



Planning, Environmental &  
Development Services  
Department

Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**January 2, 2025**

Zoning Division

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

<b><u>Board Member</u></b>	<b><u>District</u></b>
Thomas Moses (Vice Chair)	1
John Drago (Chair)	2
Juan Velez	3
Vacant	4
Chris Dowdy	5
Sonya Shakespeare	6
Roberta Walton Johnson	At Large

**BZA Staff**

Laekin O'Hara	Chief Planner
Jenale Garnett	Planner II
Catherine Glase	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
JANUARY 2, 2025**

<b>Case #</b>	<b>Applicant</b>	<b>Commission District</b>	<b>Staff Recommendation</b>	<b>BZA</b>	<b>Page #</b>
VA-25-02-133	Joseph Harris	5	Approval w/Conditions	Approval w/Conditions	1
VA-25-02-126	Pierre Marsan	1	Denial	Approval w/Conditions	17
VA-25-01-128	McGregor Love	3	Denial	Requests #1, 2, 3, & 4, Unnecessary Requests #5 & #6 Approval w/Conditions	30
VA-24-12-122	Dina Dahan	1	Denial	Requests #1 & #2, Denial Request #3, Approval w/Conditions	46
VA-24-12-121	Nick Dancaescu	5	Request #1, Denial Request #2 Approval w/Conditions	Approval w/Conditions	59
VA-24-12-118	Victor Rodriguez	3	Denial	Requests #1, #2, & #3, Denial Request #4 Approval w/Conditions	74
SE-25-01-127	Van Johnson for the Place of Grace Church	2	Approval w/Conditions	Approval 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 January 28, 2025.**

# 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 Site and Principal Building Requirements

District	Min. Lot Area <sup>M</sup> (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
A-1	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
A-2	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
A-R	108,900 (2½ acres)	950	270	35	50	25	15	35	50 <sup>A</sup>	L	
R-CE	43,560 (1 acre)	1,500	130	35	50	10	15	35	50 <sup>A</sup>	L	
R-CE-2	2 acres	1,200	185	45	50	30	15	35	50 <sup>A</sup>	L	
R-CE-5	5 acres	1,200	250	50	50	45	15	35	50 <sup>A</sup>	L	
R-1AAAA	21,780(½ acre)	1,500	110	30	35	10	15	35	50 <sup>A</sup>	L	
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	15	35	50 <sup>A</sup>	L	
R-1AA	10,000	1,200	85	25/30 <sup>H</sup>	30/35 <sup>H</sup>	7.5	15	35	50 <sup>A</sup>	L	
R-1A	7,500	1,200	75	20/25 <sup>H</sup>	25/30 <sup>H</sup>	7.5	15	35	50 <sup>A</sup>	L	
R-1	5,000	1,000	50	20/25 <sup>H</sup>	20/25 <sup>H</sup>	5/6 <sup>H</sup>	15	35	50 <sup>A</sup>	L	
R-2	One-family dwelling, 4,500	1,000	45 <sup>C</sup>	20/25 <sup>H</sup>	20/25 <sup>H</sup>	5/6 <sup>H</sup>	15	35	50 <sup>A</sup>	L	38-456
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit <sup>D</sup>	80/90 <sup>D</sup>	20/25 <sup>H</sup>	25	5/6 <sup>H</sup>	15	35	50 <sup>A</sup>	L	38-456
	Three dwelling units, 11,250	500 per dwelling unit	85 <sup>J</sup>	20/25 <sup>H</sup>	30	10	15	35 <sup>E</sup>	50 <sup>A</sup>	L	38-456
	Four or more dwelling units, 15,000	500 per dwelling unit	85 <sup>J</sup>	20/25 <sup>H</sup>	30	10 <sup>B</sup>	15	35 <sup>E</sup>	50 <sup>A</sup>	L	38-456; limited to 4 units per building
R-3	One-family dwelling, 4,500	1,000	45 <sup>C</sup>	20/25 <sup>H</sup>	20/25 <sup>H</sup>	5	15	35	50 <sup>A</sup>	L	38-481
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit <sup>D</sup>	80/90 <sup>D</sup>	20/25 <sup>H</sup>	20/25 <sup>H</sup>	5/6 <sup>H</sup>	15	35	50 <sup>A</sup>	L	38-481
	Three dwelling units, 11,250	500 per dwelling unit	85 <sup>J</sup>	20/25 <sup>H</sup>	30	10	15	35 <sup>E</sup>	50 <sup>A</sup>	L	38-481
	Four or more dwelling units, 15,000	500 per dwelling unit	85 <sup>J</sup>	20/25 <sup>H</sup>	30	10 <sup>B</sup>	15	35 <sup>E</sup>	50 <sup>A</sup>	L	38-481
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10 <sup>S</sup>	15	35 <sup>Q</sup>	50 <sup>A</sup>	L	38-605
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	15	35	50 <sup>A</sup>	L	38-578
R-T-1 SFR	4,500 <sup>C</sup>	1,000	45	20	20	5	15	35	50 <sup>A</sup>	L	
Mobile Home	4,500 <sup>C</sup>	Min. mobile home size 8 ft. x 35 ft.	45	20	20	5	15	35	50 <sup>A</sup>	L	

