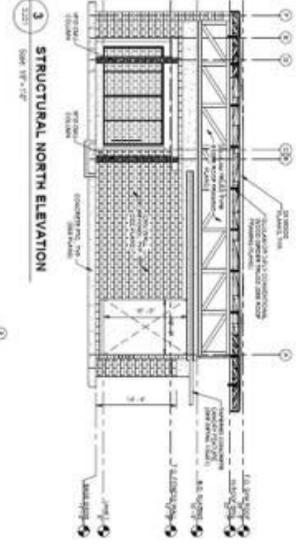
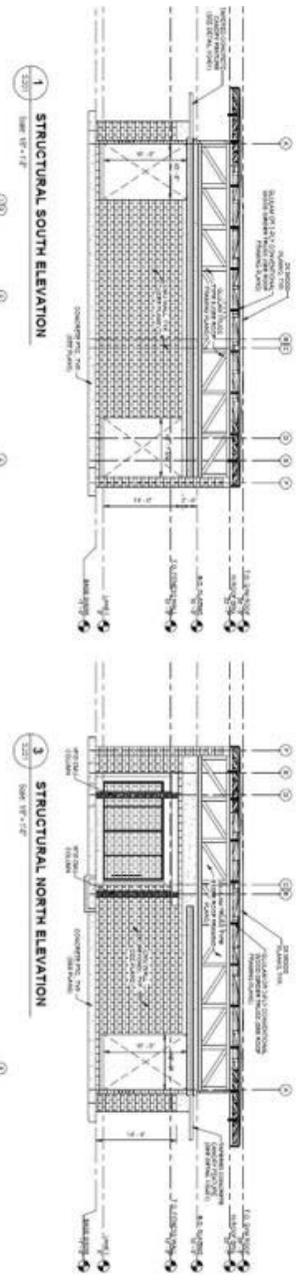
1 ARCHITECTURAL FLOOR PLAN  
Scale: 1/8" = 1'-0"

Guest House

1 GUEST HOUSE PROPOSED FLOOR PLAN  
1/8" = 1'-0"

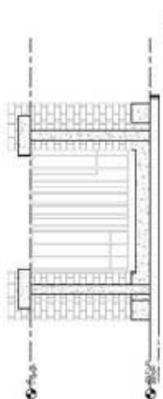
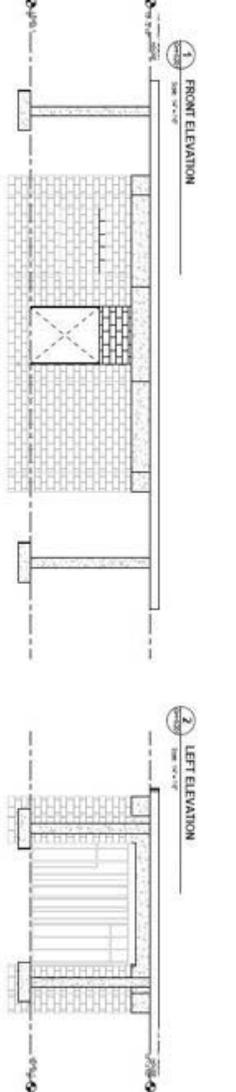
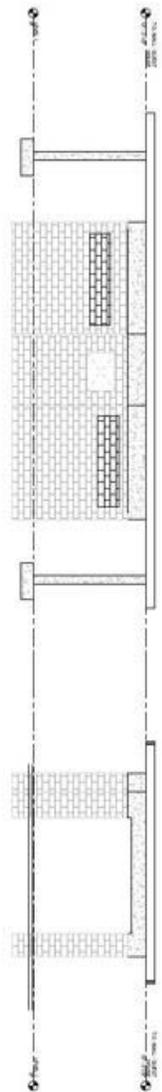


# ELEVATIONS



Guest House

Indoor Basketball Court/ Gym



**SITE PHOTOS**



**Facing north towards front of subject property**



**Facing north towards front of existing structures (proposed cumulative structures)**

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**SITE PHOTOS**

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**Facing north towards main residence and Accessory Dwelling Unit (ADU)**



**Facing southeast towards rear of existing Additional Dwelling Unit (ADU)**

**SITE PHOTOS**



**Facing southwest towards Additional Dwelling Unit (proposed cumulative accessory structures)**



**Facing east towards side of existing tennis court (proposed indoor basketball court/gym)**

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**SITE PHOTOS**

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**Facing southeast towards side of existing tennis court (proposed indoor basketball court/gym)**



**Facing south towards rear of existing tennis court (proposed indoor basketball court/gym)**

**SITE PHOTOS**



**Front existing tennis court, facing north (proposed indoor basketball court/gym)**



**Facing northeast towards side rear of existing tennis court (proposed indoor basketball court/gym)**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#6**

Case #: **VA-21-12-124**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): RYAN WATT FOR OSPREY SOUND

OWNER(s): OSPREY SOUND LTD

REQUEST: Variances for multi-family development in the R-3 zoning district as follows:

- 1) To allow a maximum of 65 ft. in building height in lieu of 35 ft.
- 2) To allow a minimum parking ratio of 1.1 parking spaces per unit in lieu of 1.73 parking spaces per unit.

PROPERTY LOCATION: 1401 Duskin Ave., Orlando, FL 32839, east side of S. Rio Grande Ave., west of S. Orange Blossom Trl., south of Americana Blvd.

PARCEL ID: 15-23-29-0146-00-010

LOT SIZE: +/- 15 acres (+/- 8.3 acres uplands)

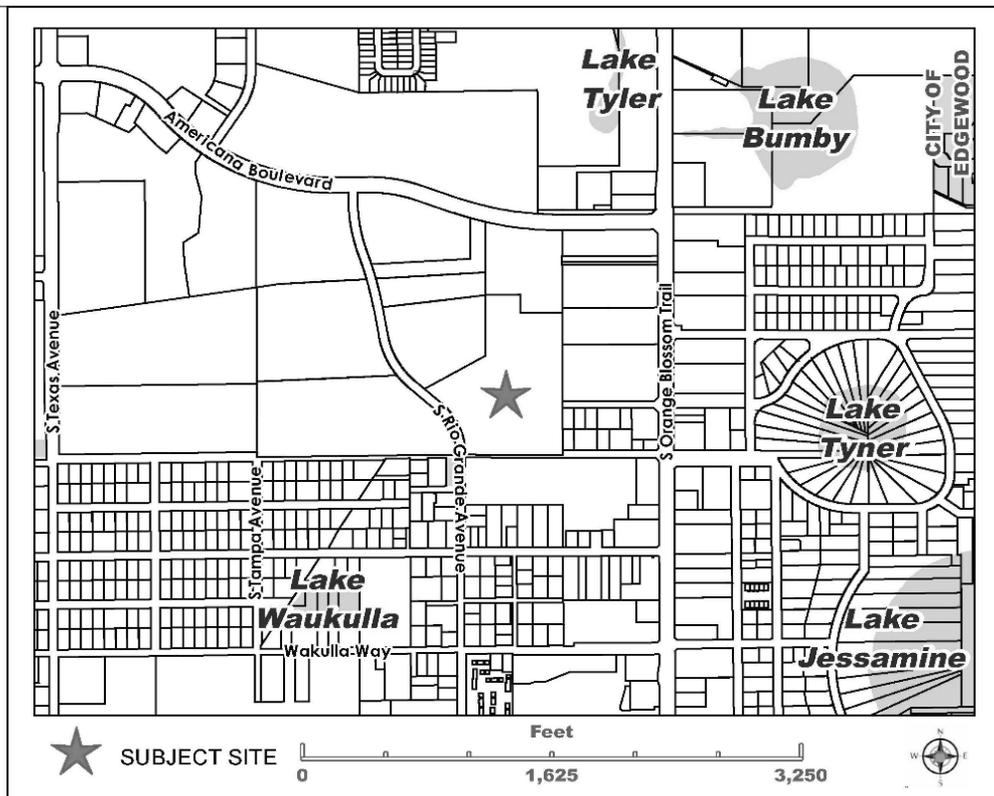
NOTICE AREA: 800 ft.

NUMBER OF NOTICES: 164

## STAFF RECOMMENDATIONS

**CONTINUED TO THE APRIL 7, 2022 BZA HEARING DATE.**

## LOCATION MAP



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#2**

Case #: **SE-21-09-069**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): THOMAS SULLIVAN FOR DEVEREUX SCHOOL

OWNER(s): DEVEREUX FOUNDATION

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

- 1) Special Exception to allow a private school with dormitory facilities and the construction of a 5,070 sq. ft. classroom building
- 2) Variance to allow an existing classroom building with a 44 ft. north rear setback in lieu of 50 ft.
- 3) Variance to allow 5 grass parking spaces in lieu of paved
- 4) Variance to allow a basketball court in front of the principal structure
- 5) Variance to allow a basketball court with a 9.66 ft. east side setback in lieu of 10 ft.
- 6) Variance to allow a basketball court with a 4.35 ft. north rear setback in lieu of 10 ft.
- 7) Variance to allow a basketball court with a 8.32 ft. east side setback in lieu of 10 ft.

PROPERTY LOCATION: 6147 Christian Way, Orlando, Florida 32818, north side of Christian Way, south of Clarcona Ocoee Rd. east of N. Powers Dr.

PARCEL ID: 01-22-28-5844-00-591

LOT SIZE: +/- 2.96 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 181

**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; and, **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 seat vacant):

1. Development shall be in accordance with the site plan and elevations received October 18, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for all unpermitted structures and/ or improvements, or they shall be removed prior to issuance of a permit for the new classroom building.
5. Hours of operation for the private school shall be limited to 8:30 a.m. to 2:30 p.m., Monday through Friday.
6. The maximum number of students and dormitory rooms shall not exceed 45.
7. A permit shall be obtained for the new classroom building 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.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the history of the property and improvements, the location of the proposed new classroom building, the site plan, landscape 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 support and one comment was received in opposition.

The applicant briefly discussed the history of the property and concurred with the staff presentation. Further, the local director of the Devereux School described the current operations and the efforts that have been made to reduce impacts to the surrounding neighborhood.

There was one in attendance to speak in favor of the request, citing recent improvements to the operations that were discussed during the community meeting on February 22, 2022, describing the positives of the existing school to the community and agreeing that the building design was appropriate. There was no one in attendance to speak in opposition to the request.

The BZA stated that the location of proposed classroom building and the existing improvements were appropriate and unanimously recommended approval of the special exception and variances by a 5-0 vote, with one absent and one seat vacant, subject to the seven (7) conditions in the staff report.

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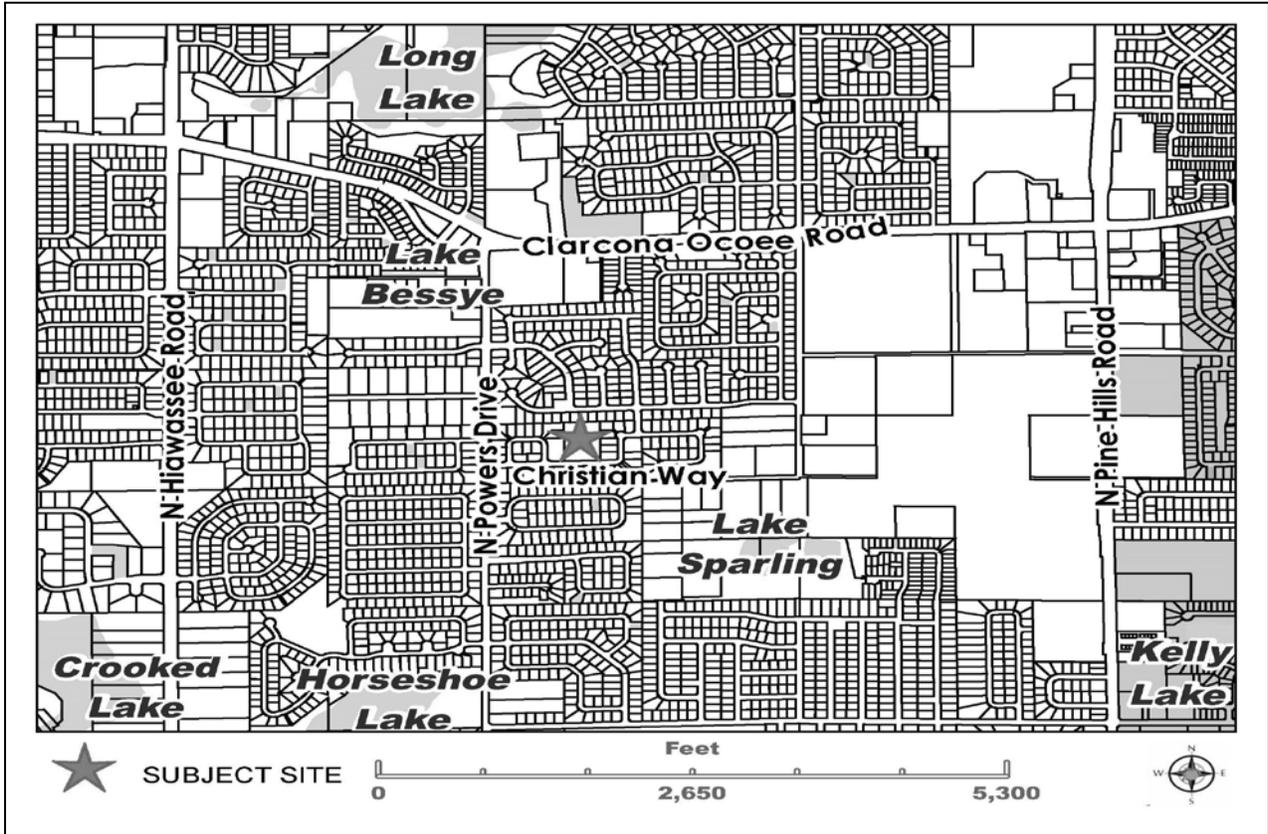
#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.



**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	A-1	R-1A	A-1	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Private School with Dormitories	Single-family residential	Single-family residential	Single-family residential	Orange County dry retention

**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. Private schools with dormitories are permitted through the Special Exception process. The Future Land Use is Low Density Residential (LDR). The A-1 zoning district is not consistent with LDR; however, Comprehensive Plan Policy FLU 5.2.1 allows the inconsistency to remain without requiring a rezoning, as long as the proposed use is permitted or allowed with Special Exception in all zoning districts consistent with the Future Land Use.

The subject property comprises of Lot 59 of the Willis R. Munger's Land Plat, recorded in 1960, and is a conforming lot of record. There are a number of existing buildings, structures and improvements constructed between 1988 and 2010, as follows:

- Building #1: Dormitory; 5,189 sq. ft., constructed in 1991
- Building #2: Dormitory; 5,215 sq. ft., constructed in 1988
- Building #3: Dormitory ; 2,513 sq. ft. (2,496 per PA), constructed in 2009
- Building #4: Administration Building; 2,482 sq. ft. (2,475 per PA), constructed in 1991
- Buildings #5 & #6: Two Modular Classroom Buildings, totaling 2,179 sq. ft. (2,208 per PA), installed in 1998
- Playground area and parking improvements, installed in 2008
- 4 sheds, Shed #1, #3, and #4, installed between 1991 and 2001; and Shed #2, installed after 2010, all totaling 1,279 sq. ft.
- 3 Basketball courts, Court #A installed before 1998 and Courts #B and #C, installed without permits after 2010.
- 34 existing paved parking spaces with vehicular and pedestrian ingress/egress from Christian Way to the south.

The above improvements meet the zoning requirements, except as follows:

- Existing Modular Classroom, Building #6, existing north rear setback of 44 ft. in lieu of 50 ft., requiring Variance #2.
- Existing Basketball court, Court #A, adjacent to Christian Way, located in front of the principal structure, requiring Variance #4. Orange County Code Sec 38- 79 (10)(b) dictates that courts, such as tennis courts and similarly, basketball courts, not be located in the front yard of the principal building.
- Existing Basketball court, Court #B, adjacent to the east property line with a 9.66 ft. east side setback in lieu of 10 ft., requiring Variance #5. Orange County Code Sec. 38-79(f)(2) requires a minimum setback of 10 feet for courts, such as tennis courts and similarly, basketball courts.
- Existing Basketball court, Court #C, at the northeast corner of the property with a 4.36 ft. north setback in lieu of 10 ft., requiring Variance #6, and with an 8.32 ft. east setback in lieu of 10 ft., requiring Variance #7.

All of the above improvements have received prior permit approval, with the exception of Shed #2 and Basketball Courts #B and #C, pertaining to Variances #5 through #7. The current requests are to recognize the existing improvements.

Previous approvals include:

- October 1978: Special Exception approval to establish a living facility for 15 seniors.
- June 1980: Special Exception approval to establish a foster group facility for 16 residents, ages 6 through 15.
- March 1, 1991: zoning letter to confirm use of property as a foster care facility, at that time a permitted use in the A-1 zoning district. The capacity of the operation was not described, and based upon State of Florida Agency for Persons with Disabilities (APD) and Agency for Health Care Administration (AHCA) approvals, it appears since that time the capacity has included 32 students, licensed by AHCA, and 13 students, licensed by APD. The latest approval by both agencies was in 2007.
- 1995: Orange County Code removed foster care facility as a defined and permitted use and replaced it with the definition of family foster home permitting no more than 5 children.

- March 2011: Zoning determination letter recognizing existing use, but no specifics were provided of the existing use.

The request also includes a Special Exception to formalize approval of the 45-student private school that contains a contractual relationship with Orange County Public Schools (OCPS) to provide an alternative educational program with dormitories. The proposal will also allow the construction of a 5,070 sq. ft. classroom building containing 3 classrooms at the front of the property, located just south of the existing main offices. No increase in the maximum number of number of students currently enrolled is proposed and the capacity of the dormitories will match the maximum student capacity. The new building will be integrated within the existing site's parking, internal circulation and pedestrian access. As required by the Landscape Code, foundation plantings will be installed along the south and east side of the new building facing the parking area. Furthermore, new landscaping to supplement the perimeter landscape buffers is proposed, in particular beside the new classroom building along the west property line, adjacent to the County retention area.

Parking requirements for the subject property are as follows:

- School: maximum 6 classrooms, at 4 parking spaces per classroom, requiring 24 spaces
- High School: maximum 12 students, at 1 parking space per 3 students, 4 spaces
- Total spaces provided include 34 paved parking spaces and 5 grass spaces, for a total of 39 spaces, exceeding the requirement for the school. The 5 grass spaces are requested in lieu of paved, requiring Variance #4

During a site visit, staff observed a number of installed structures and improvements installed without a permit, including two basketball courts and a shed. The remainder of the site improvements were indicated on the 2009 Site Plan for site work. As a condition of approval, permits shall be obtained for any improvements without a permit, as applicable, prior to obtaining a building permit for the new classroom building.

The hours of operation for the school is not proposed to change from the current operations: Monday through Friday from 8:30 a.m. to 2:30 p.m. Enrolled students stay overnight during the school week.

Orange County Transportation Planning Division has provided comments, stating that since there is no increase in the number of students and the impact will be the same as today.

On Tuesday February 22, 2022, a Community Meeting was held at Meadowbrook Middle School to allow for input. The meeting was attended by the applicant, County staff, and 7 attendees. All of the attendees spoke negatively about the proposal. Comments included concerns of future expansion of the number of students and that the site is already overbuilt, drainage and rain runoff, the existing septic system, vehicles parked in the right-of-way, damage to landscaping due to vendor delivery trucks, and noise and crime in the neighborhood from students.

At the time of writing of the Staff Report, no comments have been received in favor of the request and one comment has been received in opposition to the request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft.
Min. Lot Width:	100 ft.	305.8 ft.
Min. Lot Size:	1 acre	2.96 acres

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

	Code Requirement	Proposed
Front:	35 ft. New Classroom Building	103 ft. (South)
Rear:	50 ft. New Classroom Building 50 ft. Building #6 10 ft. Basketball Court #C	206 ft. (North) 44 ft. (North – Variance #2) 4.35 ft. (North – Variance #6)
Side:	10 ft. New Classroom Building Basketball Court #B Basketball Court #C	10.1 ft. (West) 249 ft. (East) 9.66 ft. (East - Variance #5) 8.32 ft. (East - Variance #7)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The provision of private schools with dormitories as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

Although classified otherwise, the private school has been in operation for over 40 years. The new classroom building for the private school will be integrated with the existing buildings and other structures located on the educational campus, which contains existing landscaping and buffers. The new building will be located at the front of the property, adjacent to an Orange County dry retention area, and will be over 66 feet from the nearest portion of the adjacent property containing a residence. Furthermore, the maximum student enrollment capacity will remain the same as has been existing for the past several decades, albeit more than previously approved by the Board of County Commissioners in the 1970s and 1980s, and as such will not be a detrimental intrusion to the surrounding area.

