



Interoffice Memorandum

August 28, 2023

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

FROM: Andres Salcedo, P.E., Acting Director *Andres*
Planning, Environmental, and Development Services
Department

CONTACT PERSON: Ted Kozak, AICP, Chief Planner
Zoning Division
(407) 836-5537

SUBJECT: September 26, 2023 Board-Called Public Hearing
Applicant: Edward Bharath for Orange Tires & Wheels
BZA Case #VA-23-06-031, June 1, 2023; District 3

Board of Zoning Adjustment (BZA) Case # VA-23-06-031, located at 7525 S. Orange Avenue, Orlando, Florida 32809, in District 3, is a Board-called public hearing. The applicant is requesting variances in the C-1 zoning district 1) to allow a rear setback of 2.5 ft. in lieu of 20 ft. for an existing tire shop; and 2) to allow a rear setback of 6 ft. in lieu of 20 ft. for two shipping containers. At the June 1, 2023 BZA hearing, staff recommended approval of variance #1 and denial of variance #2. The BZA recommended approval of both variance requests, subject to six conditions.

At the June 20th, 2023 Board meeting, this item was pulled for a separate public hearing at the request of Commissioner Mayra Uribe. At the August 8, 2023 Board meeting, the Board continued the public hearing to the September 26, 2023 Board hearing in order to hold a community meeting. The community meeting was held on September 5, 2023.

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 Board. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Ted Kozak at (407) 836-5537.

ACTION REQUESTED: Deny the applicant's request; or approve the applicant's request with conditions. District 3

TK:ag
Attachment

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 26, 2023**

The following is a public hearing before the Board of County Commissioners on September 26, 2023 at 2:00 p.m.

APPLICANT: EDWARD BHARATH FOR ORANGE TIRES & WHEELS

REQUEST: Variances in the C-1 zoning district as follows:
1) To allow a rear setback of 2.5 ft. in lieu of 20 ft. for an existing tire shop.
2) To allow a rear setback of 6 ft. in lieu of 20 ft. for two shipping containers.

LOCATION: 7525 S. Orange Avenue, Orlando, FL 32809, northeast corner of S. Orange Ave. and Royal Palm Ave., north of E. Sand Lake Rd., south of E. Lancaster Rd.

TRACT SIZE: +/- 0.31 acres (13,641 sq. ft.)

ZONING: C-1

DISTRICT: #3

PROPERTIES NOTIFIED: 583

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

Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of Variance #1, and for the recommendation for denial of Variance #2. Staff noted that no comments were received in favor or in opposition to the request.

The applicant discussed the need for the Variances and offered alternatives to the proposed, including a proposal to enclose the shipping containers with the same materials as the existing building.

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

Code enforcement staff described a current citation on the property but clarified that it is not related to the subject Variance requests.

The BZA discussed the location of the existing shipping containers, the proposed building setback, its location relative to the alley and the adjacent residences and the adequacy of the proposed separation, and unanimously recommended approval of the Variances by a 5-0 vote, with one absent and one vacant, subject to the six (6) conditions in the staff report.

BZA HEARING DECISION:

A motion was made by Juan Velez, seconded by John Drago and carried to recommend APPROVAL of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions: (5 in favor, none opposed, 1 absent, 1 vacant).

1. Development shall be in accordance with the site plan and elevations received May 10, 2023, as modified per conditions #4 and #5, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of the permit to enclose the work areas to the tire shop, a permit shall be obtained for any shipping container on site in a conforming location or they shall be removed.
5. At time of permitting, the applicant is required to submit a modified site plan that reflects the property lines per survey on file with Orange County.
6. Enhanced landscaping shall be provided along the entire length of the side street on the south property line along Palm Royal Rd. within the 7 ft. required landscape strip. This enhanced landscaping shall consist of understory trees planted 15 ft. on center, supplemented with a continuous row of shrubs/ hedges planted 30 inches on center within the landscape strip. A landscape plan showing the required landscaping shall be submitted with the permit for the enclosure of the outdoor work area.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 01, 2023**

Commission District: **#3**

Case #: **VA-23-06-031**

Case Planner: **Jenale Garnett (407) 836-5955**
Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): EDWARD BHARATH FOR ORANGE TIRES & WHEELS

OWNER(s): KAZMA INVESTMENT GROUP LLC

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

- 1) To allow a ~~north~~* rear setback of 2.5 ft. in lieu of 20 ft. for an existing tire shop.
 - 2) To allow a ~~north~~* rear setback of 6 ft. in lieu of 20 ft. for two shipping containers.
- *North direction was advertised, but public notification matches the above

PROPERTY LOCATION: 7525 S. Orange Ave., Orlando, FL 32809, northeast corner of S. Orange Ave. and Royal Palm Ave., north of E. Sand Lake Rd., south of E. Lancaster Rd.

PARCEL ID: 25-23-29-6924-00-220

LOT SIZE: +/- 0.31 acres (13,641 sq. ft.)