District	Min. Lot Area <sup>M</sup> (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
R-T-2 (zoned prior to 1/29/73)	6,000	SFR 500 Min. mobile home size 8 ft. x 35 ft.	60	25	50	6	15	35	50 <sup>A</sup>	L	
(zoned after 1/29/73)	21,780	SFR 600 Min. mobile home size 8 ft. x 35 ft.	100	35	50	10	15	35	50 <sup>A</sup>	L	
NR	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1748
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1748
	Three dwelling, 11,250	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1748
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50/4 stories	50 <sup>A</sup>	L	38-1748
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 <sup>A</sup>	L	38-1748
NAC	Nonresidential and mixed use development, 6,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	50 feet	50 <sup>A</sup>	L	38-1741
	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1741
	Two dwelling units, 11,250	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1741
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 <sup>A</sup>	L	38-1741
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50 feet/4 stories, 65 feet with ground floor retail	50 <sup>A</sup>	L	38-1741
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 <sup>A</sup>	L	38-1741
NC	Nonresidential and mixed use development, 8,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	65 feet	50 <sup>A</sup>	L	38-1734
	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1734
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1734
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 <sup>A</sup>	L	38-1734

District	Min. Lot Area <sup>M</sup> (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	65 Feet, 80 feet with ground floor retail	50 <sup>A</sup>	L	38-1734
	Townhouse 1,800	N/A	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 <sup>A</sup>	L	38-1734
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 feet for each add. story	15	35	50 <sup>A</sup>	L	38-806
C-1	6,000	500		25	20	0; or 15 ft. when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 <sup>A</sup>	L	38-830
C-2	8,000	500		25	15; or 25 when abutting residential district	5; or 25 when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 <sup>A</sup>	L	38-855
C-3	12,000	500		25	15; or 30 when abutting residential district	5; or 25 when abutting residential district	15	75; or 35 within 100 ft. of any residential use or district	50 <sup>A</sup>	L	38-880
I-1A	N/A	N/A	N/A	35	25 <sup>N</sup>	25 <sup>N</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-907
I-1/I-5	N/A	N/A	N/A	35	25, or 50 ft. when abutting residential district <sup>N</sup>	25, or 50 ft. when abutting residential district <sup>N/O</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-932
I-2/1-3	N/A	N/A	N/A	25	10, or 60 ft. when abutting residential district <sup>P</sup>	15, or 60 ft. when abutting residential district <sup>P</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-981
I-4	N/A	N/A	N/A	35	10, or 75 ft. when abutting residential district <sup>N</sup>	25, or 75 ft. when abutting residential district <sup>N</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-1008

District	Min. Lot Area <sup>M</sup> (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
U-R-3	Four or more dwelling units, 15,000	500 per dwelling unit	85 <sup>J</sup>	20/25 <sup>H</sup>	30	10 <sup>B</sup>	15	35	50 <sup>A</sup>	L	

**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

<b>A</b>	Setbacks shall be measured 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 Chapter 15, Article VII, Lakeshore Protection, and Chapter 15, Article X, Wetland Protection, 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 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.  A lot which is part of a subdivision, the plat of which has been lawfully recorded, or a parcel of land, the deed of which was lawfully recorded on or before August 31, 1982, either of which has a depth of less than one hundred fifty (150) feet above the normal high water elevation contour, shall be exempt from the fifty-foot setback requirement set forth in section 38-1501. Instead, the setbacks under the respective zoning district requirements shall apply as measured from the normal high water elevation contour.
<b>B</b>	Side setback is 30 feet where adjacent to single-family district.
<b>C</b>	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. feet 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.
<b>D</b>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet, the minimum duplex lot size is 8,000 square feet, and the minimum living area is 500 square feet. For detached units, the minimum duplex lot width is 90 feet, the minimum duplex lot size is 9,000 square feet, and minimum living area is 1,000 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. Existing developed duplex lots that are either platted or lots of record existing prior to 3/3/97 and are at least 75 feet in width and have a lot size of 7,500 square feet or greater, shall be deemed to be vested and shall be considered as conforming lots for width and/or size.
<b>E</b>	Multifamily residential buildings in excess of one story in height within 100 feet of the property line of any single-family dwelling district and use (exclusive of 2 story single family and 2 story two-family dwellings), requires a special exception.
<b>F</b>	Reserved.
<b>G</b>	Reserved.
<b>H</b>	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.
<b>J</b>	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.
<b>K</b>	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%.
<b>L</b>	Subject to the Future Land Use designation.
<b>M</b>	Developable land area.
<b>N</b>	Rear yards and side yards may be reduced to zero (0) when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities.
<b>O</b>	One of the side yards may be reduced to zero (0) feet, provided the other side yard on the lot shall be increased to a minimum building setback of fifty (50) feet. This provision cannot be used if the side yard that is reduced is contiguous to a residential district.
<b>P</b>	Rear yards and side yards may be reduced to zero when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities; however, no trackage shall be located nearer than three hundred (300) feet from any residential district. The maximum height of any structure shall be two (2) stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one (1) story in height within one hundred (100) feet of the side or rear lot line of any existing single-family residential district.
<b>Q</b>	The maximum height of any structure shall be two stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one story in height within one hundred (100) feet of the side or rear lot line of any existing single-family residential district.
<b>R</b>	A ten-foot front setback may also be permitted for the dwelling unit when a front entry garage is set back at least twenty (20) feet from the front property line.
<b>S</b>	Minimum side building separation is ten (10) feet. The side setback may be any combination to achieve this separation. However, if the side setback is less than five (5) feet, the standards in section 38-605(b) of this district shall apply.

