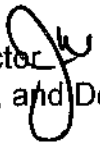




Interoffice Memorandum

DATE: August 25, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services
Department

CONTACT PERSON: **Brandy Driggers, Assistant Manager**
Zoning Division
(407) 836-5329

SUBJECT: September 1, 2020 – Board Called Public Hearing
Applicant: Orlando Torah Center
BZA Case #SE-20-03-013, July 2, 2020; District 1

Board of Zoning Adjustment (BZA) Case # SE-20-03-013, for single-family zoned property located at 8613 Banyan Blvd., Orlando, Florida, 32819, in the Sand Lake Hills subdivision in District 1, is a Board called public hearing being heard on September 1, 2020. The applicant, Orlando Torah Center (OTC), is requesting a special exception to allow a religious institution and a variance to allow grass parking in lieu of improved parking.

In late 2018, the Orange County Code Enforcement Board entered an Order finding and concluding that OTC, the owner of the subject property, was operating a religious institution in a single-family residential area without a special exception, contrary to Sections 38-74 and 38-78 of the Orange County Code. OTC never appealed the CEB's decision.

The term "religious institution" is defined in Section 38-1 of the Orange County as "a premises or site which is used primarily or exclusively for religious worship and may include related or attendant religious oriented activities, such as education, recreation, or outreach. A religious institution includes, but is not limited to, a church, mosque, synagogue, or temple."

The subject property is located on the north side of Banyan Blvd., east of S. Apopka Vineland Blvd., south of Edge O Woods Ct., and west of Marlberry Dr.

At the July 2, 2020, BZA hearing staff recommended approval of the special exception and variance, subject to twelve (12) conditions of approval. The BZA heard testimony from approximately thirty-four (34) constituents in favor of the request and one (1) in

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September 1, 2020 – Board Called Public Hearing
Orlando Torah Center
BZA Case #SE-20-03-013, July 2, 2020; District 1

opposition. They also received numerous commentaries on the request of which forty-seven (47) were in favor and nine (9) were in opposition. As it relates to the commentaries received and the speakers at the hearing, the individuals in favor cited the improvements to the existing structure and site, the community, the ability to walk to the facility, and the play area. The individuals in opposition cited the encroachment into the neighborhood, adverse effects on housing values, and increased parking and traffic.

The BZA recommended approval of the special exception and the variance, subject to the twelve (12) conditions, as amended at the hearing.

On August 6, 2020, subsequent to the BZA hearing, County staff received the attached letter from the applicant's attorney, Derek Bruce, raising objections to a few of the conditions of approval and questioning their compliance with the federal Religious Land Use and Institutionalized Persons Act ("RLUIPA"). The conditions discussed in his correspondence were as follows:

Hours of Operation

The proposed condition below was recommended by the BZA at the July 2, 2020 hearing **after** OTC requested that the BZA expand the Monday through Friday hours of operation, as identified by the bolded and underlined text below.

5) Hours of operation shall be as follows:

- 1) Mondays through Fridays: **6:00 a.m. to 9:00 p.m.;**
- 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
- 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

It should be noted that OTC proposed more restrictive Monday through Friday hours of operation in the cover letter submitted with its special exception application, and as such those more restrictive Monday through Friday hours of operation were included in the BZA staff report with the recommended conditions of approval. The condition as originally proposed by the OTC with those more restrictive hours of operation for Monday through Friday is shown below and is bolded and underlined for emphasis.

- 1) Mondays through Fridays: **6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown;**
- 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
- 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

Hours of Operation [Outdoor Special Events]

The BZA recommended the following language:

- 6) No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. On-street parking associated with special events is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

At the July 2, 2020 BZA hearing, the applicant requested that this condition be amended to remove the restriction against outdoor speakers or other amplification. The BZA identified this as a standard condition that is placed on projects to ensure that the non-residential use will not be disruptive to surrounding residential uses. This condition had also been suggested by the applicant in the cover letter, but contained different language. The condition of approval originally suggested by the applicant was as follows:

There shall be no more than four (4) outdoor special events per calendar year, and the hours of those events shall be limited between the hours of 9:00 a.m. to 9:00 p.m. Outdoor amplified sound and music would be consistent with a typical home based party atmosphere gathering. Outdoor lighting, if any, shall be directed away from neighboring properties.

Noise and Sound

The BZA recommended the following language:

- 7) Noise shall be regulated by Chapter 15, Orange County Code "Environmental Control", specifically Article V "Noise Pollution." No outdoor speakers or other audio amplification shall be permitted.

This is another standard condition that is placed on projects to ensure that the use will not disrupt neighboring residential uses, which the BZA identified at the hearing when the applicant requested that it be amended.

The applicant's August 6th letter listing concerns regarding some of the conditions did not request any specific revisions to those conditions. Staff has informed the applicant that any proposed changes to those conditions would need to be made by the Board of County Commissioners, if at all, at the September 1st hearing.

Lastly, the application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

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September 1, 2020 – Board Called Public Hearing
Orlando Torah Center
BZA Case #SE-20-03-013, July 2, 2020; District 1

If you have any questions regarding this matter, please contact Brandy Driggers at 407-836-5329.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 1.

**PLANNING, ENVIRONMENTAL, & DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 1, 2020**

The following is a public hearing before the Board of County Commissioners on September 1, 2020 at 2:00 p.m.