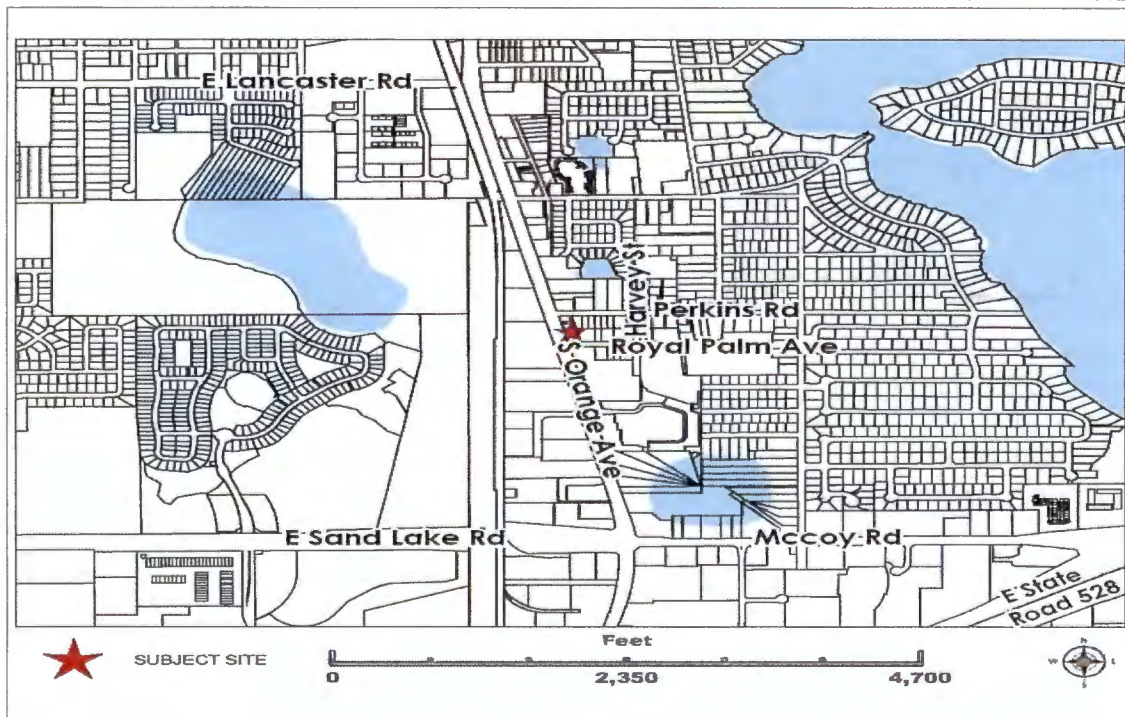
NOTICE AREA: 800 ft.

NUMBER OF NOTICES: 76

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	C-1	C-1	C-1	R-3	I-1/I-5
Future Land Use	C	C	C	LMDR	IND
Current Use	Single-family residential	Religious Institution	Vacant	Multi-family residential	Manufacturing

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the C-1, Retail Commercial District, which allows for restaurants, retail stores, offices and various other commercial businesses. The Future Land Use is Commercial (C), which is consistent with the C-1 zoning district.

The property is located in the Transit Oriented Development (TOD) Overlay and is consistent with the County's Comprehensive Plan. The intent of the TOD overlay zone is to reduce reliance on the automobile and to promote lively, pedestrian friendly development that will serve as an attractive place to live, work, shop and recreate. The request is not impacted by this TOD.

The subject property is also located within the South Orange Avenue Corridor Overlay District which prohibits several uses including labor pools, check cashing businesses, tattoo/body art shop, pawnshops, pawnshop agencies, fortune tellers, and bottle clubs. The request is not impacted by this overlay district.

The area surrounding the subject site is comprised of commercial to the north, a vacant lot to the immediate south, industrial to the west, and multi-family and single-family homes to the east. The subject property is a +/- 0.31 acre lot, platted in 1926 as Lot 22 to Lot 27 of the Pine Castle Park plat, and is considered to be a conforming lot of record. The subject site is a corner lot located on the northeast corner of S. Orange Avenue and Palm Royal Avenue and abuts unmaintained alley. The frontage is considered S. Orange Avenue due to the right-of-way having the heaviest flow of traffic, and the side street is Palm Royal Avenue. It is currently developed with a 4,020 gross sq. ft. two-story tire shop constructed in 1961 with two open work areas, and a stairway at the rear of the main building. There are also three shipping containers, of which two appear in 2018 and one appears in 2021 via aerial photography. There are no permits on record for the shipping containers. The property was purchased by the current owner in 2018.