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

The proposed classroom building will be ancillary to the overall educational use, and will not negatively impact the surrounding area since it will be over 66 feet from the closest single-family residence.

**Meet the performance standards of the district**

The proposed construction of the new classroom building, as conditioned, and the private school and associated improvements, with the requested Variances as approved, meets the performance standards of the district.

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

There are not any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the current usage of the site.

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

The proposal will be located entirely within an existing campus on a developed site and no additional buffer yards are required, however, supplemental installation is proposed to fill in the gaps in the perimeter buffer, especially along the west property line. As required by the Landscape Code, foundation plantings will be installed along the east and south side of new building facing the parking areas.

### **VARIANCE CRITERIA**

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

Pertaining to Building #6 (Variance #2), the structure has been in the same location as permitted since 1998, which is a special condition and circumstance.

Pertaining to Variance #4, the proposed infrequency of the use of the area for parking is the special circumstance.

Further, the special circumstance pertaining to the location and setbacks of all the existing Basketball courts, (Variances #3 to #7), is that all the improvements have been existing for over 10 years, albeit two of which were installed with hoops without permits.

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

All the improvements have been existing as approved for over 25+ years and therefore the requests are not self-created. Further, pertaining to the grass parking, due to the highly infrequent use of the area for parking, and the desire to maintain the property in a rural setting, this is not a self-created hardship.

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

Allowing Building #6 to remain as permitted in 1998, allowing the Basketball court to remain in front of the principal structure and allowing the 2 other Basketball courts in the northwest portion of the property to remain with reduced setbacks will not confer a special privilege, but rather allow conditions which have existed for over 25 years to remain. Furthermore, allowing for the parking to remain grassed is not conferring a special privilege because of the infrequent use.

#### **Deprivation of Rights**

Without the approval of the variance for Building #6 (Variance #2), the building will be required to be relocated even though it has been in its current location for over 25 years, and without the location and setback variances (Variances #3 to #7) for the Basketball courts, they would have to be substantially modified or removed for improvements that also have been existing for over 25 years.

Without Variance #4 for grassed parking, the owner would be required to pave improvements that will be infrequently used and negatively impact the area at the front of the property.

#### **Minimum Possible Variance**

Allowing Building #6 (Variance #2) to remain in the same location as for the last 25+years, and allowing the Basketball courts (Variances #3 to #7) to remain in their current locations would be the minimum variances necessary.

Pertaining to Variance #4, allowing the parking area to remain natural in appearance with grassed parking would be the minimum variance needed.

### **Purpose and Intent**

Granting of the requested variances will be in harmony with the purpose and intent of the code since all the requests include improvements that have been existing for decades, and furthermore the addition of more landscape screening is proposed to screen the basketball courts, and the requests as approved will not negatively impact the surrounding neighborhood.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and elevations received October 18, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for all unpermitted structures and/ or improvements, or they shall be removed prior to issuance of a permit for the new classroom building.
5. Hours of operation for the private school shall be limited to 8:30 a.m. to 2:30 p.m., Monday through Friday.
6. The maximum number of students and dormitory rooms shall not exceed 45.
7. A permit shall be obtained for the new classroom building 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.

C: Thomas R. Sullivan  
Grey Robinson, P.A.  
301 E. Pine St., Ste 1400  
Orlando, FL 32801

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COVER LETTER

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GRAY | ROBINSON  
ATTORNEYS AT LAW

Thomas R. Sullivan

407-843-8880

THOMAS.SULLIVAN@GRAY-ROBINSON.COM

February 23, 2022

**VIA E-MAIL**

Ted Kozak, AICP  
Chief Planner, Zoning Division  
201 S. Rosalind Ave., 1st Floor  
Orlando, FL 32801

Re: Devereaux (6147 Christian Way)

Dear Ted:

The enclosed special exception application for the above-referenced property follows-up on our prior discussion and replaces the application which was submitted last year. As you know, the property was previously granted a special exception approval many years ago (correspondence enclosed) and while the property has been operated in the same manner for a number of years, it appears that a new special exception approval is needed to match the current operations with the uses permitted by special exception in the property's A-1 zoning designation. The property operates as a school with dormitory/boarding facilities and has for many years. This special exception application simply seeks to maintain the existing operations while also allowing for a new 4,515 s.f. classroom building (collectively, the "Special Exception Request"). Please find the following applicable special exception criteria set forth in Section 38-78 of the County Code –

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

The existing character of the area will be maintained as this request maintains the status quo with the addition of one classroom building.

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

As noted above, this request maintains the status quo use of the property which is, and has been, compatible with the surrounding area.

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

The Special Exception Request will not be a detrimental intrusion on the surrounding area – it is the same use as has been on the property for many years.

#44521447 v2

[www.gray-robinson.com](http://www.gray-robinson.com)

301 EAST PINE STREET  
SUITE 1400 BOCA RATON  
POST OFFICE BOX 3068 (32802-3068) FORT LAUDERDALE  
ORLANDO, FLORIDA 32801 FORT MYERS  
TEL 407-843-8880 GAINESVILLE  
FAX 407-244-5690 JACKSONVILLE  
KEY WEST  
LAKELAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA  
WASHINGTON, DC  
WEST PALM BEACH

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## COVER LETTER

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**GRAYROBINSON**  
PROFESSIONAL ASSOCIATION

Orange County Zoning Division  
February 23, 2022  
Page 2

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

The Special Exception Request will meet all A-1 zoning 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.

This criteria is satisfied, as noted above, because this request maintains the status quo use of the property which is, and has been, compatible with the surrounding area.

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

The required landscape buffer yards will be provided.

Additionally, the property owner is requesting variances in the A-1 zoning district as follows: (i) to allow an existing classroom building with a 44 ft. north rear setback in lieu of 50 ft.; (ii) to allow five (5) grass parking spaces in lieu of paved; (iii) to allow a basketball court in front of the principal structure; and (iv) to allow a basketball court with a 9.66 ft. east side setback, a 4.35 ft. north rear setback and a 8.32 ft. east side setback in lieu of 10 ft (collectively, the "Requested Variances"). The remainder of this letter applies the variance criteria in Section 30-43(3) of the County Code to the Requested Variances –

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 variance.

The Requested Variances are all based on the existing condition of the property and maintain the status of quo which is unique to the property.

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 may 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 special condition described above is created by configuration of the property and the timeframes when these structures were put in place on the property.

#44521447 v2

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**COVER LETTER**

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GRAYROBINSON  
PROFESSIONAL ASSOCIATION

Orange County Zoning Division  
February 23, 2022  
Page 3

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.

No special privilege denied to others would be conferred by granting the Requested Variances to the property owner due to the unique circumstances described above.

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 developer in violation of the restrictions in this Chapter shall not constitute grounds for approval or objection.

The property's is unique and serves the needs of the community and denying the variances which maintain the status quo condition of the property would be an unnecessary and undue hardship.

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.

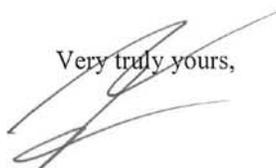
The Requested Variances are the minimum possible and maintain the status quo condition of the property.

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 effect of the variance request is consistent with the general intent of the Code.

Please let me know if you have any questions and thank you for your assistance with this request.

Very truly yours,

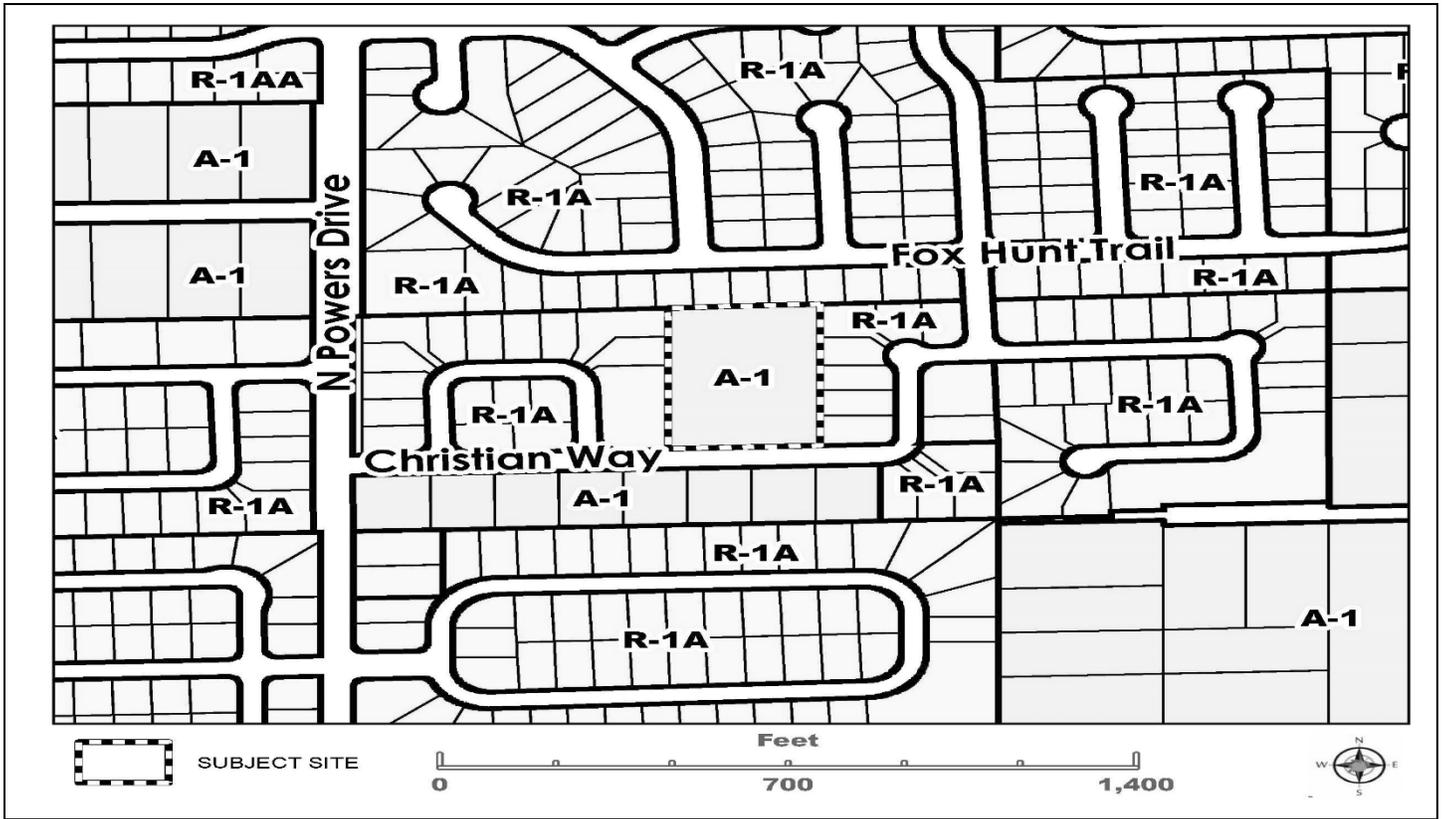


Thomas R. Sullivan

TRS/las

#44521447 v2

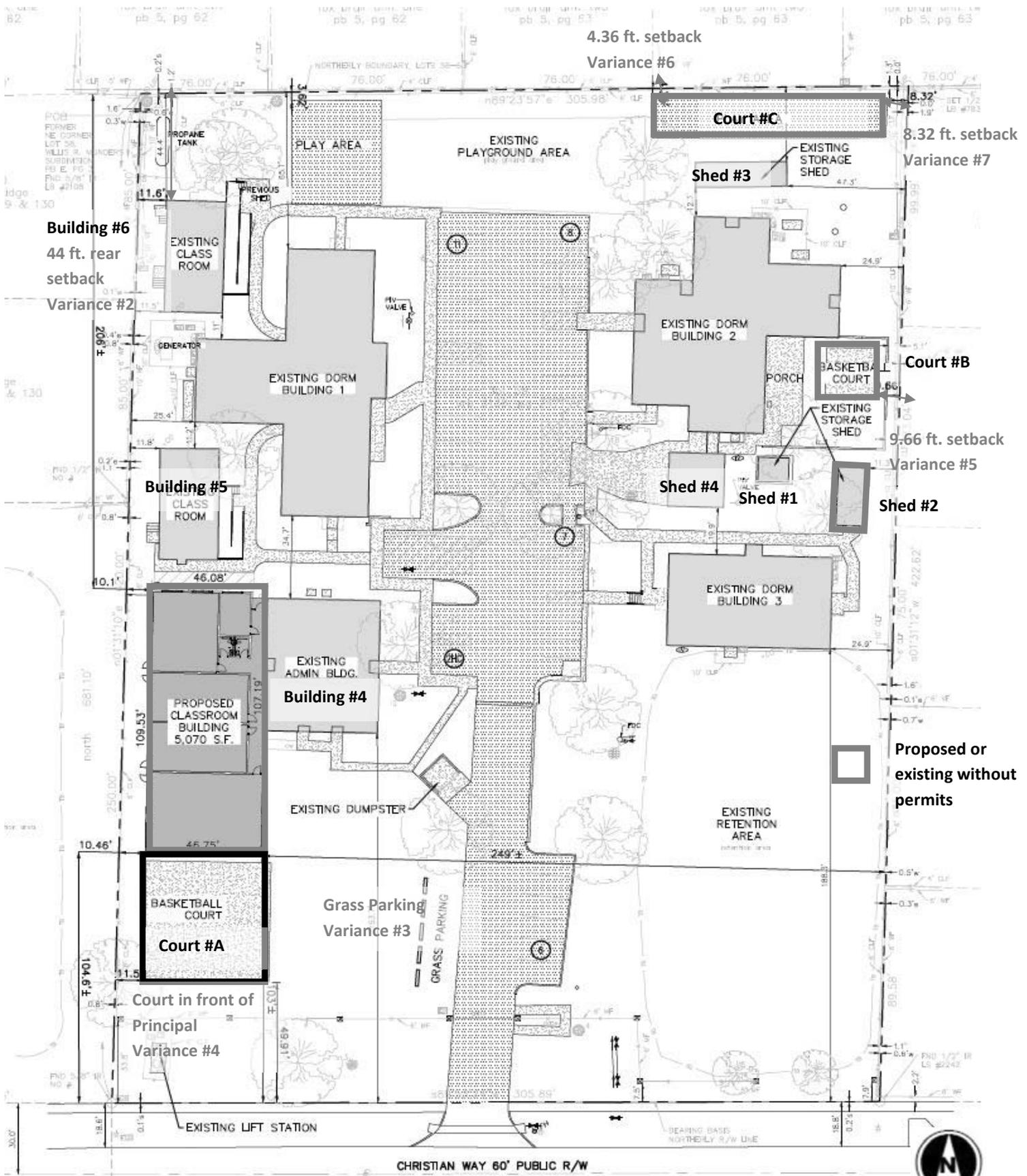
ZONING MAP



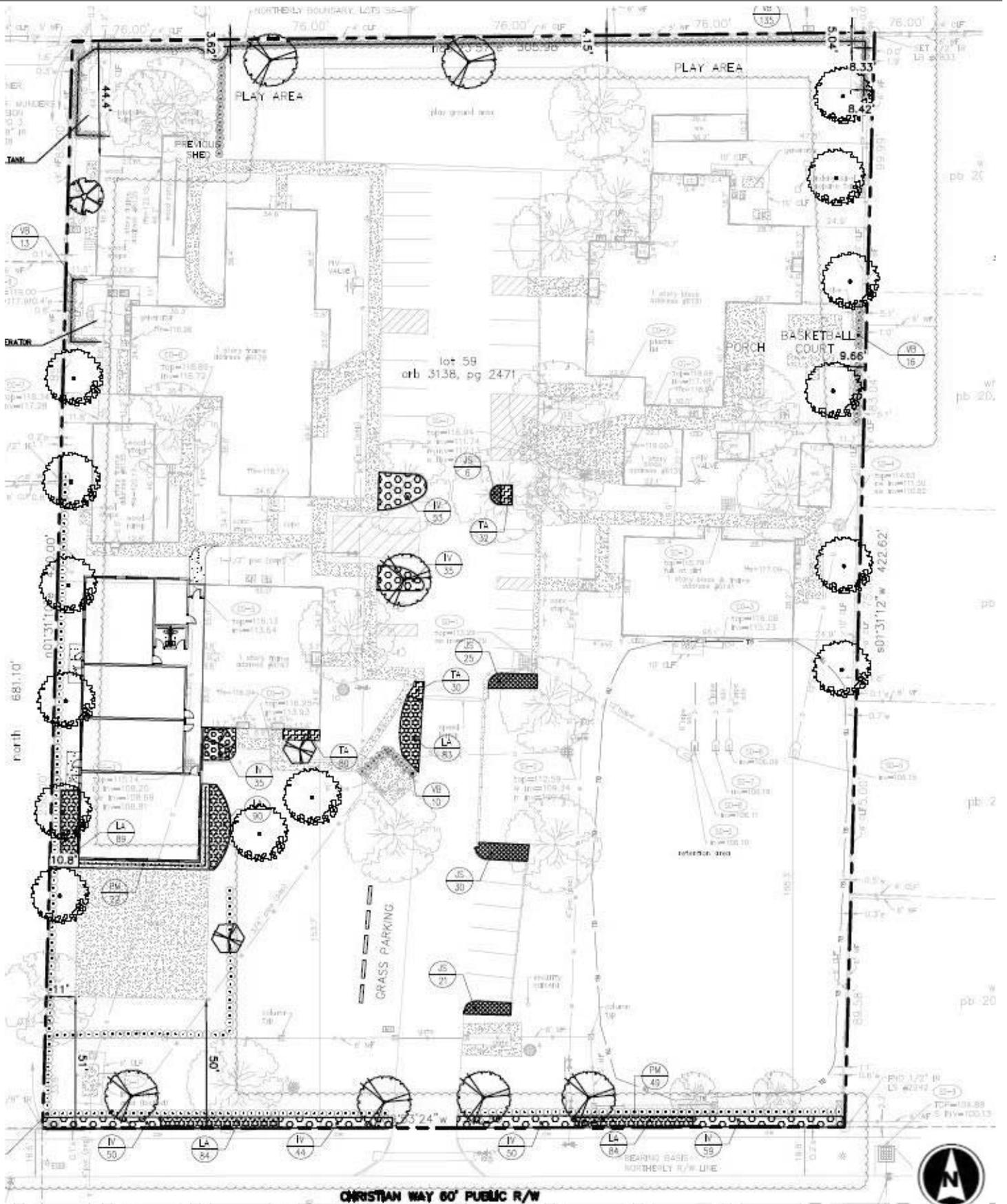
AERIAL MAP



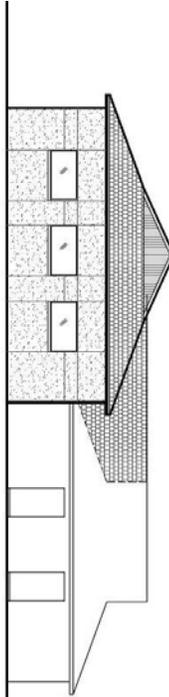
# SITE PLAN



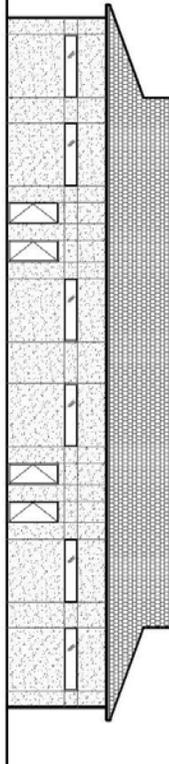
# LANDSCAPE PLAN



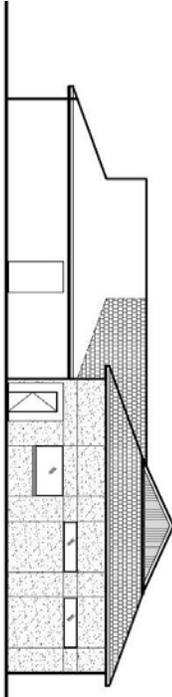
**PROPOSED CLASSROOM ELEVATIONS**



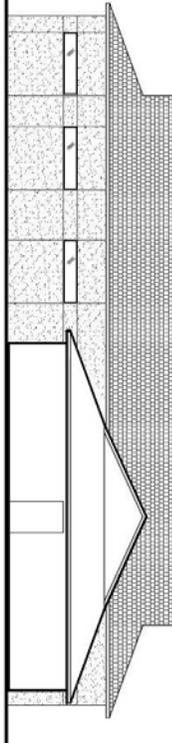
**SOUTH FACADE**



**WEST FACADE**



**NORTH FACADE**



**EAST FACADE**



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**SITE PHOTOS**

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**Front facing north towards basketball court (Variance #4) and new classroom location from Christian Way**



**Facing northwest from Christian Way towards County dry retention, subject property is to the right**

**SITE PHOTOS**



**Facing northwest from Christian Way towards existing Admin. Building and grass parking (Variance #3)**



**Facing south from west property line towards proposed classroom building in foreground and Christian Way**

**SITE PHOTOS**



**Facing west towards existing building (Variance #2) at north rear property line**



**Facing east at north property line towards basketball court (Variances #6 & #7)**

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**SITE PHOTOS**

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**Facing south at east property line towards basketball court (Variance #5)**



**Interior parking area, facing northwest towards existing Admin. Building and Dorm. Building #1**

**\*\*AMENDED\*\***

Meeting Date: **MAR 03, 2022**

Commission District: **#2**

Case #: **SE-22-03-147**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

**Ted.Kozak@ocfl.net**

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**GENERAL INFORMATION**

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**APPLICANT(s):** RYAN WOODS FOR DUKE ENERGY

**OWNER(s):** DUKE ENERGY FLORIDA INC

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

- 1) Special Exception to allow the construction of a 265 ft. high lattice communication tower.
- 2) Variance to allow a distance separation from offsite uses of 24 ft. in lieu of 1,500 ft.
- 3) Variance to allow the distance separation between communication towers of 350 ft. in lieu of 5,000 ft.
- 4) Variance to allow the elimination of landscape screening around the perimeter of the tower.