APPLICANT: ORLANDO TORAH CENTER

REQUEST: Special Exception and Variance requests in the R-1A zoning district as follows:

- 1) Special Exception to allow a 2,676 gross sq. ft. religious institution. (Approved w/Condition)
- 2) Variance to allow grass parking in lieu of improved parking. (Approved w/Condition)
- 3) Variance to allow pervious geomat drive aisles in lieu of improved drive aisles. (Withdrawn)

Note: This is the result of Code Enforcement action.

LOCATION: 8613 Banyan Blvd., Orlando, Florida, 32819, North side of Banyan Blvd., east of S. Apopka Vineland Blvd., south of Edge O Woods Ct., and west of Marlberry Dr.

TRACT SIZE: 0.75 acres

ZONING: R-1A

DISTRICT: #1

PROPERTIES NOTIFIED: 109

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff presented the history of the project and described how it meets the criteria for the special exception and variance requests. It was noted that the applicant withdrew variance request #3 prior to the hearing and that the drive aisles would be improved in accordance with Orange County Code. Staff presented two (2) amendments to the conditions, specifically condition of approval number six (6) and number (12) to include language that prohibits on-street parking. The BZA noted that it had received the public commentaries prior to the hearing, of which forty-seven (47) were in favor and nine (9) were in opposition to the request. The Code Enforcement Officer handling this case gave an overview of the violations, the Code Enforcement Board decision, the outstanding fines and what was accruing daily, the lawsuit, and the current status.

The applicant gave a PowerPoint presentation and requested that condition of approval number five (5) be amended to not limit the hours of operation on Mondays through Fridays from 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after

sundown. They requested that it be changed to Mondays through Fridays from 6:00 a.m. to 9:00 p.m. to allow for other activities throughout the day. They also requested that condition of approval number six (6) and number seven (7) be amended to remove the prohibition on the use of outdoor amplified sound and music. The Board discussed the change in the hours of operation and were agreeable to that revision; however, they noted that the prohibition on the use of outdoor sound and music is a standard condition of approval recommended for these types of uses. The consensus was to leave the standard condition unchanged. The traffic engineer for the project was present and provided testimony on the dates and times that the site was observed for traffic. They explained that the analysis was conducted in December of 2019, prior to the COVID-19 shutdown. They found that on the Sabbath, which is the most heavily attended day, there were typically twenty (20) vehicles on site.

Three (3) people in attendance in person spoke on the project. Two (2) were in favor and one (1) was in opposition. There were approximately fifty (50) people in attendance virtually in favor of the request. Of those individuals, approximately thirty-four spoke, and most of them were members of the Orlando Torah Center. As it relates to the commentaries received and the speakers at the hearing, the individuals in favor cited the improvements to the existing structure and site, the community, the ability to walk to the facility, and the play area. The individuals in opposition cited the encroachment into the neighborhood, adverse effects on housing values, increase in parking and traffic.

The BZA unanimously recommended approval of the special exception and variance #2, subject to twelve (12) conditions, with the following amendments to what was proposed in the BZA staff report for conditions #5, #6 and #12:

5. Hours of operation shall be as follows:

- 1) Mondays through Fridays: **6:00 a.m. to 9:00 p.m.**;
- 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
- 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. **On-street parking associated with special events is prohibited.** All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

12. There shall be no on-street parking, **including for special events.** All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

BZA HEARING DECISION:

A motion was made by Carolyn Karraker, seconded by Wes A. Hodge and unanimously carried to recommend APPROVAL of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, recommended APPROVAL of Variance request #2, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended; and, Variance request #3, was WITHDRAWN (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated May 13, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall submit construction plans through the commercial site plan review process within 180 days of final approval by Orange County, and complete the required improvements pursuant to the approved construction plans within one year after the Board of County Commissioners' approval of the special exception and variance, or else this approval shall become null and void, unless extended by the Board of County Commissioners for a limited duration for good cause shown.
5. Hours of operation shall be as follows: 1) Mondays through Fridays: 6:00 a.m. to 9:00 p.m.; 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.
6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. On-street

parking associated with special events is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

7. Noise shall be regulated by Chapter 15, Orange County Code "Environmental Control", specifically Article V "Noise Pollution." No outdoor speakers or other audio amplification shall be permitted.
8. Signage shall be in accordance with 31.5-75, Orange County Code.
9. Development shall comply with Chapter 24 (Landscaping, Buffering and Open Space) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.
10. A six-foot high vinyl fence shall be maintained along the eastern and northern property lines. Should the County remove the six-foot wall along the western property line a six-foot vinyl fence shall be installed and maintained by the property owner.
11. The grass parking spaces shall be fitted with wheel stops. The drive aisles and handicap parking spaces shall be improved with a durable all-weather surface and properly drained in accordance with Orange County Code.
12. There shall be no on-street parking, including for special events. All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

BZA STAFF REPORT

Planning, Environmental, & Development Services/ Zoning Division

Meeting Date: **JUL 02, 2020**

Case Planner: **Brandy Driggers**

Case #: **SE-20-03-013**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT: DEREK BRUCE

OWNER: ORLANDO TORAH CENTER, INC.

REQUEST: Special Exception and Variance requests in the R-1A zoning district as follows:

- 1) Special Exception to allow a 2,676 gross sq. ft. religious institution.
- 2) Variance to allow grass parking in lieu of improved parking.
- 3) Variance to allow pervious geomat drive aisles in lieu of improved drive aisles.

Note: This is the result of Code Enforcement action.