The proposal is to recognize the existing location of the tire shop building with an east rear setback of 2.5 ft. in lieu of 20 ft, requiring Variance #1. The rear of the property abuts a multi-family residential property across the alley. Also proposed is the enclosure of the existing 905.7 sq. ft. (30.6 ft. by 29.6 ft.) 16.2 ft. high and 779.5 sq. ft. (38.4 ft. by 20.3 ft.) 16.9 ft. high attached open carport work area for the installation of tires and oil changes. A permit, B22905469, to enclose the existing structure and add 4 roll-up gates is on hold pending the outcome of this request. Further proposed is to allow the existing unpermitted 40 ft. by 7.4 ft., 7.6 ft. high shipping containers to be located on the north side of the property, used for the storage of tires. The shipping containers will meet the required front and side setbacks, but the proposed east rear setback is 6 ft., and the required setback is 20 ft., requiring Variance #2. Currently, there are three shipping containers (SC #1, SC #2, and SC #3) on the property and the owner is proposing the removal of SC #3 and

relocation of SC #1 in the same location as the shipping container being removed.

Upon review of the site plan submitted, staff has discovered that the site plan provided reflects a larger property boundary than actually exists. The scaled site plan indicates a property depth of 96 ft. from the S. Orange Avenue ROW, however the lot depth for this property is actually 83 ft., as reflected in the property appraiser's records and the legal description. Lots 22 to Lot 27 were originally platted with a 100 ft. lot depth, however 17 ft. was taken for right-of-way at some point in time. Given that the discrepancy does not impact this particular request, an updated site plan has not been required, however, at the time of permitting an accurate site plan will be required to be submitted.

Staff recommends approval of Variance #1 since the alley provides an additional separation from the residential and the existing building has been in the same location since construction with the existing non-conforming setbacks for over 60 years. This will also allow for the existing outdoor commercial uses to be enclosed. Staff is recommending denial of Variance #2. Based on staff analysis, a smaller, code compliant storage structure could be installed, thereby eliminating the need for Variance #2. Furthermore, there are no businesses in the area that contain shipping containers.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	23.7 ft. (tire shop) 7.6 ft. shipping containers (SC #1, SC #2)
Min. Lot Width:	80 ft. (adjacent to a major street)	150 ft.
Min. Lot Size:	6,000 sq. ft.	13,641 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front: (S. Orange Ave.)	25 ft.	56.5 ft. tire shop (West) 54.2 shipping containers – SC#1, SC #2 (West)
Rear: (alley)	20 ft.	2.5 ft. tire shop (East – Variance #1) 6 ft. shipping containers - SC #1, SC #2 (East – Variance #2)
Side:	0 ft.	0 ft. (North)
Side Street: (Palm Royal Ave.)	15 ft.	43 ft. (South)

VARIANCE CRITERIA

Special Conditions and Circumstances

Variations #1: The special condition and circumstance particular to the subject property is the age of the existing tire shop, built in 1961, which has been in the same location as constructed.

Variations #2: There are no special conditions or circumstances as there are other options to install structures for storage that will meet code requirements.

Not Self-Created

Variations #1: The request is not self-created since the owner is not responsible for the existing location of the existing tire shop for over 62 years.

Variations #2: The request is self-created since there are options to install the structures to meet code.

No Special Privilege Conferred

Variations #1: Due to the orientation of the existing tire shop on the lot and the year built, granting the requested variations will not confer any special privilege conferred to others under the same circumstances.

Variations #2: Granting the Variance as requested would confer special privilege as there is sufficient space to install the structures on the north side to meet code requirements, or to construct a storage building that meets

Deprivation of Rights

Variations #1: Denial of this Variance would deprive the owner of the right to utilize and enjoy the existing structure which has been in the same location since 1961 as constructed.

Variations #2: There is no deprivation of rights since a code compliant option is available to install a structure for storage.

Minimum Possible Variance

Variations #1: Due to the existing setback and location of the tire shop, the Variance is the minimum possible.

Variations #2: The request is not the minimum possible since there are other options to relocate the shipping containers along the north side of the property that would meet the required setbacks.

Purpose and Intent

Variations #1: Approval of the requests will be in harmony with the purpose and intent of the Code, since the request will allow the existing rear setback to remain.

Variations #2: Approval of the requests will not be in harmony with the purpose and intent of the Code, as the Code is primarily focused on minimizing the impact that structures have on surrounding properties. The location

of the shipping containers is not consistent with the nearby residential area and they are highly visible from S. Orange Avenue.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received May 10, 2023, as modified per conditions #4 and #5, 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.
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C: Edward Bharath
3670 Wilde Avenue
Winter Park, FL 32792

C: Sami Kamza
7525 S. Orange Avenue
Orlando, FL 32809

Maruthi Enterprise LLC

GENERAL CONTRACTORS AND BUILDERS (FLSL-1504744)

WE DON'T BUILD HOUSES, WE CREATE HOMES

3670 Wide Ave, Winter Park, FL 32792

Contact: Phone - 407-970-5511, Email - yogi.bharath01@gmail.com

B2290-5469. 7525 O Orange Ave, Orlando, FL 32812

To whom this may concern

We have applied for a building permit to enclose two (2) buildings that are on each side of the main building at the above captioned property. These buildings have been in continuous use since 1960 and since that have a designation of Auto Repair Garage. However, at present this facility is non-conforming and enclosing the un-enclosed portion will bring the property to current codes. We are applying for a variance for the following issue;

1. On the right-side enclosure, we would like to use the 15' 2" existing rear setback in lieu of the required setback of 30'
2. On the left-side enclosure, we would like to use the 6' 2" existing rear setback in lieu of the required setback of 30'. The rear wall of this enclosure is already existing with a return at 6' to the west.
3. Existing staircase is at 2'-6" rear setback. Variance to keep unit in existing place.