***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: **JAN 02, 2025**

Commission District: **#5**

Case #: **VA-25-02-133**

Case Planner: **Laekin O'Hara (407) 836-5943**

**Laekin.O'Hara@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** JOSEPH HARRIS

**OWNER(s):** JOSEPH E HARRIS TRUST

**REQUEST:** Variances in the R-1A Zoning District to allow:

- 1) A south side setback of 5.92 ft. in lieu of 7.5 ft. for an existing dwelling.
- 2) A south side setback of 5.92 ft. in lieu of 7.5 ft. for a proposed addition.

**PROPERTY LOCATION:** 630 Ololu Dr., Winter Park, FL 32789, east side of Ololu Dr., south of Lee Rd., west of W. Fairbanks Ave., west side of Lake Killarney, east of I-4

**PARCEL ID:** 02-22-29-4168-00-740

**LOT SIZE:** 0.21 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 93

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Chris Dowdy, Second by Thomas Moses; unanimous; 4 in favor: Chris Dowdy, John Drago, Thomas Moses, Sonya Shakespeare; 0 opposed; 2 absent: Roberta Walton Johnson, Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan and elevations dated October 14, 2024, 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 one (1) comment was received in support, and no comments were received in opposition to the request.

The applicant agreed with the staff recommendation of approval.

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

The BZA discussed the requests determining that it was consistent with the existing and surrounding development and unanimously recommended approval of the Variances by a 4-0 vote, with 2 absent, and 1 vacant, subject to the three (3) conditions found in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	Water Body	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Lake Killarney	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, Residential district, which allows single-family homes and associated accessory structures. 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, many of which are lakefront. The subject property is a 0.21-acre lot on the west side of Lake Killarney, identified as lot 74 in the Plat of Killarney Circle, recorded in 1925. The property is developed with a one-story, 2,011 gross sq. ft. single-family residence constructed in 1950, prior to the zoning code adoption in 1957, a concrete patio in the rear yard, and a boat dock.

The proposal is to demolish a portion of the existing one-story residence to construct a two-story rear addition in line with the existing residence. The existing residence was constructed with a southwest side setback of 5.92 ft. in lieu of 7.5 ft., requiring variance request #1. The addition is proposed to continue the same southwest side setback of 5.92 ft. in lieu of 7.5 ft., requiring variance request #2.

The request was routed to all relevant reviewing Divisions. There were no objections noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff has determined that this request meets all the criteria, therefore staff is recommending approval.

### **Building Setbacks**

	Code Requirement	Proposed
Front:	25 ft.	54.75 ft. (West - Existing Residence)
Rear:	30 ft.	+/- 57 ft. (East)
Side:	7.5 ft.	4.75 ft. (North) 5.92 ft. existing house (South) Variance #1 5.92 ft. proposed addition (South) Variance #2

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## STAFF FINDINGS

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### **VARIANCE CRITERIA**

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

MET - The special condition and circumstance particular to the subject property is the existing location of the house's footprint in relation to the surrounding property lines.

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

MET - The Variance requests are not Self-Created as the existing home was built prior to the zoning requirements, and maintaining the existing footprint will always result in the need for a variance.

**No Special Privilege Conferred**

MET - Granting the Variances as requested would not confer special privilege as the proposal is to recognize the existing configuration of the lot and house. The house has been in this location prior to the adoption of the Zoning Code and the addition falls in line with the existing home.

**Deprivation of Rights**

MET - Denial of the Variances would deprive the rights of the owner to construct an addition to the existing house and would keep the existing house non-conforming.

**Minimum Possible Variance**

MET - The Variance requests are the minimum possible to allow the house to remain in their current location.

**Purpose and Intent**

MET - Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. Granting these Variances offer the opportunity to preserve existing structures, while still allowing development consistent and compatible with the surrounding area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated October 14, 2024, 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: Joesph Harris  
630 Ololu Drive  
Winter Park, Florida 32789

October 28, 2024

Orange County Zoning Division  
201 South Rosalind Avenue, 1st Floor  
Orlando, Florida 32801

RE: Variance Request - 630 Ololu Drive - Side Setback for Second Story Addition

Dear Board of Zoning Adjustment:

I am requesting a variance from the Orange County Code which requires a 7.5-foot side setback in our zoning district (R-1A). I am seeking to maintain an existing nonconforming side setback of 5'11" on the south side of the property for a proposed second-story addition.