**PROPERTY LOCATION:** 5501 Silver Star Rd., Orlando, FL 32808, north side of Silver Star Rd., west of N. Pine Hills Rd., east of N. Powers Dr.

**PARCEL ID:** 18-22-29-0000-00-002

**LOT SIZE:** +/- 4.27 acres

**NOTICE AREA:** 1,500

**NUMBER OF NOTICES:** 621

**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; and, **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (unanimous; 4 in favor, 0 opposed, 1 abstained, 1 absent, and 1 seat vacant):

1. Development shall be in accordance with the site plan and tower specifications received January 18, 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. The existing lattice tower shall be removed within 1.5 years of the completion of construction of the new lattice tower, subject to supply chain issues.
6. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
7. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
8. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the history of the existing tower, the location of the existing and proposed tower, the site plan and tower specifications, the distance separation between the proposed tower and the nearest communication towers in the area, the distance separation between the proposed tower and the nearest residential and photos of the site. Staff provided an analysis of the six (6) special exception and variance 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, but requested a modification to Condition #5 to allow longer than one year for removal of the existing tower after completion of construction of the new tower.

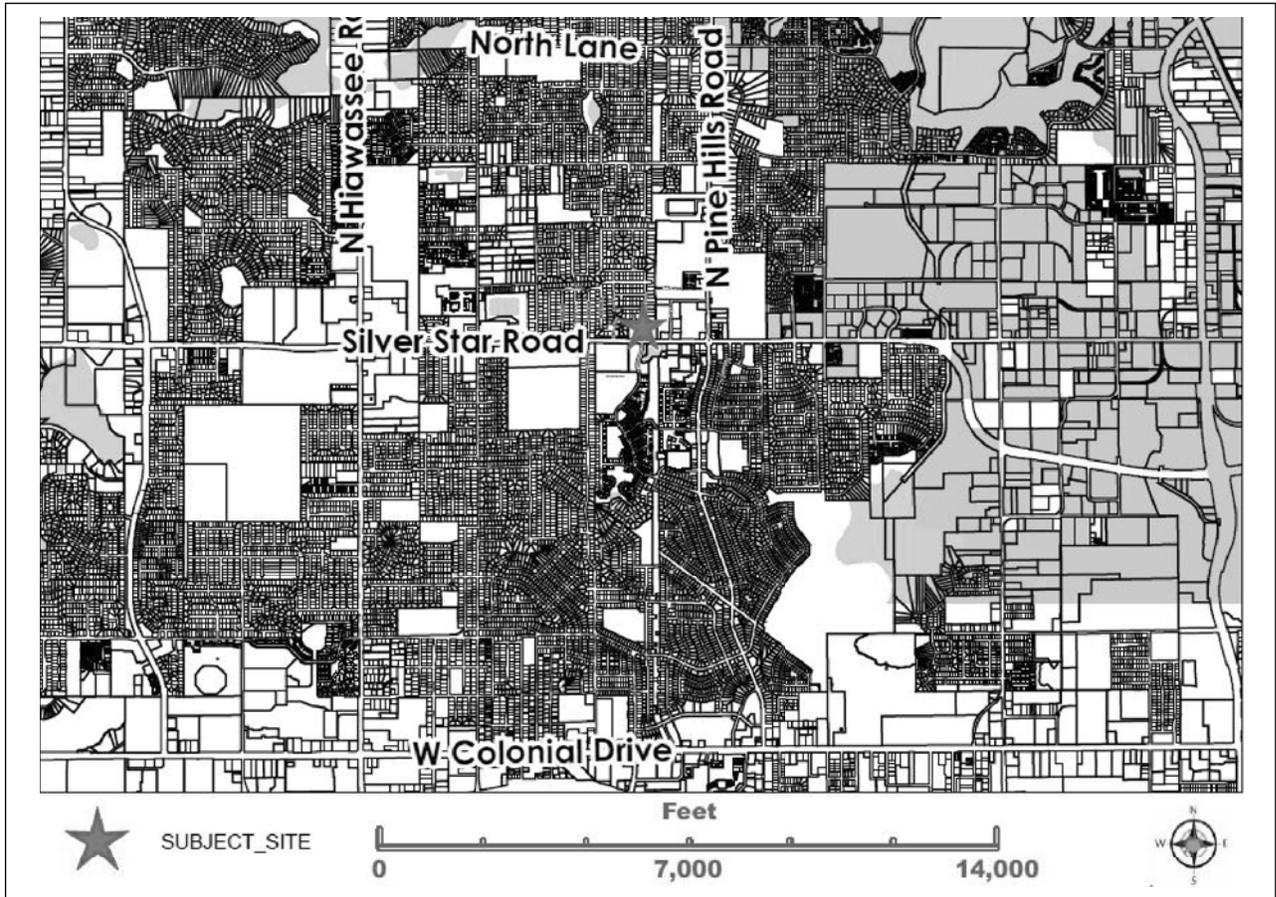
There was no one in attendance to speak in favor or in opposition to the request.

The BZA stated that the rationale for the replacement of the tower was reasonable, the location was appropriate and unanimously recommended approval of the special exception and variances by a 4-0 vote, with one abstaining, one absent and one seat vacant, subject to the eight (8) conditions in the staff report, and an amended Condition #5, which states "The existing lattice tower shall be removed within 1.5 years of the completion of construction of the new lattice tower, subject to supply chain issues."

**STAFF RECOMMENDATIONS**

Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	PD, C-2, R-1A	PD	R-1A
Future Land Use	INST	LDR	O, C, INST	C	LDR
Current Use	Duke Energy Woodsmere Substation	Single-Family Residential	Office, Retention Area	Vacant, Central Florida Regional Transportation Authority	Single-Family Residential

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## BACKGROUND AND ANALYSIS

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### **DESCRIPTION AND CONTEXT**

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes. Lattice communication towers of any height are allowed by Special Exception. The Future Land Use is Institutional (INST), which is consistent with all zoning districts.

The subject property is 4.27 acres in size, and is a legal parcel of record. The property consists of a total of 3,417 square feet of building area utilized by Duke Energy for the Woodsmere electrical substation with structures that were constructed between 1955 and 2001. There are also two existing communication towers on the property, one 265 ft. high four-sided lattice tower at the west portion of the property, installed in 1955 and one 175 ft. high monopole at the south/ central portion of the property, installed in 2001.

In order to replace the existing 265 ft. high lattice tower on the site, which is nearing the end of its designed lifespan, the subject request is to erect a new 265 ft. high lattice communication tower within a 65 ft. by 65 ft. compound area at the south side of the property. After installation of the new lattice tower, the old lattice communication tower will be removed and the existing cellular antennas will be relocated to the new tower. The new tower will be primarily designed for the location of Duke Energy internal communication equipment, but will allow for multiple carriers and colocation opportunities. 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, Section 38-1427(d)(2), communication tower separation from off-site uses, Section 38-1427(d)(3), distance separation requirements between communication towers, and Section 38-79, conditions for permitted and special exception uses. Notwithstanding the above, Section 38-1427 requires a Special Exception for a new lattice communication tower in the R-1A zoning district at any height. The proposed new tower will be 24 feet from the nearest residential offsite uses in lieu of 1,500 ft., requiring Variance #2 and 350 ft. from the nearest communication tower, which is located onsite, in lieu of 5,000 ft., requiring Variance #3. Further, since the site is substantially screened and the proposed tower compound will be not visible from adjacent properties, another request is to eliminate the requirement, as per Section 38-1427 (11) for landscape screening around the base of the tower and the compound, requiring Variance #4. The proposed tower will be replacing the outdated bulky 1950s design and the impact of the proposed tower to any adjacent residences will be equal to, or lesser than, the existing tower. The existing tower was erected in 1955, long before any of the adjacent residences were constructed in the mid-1960s.

The requested Special Exception and Variances are required since Duke Energy has no other option but to seek approval for the new tower which would allow for continued operation of the existing tower during construction of the replacement tower. Alternatively, the need for the requested Special Exception and Variances could have been eliminated through the replacement of the existing tower on the same footprint and height, as per Section 38-1427(b)(4), which states:

All communication towers existing on September 8, 1995 (the effective date) shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such existing towers. New construction other than routine maintenance on an existing communication tower shall comply with the requirements of this section.

However, as stated above, during the anticipated six to nine-month construction timeline of the new tower the existing Duke communications would be eliminated and as such would greatly impair operations within the region. The request has been assessed based upon the six Special Exception criteria as set forth in Section 30-43(2), the two additional criterial as set forth in Section 38-1427(n)(7), and the six Variance criteria as set forth in Section 30-43.

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	265 ft. (Special Exception)
Min. Lot Size:	N/A	+/- 4.2 acres

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

	Code Requirement	Proposed
Front:	25 ft.	128 ft. (South)
Rear:	30 ft.	131 ft. (North)
Side:	7.5 ft.	24 ft. (West) 603 ft. (East)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA FOR COMMUNICIATION TOWERS**

**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 west portion of the property, approximately 31 feet north of the existing tower to be removed, 24 feet from the nearest adjacent residential property line to the west and 131 feet from the nearest residential property to the north. It will be similar and compatible with the surrounding area as the original tower.

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

While the new tower is being relocated slightly farther north, it will be located at the same distance from adjacent residential uses to the west as the existing tower, and the new tower will be less imposing with a smaller footprint in comparison to the original tower which was installed over 60 years ago. As such, it will not be a detrimental intrusion to the surrounding area.

### **Meet the performance standards of the district**

With the approval of the requested Variances pertaining to distance separation requirements and tower compound landscaping requirements, the communication tower meets the performance standards of the district and Section 38-1427 of the Communication tower requirements of the Orange County Code.

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

There are not any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing communication tower and substation activities which have been on the site for more than 60 years.

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

The proposal will be located within a portion of a developed site and no additional buffer yards are required.

### **Aesthetic Impact**

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 proposed tower is located at distance almost identical from the nearest residential use to the west and although it is located slightly closer to the residential to the north, the reduced bulk and footprint impacts of the new tower in comparison to the existing tower to be replaced is lessened and as such is not an 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 the replacement tower to the nearby residential uses.

### **VARIANCE CRITERIA**

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

There are special conditions and circumstances particular to this site relative to the distance of the new tower from the adjacent off-site uses and the nearest communication tower. Further, the tower to be replaced was erected long before the construction of any of the adjacent residences and without the need for landscaping around the compound.

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

The need for the variances is not self-created since there are no other options to allow for the replacement of the existing 60+ year-old communication tower without greatly impacting Duke Energy communications in the region. Furthermore, supplemental landscaping has never been provided nor needed due to the lack of visibility from the street and adjacent properties at the base of the existing or proposed tower location.

**No Special Privilege Conferred**

Approval of the requests will not grant the applicant special privilege denied to others since there are no other options to modify the proposal to eliminate the need for the variances pertaining to distance separation for a replacement tower which has existed for over 60 years, and pertaining to the lack of the need for internal supplemental landscaping.

**Deprivation of Rights**

Since there are no other alternatives to replace the existing tower without the need for variances, denying the requests will deprive Duke Energy the ability to continue uninterrupted communication operations for the Orlando region.

**Minimum Possible Variance**

Due to the existing location of communication tower improvements, the variances are the minimum possible.

**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 surrounding area. The proposed tower and the associated ground level equipment, and without supplemental internal landscaping will be substantially similar to the existing tower which has existed for over 60 years.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and tower specifications received January 18, 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. The existing lattice tower shall be removed within 1 year of the completion of construction of the new lattice communication tower.
6. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
7. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
8. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

C: Dale Brooks  
550 S. Tryon Street  
Charlotte, NC 28202

Kasey Feltner  
550 S. Tryon Street  
Charlotte, NC 28202



**Orange County Zoning Division**

201 S. Rosalind Avenue  
Orlando, FL 32801  
Main Contact: Taylor Jones  
Cell: (407) 836-5944  
Email: Taylor.Jones@ocfl.net

**Subject: Duke Energy Replacement Tower - Woodsmere  
5501 Silver Star Road  
Orlando, FL 32808  
Permit No: B21905737**

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Duke Energy plans to build a new 250' tall lattice tower to replace their existing, outdated tower of the same height on the property. This installation will include ground equipment to support its operations. These include an equipment shelter, 50kW generator and 500-gallon liquid propane tank. This tower will help Duke Energy bolster its public utility infrastructure. Allowing better communications for their employees and systems as well as monitoring of their adjoining substation.

Once built this site will not be actively manned. No increased traffic should be incurred by this project. The existing substation on site will function as it did previously and the existing lattice tower will be removed once the new tower is built and operational.

We are pursuing both a Special Exception and a Variance. The variance is being requested for the landscaping requirements, separation distances between towers and separation from nearby residential use. Regarding landscaping, Duke Energy already has an existing tower on site with no additional landscaping. There is existing vegetation on the North and West sides of property between the facility and the residential areas. The Eastern side houses Duke Energy's substation and the South side is the access road. Duke would like to request for the existing vegetation to satisfy all landscaping requirements for the project.

We are also requesting a variance for the separation distance between towers due to the fact the tower on the property which breaches code is the tower being replaced. Once the new tower is built, the outdated tower will be deconstructed. The nearest tower by others is 350 feet away. This is an approximately 175' monopole. Due to its distance from the substation and it's lower height it doesn't make sense as a potential option to replace the Duke Energy tower already on site.

**Cover Letter – Duke Energy Replacement Tower**

December 27th, 2021

Page 2 of 2

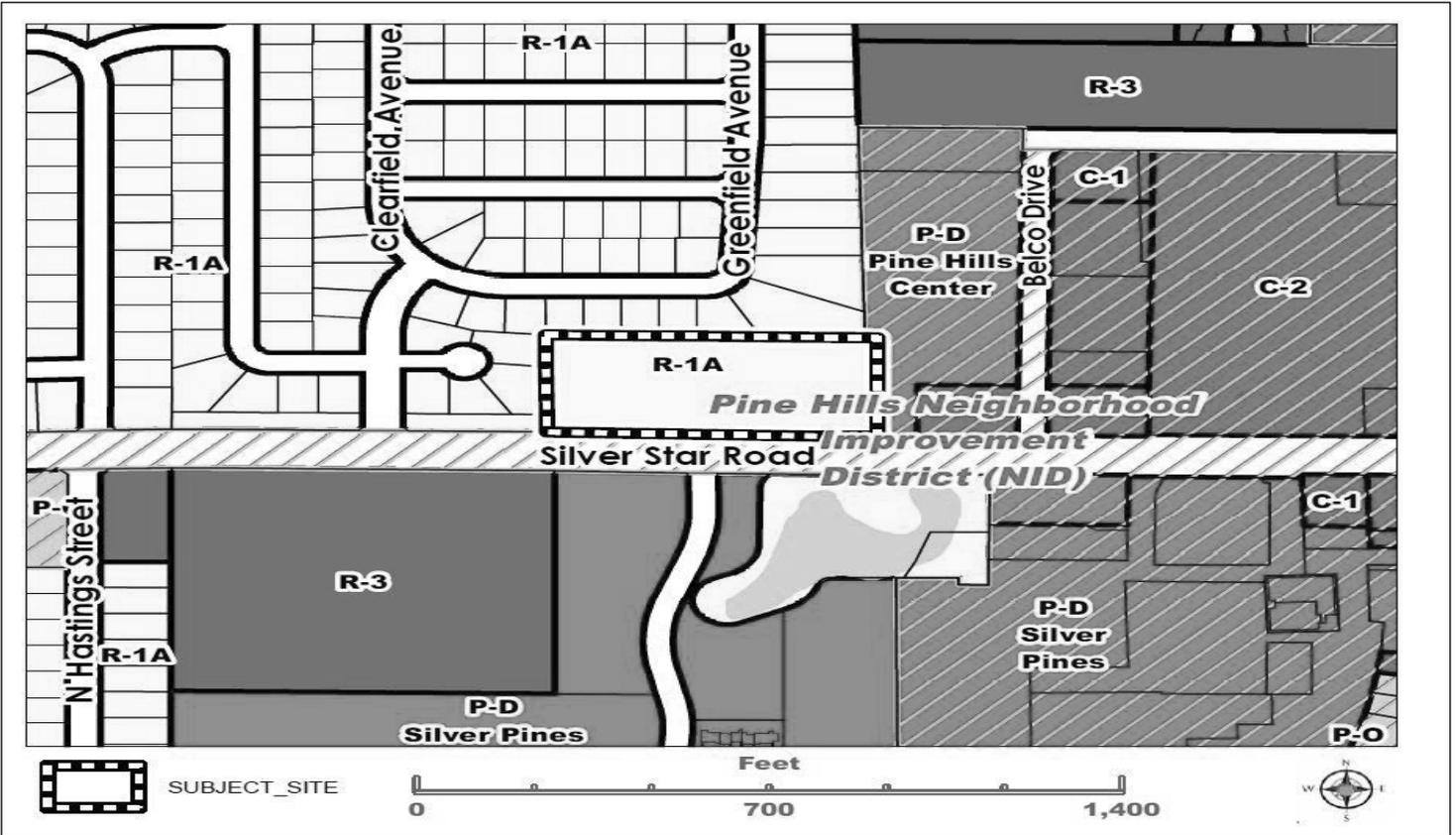


Finally, we are requesting a variance for the separation distance between the nearest residential use. While this distance doesn't meet code requirements. It will be the setback off the residential use approximately the same distance as the existing tower is currently. From the edge of the proposed tower to the residential use is 24' +/- . Additionally, the new tower will be setback farther from the existing right-of-way than the existing tower.

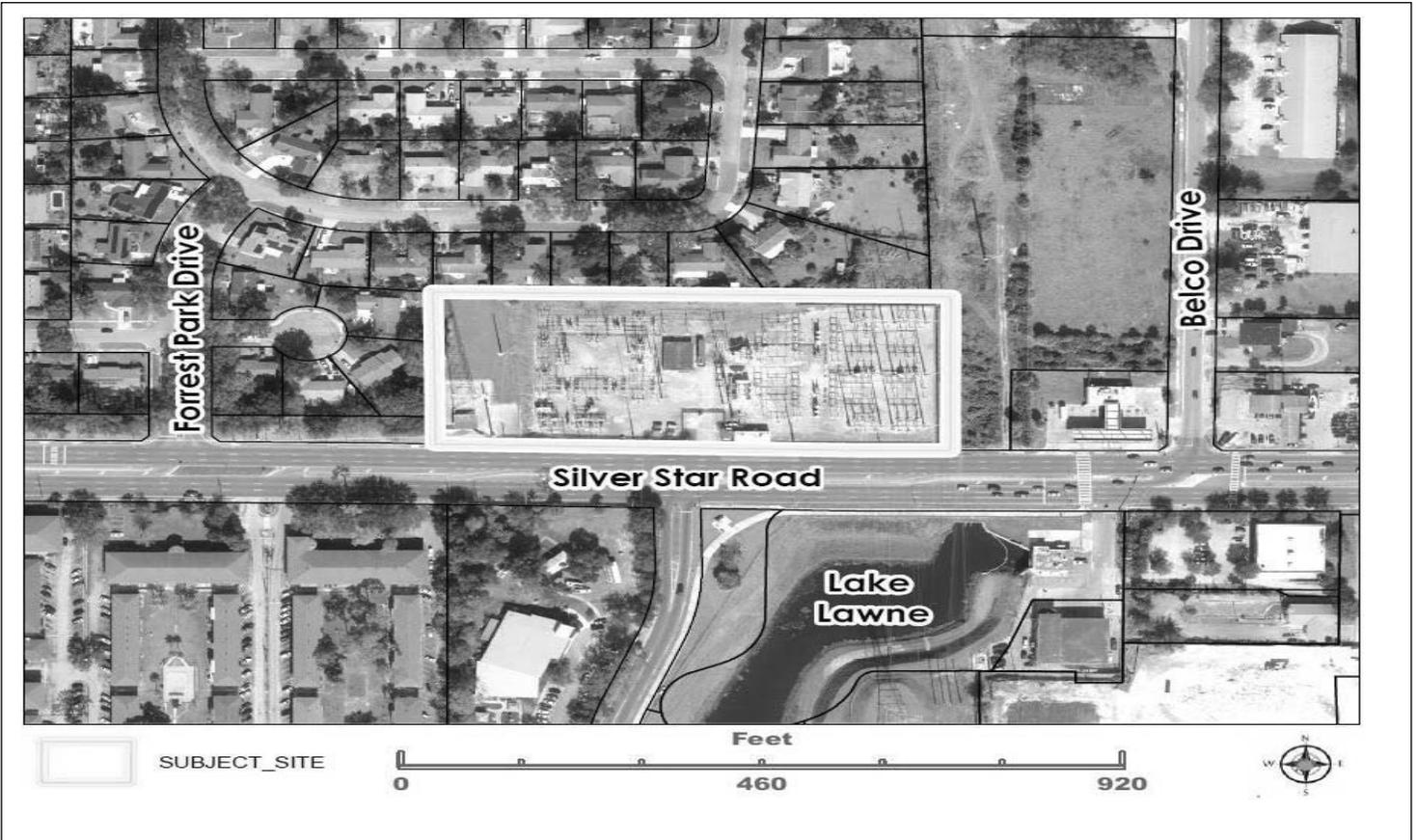
Please reach out if you have any questions or concerns, you can contact me on my mobile phone at the number listed below.