If you have any questions or queries, please do not hesitate to contact us.

Sincerely:

Maruthi Enterprise, LLC



Edward J Bharath

COVER LETTER

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

Application to enclose existing footprint of building

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.

Building is existing

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 is accorded except variations in the rear setback

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.

Deprivation or rejection of variance will not allow the owner to enjoy the proper use of his property

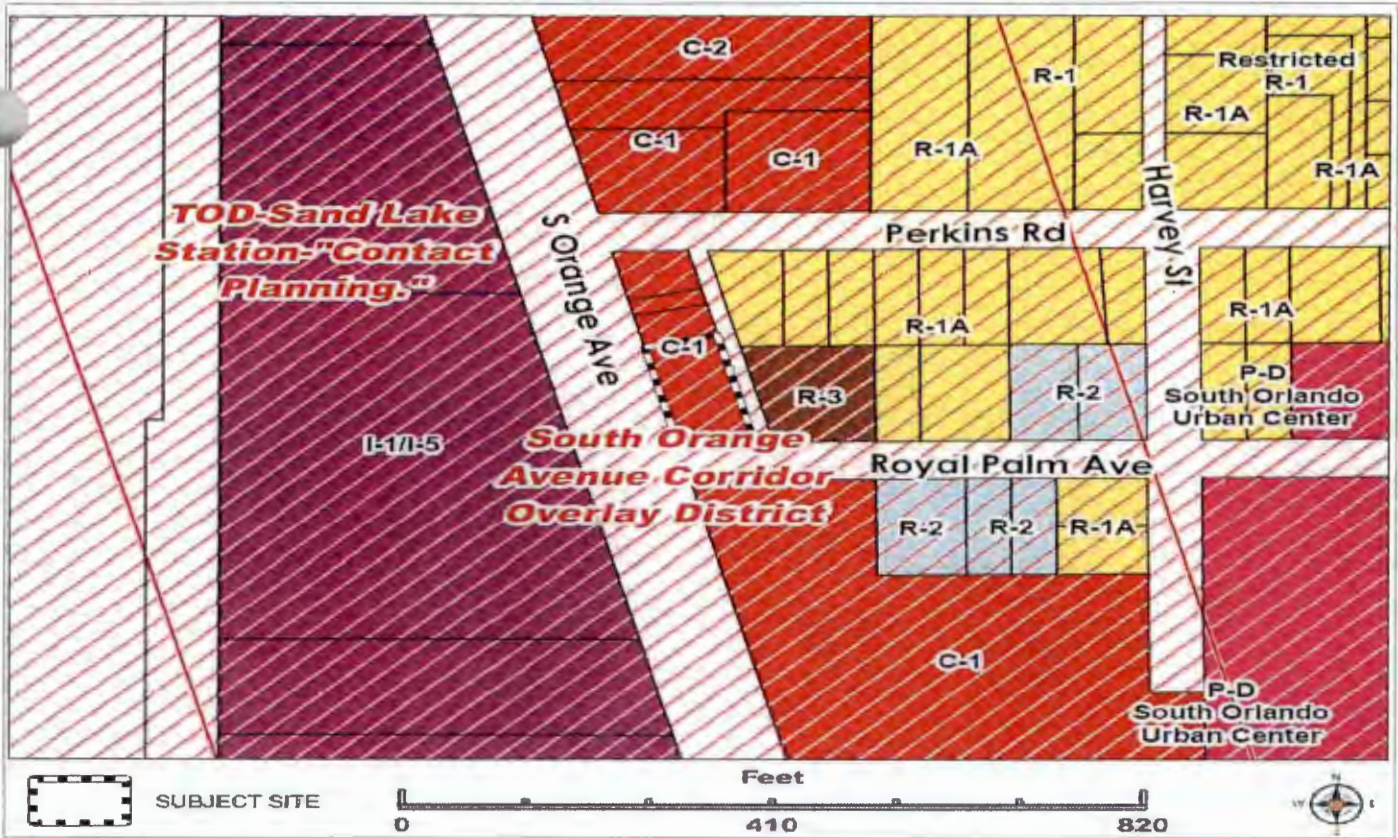
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

yes, as these conditions exist

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.