PROPERTY LOCATION: 8613 Banyan Blvd., Orlando, Florida, 32819, north of Banyan Blvd., east of S. Apopka Vineland Blvd., south of Edge O Woods Ct., and west of Marlberry Dr.

PARCEL ID: 22-23-28-7820-05-970

LOT SIZE: 0.75 acres

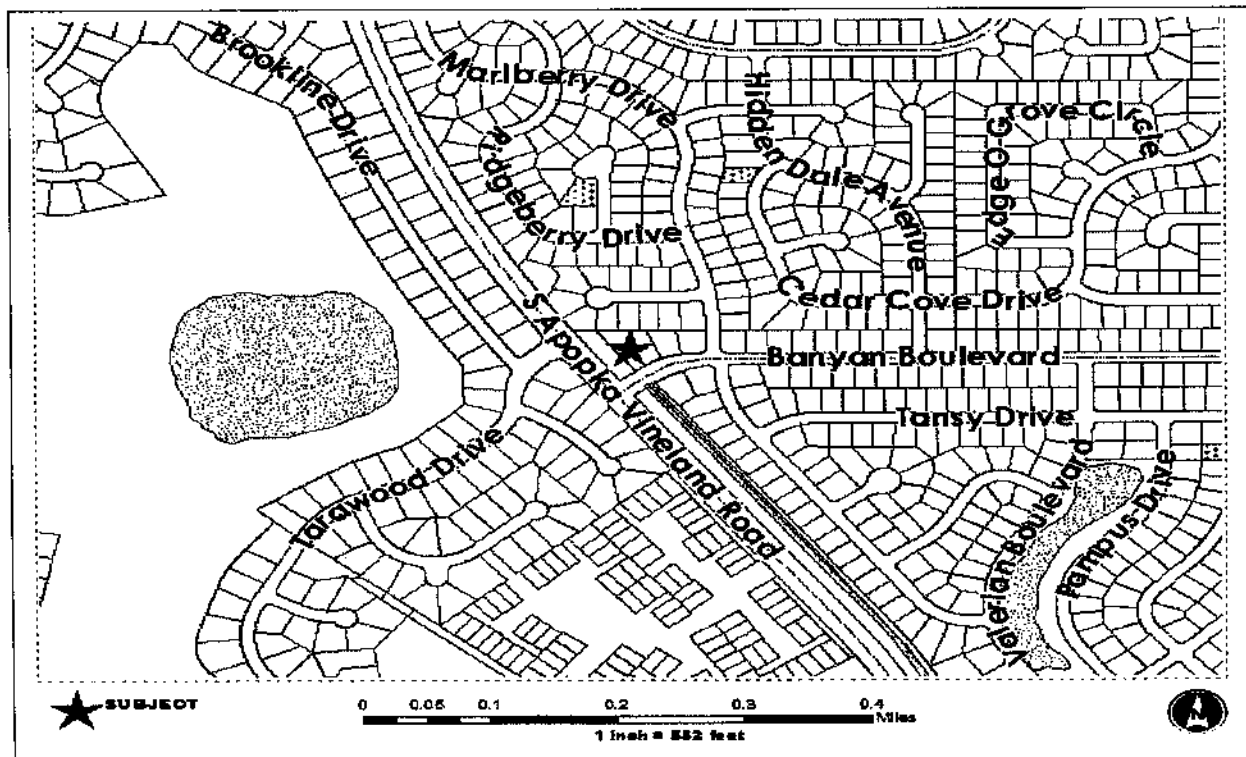
NOTICE AREA: 500

NUMBER OF NOTICES: 109

STAFF RECOMMENDATIONS

Approval of the Special Exception and Variance #2, subject to the conditions in this report. The request for Variance # 3 has been withdrawn.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-Family Residence	Single-Family Residence	Single-Family Residence	Single-Family Residence	Orange County Retention Pond

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single Family Dwelling district, which allows single family homes, as well as religious institutions through the special exception process, on lots a minimum of 7,500 sq. ft. or greater.

The subject property is located on Lot 597 of the Sand Lake Hills Section Six plat, which was platted in 1979, and consists of 0.75 acres of land. The site is currently developed with a 2,676 gross sq. ft. single-family residence that was constructed in 1980 according to the Orange County Property Appraiser's records.

The applicant originally requested a special exception and two variances in order to use the existing structure as a residence and a religious institution. The applicant has since removed his request for Variance #3 and will improve the drive aisles to meet County standards.

The property was cited in August of 2018 by Code Enforcement for operating a religious institution in a single-family residential area without a special exception, contrary to Chapter 38 of the Orange County Code. In October of 2018, a hearing was held before the Code Enforcement Board, and the owner was found to be in violation of Chapter 38. A special exception application for the religious institution was not filed and the property continued to be used as a religious institution; therefore, fines started accruing. Subsequently, after a significant amount of time passed and the special exception application had still not been filed, the Mayor authorized the County Attorney's Office to file a lawsuit seeking injunctive and other appropriate relief. The lawsuit is still pending, but it does not affect the BZA's ability to make a recommendation on the special exception and variance requests to the Board of County Commissioners.

The site is located at the entrance to the Sand Lake Hills subdivision, just off of S. Apopka Vineland Road. Its location allows vehicular access to the facility without further encroaching into the residential area. However, there is a planted median located directly in front of the facility that the vehicular traffic does need to maneuver around in order to access the site from S. Apopka Vineland Road.