Sincerely,  
Ryan Woods  
**Tower Engineering Professionals**  
(919) 943-0397

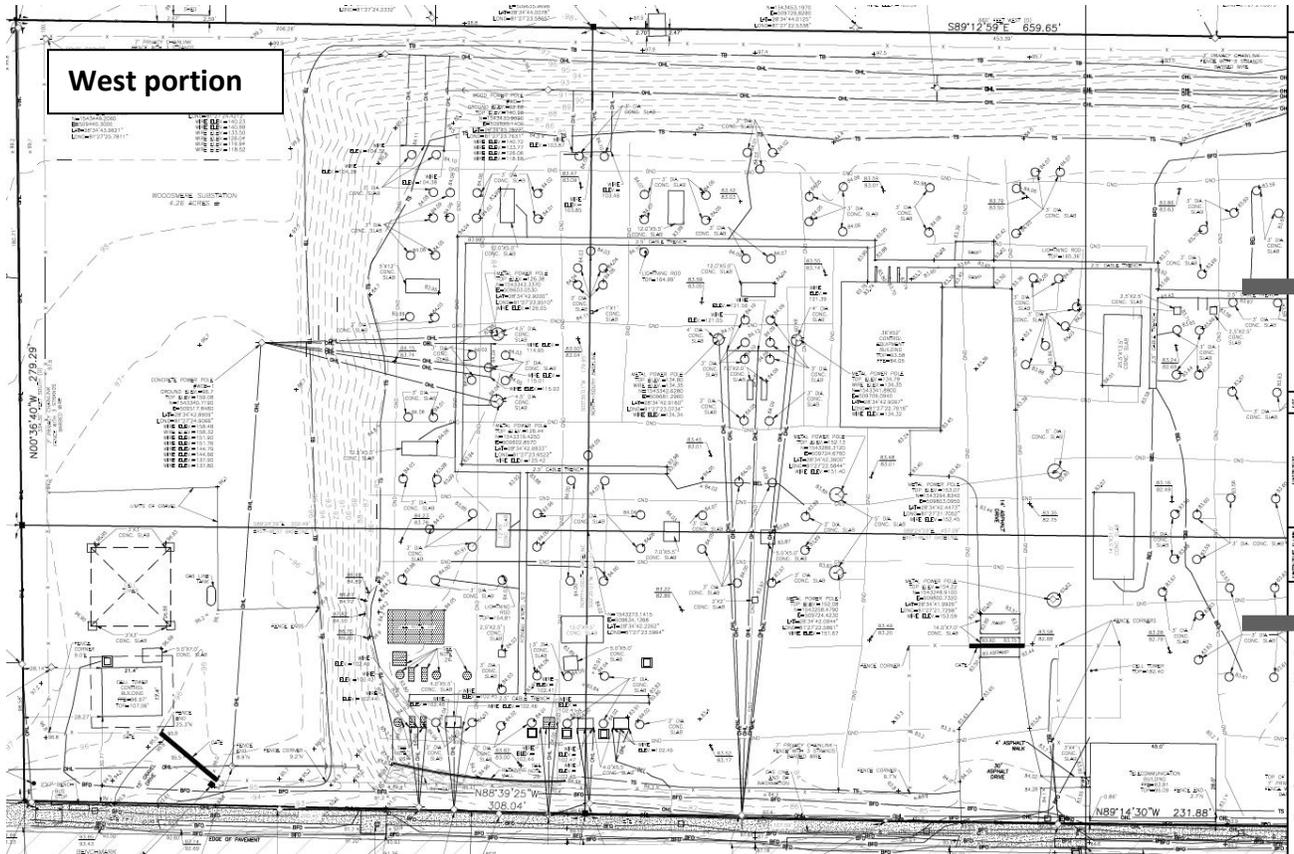
ZONING MAP



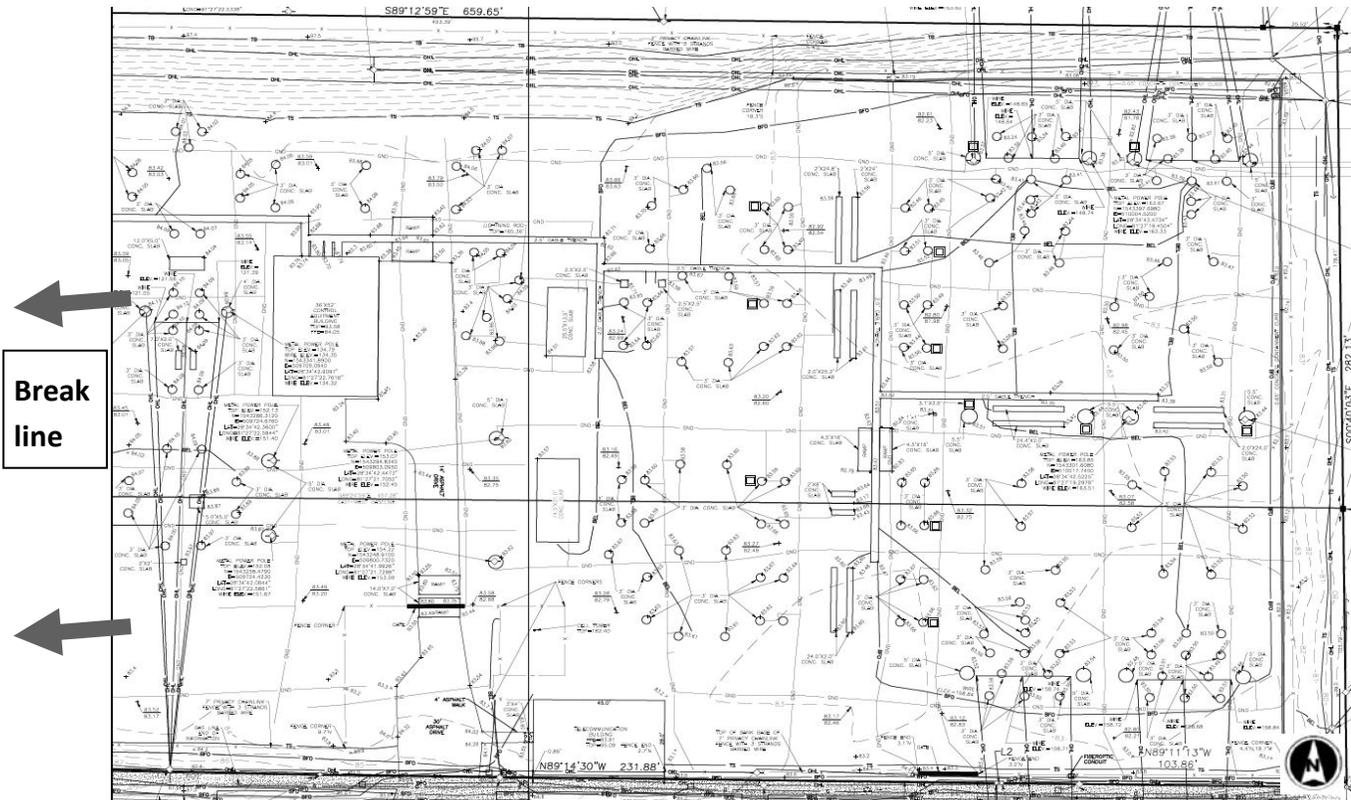
AERIAL MAP



**SURVEY**



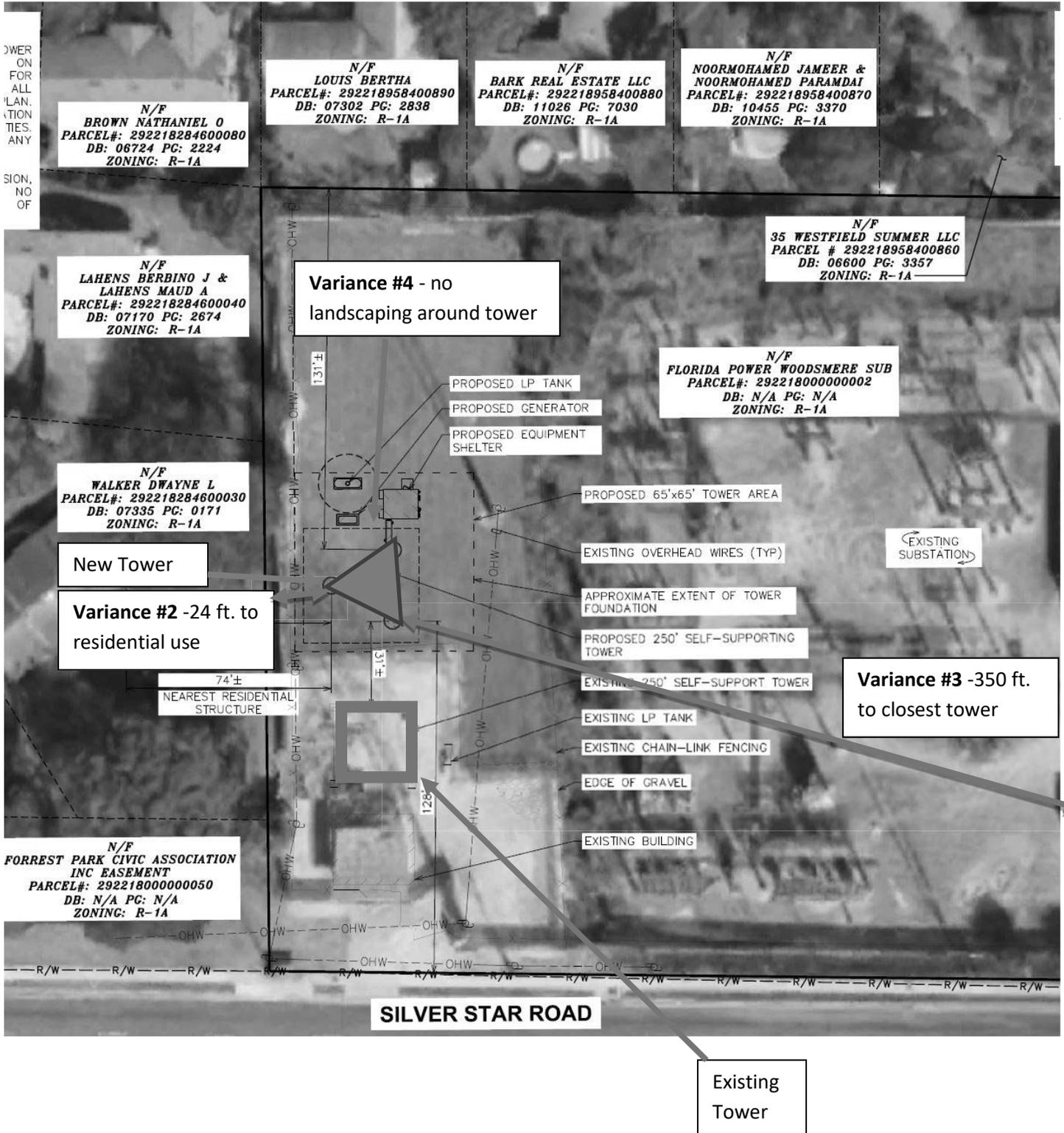
**Silver Star Rd.**



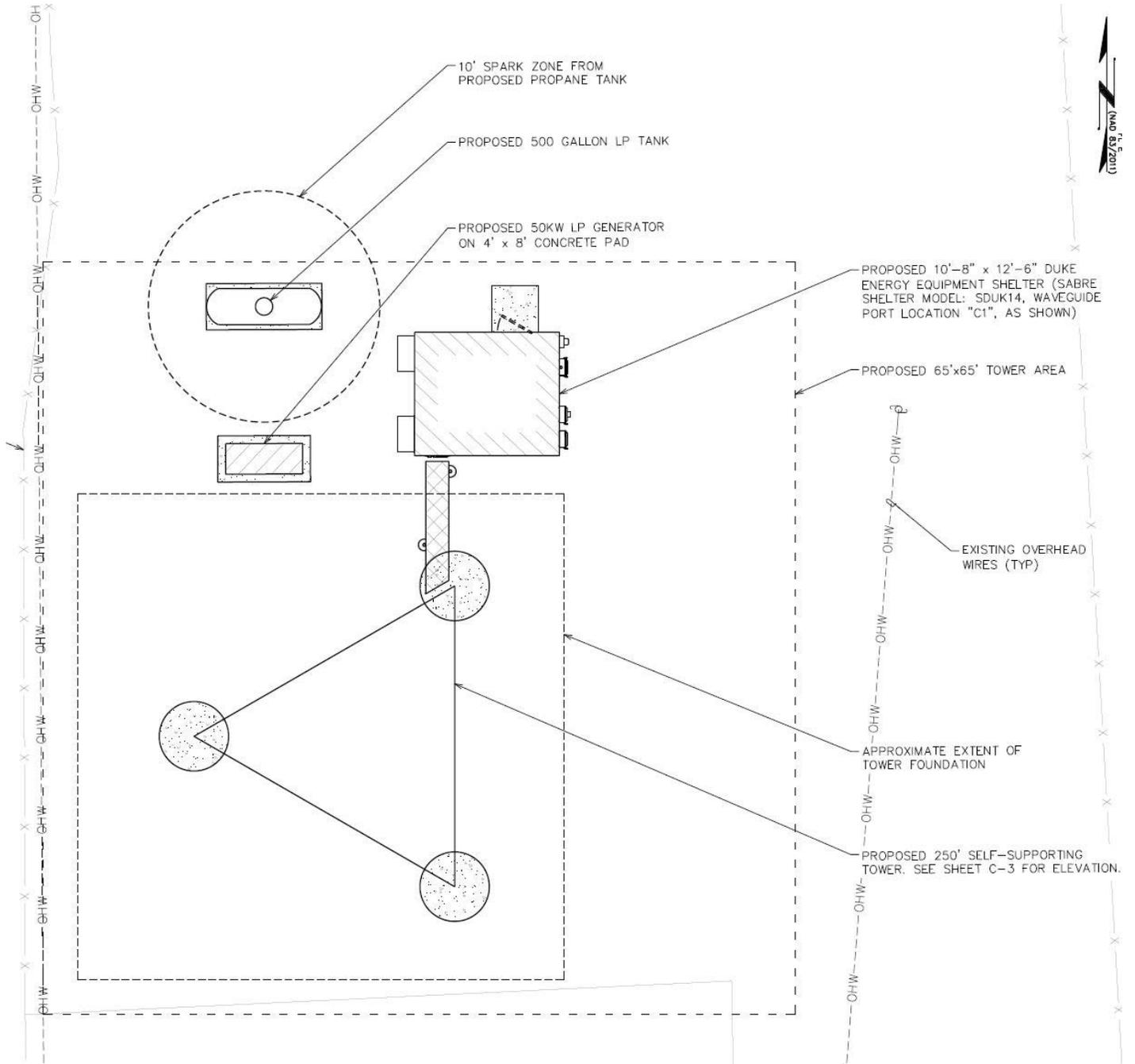
**Silver Star Rd.**



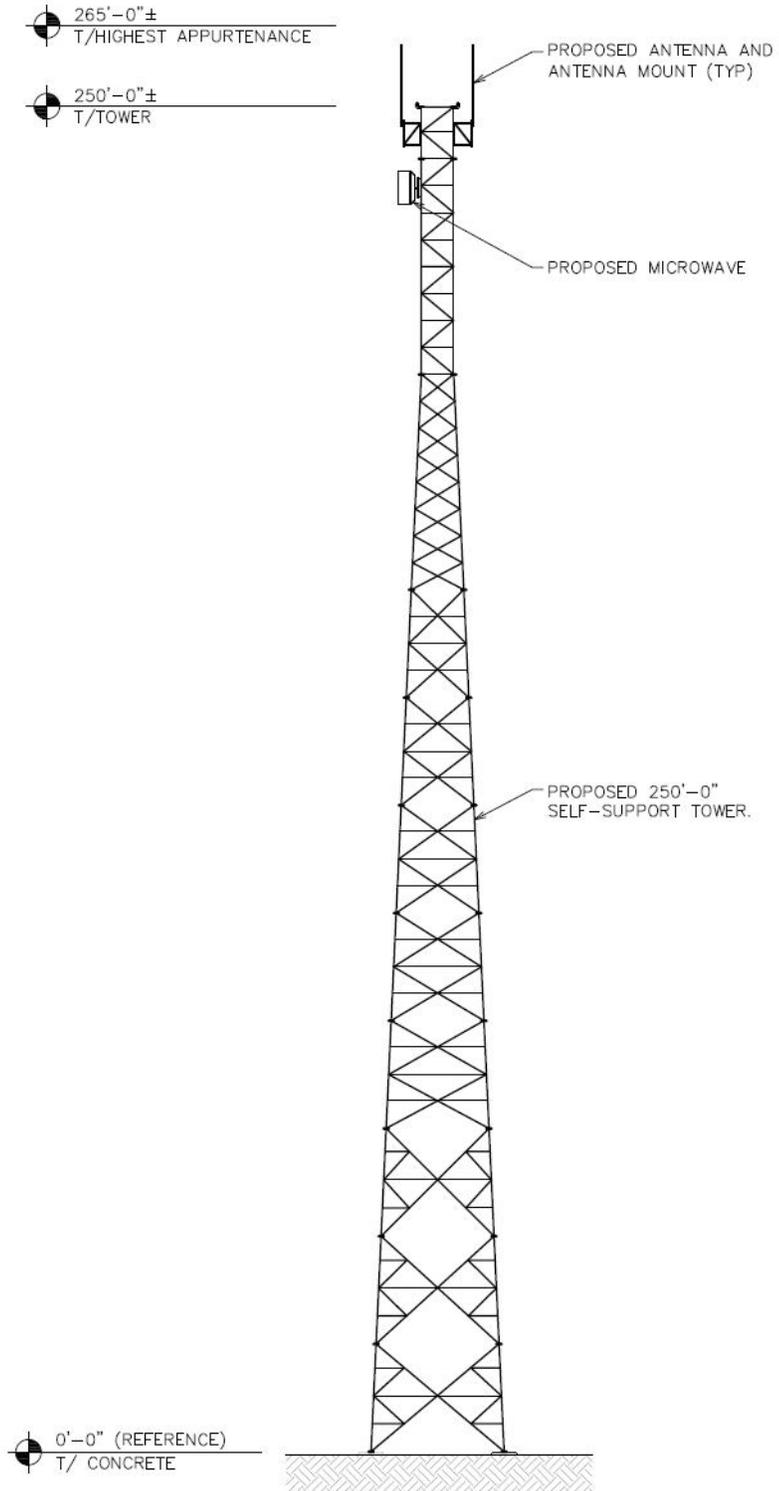
**SITE PLAN – WEST PORTION**



# TOWER LOCATION LAYOUT



# TOWER ELEVATION



**SITE PHOTOS**



**Property along Silver Star Rd., facing west with lattice tower in background, existing monopole foreground**



**Facing north within property towards existing tower base with proposed tower location behind**

**SITE PHOTOS**



**Facing northwest within property with proposed tower location, stakes indicated location**



**Facing south within property towards existing lattice tower to be removed and replaced**

**SITE PHOTOS**



**North property line facing east from west property line towards existing monopole, substation equipment**



**Facing north at west property line, proposed tower will be behind existing tower**

**SITE PHOTOS**



**View of existing tower facing northeast from Silver Star Rd.**



**Facing northeast towards existing and proposed tower location from residential perspective**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#6**

Case #: **VA-22-03-001**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): NELSON PINEDA

OWNER(s): NM ROOF LLC

REQUEST: Variances in the R-1A zoning district for the construction of a single-family residence as follows:

1) To allow a lot width of 45 ft. in lieu of a minimum of 75 ft.