agreed and as these conditions already exist there should be no problem

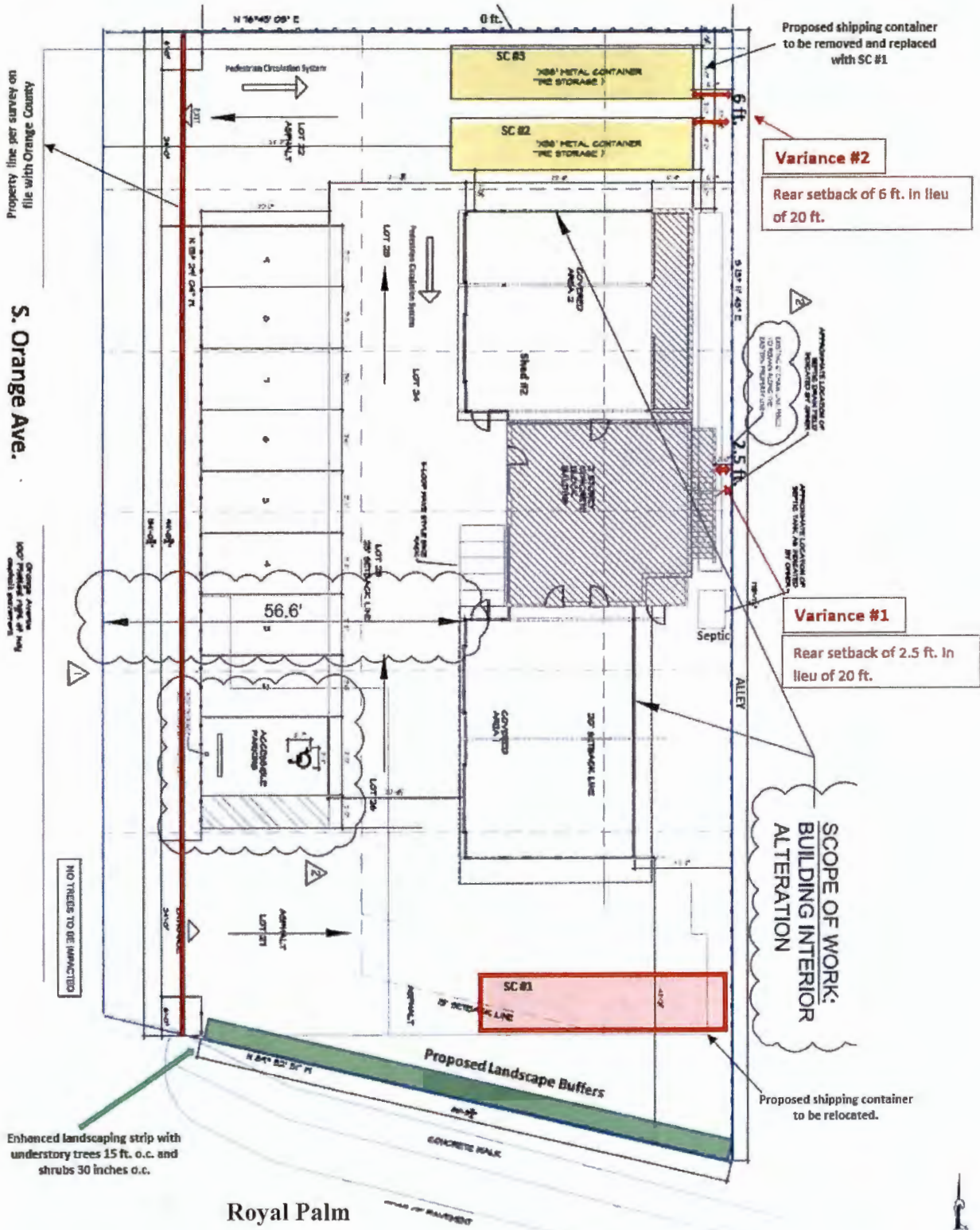
ZONING MAP



AERIAL MAP



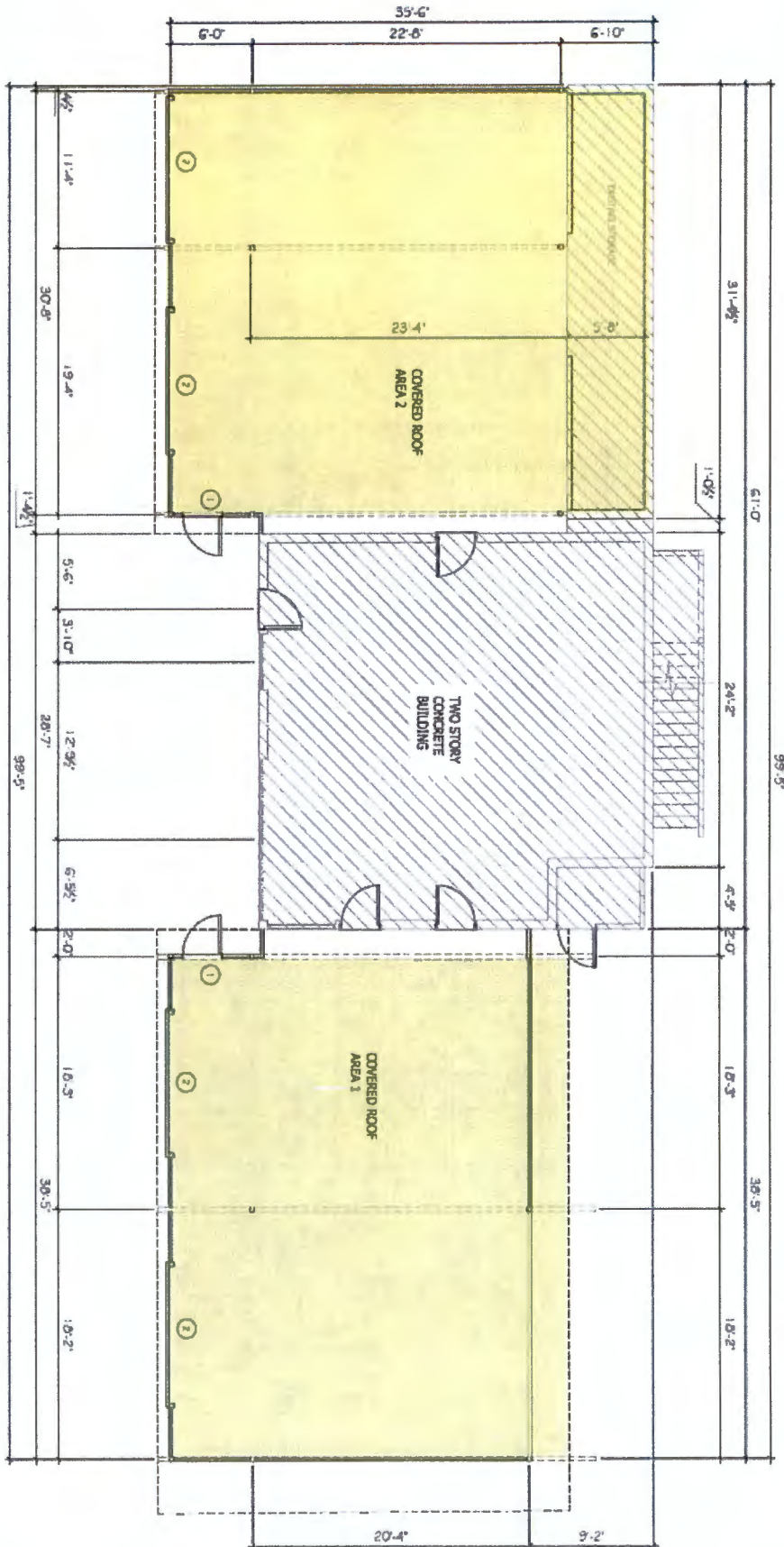
SITE PLAN



Royal Palm

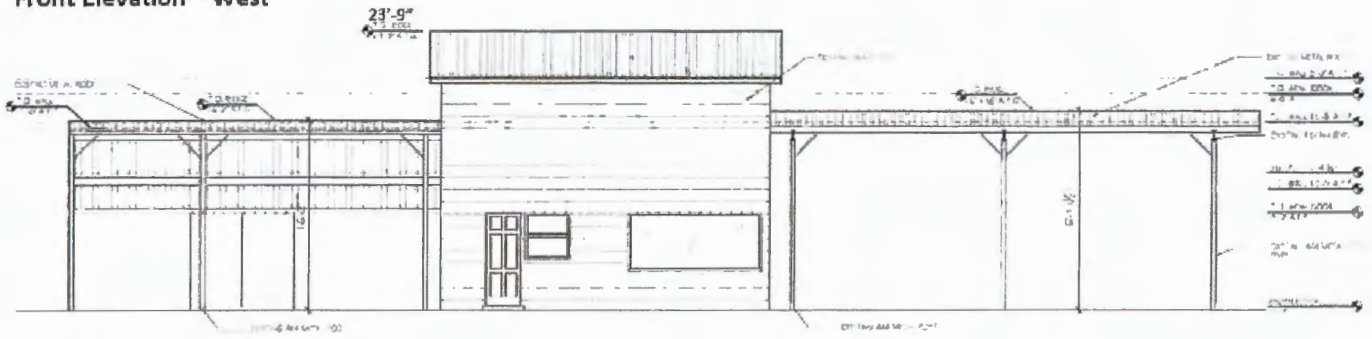


FLOOR PLAN

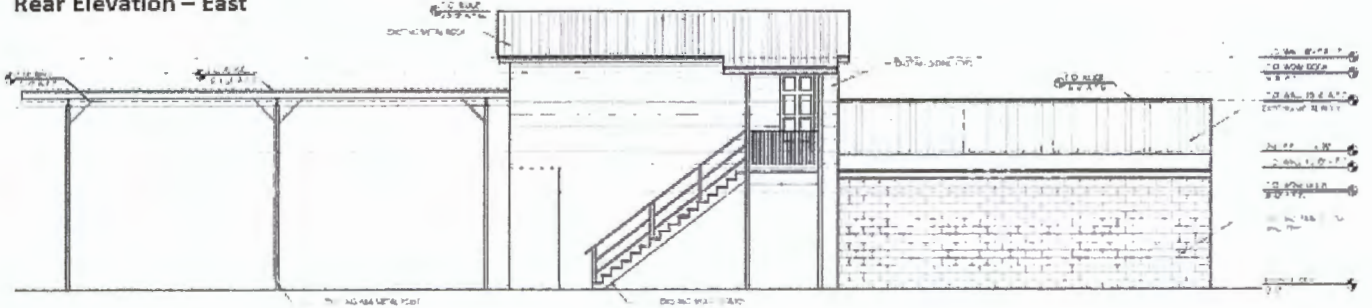


EXISTING ELEVATIONS

Front Elevation – West