Project Details:

- Property Address: 630 Ololu Drive
- Parcel ID: 02-22-29-4168-00-740
- Lot Size: 50' x 179', narrows at existing structure
- Current Structure: Single-story home built in 1950 (1,655 square feet)
- Proposed Addition: Partial second story addition (832 square feet, including the 8' porch, 646 square feet without the porch)
- Current Height: 13'6"
- Proposed Height: 23'4"
- Construction Material: Wood frame construction

Existing Setbacks:

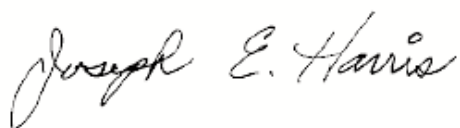
- Front: 54.73 feet to house
- Rear: 70 feet
- North Side: 4'9"
- South Side: 5'11" (subject of this variance request)

The proposed second-story addition will be constructed above the existing living room area, maintaining the same setback as the existing first floor wall. No expansion of the building footprint towards the existing south property setback is proposed. The addition represents approximately 39% of the existing first floor area (646/1,655).

The proposed addition has been carefully designed to minimize impact on adjacent properties while allowing reasonable use of our property. The partial second story addition will be compatible with the neighborhood character and will not create any new nonconforming conditions beyond what has existed since 1950.

I respectfully request approval of this variance to allow the vertical expansion of my home while maintaining the existing nonconforming setback.

Sincerely yours,



Joseph E. Harris

630 Ololu Drive

Winter Park, Florida 32789

407-810-6175

joeharrispe@gmail.com

VARIANCE CRITERIA RESPONSES:

1. Special Conditions and Circumstances:

Special conditions exist that are peculiar to this property. The home was constructed in 1950, predating current setback requirements. The existing structure was legally constructed to the standards of its time but is now considered nonconforming due to subsequent changes in the zoning code. This creates a special circumstance where any vertical expansion of the existing structure requires relief from current setback requirements, even though no horizontal expansion is proposed.

2. Not Self-Created:

The nonconforming setback condition was not created by the current owner. The home's location was established 74 years ago when different building standards were in effect. The current setback requirement of 7.5 feet was implemented after the home's construction. I am simply seeking to work within the existing structural constraints of the property.

3. No Special Privilege Conferred:

Approval of this variance would not confer special privileges denied to other properties. Other similarly situated properties with pre-existing nonconforming setbacks would have the same opportunity to request vertical expansion while maintaining existing setbacks. The request is consistent with the general principle of allowing reasonable expansion of nonconforming structures when such expansion does not increase the degree of nonconformity.

4. Deprivation of Rights:

Strict interpretation of the current setback requirements would effectively prohibit any vertical expansion of a significant portion of the existing home, despite the fact that no new encroachment is proposed. This would deprive the property owner of the ability to reasonably expand his living space in a manner that other conforming properties can achieve, creating an undue hardship.

**5. Minimum Possible Variance:**

The requested variance represents the minimum necessary to achieve reasonable use. I am:

- Maintaining the existing setback without any further encroachment
- Limiting the second story to only 646 square feet (39% of the existing floor area)
- Only requesting the variance for the portion of the structure that already exists at this setback