2) To allow a lot size of 4,500 sq. ft. in lieu of a minimum of 7,500 sq. ft.

PROPERTY LOCATION: 3512 S. Nashville Avenue, Orlando, Florida 32839, northwest corner of S. Nashville Ave. and 36th St., west of S. Orange Blossom Tr., south of Interstate 4.

PARCEL ID: 03-23-29-0182-93-232

LOT SIZE: +/- 0.1 acres (4,500 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 147

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 5 in favor, 0 opposed, 1 absent, and 1 seat vacant):

1. Development shall be in accordance with the lot size and dimensions shown on the site plan received January 11, 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 support or in opposition.

A friend speaking on behalf of the applicant and owners noted that the previous home had been demolished and the requested Variances were needed in order to build a two-story single-family home. It was also noted that the proposed home meets required setbacks for the district.

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

The BZA acknowledged the small size of the lot, noted that the proposal will add value to the neighborhood and unanimously recommended approval of the variances by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

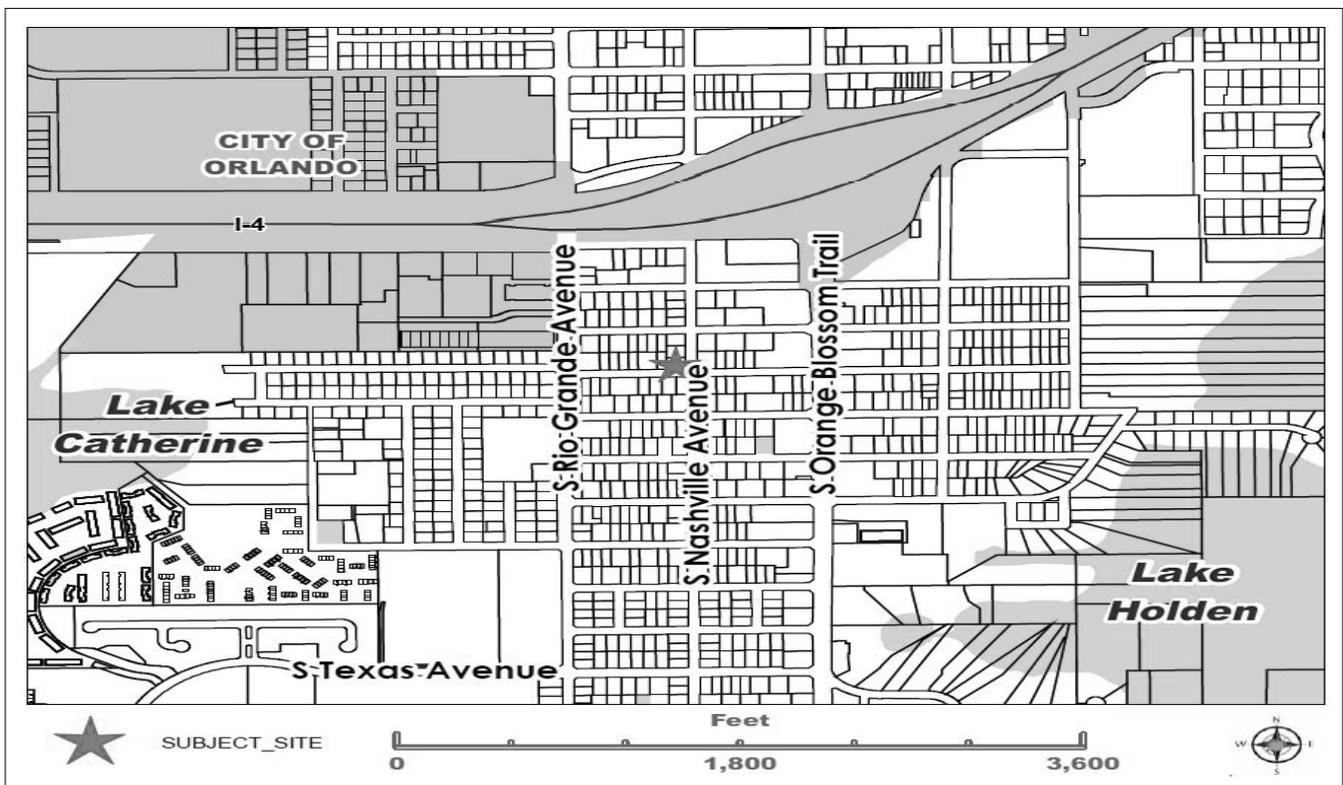
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

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

The area around the subject site consists of single-family homes and vacant lots. The subject property is a 0.1 acre lot, consisting of portions of platted lots 23 and 24, block 93, located in the Angebilt Addition Number 2 Plat, recorded in 1924. The lot is non-conforming, as it does not meet the minimum lot width or size. The property is a corner lot with frontage on both S. Nashville Ave. and 36th St. The property was previously developed with a single-family home that was demolished in 2014 (permit B14013730). The owner purchased the property in 2020.

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 comprises of the south 45 ft. of lots 23 and 24, and was combined through ownership with the 45 ft. x 100 ft. parcel to the north in 1992. It was then conveyed/sold in the combined format from 1992 to 2002. After 2002 it was conveyed in its current configuration. Thus, the parcel cannot be considered to be a substandard lot of record, and variances are required for the lot width and lot size. The parcel is 45 feet wide, but the R-1A zoning district requires a minimum lot width of 75 ft., requiring Variance #1, and is 4,500 sq. ft. in size but the R-1A zoning district requires a minimum lot area of 7,500 sq. ft., requiring Variance #2. The applicant is proposing to construct a two story 1,703 gross sq. ft. single-family home on the property which will meet setback requirements for the district.

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

### District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	24.4 ft.
Min. Lot Width:	75 ft.	45 ft. (Variance #1)
Min. Lot Size:	7,500 sq. ft.	4,500 sq. ft. (Variance #2)

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

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (East)
Rear:	30 ft.	30 ft. (West)
Side:	7.5 ft.	7.5 ft. (North)
Side street:	15 ft.	15 ft. (South)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### Special Conditions and Circumstances

The existing parcel size and configuration are considerations of special conditions and circumstances. Removal of the residence in 2014 has rendered the property undevelopable without the variances for lot width and area.

#### Not Self-Created

The lot was created prior to 1955 and therefore the owners are not responsible for the lot configuration, or the subsequent combination with the parcel to the north from 1992 to 2002, since the property was purchased in 2020, the substandard aspects of the lot are not self-created.

#### No Special Privilege Conferred

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

#### 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.

#### Minimum Possible Variance

The requested variances are the minimum necessary to construct any improvements on the property, due to the lot width and size. The applicant is utilizing a 2 story home design to eliminate the need for setback variances.

## 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 lot will be consistent with the similar sized small lots in the area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the lot size and dimensions shown on the site plan received January 11, 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: Nelson Pineda  
3015 Camino Real Drive  
Kissimmee, FL 34744

## 3512 S NASHVILLE AVENUE VARIANCE REQUEST

### **1. COVER LETTER / REQUEST JUSTIFICATION**

This application seeks a variance from the R1-A zoning minimum lot area and minimum lot width requirements. The subject parcel is 4,500sf (45'x100'), being in its current configuration since June of 1950 or before (see Book 836, P 151 – Deed dated 6/12/1950 – Attached).

A review of the title records revealed that during the 1980s, the subject parcel and the adjacent North parcel were owned by a single owner, although these were never combined for development purposes. Instead, both parcels contained single-family residences dating to the mid-1950s

The prior residential structure on the site was demolished in 2016, and the property is currently vacant. New residential construction permits were filed in October of 2021, and during that review process, the need for a variance was raised by Orange County Staff.

If this request is granted, a new single-family two-story residence will be built on the site, totaling 1,703 sf. R1-A setback variances are NOT are being sought, and the general character of the proposed home matches that of the surrounding neighborhood.

### **2. VARIANCE CRITERIA**

#### **2.1 Special Conditions & Circumstances**

As described above, this is a non-conforming lot of record that is subject to historic circumstances that precede October of 1957. The property's platting also precedes the current R1-A zoning district, and its configuration has not changed since that time.

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

The current owner acquired the property with the intent of building one single-family home in a parcel that previously contained a similar structure. The platting of this area precedes the establishment of current zoning districts, and the conditions prompting this variance request were not created by the owner/applicant.

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

This application is requesting a variance to construct a single-family residence, in keeping with the current character of the surrounding neighborhood. No other special privileges are being requested.

Furthermore, a similar variance was recently approved in the general area to address comparable circumstances (see: PID 03-23-29-0183-18-012, variance VA-21-11-105, dated 12/01/2021).

### **2.4 Deprivation of Rights**

The existing R1-A zoning requirements exceed the dimensions of the subject property. Under the current conditions, no new development is possible without a variance, rezoning, or another form of regulatory relief.

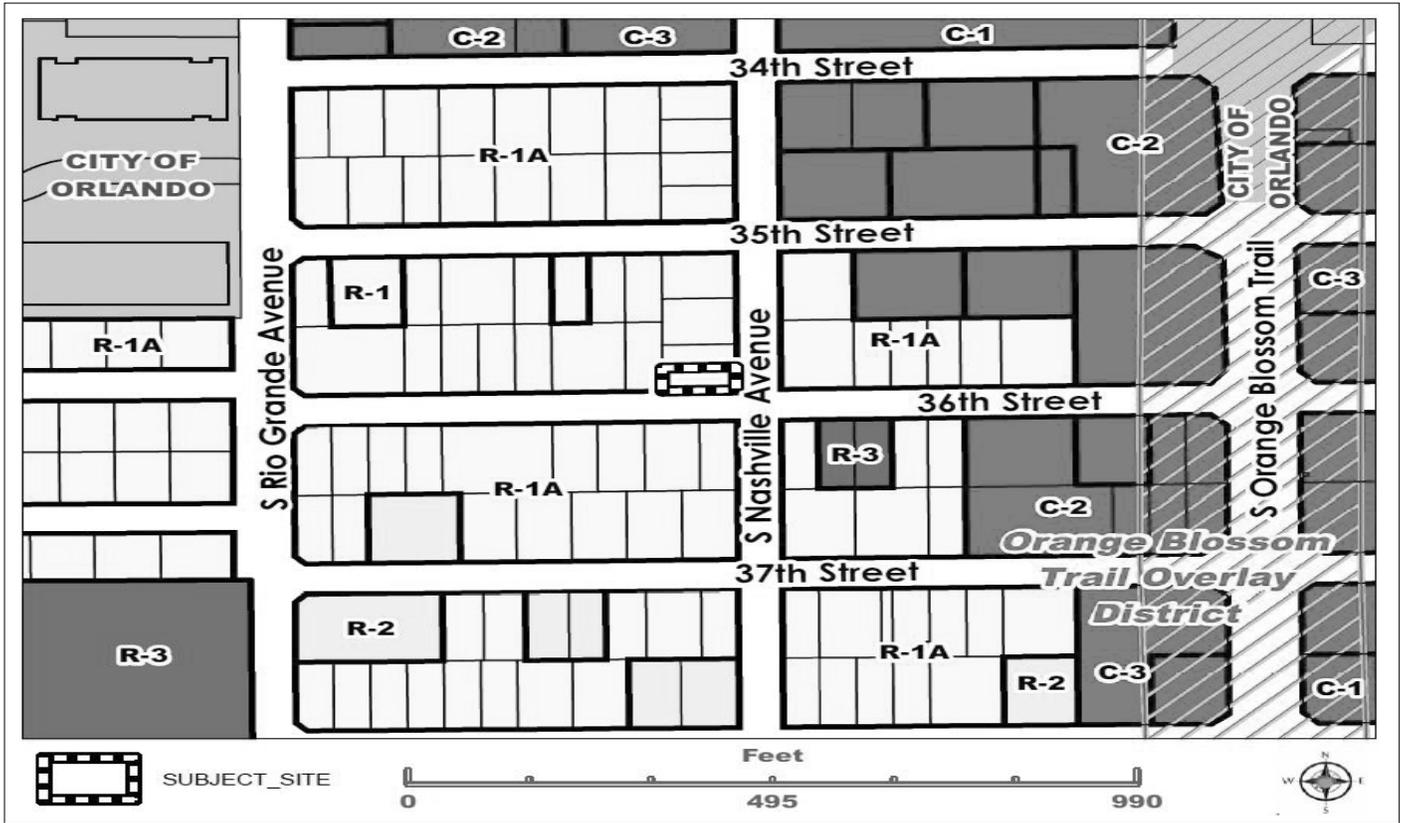
### **2.5 Minimum Possible Variance**

A reasonable effort has been made to minimize the extent of the variance being requested, and a two-story design configuration was introduced to comply with the current R1-A site setbacks.

### **2.6 Purpose and Intent**

The proposed residential project is compatible with the existing neighborhood, and the subject site is located in an area of Orange County that is well-suited for infill & redevelopment.

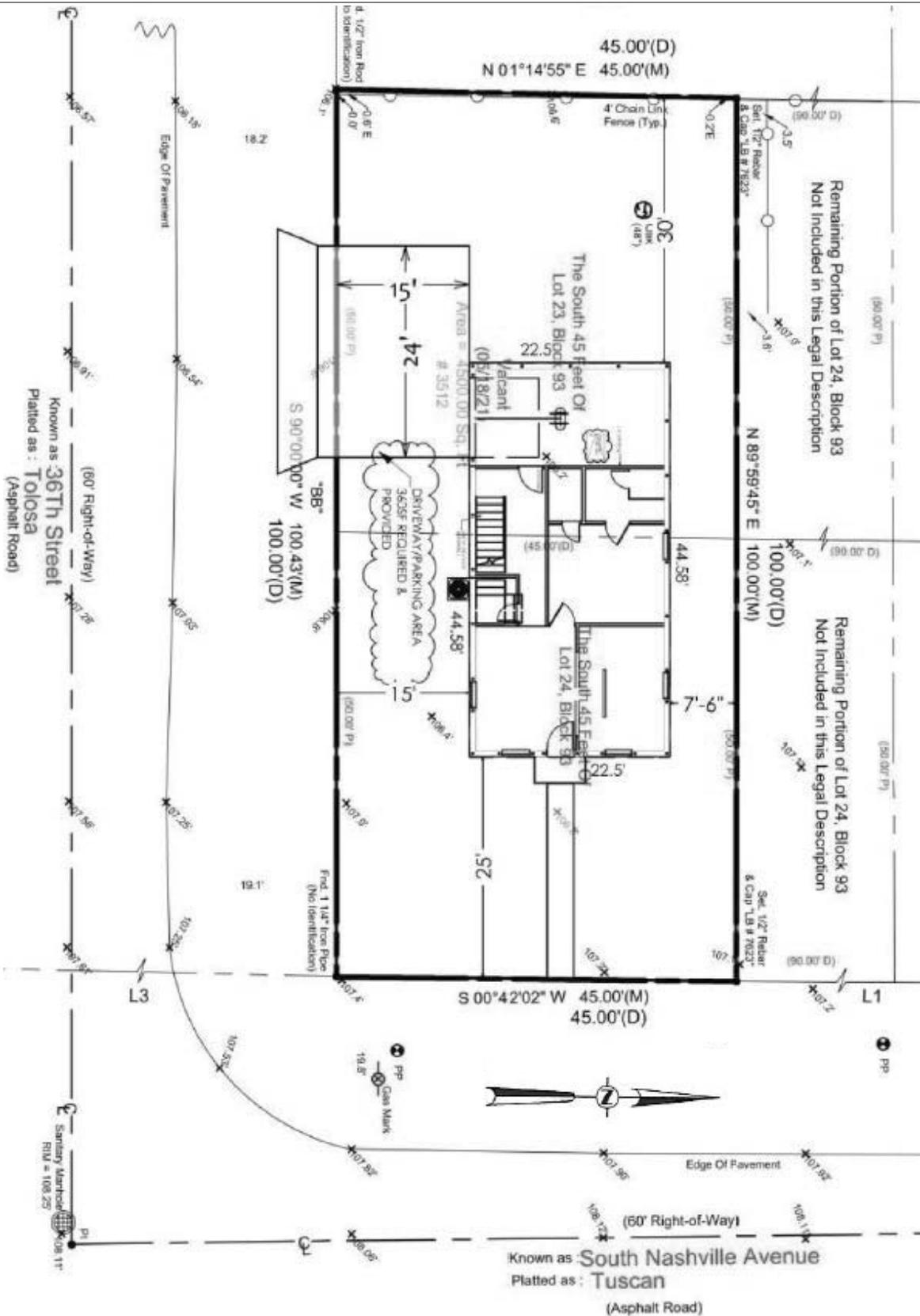
ZONING MAP



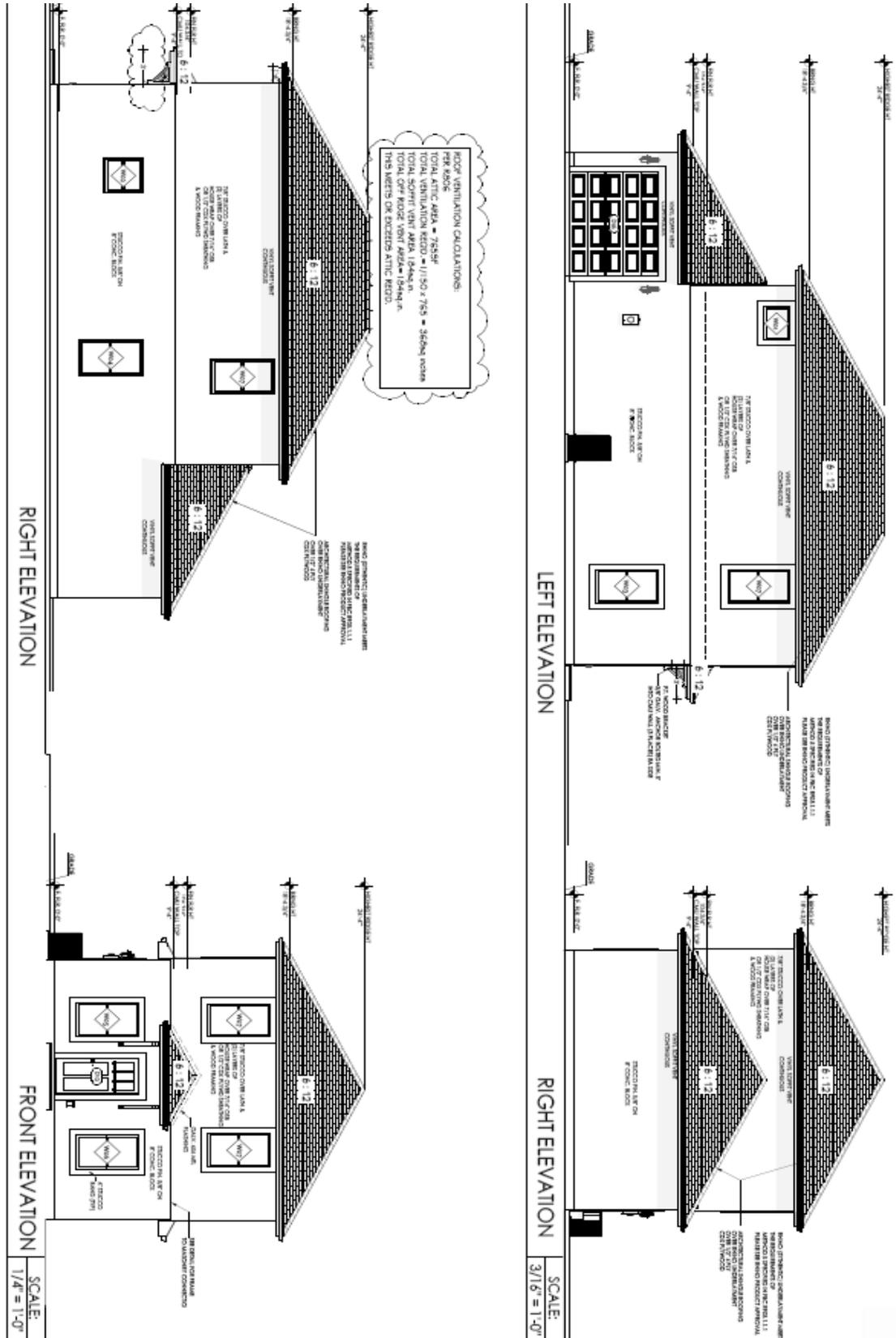
AERIAL MAP



# SITE PLAN



# ELEVATIONS



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**SITE PHOTO**

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**Property from Nashville Ave. facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#3**

Case #: **VA-22-02-139**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): DEIVIS MENDEZ FOR DEWORX

OWNER(s): DEWORX INC

REQUEST: Variances in the I-1/ I-5 zoning district to allow the construction of a building for manufacturing as follows:

1) To allow a north side setback of 17.8 ft. in lieu of 25 ft.