Based on the information provided by the applicant in its cover letter, the Orlando Torah Center is an Orthodox Jewish Congregation, which adheres to the strict rules of Sabbath observance. The Orlando Torah Center claims that the facility will be used for Jewish religious activities on a daily basis for a limited time each day, and more extensively on the Sabbath. They have acknowledged that while the Sabbath is the day that is most heavily used for religious purposes, it is the day on where there is the least amount of vehicular traffic

because Jews who worship at this home do not drive on the Sabbath. The applicant has indicated that there are 38 member families (five of which are single-parent families or singles). Per correspondence with the applicant and the photographs of the facility that were provided with the application, the prayer room has approximately 60 non-fixed seats, many of which are unused aside from special holidays. The applicant has specified that the number of participants during prayers generally averages around 15 to 20 individuals with around 10 more on the Sabbath, which extends from sundown on Friday to sundown on Saturday. After prayer services on Saturday mornings, families gather at the home to socialize for about an hour. Approximately 100 people, which includes adults and children of all ages, attend these post-prayer service gatherings.

As indicated by the applicant, the proposed religious institution does not contain fixed seats, but proposes to host between 75 and 100 patrons on the most heavily frequented day. Based on the number of patrons, the project is required to provide thirty-five (35) parking spaces, which was calculated using the Code requirement of one parking space per three patrons for a total of one hundred (100) patrons and one parking space per employee for one employee. The applicant is proposing a total of total of thirty-five (35) grass parking spaces with wheel stops and two paved handicap parking spaces. Since the applicant is proposing to provide parking on an unimproved surface, they have requested a variance from Section 38-1479 of the Code to allow grass parking. However, they intend to improve the drive aisles with a pervious geomat that will include an overlay of #57 stone to meet the County standard for an improved durable all-weather surface.

There is a thirty (30) foot wide drainage easement located on the western boundary of the site, which is owned by the County, where the applicant is proposing to place the grass parking. The Public Works Department has issued a statement of no objection to the applicant using the existing utility easement for parking, contingent upon the parking area remaining unimproved. If the variance is not approved, the applicant will be required to submit a site plan that shows the required improved parking outside of the easement area. The drive aisles are located outside of this utility easement; therefore, the required improved surface for the drive aisles is not impacted by the easement. There is also a ten (10) foot wide utility easement on the northern boundary of the site and a five (5) foot wide utility easement on the eastern boundary of the site where the parking will not encroach. The required landscape buffers will be located within or partially within the easements on the site, but landscaping is permitted. The required buffer for this type of use is the "Type C" landscape buffer, which must be fifteen (15) feet wide and completely opaque from the ground up to a height of at least six (6) feet. The "Type C" buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof, which results in a completely opaque buffer. It must be at least three (3) feet high and fifty (50) percent opaque at planting and capable of attaining full height and opacity within three (3) years. The project is also being conditioned to require that the existing six (6) foot high vinyl fence be maintained along the eastern and northern property lines. Additionally, if the masonry wall along the western property line is removed, a six (6) foot high vinyl fence shall be erected. Vinyl or wood fencing does not count toward the required opaque landscape buffer. The applicant will not be permitted to erect any structures within the easements.

The proposed hours of operation, which is a condition of approval that was recommended by the applicant, are as follows:

- 1) Mondays through Fridays: 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown;
- 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and
- 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.

The applicant has provided eleven (11) letters of no objection to the request. Staff has received two pieces of correspondence in objection to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft. 10 in.
Min. Lot Width:	75 ft.	98.36 ft.
Min. Lot Size:	7,500 sq. ft.	32,828 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	28.68 ft.
Rear:	30 ft.	101 ft.
Side:	7.5	56.13 ft. (West)/18.72 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan allows certain institutional uses, which are consistent with residential Future Land Use designations through the Special Exception process. These include religious institutions, daycares, and public and private schools.

Similar and compatible with the surrounding area

The use will be similar and compatible with the surrounding area, and consistent with the pattern of the surrounding development. There are no changes being proposed to the exterior of existing single-family home and the parking for the facility will be located to the side and rear of the existing structure and screened from view by a six-foot vinyl fence.

Shall not act as a detrimental intrusion into a surrounding area

The proposed religious use, including vehicular circulation, will not negatively impact the surrounding area. The site is located at the entrance to the subdivision, which will allow patrons to enter and exit the religious institution without encroaching into the subdivision, with the exception of the need to do a U-turn around the median to enter the site.

Meet the performance standards of the district

If Variance #2 is granted to allow grass parking the proposed use will meet the performance standards of the district.

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

The applicant has not proposed any activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing single-family residential use.

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

The site will be adequately screened from adjacent residential uses since the applicant is required to provide a "Type C" buffer in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition is the use of the site as a religious institution, where parking is used intermittently. The intent of the Code can be met by allowing grass parking.

No Special Privilege Conferred

It is common for religious institutions to provide grass parking since these parking spaces are utilized significantly less than daily commercial uses. A special privilege will not be conferred.

Deprivation of Rights

Without the variance, the applicant would be required to improve the parking area with a durable all-weather surface, and would require the redesign of the parking outside of the easement. This would result in an increased impervious surface area and increased drainage demands in a residential neighborhood. Allowing for grass parking with improved drive aisles would not deprive the applicant of rights commonly enjoyed by others for similar uses.