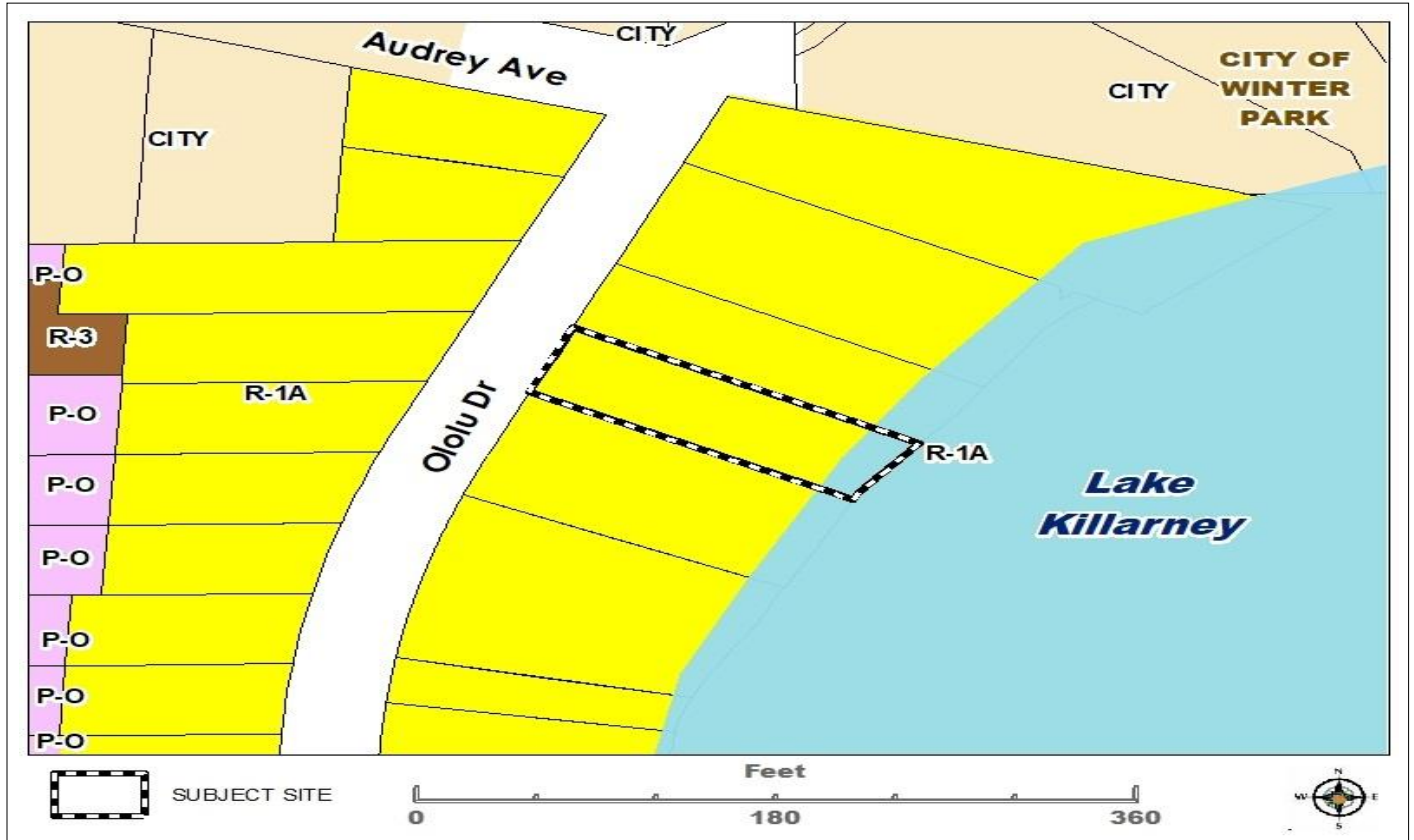
**6. Purpose and Intent:**

The requested variance maintains the purpose and intent of the zoning regulations by:

- Not increasing the degree of nonconformity
- Maintaining the existing spatial relationship with neighboring properties
- Allowing reasonable expansion of an existing residence
- Preserving the existing character of the neighborhood
- Limiting the scope of the addition to minimize impact