2) To allow a south side setback of 5 ft. in lieu of 25 ft.

3) To allow a west rear setback of 15 ft. in lieu of 25 ft.

PROPERTY LOCATION: 6018 Tiner Ave., Orlando, Florida 32809, west side of Tiner Ave., west of S. Orange Ave., south of E. Oak Ridge Rd.

PARCEL ID: 24-23-29-8680-08-055

LOT SIZE: +/- 0.31 acres (13,471 sq. ft.)

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 143

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 4 in favor, 0 opposed, 2 absent, and 1 seat vacant):

1. Development shall be in accordance with the site plan and elevations received February 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.

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

The applicant stated that he is currently renting a building for his business and purchased the property with the intention to build a new building to operate his business on the subject property. However, in order to allow the manufacturing of cabinets, the property was recently rezoned from the C-3 to the I-1/ I-5 zoning district, but the setbacks became more restrictive. He noted that the adjacent property owners were in favor of the request and submitted 2 letters in favor from neighbors at the meeting.

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

The BZA noted that the lot is uniquely shaped and that if the property had not been rezoned, then the variances would not have been required. The BZA acknowledged that the applicant had reduced the size of the building as much as possible, noted that the proposal will add value to the neighborhood and recommended approval of the variances by a 4-0 vote, with two absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

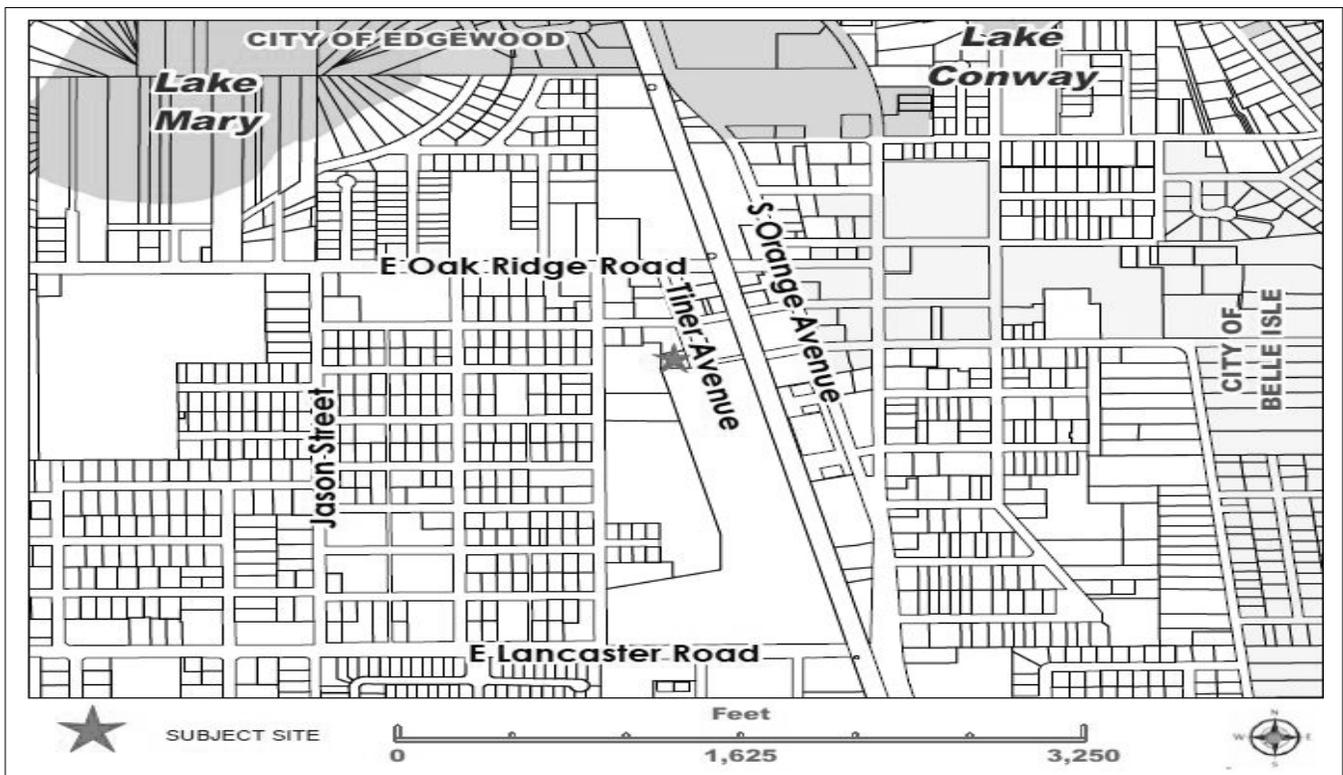
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a special exception, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	I-1/I-5	C-3	I-1/I-5	C-3	C-3
Future Land Use	I	C	I	C	C
Current Use	Vacant	Commercial	Industrial	Vacant	Commercial

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the 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 Industrial, which is consistent with the zoning district.

The area around the subject site consists of commercial buildings to the north and west, and industrial buildings to the south, and vacant land and commercial buildings to the east. The subject property is a 0.31 acre lot, consisting of a portions of platted lot 5, block 8, and a portion of vacated right-of-way on the south, located in the CR Tiner Plat of Pine Castle, recorded in 1894, and is considered to be conforming. There is currently an unpermitted carport on the property. The owner purchased the property in 2020.

In June 2021, the Board of County Commissioners approved both a Land Use Amendment from Commercial (C) to Industrial (I), SS-21-04-024, and a rezoning from C-3 to I-1/I-5, RZ-21-04-025, in order to allow for the future development of the property with a furniture restoration business. The proposal is for a 3,610 sq. ft. building and associated parking which requires variances for: a north 17.8 ft. side setback in lieu of 25 ft. (Variance # 1), a south 5 ft. side setback in lieu of 25 ft. (Variance # 2), and a west rear setback of 15 ft. in lieu of 25 ft. (Variance # 3). The proposed building is setback 52 ft. from the front property line, which complies with the minimum front setback of 35 ft. The proposed use requires 6 parking spaces, which are being provided. In the C-2 district, the side setbacks are 5 ft., and the rear setback is 15 ft. and therefore the requested variances for this proposal would not have been necessary if the property had not been rezoned. However, 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 provided, and the proposed building could have been designed to meet the new district requirements.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	50 ft.	18 ft.

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

	Code Requirement	Proposed
Front:	35 ft.	52 ft. (East)
Rear:	25 ft.	15 ft. (West - Variance #3)
Side:	25 ft.	5 ft. (South - Variance #1) 17.8 ft. (North - Variance #2)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions and circumstances. The current owner requested the rezoning of the property from C-3 to I-1/I-5. The new zoning district that allows increased uses, also requires increased setbacks, which was clearly outlined in the rezoning staff report.

**Not Self-Created**

The requested variances are self-created, as the proposal is for new construction, and the building could be shifted or reduced in size to meet setback requirements for the zoning district.

**No Special Privilege Conferred**

The requested variances would grant special privilege, as the proposed development could have been designed in a manner which meets all the performance standards of the zoning district.

**Deprivation of Rights**

The owner is not being deprived of the ability to construct a building on the property that meets setback requirements, and the property's zoning is as a result of a request by the owner.

**Minimum Possible Variance**

The requested variances are not the minimum necessary, as a different design could be proposed in order to comply with district requirements, such as a 2 story building.

**Purpose and Intent**

Approval of these requests will be in harmony with the purpose and intent of the of the Code since the proposed setbacks will be consistent with the surrounding industrial and commercial developments.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received February 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.

C: Deivis Mendez  
6950 Venture Circle, Suite G  
Orlando, Florida 32807

**LAM** Civil Engineering, Inc.

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1320 W Pine Street  
Orlando, Florida 32805  
Phone: (407) 254-0040  
Cell : (407) 234-8944  
www.LamCivilEngineering.com

December 1<sup>st</sup>, 2021

**Ted Kozak, AICP**  
Chief Planner, Zoning Division  
201 S. Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, Florida 32802

**RE: 6018 Tiner Avenue (Parcel Id 24-23-29-6880-08-055)**  
**Variance Request Narrative**

Dear Mr. Kozak:

This letter intends to summarize and support our request for the sides and rear setback variance for the proposed development at 6018 Tiner Avenue. Below is a synopsis of the property owner business and recent permitting processes of the property. The owner (Deivis Mendez with Deworx Inc.) core business is refurbishing/constructing cabinets and look to establish his own place/building. Mr. Mendez is currently operates at 6950 Venture Circle, Unit G, Orlando, FL 32807 which he leases and would like to owns his own building to operate his business. When we apply for the site permit B20905826 with the current commercial FLU and C-3 zoning, it was noted that we needed to amend the FLU and change the zoning for such allowable use. With the approved Comprehensive Plan Amendment and Rezoning application SS-21-04-024 and RZ-21-0-025 respectively, it's has place this property in a circumstance where the I1/I5 building setbacks is greater than C3 building setbacks. With the property only 0.312 acre, the substancial building setback has make the property very limited usable by the property owner to move his business to the property. The variance request is to reduce the sides setback from 25ft to 17.8ft on the north and 5ft on the south and reduce the rear setback from 25ft to 15ft. This request would enable the property owner to construct the site and building for his business. We have reduced the building size from the original building permit B20905826 which was 4,300 square feet to the current proposed 3,750 square feet. The reduced building size is the minimum building size Mr. Mendez would need for his business. Please see the attached **Sheet C1 – Site and Geometry Plan** for the propose site layout with building and dumpster enclosure locations. I hope this letter, variance application, and support documents are sufficient to proceed with a favorable variance request.

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LAND-DEVELOPMENT • SITE ASSESSMENT • DRAINAGE • PERMITTING

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**COVER LETTER**

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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 was rezoned from C3 to I1/I5 (RZ-21-04-025) where the property owner business is to construct cabinets. The reason the property had to rezone was when a site permit was submitted (B20905826) where we required to rezone the property. I1/I5 building sides and rear setbacks are 25ft and 25ft respectively. Since the property is smaller the I1/I5 sides and rear setbacks will restrict the property owner to construct any meaningful building for his business.

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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 site permit application (B20905826) and subsequent rezoning (RZ-21-04-025) limits the building size due to the substantial building setback increase from C3 to I1/I5 for sides from 5ft to 25ft and rear setback from 15ft to 35ft.

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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.

Understood no special privilege will confer with the variance request.

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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 size with I1/I5 building setback creates conditions where this variance request is needed for the sides and rear setbacks.

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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.

Minimum variance for the sides and rear as possible to provide sufficient building for the property owner to run his business.

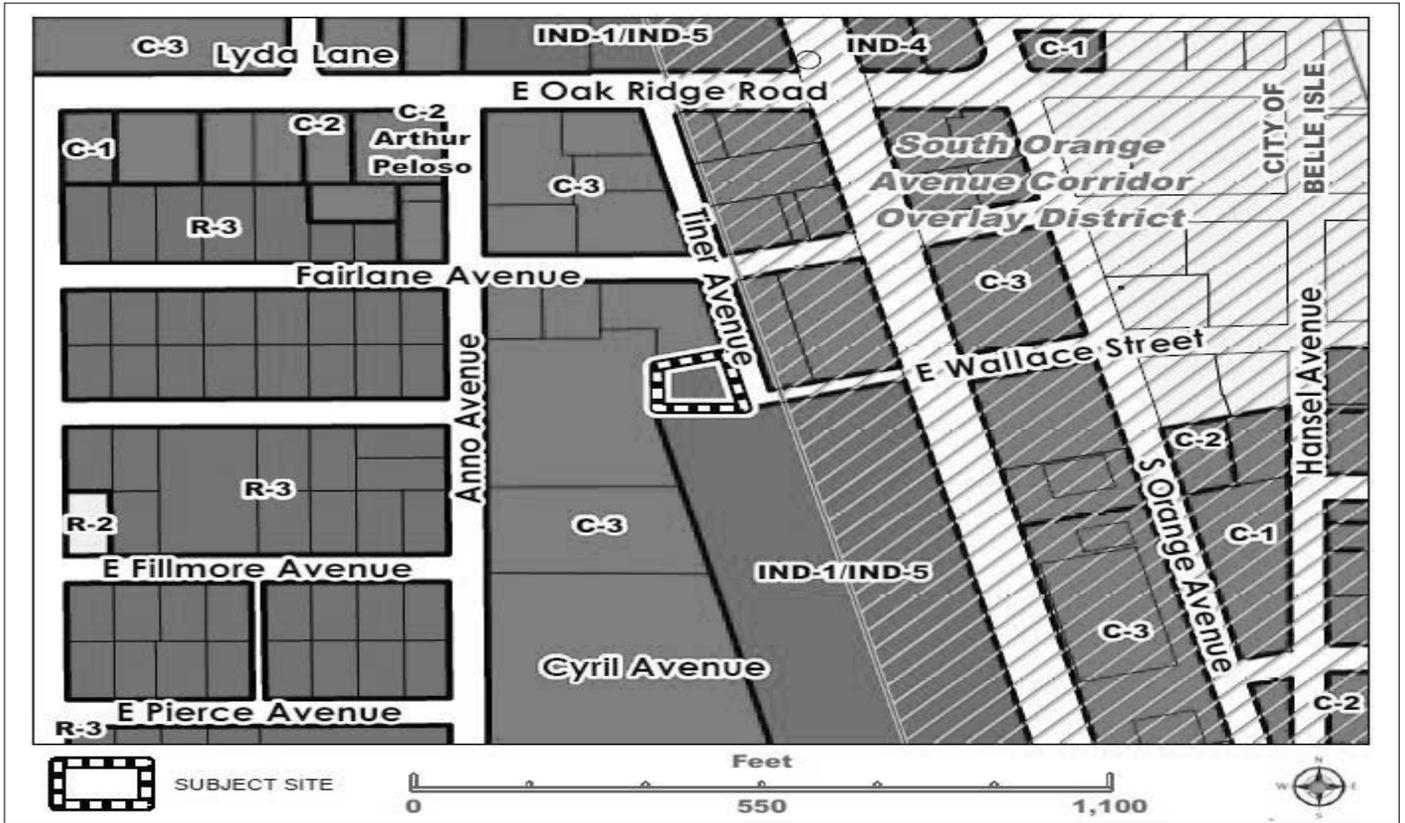
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6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

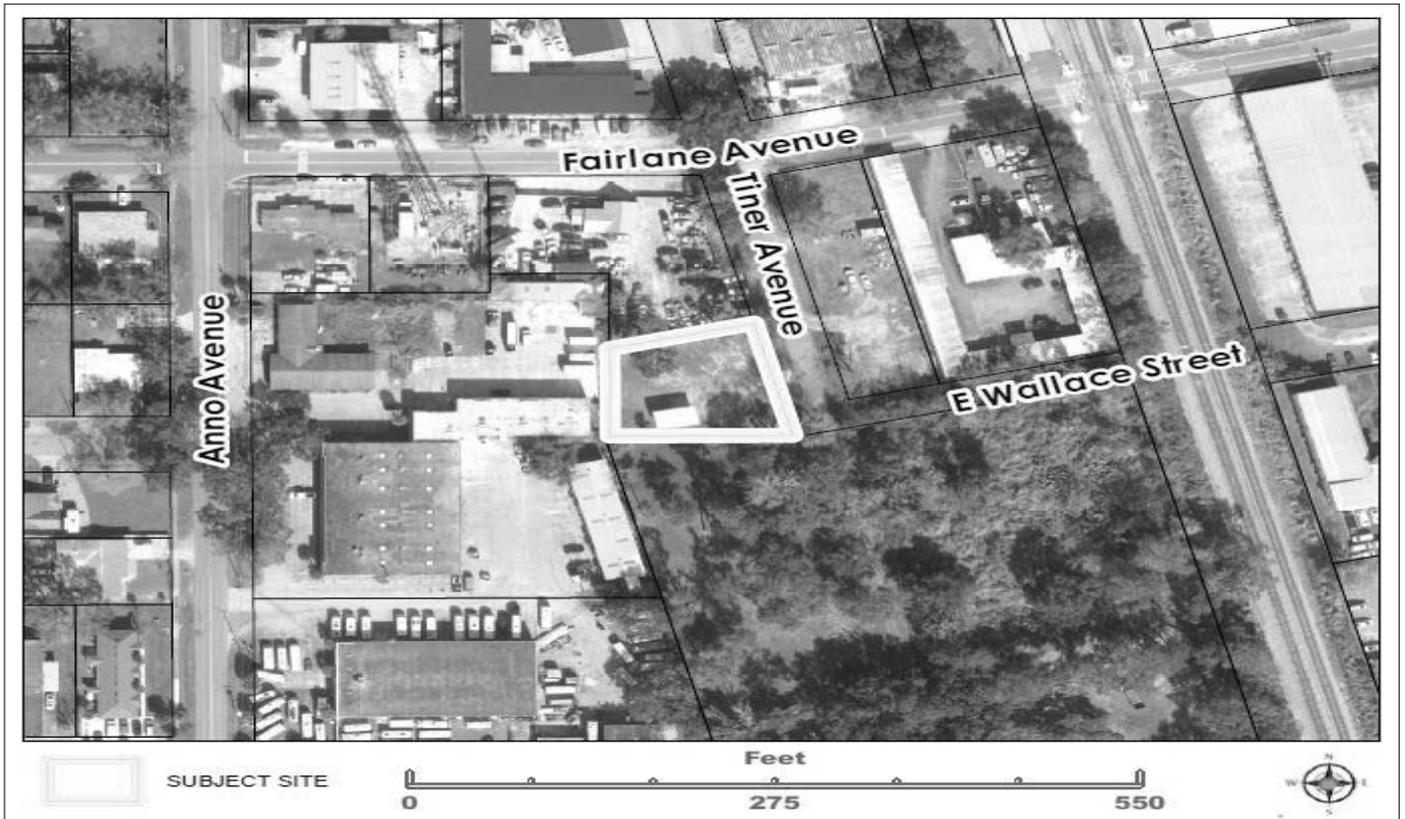
The zoning variance approval will not harm adjacent properties since the proposed sides and rear setbacks are similar to C3 zoning which was the property zoning prior to the rezoning.