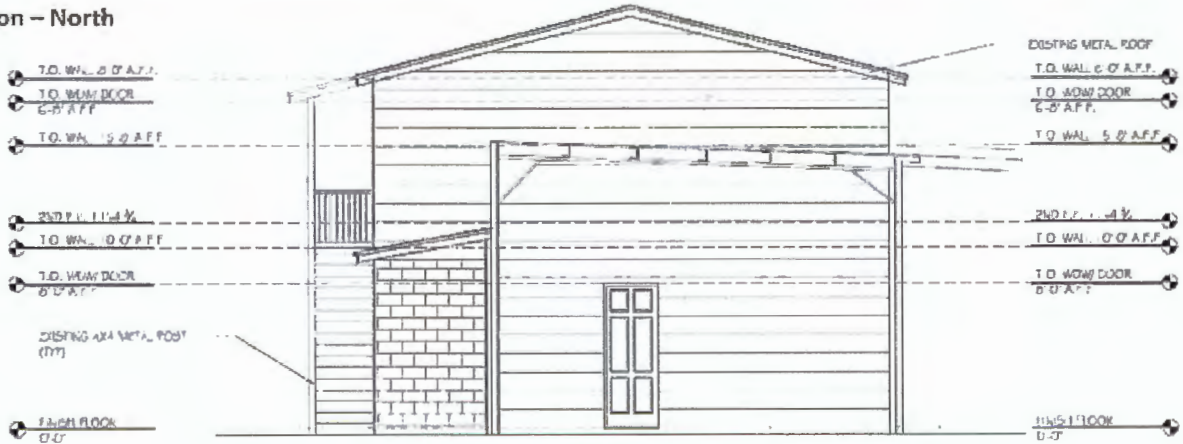
Rear Elevation – East



Right Elevation – South

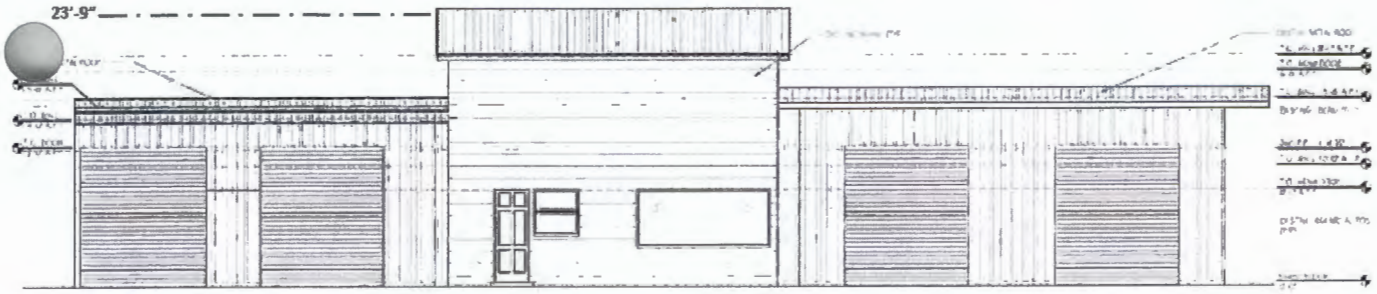


Left Elevation – North

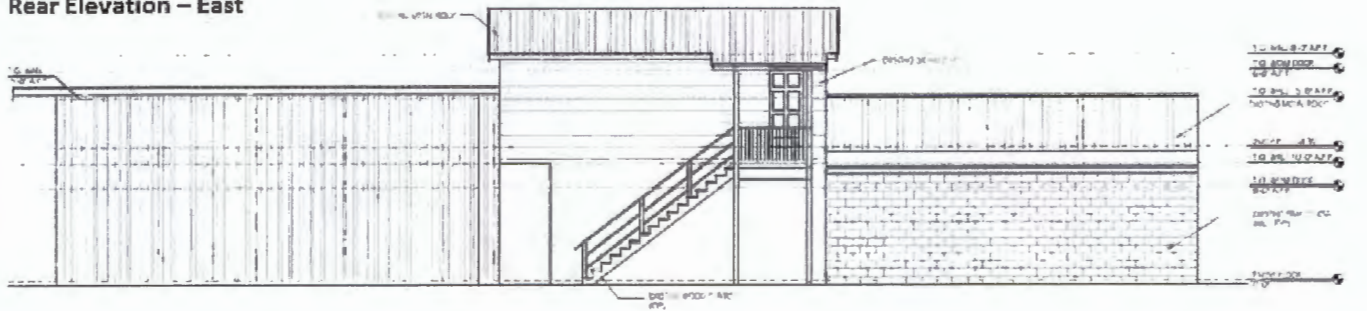


PROPOSED ELEVATIONS FOR ENCLOSURE OF WORK AREA

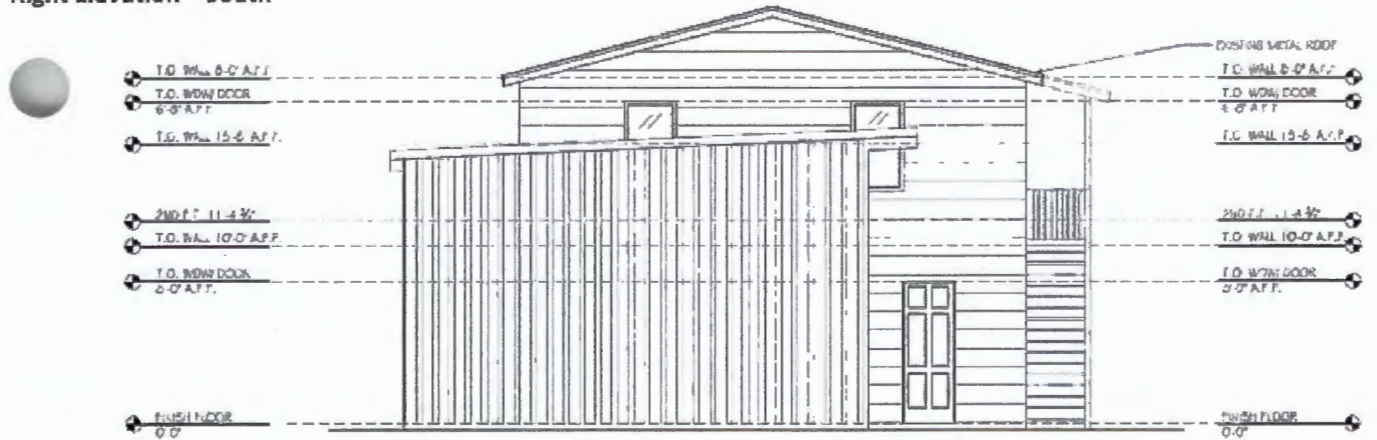
Front Elevation – West



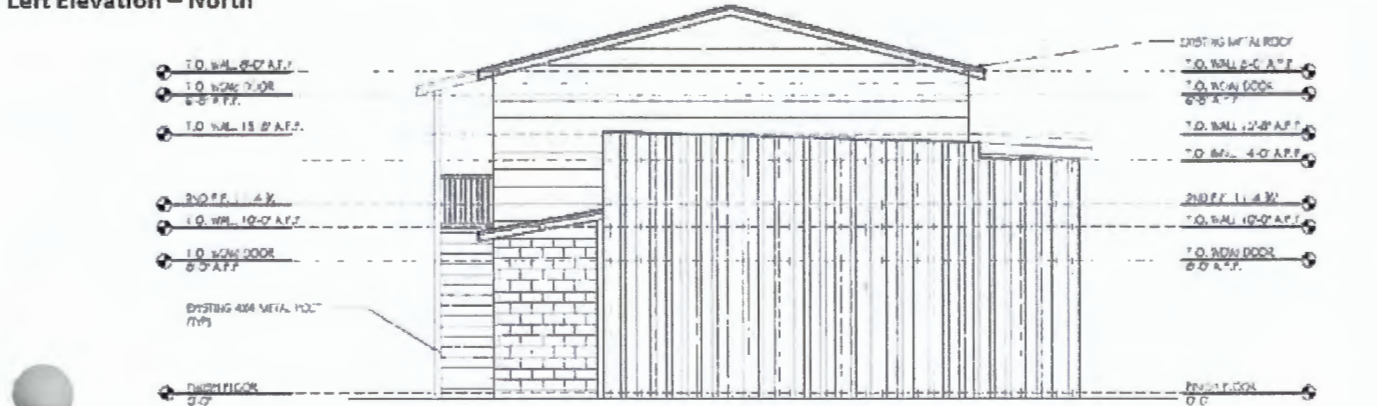
Rear Elevation – East



Right Elevation – South



Left Elevation – North



SITE PHOTOS



Facing southeast from S. Orange Ave. toward the front of subject property



Facing northeast from corner of S. Orange Ave. and Royal Palm Ave. towards side of property

SITE PHOTOS



Facing east from S. Orange Ave. towards proposed landscape buffer



Facing east from S. Orange Ave. towards proposed location shipping containers #1 and #2

SITE PHOTOS



Rear of existing structure, facing south towards Variance #1 and alley (on left)



Rear alley, facing west towards Variance #2

SITE PHOTOS



Facing north from Royal Palm Ave. toward the rear alley abutting east property line