Minimum Possible Variance

The granting of a variance for grass parking would allow for the minimum possible variance needed to meet the applicant's needs. The drive aisles will be improved with a durable all-weather surface, including a pervious geomat with a #57 stone overlay in lieu of completely paving them, to reduce the impervious surface and runoff, yet still provide an improved surface to meet Code

Purpose and Intent

Section 38-1479 contemplates the allowance of parking on unimproved surfaces for religious institutions via approval by the Zoning Manager or the Board of Zoning Adjustment (BZA). The granting of the variance to allow grass parking would be in harmony with the purpose and intent of this section of the Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated May 13, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall submit construction plans through the commercial site plan review process within 180 days of final approval by Orange County, and complete the required improvements pursuant to the approved construction plans within one year after the Board of County Commissioners' approval of the special exception and variance, or else this approval shall become null and void, unless extended by the Board of County Commissioners for a limited duration for good cause shown.
5. Hours of operation shall be as follows: 1) Mondays through Fridays: 6:00 a.m. to 8:00 a.m. and 15 minutes before sundown to one hour after sundown; 2) Saturdays: 8:00 a.m. to 1:00 p.m. and 90 minutes before sundown to one hour after sundown; and 3) Sundays: 8:00 a.m. to 10:00 a.m. and 15 minutes before sundown to one hour after sundown.
6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
7. Noise shall be regulated by Chapter 15, Orange County Code, "Environmental Control," specifically, Article V, "Noise Pollution." No outdoor speakers or other audio amplification shall be permitted.
8. Signage shall be in accordance with 31.5-75, Orange County Code.
9. Development shall comply with Chapter 24 (Landscaping), Buffering and Open Space) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.
10. A six (6) foot high vinyl fence shall be maintained along the eastern and northern property lines. Should the County remove the six (6) foot high wall along the western property line, a six (6) foot high vinyl fence shall be installed and maintained by the property owner.
11. The grass parking spaces shall be fitted with wheel stops. The drive aisles and handicap parking spaces shall be improved with a durable all-weather surface and properly drained in accordance with Orange County Code.
12. There shall be no on-street parking. All parking shall be contained off-street on the subject property in the driveway or behind the gated driveway in the parking area.

C: Mr. Derek E. Bruce
200 S Orange Ave. Suite 1400
Orlando, FL 32801

SPECIAL EXCEPTION JUSTIFICATION STATEMENT

I. Background

The subject property, zoned R-1A, has a future land use designation of Low Density Residential ("LDR") located at 8613 Banyan Blvd in the Sand Lake Hills subdivision in southwest Orange County in the Bay Hill area. The site is situated at the corner of the subdivision entrance to S. Apopka Vineland Road, a heavily travelled four lane right of way. The subject property is approximately ¾ acre and can park 35 to 40 cars. The house on the property is a modest sized home of 2544 gross square feet with a living area of 1654 square feet. The home is occupied by a tenant who lives there full time pursuant to a lease agreement with the owner, Orlando Torah Center Inc. In addition to being a residence, the structure is used for Jewish religious activities on a daily basis for a limited time each day.

The prayer room has approximately 60 non-fixed seats, many of which are unused aside from special holidays. See attached photographs. The number of participants during prayers generally averages around 15 to 20 individuals with around 10 more on the Sabbath, which extends from sundown on Friday to sundown on Saturday. After prayer services on Saturday mornings, families gather at the home to socialize for approximately an hour. Approximately 75 to 100 people, which includes adults and children (all ages), attend these post-prayer-services gatherings. While the Sabbath is the day that the home is most heavily used for religious purposes, it is the day on which there is the least traffic impact because Jews who worship at this home do not drive on the Sabbath. See attached traffic report. Consequently, many of the nearby residents are also worshippers at this home.

Outside of the Sabbath, all of those who do drive to the subject property are required to park on the property and off the street.

The closest neighbor in terms of physical proximity between residences is a residence along the eastern boundary of the subject property. As shown below, there are three neighboring properties on the northern boundary, but they are located more than 100 feet away. The property to the west is an undeveloped, unoccupied parcel owned by Orange County.



Special Exception Criteria

A. Use shall be consistent with the Comprehensive Plan

The primary use of the subject property is for residential use. This is consistent with the comprehensive plan designation of LDR.

B. Use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development

Proposed low intensity use is compatible with the surrounding uses. The home has been improved and the landscaping improved since the home was purchased. There are no external structural improvements to the property; its use as a home appears the same as any other property in the surrounding development.

The property has a structure that was used primarily – if not exclusively – as a residence prior to its acquisition by Orlando Torah Center. However, at the time of the acquisition, the property was vacant and had fallen into disrepair. See attached photographs obtained from the Orange County Property Appraiser's website.

Orlando Torah Center has restored the property and the structure is similar in look and feel to the structures in place on surrounding properties. There are also a number of properties within the subject property's subdivision that are put to nonresidential uses – including educational and park uses.

C. Use shall not act as a detrimental intrusion into a surrounding area

The proposed use will not negatively impact adjacent uses. Moreover, any traffic generated by the intermittently scheduled religious prayers and services will be de minimis, and the impact on neighbors is minimized by the fact that such visitors are less than 100 feet away from the exit to the subdivision because the residential lot is uniquely situated as the closest residential lot on Banyan Boulevard to the nearest arterial road (South Apopka Vineland Road).

Given the limited time of use and the special conditions made available for parking and given the limited number of individuals involved, the home is not a detrimental intrusion into any surrounding area. Indeed, the condition of the home has been improved since it was acquired by the applicant.