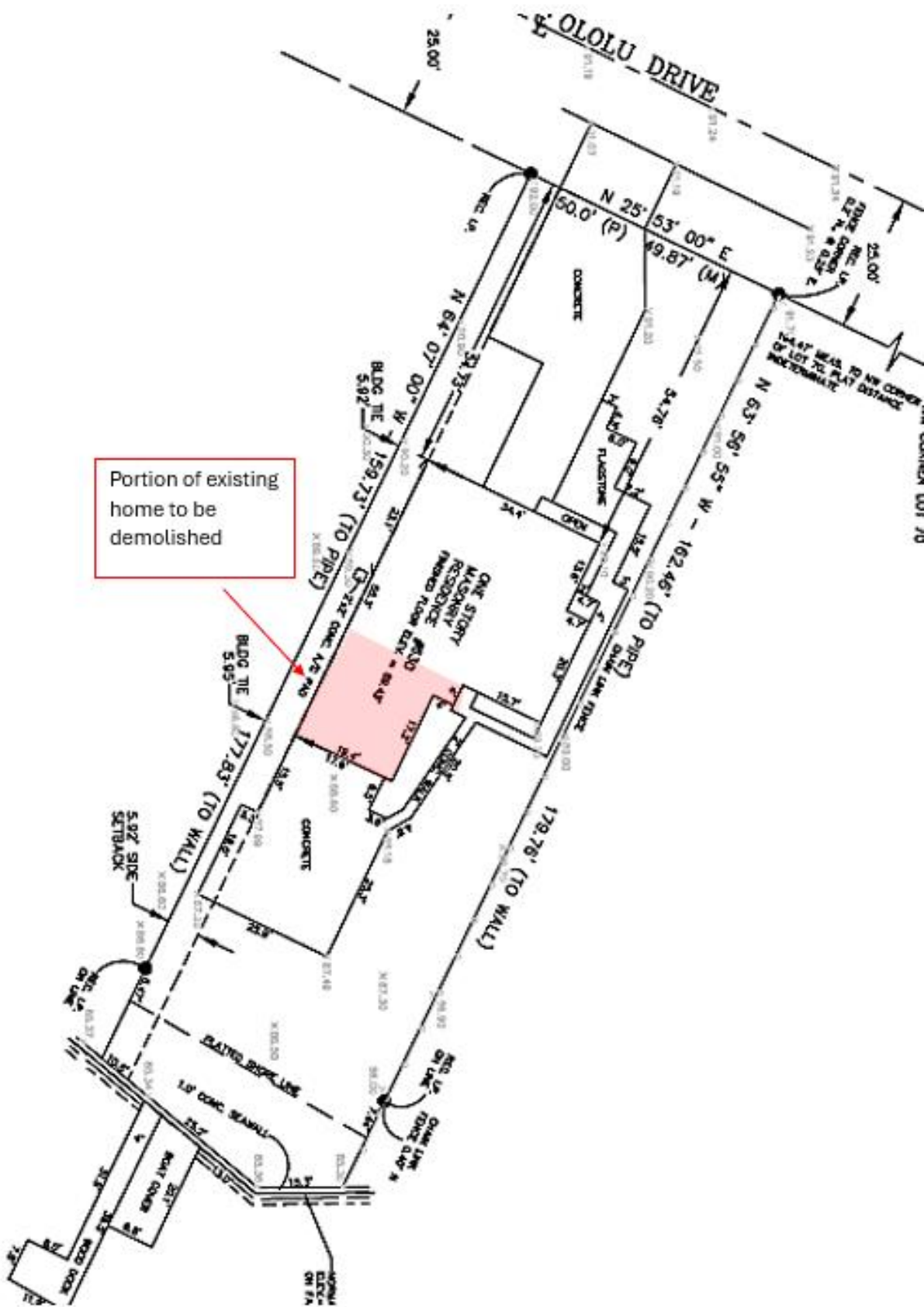


## ZONING MAP

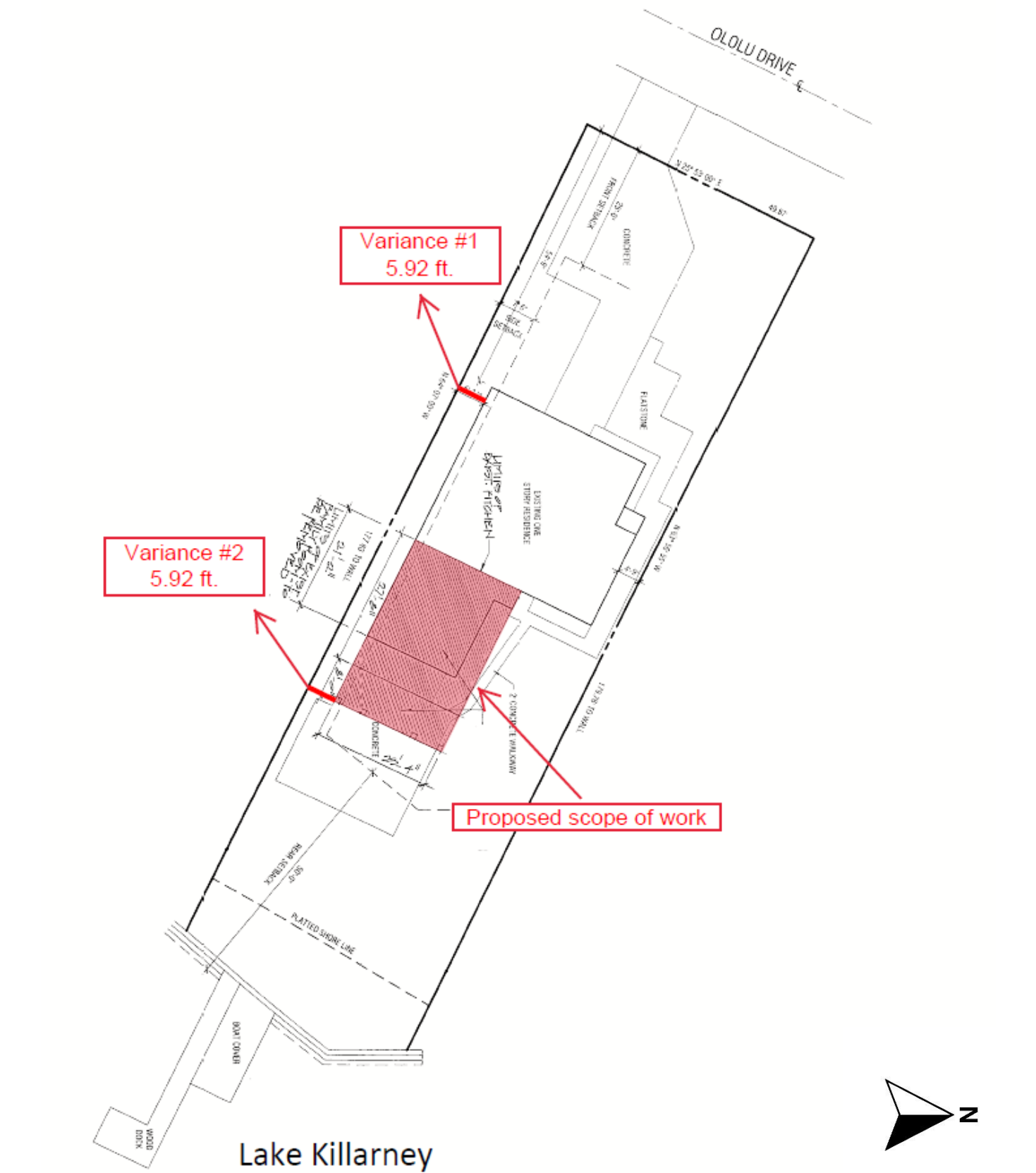