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ZONING MAP

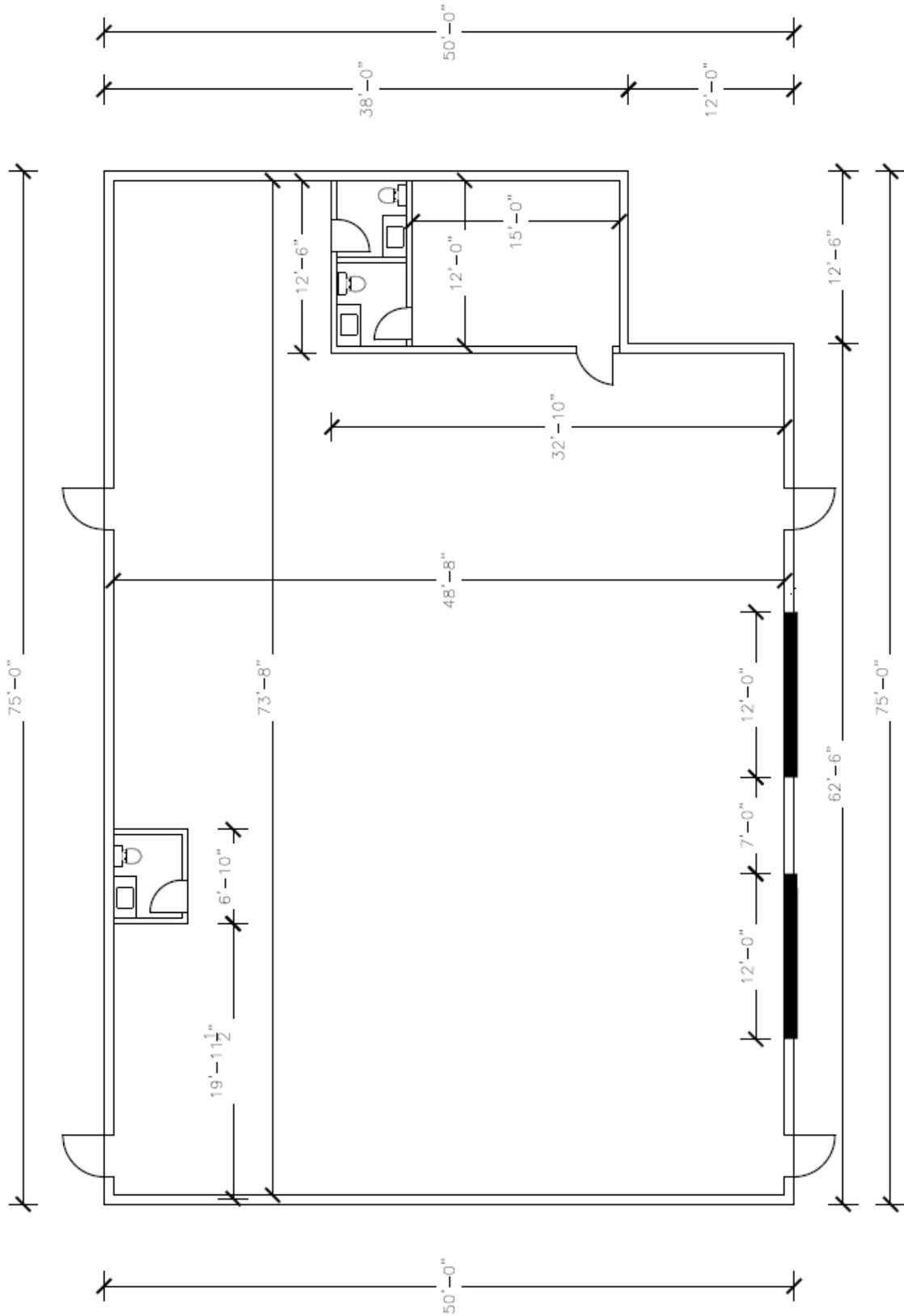


AERIAL MAP

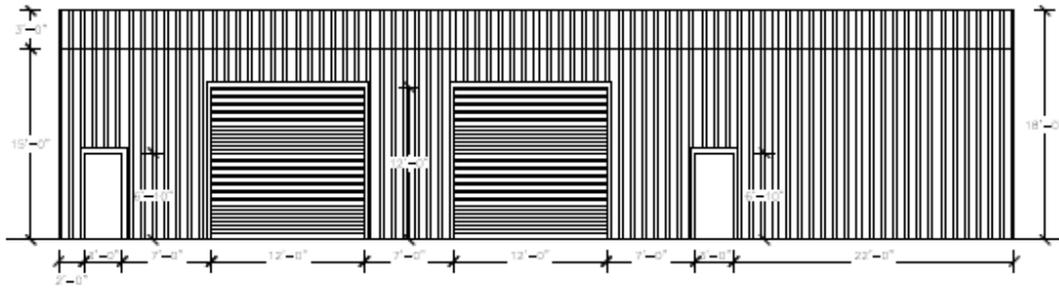




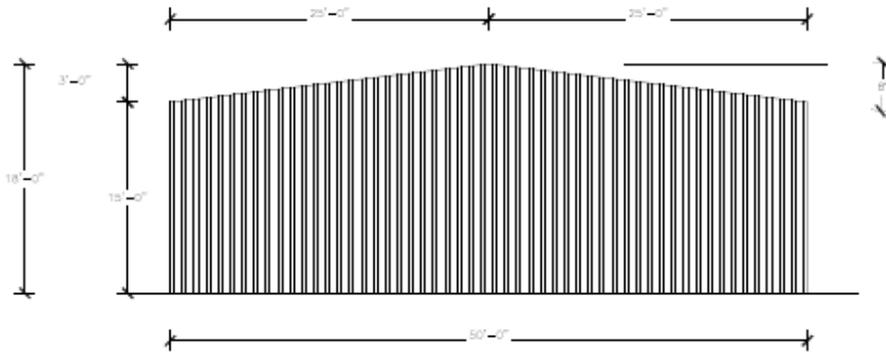
# FLOOR PLAN



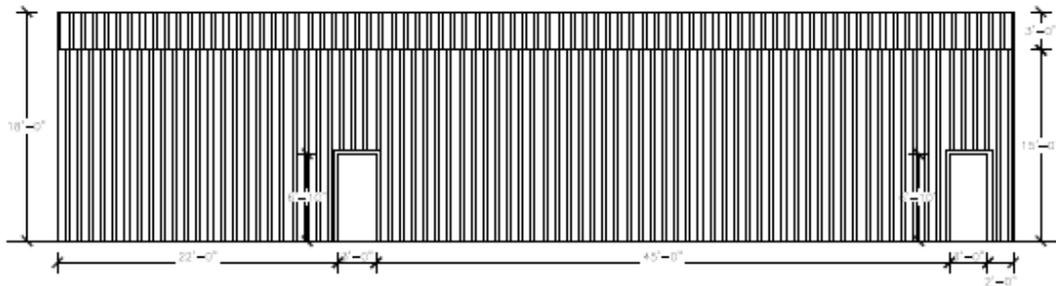
# ELEVATIONS



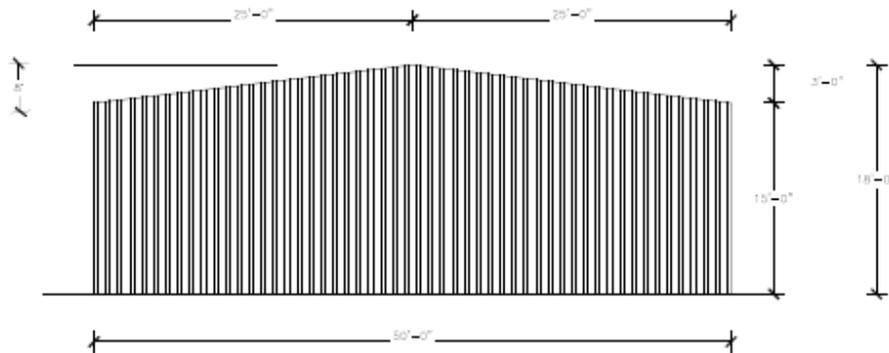
**ELEVATION - FRONT VIEW**  
SCALE: 1/8"



**ELEVATION - LEFT VIEW**  
SCALE: 1/8"



**ELEVATION - BACK VIEW**  
SCALE: 1/8"



**ELEVATION - RIGHT VIEW**  
SCALE: 1/8"

**SITE PHOTOS**



**Property from Tiner Ave. facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 03, 2022**

Commission District: **#5**

Case #: **SE-21-12-118**

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

**Nick.Balevich@ocfl.net**

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## GENERAL INFORMATION

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APPLICANT(s): JERRY CREEL FOR BRUSH ARBOR BAPTIST PRIVATE SCHOOL

OWNER(s): BRUSH ARBOR BAPTIST CHURCH INC.

REQUEST: Special Exception in the A-2 zoning district to allow a K-12 private school with 300 students and a 6,480 sq. ft. classroom building addition.

PROPERTY LOCATION: 2304 N. Goldenrod Rd., Orlando, FL 32807, west side of N. Goldenrod Rd., north of E. Colonial Dr., east of N. Forsyth Rd.

PARCEL ID: 14-22-30-0000-00-108

LOT SIZE: +/- 9.39 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 160

**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 (unanimous; 4 in favor, 0 opposed, 2 absent, and 1 seat vacant):

1. Development shall be in accordance with the site plan and elevations received January 10, 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. Permits shall be obtained for all unpermitted structures, and/ or improvements, or they shall be removed prior to issuance of a permit for the proposed school building.

5. Hours of operation for the school shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and the maximum number of students shall be 300.
6. A permit shall be obtained for the school building 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.

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

The applicant stated that the school has met all State and Federal regulations, has been in operation since 1980, and only recently found out that local zoning approval was required. The existing sheds and the covered canopy without permits were described and it was indicated that only 5 of the sheds would remain.

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

The BZA confirmed the type of materials to be used for the building were consistent with the other buildings on the property, noted that all unpermitted structures required permits and recommended approval of the Special Exception by a 4-0 vote, with two absent and one seat vacant, subject to the six (6) conditions in the staff report.

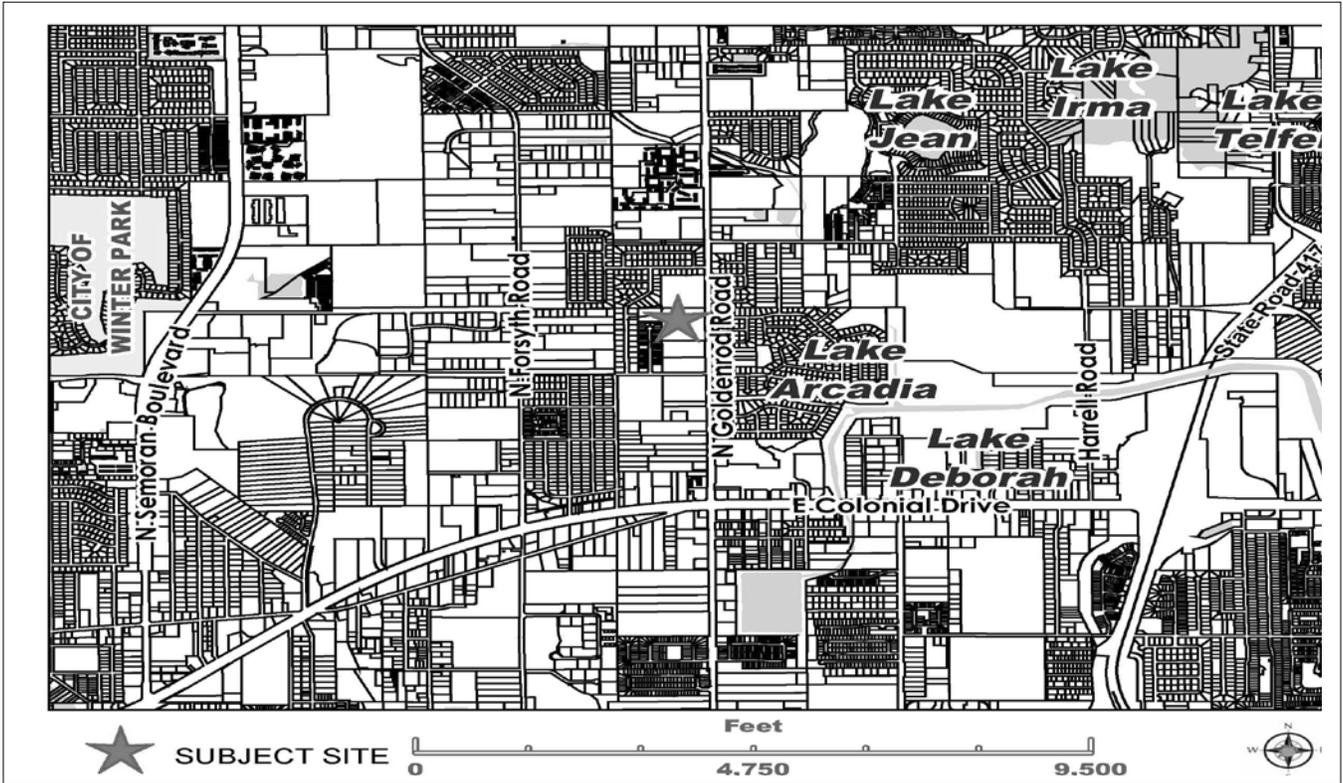
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#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	A-2	R-3	R-2	R-1A	R-2
Future Land Use	LMDR	LDR	LMDR	LDR	LMDR
Current Use	Commercial	Vacant, Government building	Vacant	Single-Family Residential	Vacant, Single- Family Residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-2, Farmland Rural district, which primarily allows agricultural uses, as well as mobile homes and single-family homes on larger lots. Private schools are permitted through the Special Exception process. The Future Land Use is Low Medium Density Residential (LMDR). The A-2 zoning district is not consistent with LMDR; however, Comprehensive Plan Policy FLU 5.2.1 allows the inconsistency to remain without requiring a rezoning, as long as the proposed use is permitted or allowed with Special Exception in all zoning districts consistent with the Future Land Use.

The area around the subject site consists of vacant property to the north and south, single-family-residential to the east, and vacant land and single-family-residential to the west. The subject property is a 9.39 acre

unplatted parcel that conforms with the A-2 zoning district. The site is developed with a 1,544 sq. ft. single-family residence/rectory, labelled as Building #6 on Site Plan, a religious institution with a 10,384 sq. ft. sanctuary, Building #1, a 4,214 sq. ft. classroom, Building #3, a 2,630 sq. ft. office, Building #2, a 933 sq. ft. bathroom/storage, Building #4, and an 8,000 sq. ft. gymnasium, Building #5, that were all constructed with permits between 1978 and 2014. There is also a cell tower that was approved and constructed in 2001. There are also 9 sheds and a carport on the property for which permits could not be located.

Previous approvals include:

- June 1978: Variance approval (Case # 13) to allow a child care center on the existing church property. Reference was made to plans to add a school in the future, but there were no other BZA approvals, such as a Special Exception to establish a school.
- April 2001: Special Exception approval (Case # 15) to establish a communication tower on the property.

The zoning records recognize that the church use was established on June 1, 1978, at which time a Special Exception was not required. There are no records of a formal County approval for the existing 172 student school which, according to the applicant has been in operation since 1982. A school was a permitted use in the A-2 zoning district until 1995, but because we have no record of the school, a Special Exception is required to allow the existing school and proposed expansion. Therefore, a Special Exception is requested to allow a K-12 private school with 300 students, which will include a 6,480 sq. ft. classroom building addition. The addition will be attached to the existing gymnasium and will contain 6 classrooms, a security office, bathrooms and medical stations for students. The school operating hours are from 7:00 a.m. to 6:00 p.m., Monday to Friday, while the church operates during the day on Sunday and on Wednesday evenings after 6:30 p.m.

Parking requirements for the subject property are as follows:

- Single-family residence – Two (2) spaces per unit
- Church assembly (sanctuary): 240 seats, at 1 parking space per 3 seats, requiring 80 spaces
- Church employees: 2 employees, at 1 parking space per employee, requiring 2 spaces
- School: maximum 14 classrooms, at 4 parking spaces per classroom, requiring 56 spaces
- High School: maximum 80 students, at 1 parking space per 3 students, requiring 27 spaces
- Total spaces required for the church use is 84 spaces, and the school use requires 83 spaces.
- The site currently has 27 paved parking spaces, with 58 new spaces proposed to be added, for a total of 85 spaces, meeting the joint use parking requirements per Orange County Code Sec. 38-1478 for the school and religious institution since the hours of operation for each do not overlap.

During a site visit, staff observed a carport at the rear of the property that was not shown on the site plan, and 9 sheds that were shown on the site plan that were not permitted. The applicant will remove or obtain permits for these structures prior to obtaining a building permit for the new building.

The Orange County Environmental Protection Division has reviewed the request and has no objections. At the request of the Orange County Transportation Planning Division, a traffic impact analysis was submitted and the following comments have been received:

There are two failing roadway segments within the impact area. There will be no impact to the roadways that are below capacity. The applicant shall submit a capacity encumbrance letter and go through concurrency. The operational analysis for the school needs to be submitted prior to permitting.

At the time of writing of the Staff Report, no comments have been received in favor or in opposition to the request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	28.8 ft. (addition)
Min. Lot Width:	100 ft.	665.9 ft.
Min. Lot Size:	0.5 acres	9.39 acres

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

	Code Requirement	Proposed
Front:	35 ft.	128.3 ft. (East - existing)
Rear:	50 ft.	89.8 ft. (West – existing)
Side:	10 ft.	151 ft. (North – existing) 176.3 ft. (South – addition)

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**STAFF FINDINGS**

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**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

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

**Similar and compatible with the surrounding area**

The new building and the school use will be integrated with existing structures located on the religious institution and educational campus, which contains existing landscaping and buffers. The new building will be attached to an existing gymnasium located at the rear portion of the property, over 200 feet from the nearest adjacent residential property line, and as such will not be a detrimental intrusion to the surrounding area.

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

The proposed buildings and school use will function at different times than the existing religious use, and will not negatively impact the surrounding area since it will be over 200 feet from the closest single-family residence to the west. Furthermore, the existing overall church and school campus has been in operation for over 40 years within the community, albeit without formal County approval for the 172 student school.

**Meet the performance standards of the district**

The proposed building addition for the private school meets the performance standards of the district.

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

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 religious institution on the site.

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

The proposed new building area will be located entirely within an existing campus on a developed site and therefore no additional buffer yards are required.

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**CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and elevations received January 10, 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. Permits shall be obtained for all unpermitted structures, and/ or improvements, or they shall be removed prior to issuance of a permit for the proposed school building.
5. Hours of operation for the school shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and the maximum number of students shall be 300.
6. A permit shall be obtained for the school building 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.

C: Jerry Creel  
7613 Delphia Street  
Orlando, Florida 32807

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**COVER LETTER**

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Rev. Jerry Creel, Pastor  
Phone 407.678.2284  
Fax 407.679.2216



2304 North Goldenrod Road  
Orlando, Florida 32807

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

January 11, 2022

To Whom It May Concern,

1. We are requesting a Special Exception to have our school ministry on agricultural zoned land.
2. We are asking for a special Exception to allow for additional square footage for our school and church ministry.

Brush Arbor Church in 1978 received a special exception from Orange County for a day care and pre-school. At the hearing we spoke of plans to add school grades at a later date. We were not aware of needing another special exception for that ministry. We have had a school ministry for over 40 years. Our school is accredited by the Florida Association of Christian Colleges and schools (faccs). FACCS is a nationally recognized accreditation organization. We currently have 172 students in grades K3-12<sup>th</sup> grade. We have a church staff of 2 employees. We want to add six classrooms to our church and school ministry. They will be for grades seven through twelfth. This will accommodate 120 students. This will allow our school to grow to a student body of 300 students. This would require a staff of 35 people. Our church has worship activities, Sunday school, Awana (children ministry), teen ministry, and other teaching and fellowship activities.

The proposed new building is 80' by 81' – 6,480 square feet. We plan to build the new building as an expansion of our gym building. The address of our new building is 2290 N. Goldenrod Rd. The other buildings on our property that are used by our church ministries, including the school are:

• Gymnasium	8,000 sq. ft.
• Library\classroom	4,214 sq. ft.
• Fellowship building	2,630 sq. ft.
• Sanctuary (building 1)	10,384 sq. ft.
• Maintenance\Restroom building	933 sq. ft.

We have activities for the church on Sundays and Wednesday evenings. Occasionally we will have an activity on Saturday. The school activities are Monday through Friday, from 7:00 a.m. until 6:00 p.m. but mostly from 8:00 a.m. until 3:00 p.m. Occasionally there is a ball game that may last until 7:00 p.m. but they are never on Wednesday. Our outside activity is a playground for the younger children and organized PE activities for the older students.

There will be no protected trees removed for the building of our new building. There is fencing across the north and west side of our property, fencing on the south side goes into the edge of a swamp. The east side has fencing with opening for driveways.

With the existing classrooms and with the new classrooms we are going to build, we will have 14 classrooms for our school ministry. Our church auditorium will seat 240 people.

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## COVER LETTER

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Presently, we have about 100-125 people attend our Sunday morning worship service.

To our knowledge we have a good relationship with all of our neighbors. We have not had any complaints voiced to us about anything they were unhappy with regarding our ministry.

Compliance with section 38-78 Orange County Code

### **1. Use shall be consistent with the Comprehensive Development Plan**

According to the Future Land Use Map contained in the Orange County Comprehensive Plan (dated May 6, 2021), the Brush Arbor parcel at 2304 N. Goldenrod Road is designated as "LMDR" which is low to medium density residential. Table 1.1.2.A of the Comprehensive Plan states that "LMDR" corresponds to a housing density of 0-10 du/acre. Brush Arbor currently has one non-permanent dwelling unit (du) on its 10 acre parcel (noted as "Rectory" on Engineering plans) and has no plans to increase the number of dwellings. It also meets Floor to Area ratio (FAR) requirements noted in the Comprehensive Plan for LMDR use. Therefore it is consistent with the Comprehensive Plan.

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

A thorough review was conducted of the surrounding area of North Goldenrod Road (found in "Special Exception Application Submission," J. MacDonald P.E., dated 1/3/2022). The use of the 2304 N. Goldenrod Property is consistent with the residential nature of this area of North Goldenrod. The land use at Brush Arbor is of a low density nature and similar in terms of land classification and zoning of its neighbors. A church/school facility that serves K-12 appears to be a compatible land use since the North Goldenrod area is comprised mainly of low to high density residential use where many families dwell. Having school facilities located near residential areas results in reduced trip length (trip miles) and reduced congestion, especially during peak morning hours. Lastly, there are several similar private school facilities in the North Goldenrod area.