See attached letters of support and letters of no objection from adjacent and nearby property owners.

D. Use shall meet the performance standards of the district in which the use is permitted

The proposed use meets the performance standards of the R-1A zoning district and other county development standards.

- E. 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.**

Similar to individuals that conduct social gatherings, meetings, fundraisers, and events in their homes, the applicant is also utilizing the subject property for certain religious activities. Those activities do not cause any noise, vibration, dust, odor, glare, heat producing or other characteristics that would be a detrimental intrusion to the surrounding area. Activities onsite will be predominately indoors.

- F. 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.**

In accordance with Orange County Code § 24-5, no buffer yard should be required for the proposed use. There is a six (6) foot tall wooden fence along the entire east property line, a six (6) foot vinyl fence along the entire north property line, and a six (6) foot concrete block wall just west of the entire west property line. Nevertheless, to the extent the County requires a further buffer, we have proposed a seven and one half (7.5) foot buffer. See attached Variance Justification Statement.

III. Suggested Conditions of Approval

We request a special exception to include or to permit limited religious-oriented activities at this residential property. Such religious activities would be subject to the following conditions:

1. The structure on the premises shall be used for residential purposes but will also be used for religious-oriented activities. The structure shall not be used for day care, child care, or camp purposes.
2. The hours of operation for religious-oriented activities shall generally be:
 - a. Mondays through Fridays: 6:00 am to 8:00 am and 15 minutes before sundown to one hour after sundown
 - b. Saturdays: 8:00 am to 1:00 pm and 90 minutes before sundown to one hour after sundown
 - c. Sundays: 8:00 am to 10:00 am and 15 minutes before sundown to one hour after sundown
3. There shall be no more than four outdoor special events per calendar year, and the hours of those events shall be limited between the hours of 9:00 am and 9:00 pm. Outdoor amplified sound and music would be consistent with a typical home-based party atmosphere gathering. Outdoor lighting, if any, shall be directed away from neighboring properties.

4. There shall be no on-street parking. All parking by such visitors shall be on the residential lot behind a gated driveway, with the exception of the four outdoor special events noted in paragraph 3 above. On those occasions, on-street parking would be consistent with a home-based party atmosphere gathering that requires extra parking.
5. The six (6) foot fences on both the eastern and northern property lines shall be maintained.

Given the factual circumstances and the application of the foregoing conditions, it is clear that the subject property is and will continue to be used for residential purposes with permitted religious-oriented activity. As a result, the requested use of the property is consistent with the comprehensive plan which provides a residential use designation for the subject property.

IV. Necessity of Approval

In order for those of the Orthodox Jewish faith to practice their religion on the Sabbath, the assembly of prayer MUST be within reasonable walking distance of their homes. To trek out a number of miles outside of the neighborhood to attend prayers would be exhausting and frankly dangerous. Additionally, it would place young families in harm's way having to cross busy streets and intersections with small children. Not permitting this assembly would be an overwhelming burden for the 30 current homeowner families. It would require them to leave Orange County, as the closest similar Orthodox Jewish community is approximately 2.5-3 hours away.

V. Off-Street Parking Area Variance

As depicted on the site plan, this project has unpaved parking. In accordance with Orange County Code of Ordinances Sec. 38-1479 (a), the applicant requests approval for this parking area to remain unpaved. See attached Variance Justification Statement.

VARIANCE JUSTIFICATION

UNPAVED PARKING

The Orange County Code of Ordinances, Section 38-1479(a), entitled "Off-street parking lot requirements," provides:

All parking areas shall have durable all-weather surfaces for vehicle use areas, shall be properly drained and shall be designed with regard to pedestrian safety. For purposes of this article, a durable, all-weather surface shall consist of an improved surface, including concrete, asphalt, stone and other permanent surfaces, but not including gravel, wood chips, mulch or other materials subject to decay. Residential conversions to professional office use, churches, bed and breakfast homestays, bed and breakfast inns and overflow parking on unimproved property used in conjunction with special events and/or holiday parking demands may be exempt from this condition subject to approval by the zoning manager or when approved by the board of zoning adjustment ("BZA") and the board of county commissioners ("BCC").

This same code provision covers both the parking spaces themselves and the drive aisles that provide access to them. Although we are requesting a variance to allow both the parking spaces and the drive aisles to be unpaved (except for the handicapped spaces), the physical treatment of the two are proposed to be different. The drive aisles will have a "geomat" surface while the parking spaces will be grass, with wheel stops. Therefore the variance criteria below will differentiate between the two where appropriate.

The geomat is a tough but porous plastic fabric that can be surfaced with rock or pebbles. It allows water penetration so that site drainage is not compromised, but is less visually intrusive than pavement.

The general basis of this request is twofold: First, this parking area is used more lightly and intermittently than would be expected for a religious congregation of this size; and second, an unpaved parking area will be less aesthetically objectionable in a residential neighborhood than would a paved parking lot.

The applicant recently commissioned a Parking Demand Analysis for this site. It establishes that the number of parking spots at the premises complies with the parking space ratio required for a religious use under the Orange County Code, and it further establishes that the actual vehicular use at the premises is substantially less than the parking spots can accommodate.

The specific Orange County Code of Ordinances variance criteria are addressed below.