## AERIAL MAP

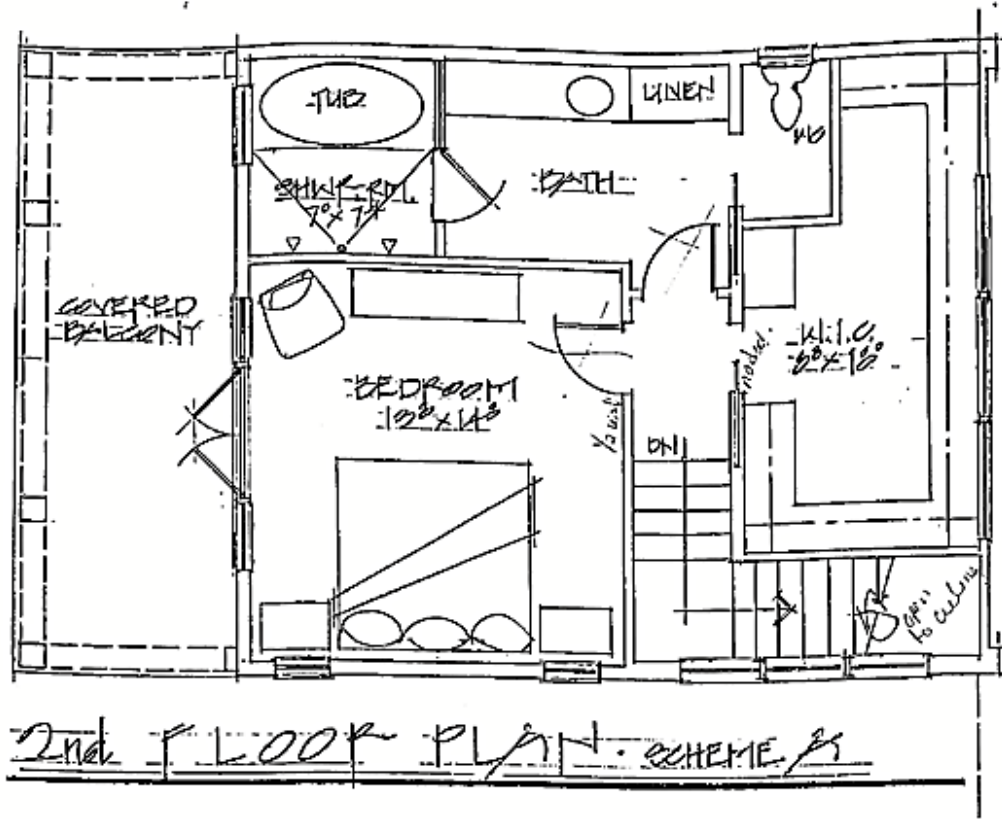
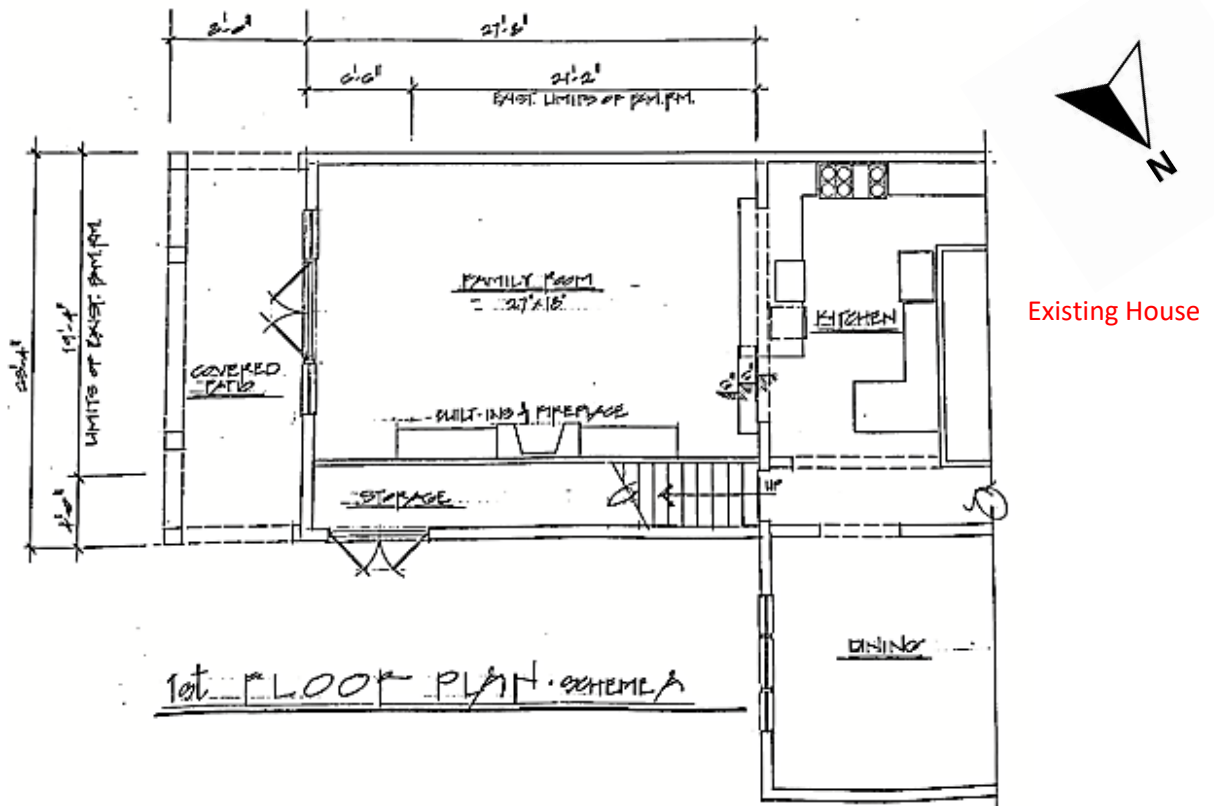