### **3. The use shall not act as a detrimental intrusion to the surrounding area**

The concept of "detrimental" in Central Florida is normally associated with traffic congestion or overdevelopment. The low density development of the Brush Arbor facility (only 18% impervious ground) provides a welcome green space buffer to the higher development residential facilities that are prevalent in this area of North Goldenrod. The accompanying traffic study ("Traffic Impact Analysis for Concurrency Application," Traffic Planning and Design Inc., Nov. 2021 ) indicates that the school facility will not negatively impact Goldenrod Road (only 22 veh/hour at peak hour) and that only a single additional trip (peak hour) is forecast for both Aloma Ave. and Forsyth Road which are highlighted as "constrained" in the Comprehensive Plan. Brush Arbor hours of operation are

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## COVER LETTER

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during daytime and not during the 10 p.m. to 7:00 a.m. and finally Brush Arbor does not use amplified low frequency music as any part of its operations.

### 4. Compliance with Performance Standards in the District

The performance standards found in the Orange County code relative to Residential Districts are used here since the Brush Arbor property is listed in the Future Land Use of the Comprehensive Plan as LMDR (Low-medium density Residential) and is surrounded by residential districts. Table 1 list the relevant standards and the corresponding data for Brush Arbor.

Table 1. Minimum/maximum standards for Residential District (from section 38-331)

Item	Criteria (min/max)	Existing
Front setback	30 ft. (min)	128 ft.
Rear setback	50 ft. (min)	90 ft.
Side (North)	10 ft. (min)	151 ft.
Side (South)	10 ft. (min)	176 ft.
Building height	35 ft. (max)	28.8 ft.
Proposed Classroom	35 ft. (max)	18.8 ft.

The Brush Arbor property is meeting the performance standards for Residential Districts in the existing case and the proposed future case. The Floor to Area ratio (FAR) for Brush Arbor is approximately 7% which would be a value considered low and not approaching any of the maximum criteria expressed in the Orange County Code itself or in the Comprehensive Plan.

### 5. Land Use shall be similar in noise, dust, glare, vibration, odor and heat production with other uses in Zoning District

A detailed analysis of these environmental parameters is found in the "Special Exception Application Submission" attachment which includes results of a 24 hour sound level test by a Professional Engineer and comments regarding the nature of noise generated by the facility. The Brush Arbor property is found to have similar environmental characteristics as other uses in the North Goldenrod area. In fact, due to its large amount of green space and primarily undeveloped nature, Brush Arbor has less dust, glare, vibration and "heat island" effects than surrounding uses (Residential low to high density, and Commercial).

### 6. Conformance to Buffer yard criteria in Section 24-5

The area surrounding the Brush Arbor property is primarily residential and the Future Land Use is designated as LMDR (low to medium density residential) therefore the stipulations in Section 24-5

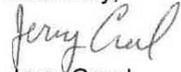
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## COVER LETTER

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as they relate to residential subdivisions are considered. Table 1 provides setback distances for front, rear and sides of the Brush Arbor property and these meet or exceed the requirements in Section 24-5 of the Orange County Code. There is a 90 ft. linear stretch on the western property line that will need additional tree plantings (two trees) to be in compliance with Section 24-5(b) "shade trees" requirement.

Sincerely,



Jerry Creel  
Pastor

COVER LETTER

Rev. Jerry Creel, Pastor  
Phone 407.678.2284  
Fax 407.679.2216



2304 North Goldenrod Road  
Orlando, Florida 32807

Parking

The events of our school and church happen at separate times. The church activates and school activities do not conflict with one another as far as the parking is concerned. Our school activities are Monday through Friday, from 7:00 a.m. until 6:00 p.m. The parking lot is only heavily used between 7:30 a.m. - 8:30 a.m. for drop off and 2:30p.m.-3:30 p.m. for pick up. During the other hours of the day the parking areas are two-thirds empty. The church use of the parking lot is mostly on Sunday when the school is not in session.

We do have a service on Wednesday night that starts at 6:30 p.m. By the time the church people are coming to the service, the school people have already left. We do have some ball games (Volleyball and Basketball) that sometimes go until 6:30 p.m. or 7:30 p.m. They are never on Wednesday nights. There are a few Saturday activities for the church but they never take up more than the existing paved parking.

Sincerely,

*Jerry Creel*  
Jerry Creel

Pastor of Brush Arbor Baptist Church

I hereby certify that information provided in this Relationship Disclosure Form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

2/8/2022  
Date

*Jerry Creel*  
Signature

Jerry Creel - President of Brush Arbor Baptist Church, Inc  
Print Name and Title

I certify that the forgoing instrument was acknowledge before me this 8<sup>th</sup> day of February, 2022

by Jerry Creel

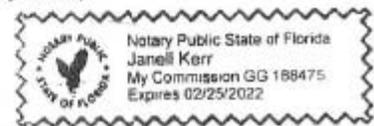
Personally Known \_\_\_\_\_ or Produced Identification FDL C640 439 503110

Type of Identification Produced: FDL

*Janel Kerr*  
Notary Public Signature

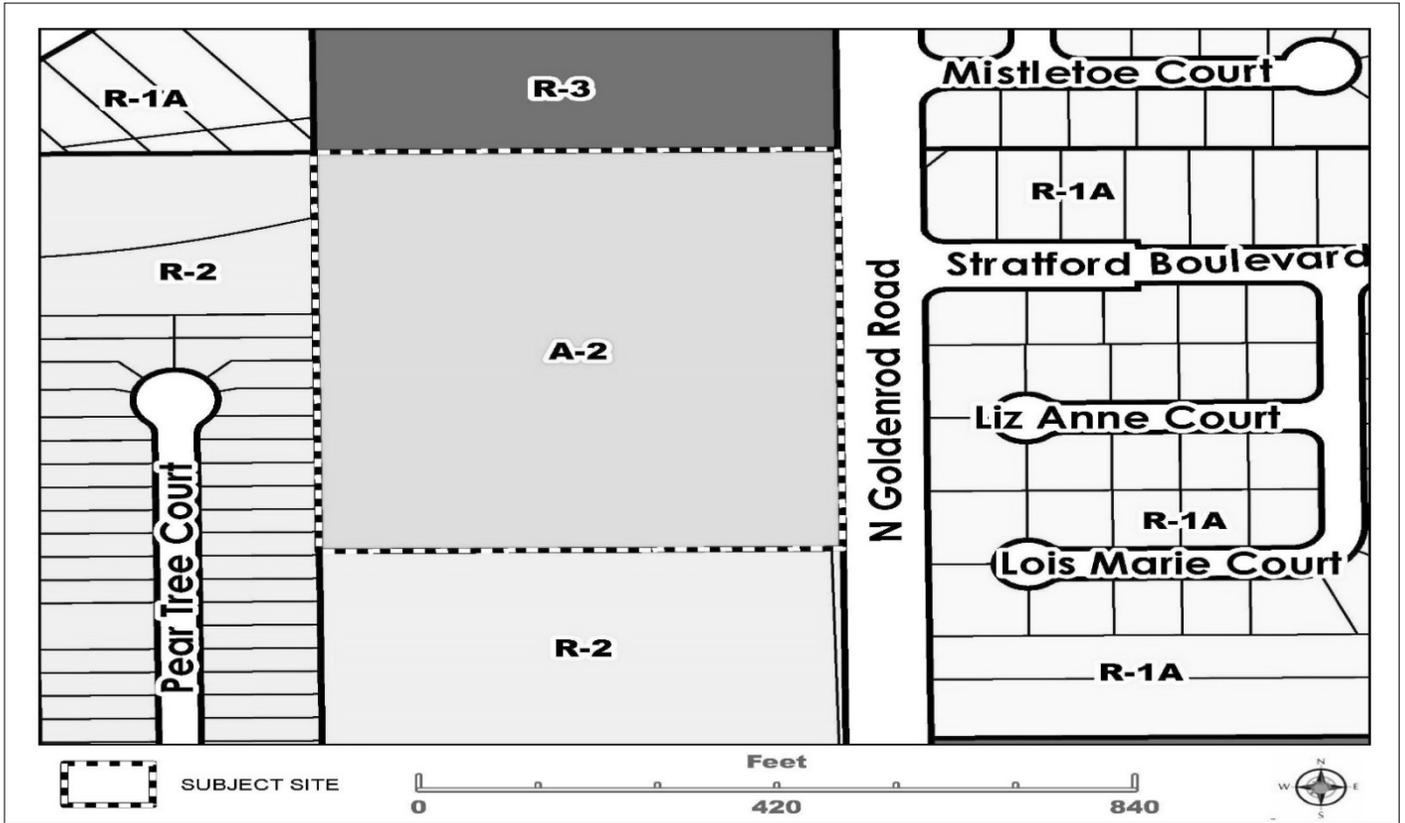
Janel Kerr  
Notary Public Print Name

Notary Stamp



My Commission Expires

ZONING MAP

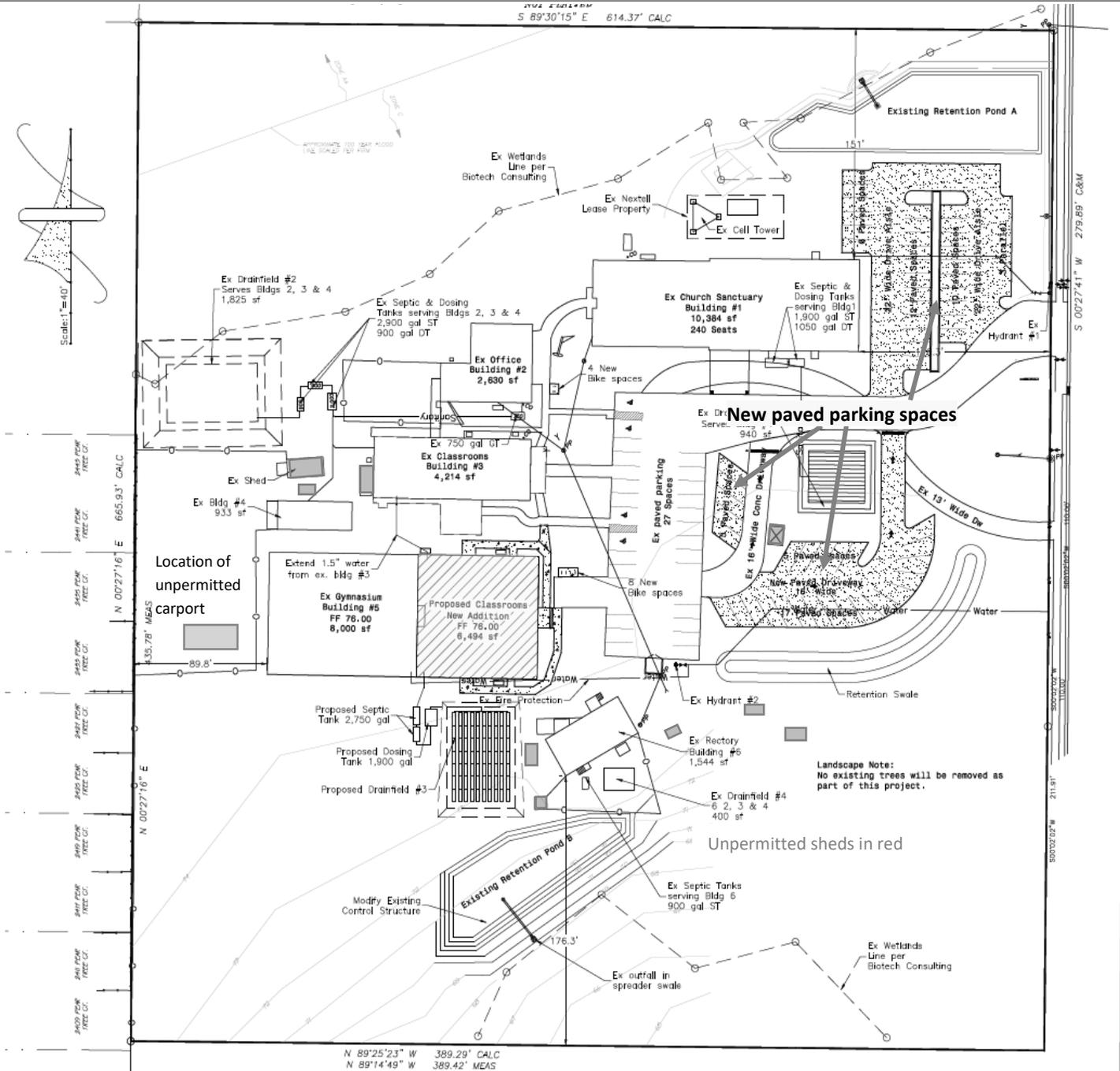


AERIAL MAP



# SITE PLAN

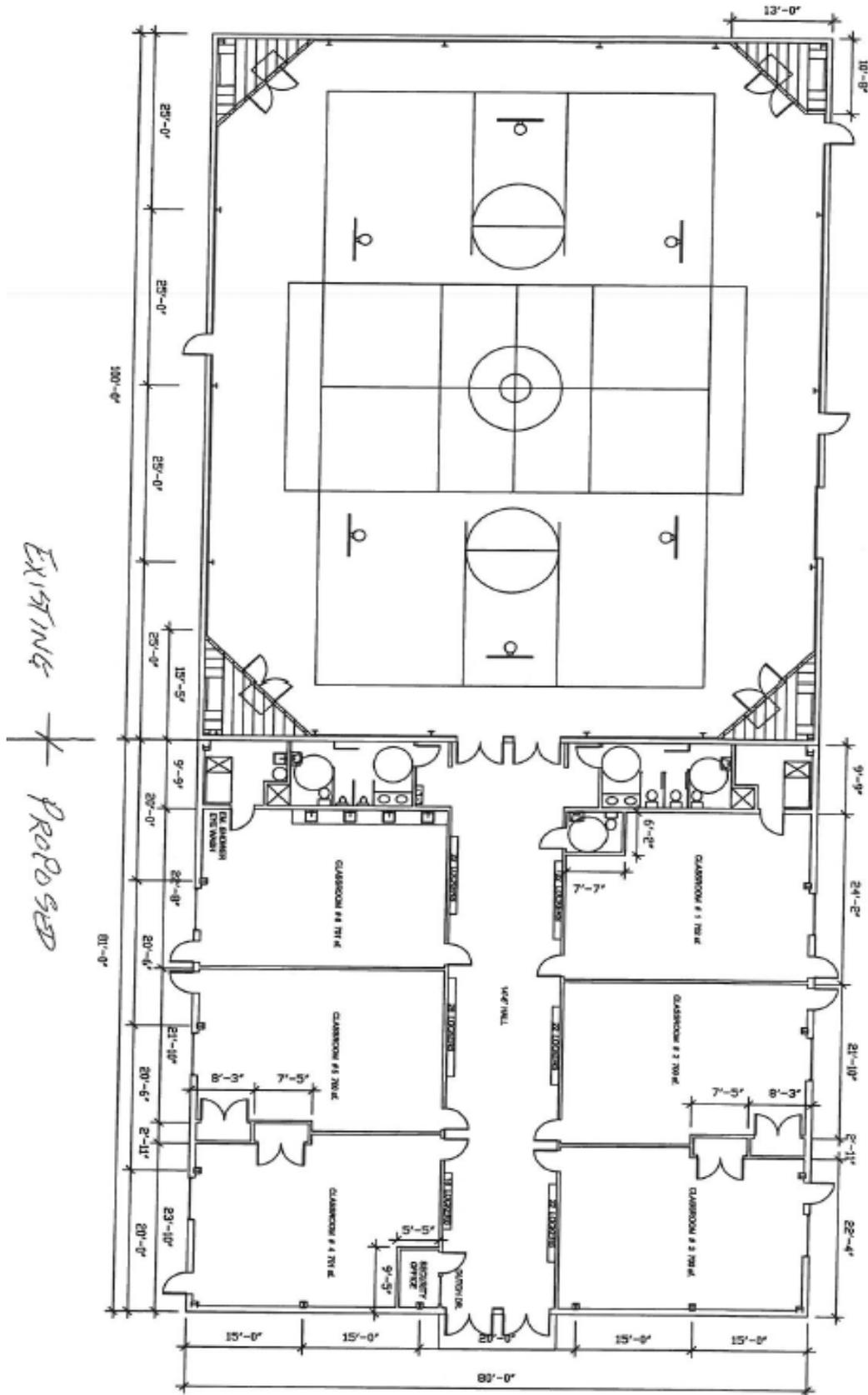
S 89°30'15" E 614.37' CALC



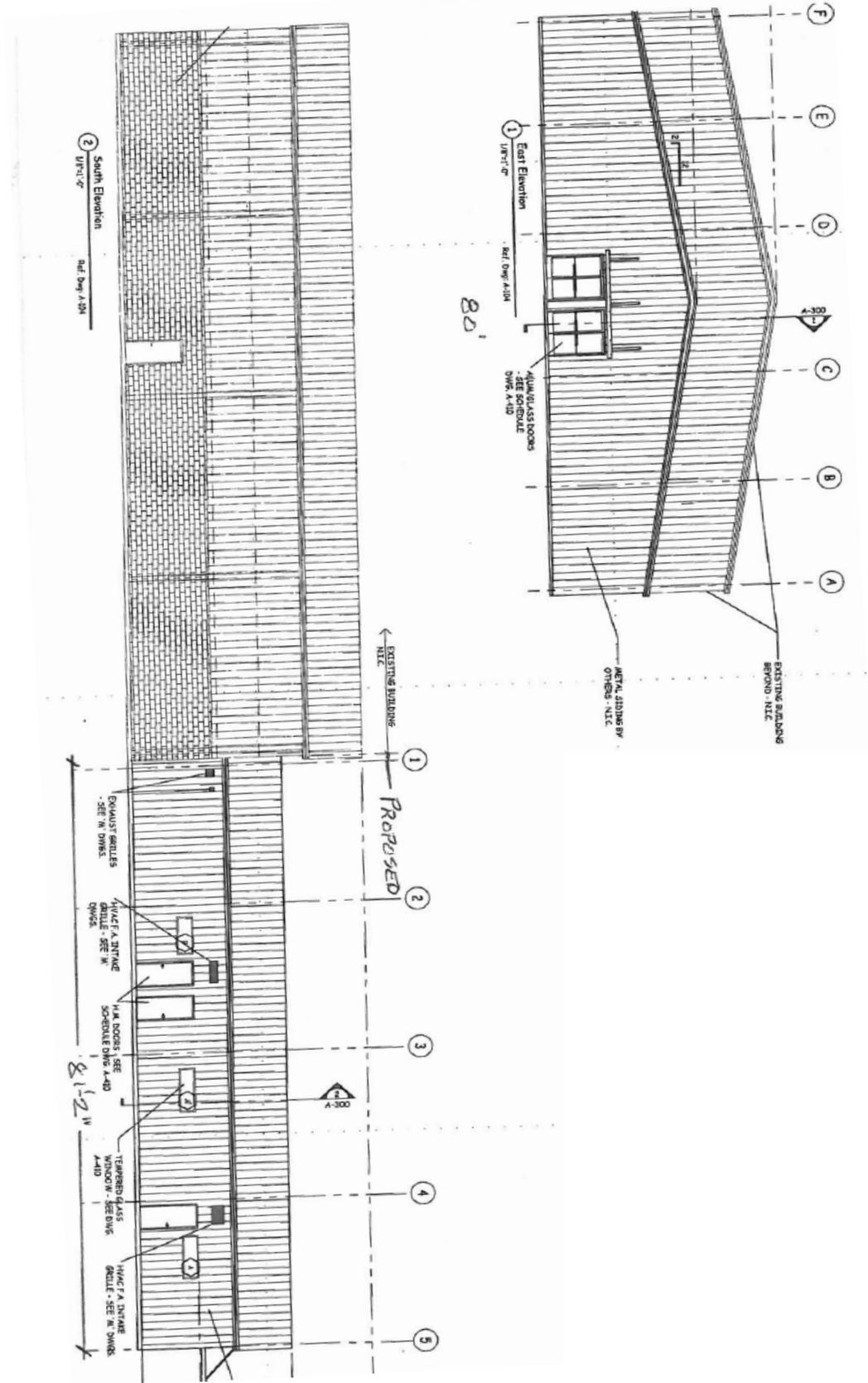
N 89°25'23" W 389.29' CALC  
N 89°14'49" W 389.42' MEAS

GOLDENROD ROAD (100' R/W)

FLOOR PLAN EXISTING GYM AND CLASSROOM EXPANSION



# ELEVATIONS



**SITE PHOTOS**



**Site from Goldenrod Rd. facing west**



**Facing new paved parking to be installed on northeast part of property**

**SITE PHOTOS**



**Existing gymnasium, classroom building and office building facing west**



**Location of proposed classroom building facing west**

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**SITE PHOTOS**

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**Gymnasium, restroom building and unpermitted shed and unpermitted carport facing south**



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