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

RESPONSE: The special conditions and circumstances in this case are that The Orlando Torah Center is an Orthodox Jewish congregation, which adheres to strict rules of Sabbath observance. Congregants walk to services rather than driving, so none of the congregants drive into or out of the parking area on the Sabbath, the day of peak attendance. The congregants live within walking distance, just so this rule can be observed. On other days, smaller services are held.

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

RESPONSE: The Orlando Torah Center did not create the rules for proper activity on the Sabbath, which are of ancient origin.

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

RESPONSE: The granting of this variance would not confer any special privilege on the applicant. In fact, the Orange County Code of Ordinances Sec. 38-1479(a) specifically anticipates the granting of exemptions from the paved parking requirements for churches, bed and breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

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

RESPONSE: A literal interpretation of the paved parking requirement to apply to this property and its circumstances would create a hardship on the applicant because it would force the applicant to create a large paved parking lot within a residential neighborhood. Paving in this circumstance would be unnecessary from a functional standpoint. Further, the provisions of this Chapter specifically contemplate the granting of exemptions from the paved parking requirements for churches, bed and

breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

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

RESPONSE: The variance requested, which is to allow the parking spaces and drive aisles to remain unpaved, is the minimum variance that could be requested because there is no 'middle ground,' compromise or lesser variance that could be requested in this case. Either the parking area is paved or it is unpaved. Moreover, pursuant to the applicant's discussions with Orange County Public Works Department ("Public Works"), Public Works is amenable to the applicant's use of the County's easements as a parking area so long as the easements remain unpaved as a grass surface. See attached Email from Pedro L. Medina, P.E., Manager of Development Engineering Division of Public Works Department, dated April 27, 2020. Thus, the applicant proposes the usage of one of those easements, the 30' drainage and utility easement on the west side of the property, for parking. However the treatment of the drive aisles and the parking spaces is proposed to be different, with the higher-traffic drive aisles having a "geomat" surface and the parking spaces (including all parking spaces located on easements) being grass, with wheel stops.

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

RESPONSE: The intent of the paving requirement is to provide a safe, solid surface for the parking of vehicles for land uses that engender substantial vehicular access. In this case, the land use, an Orthodox Jewish congregation, is by its nature one that does not engender substantial vehicular use and in fact has no congregants that drive on the Sabbath, the day of peak attendance.

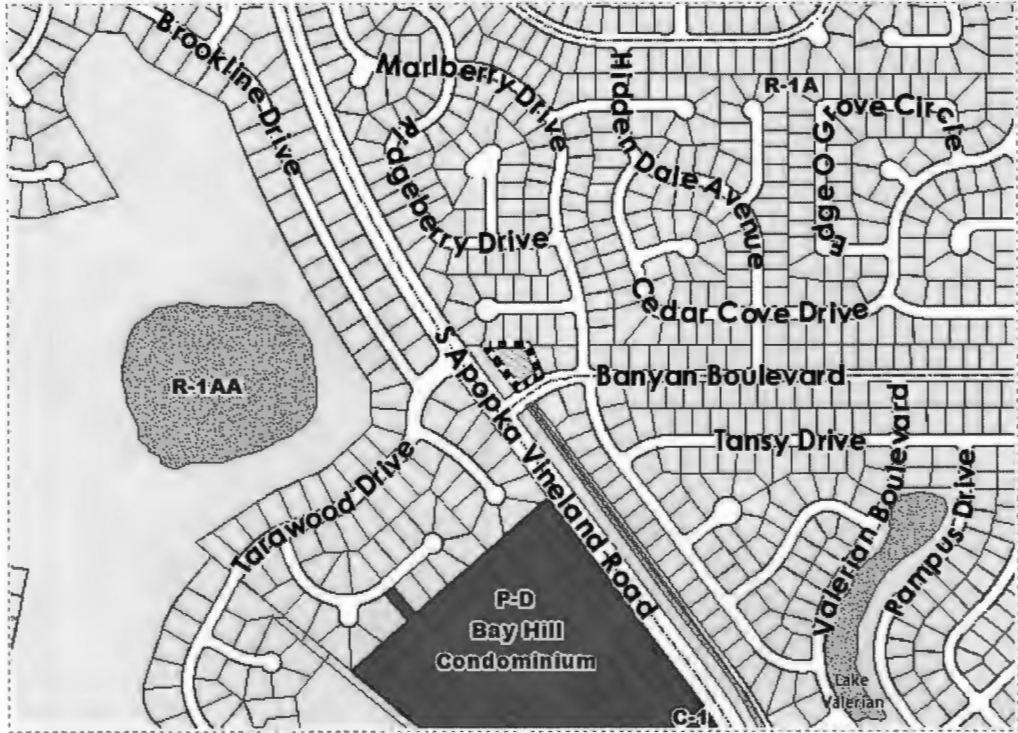
As noted above, the provisions of this Chapter specifically contemplate the granting of exemptions from the paved parking requirements for churches, bed and breakfast inns and other selected land uses where conditions warrant. Although the statute discusses churches and not synagogues, this synagogue should be treated no differently than a church.

Given that the Chapter specifically contemplates such an exemption, it is apparent that this variance—which would greatly benefit the applicant—

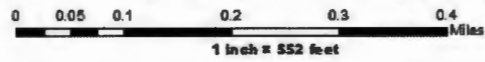
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would also be in harmony with the purpose and intent of the zoning regulations and will not be injurious to the neighborhood nor otherwise detrimental to the public welfare.

ZONING MAP



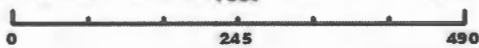
 SUBJECT



AERIAL MAP

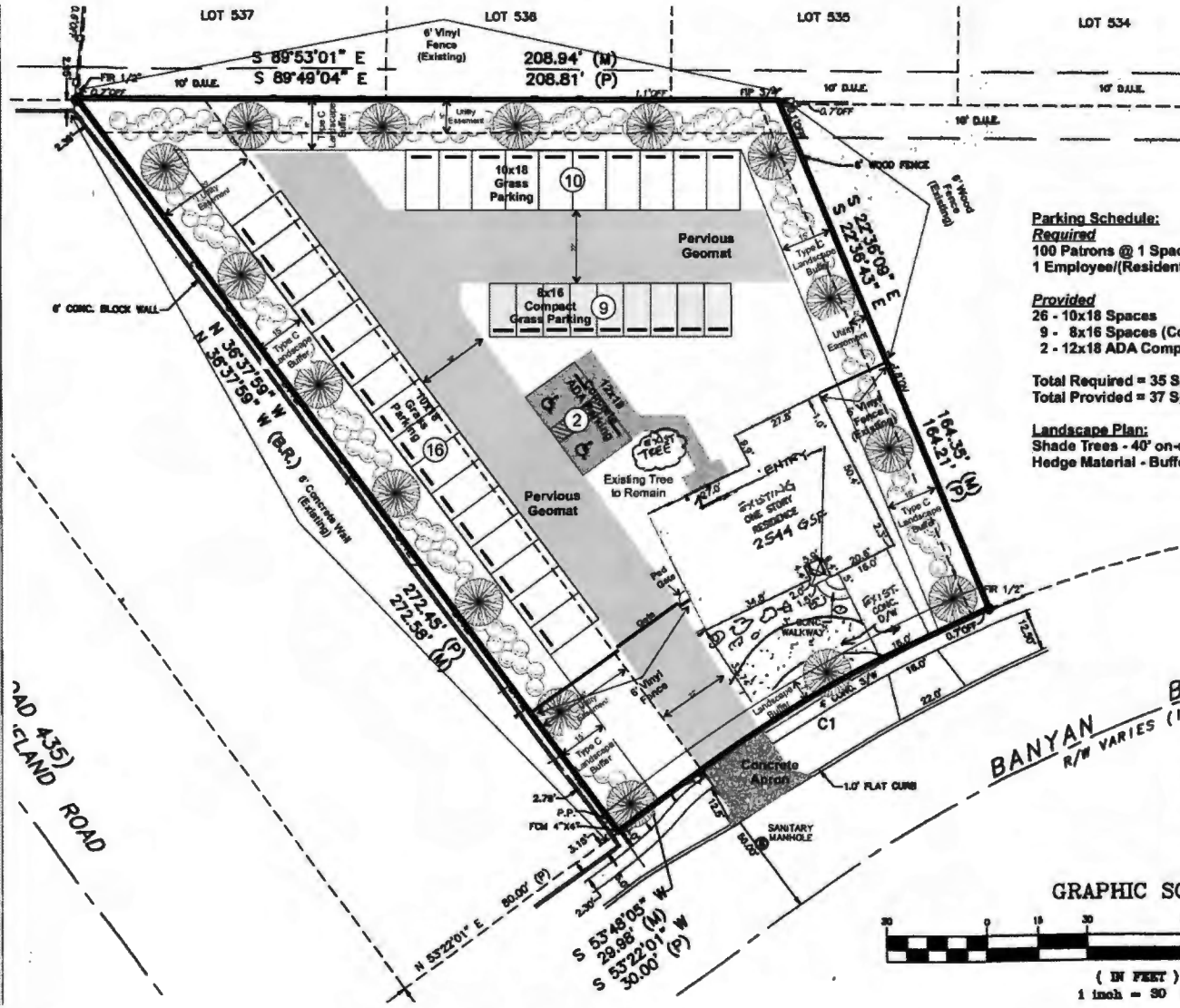


 SUBJECT



Orlando Torah Center Conceptual Site Plan Special Exception

SITE PLAN / SURVEY



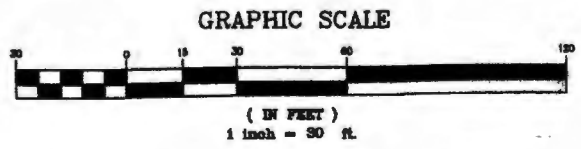
Parking Schedule:
Required
 100 Patrons @ 1 Space/3 Patrons = 34 Spaces
 1 Employee/(Resident) @ 1 Space / Employee = 1 Space

Provided
 26 - 10x18 Spaces
 9 - 8x16 Spaces (Compact)
 2 - 12x18 ADA Compliant Spaces

Total Required = 35 Spaces
Total Provided = 37 Spaces

Landscape Plan:
 Shade Trees - 40' on-center
 Hedge Material - Buffer Requirements

Property Address:
 8613 Banyan Boulevard
 Orlando, FL 32819



SITE PHOTOS



Subject property



Entrance to the subdivision and location of where a U-turn will have to be made to get to the subject property as identified by the blue arrow

SITE PHOTOS



Rear yard where the proposed parking will be located



Rear yard gently slopes downward toward the fence and neighboring homes

SITE PHOTOS



Rear of the house looking toward the proposed parking area entrance and parking area