## SITE PLAN



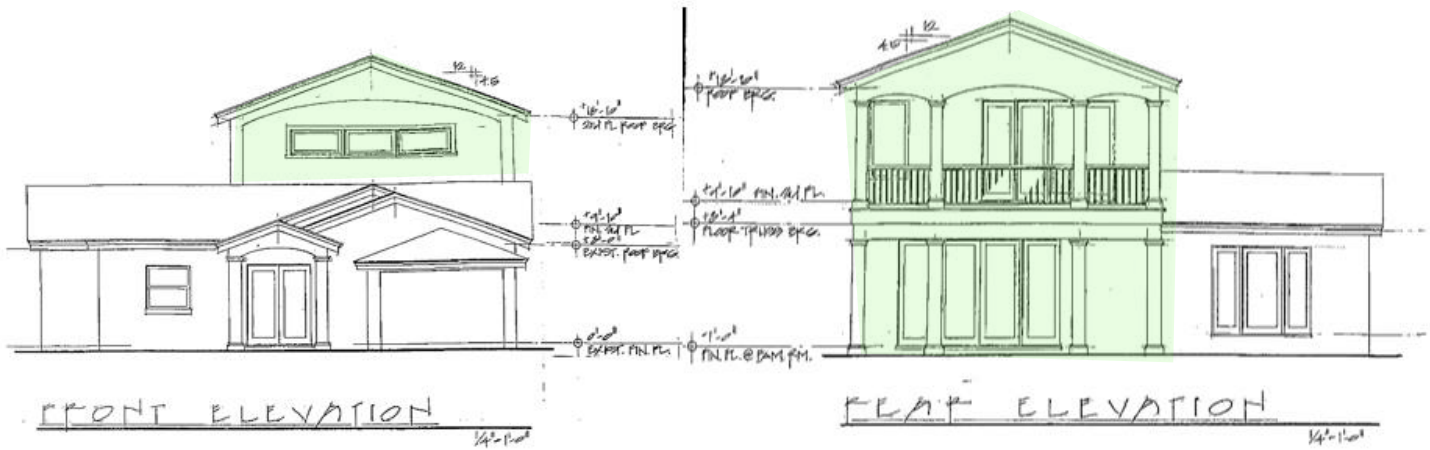
# ADDITION FLOOR PLANS





## ELEVATIONS

Proposed 2-story addition





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**SITE PHOTOS**

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**Facing southeast towards subject property**



**From rear yard facing west**



## SITE PHOTOS



**Existing westerly side setback**



**From rear yard facing south towards the proposed addition**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#1**

Case #: **VA-25-02-126**

Case Planner: **Catherine Glase (407) 836-9615**

**Catherine.Glase@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): PIERRE MARSAN

OWNER(s): HIBISCUS LAND OF LAKE COUNTY LLC

REQUEST: Variance in the PD zoning district to allow an addition with a south rear setback of 6.7 ft. in lieu of 15 ft.

PROPERTY LOCATION: 8969 Charleston Park, Unit 23, Orlando, FL 32819, south side of Charleston Park, west of S. Apopka Vineland Rd., north of W. Sand Lake Rd., south of Banyan Blvd., east of Winter Garden Vineland Rd.

PARCEL ID: 22-23-28-0555-00-230

LOT SIZE: +/- 0.16 acres (+/- 6,839 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 114

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Roberta Walton Johnson; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan and elevations date stamped December 9, 2024, 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 of the

Variance. Staff noted that three (3) comments were received in favor and no comments were received in opposition to the request.

The applicant was present and disagreed with the staff presentation regarding the recommendation stating the proposal was consistent with the surrounding neighborhood and did not negatively impact the surrounding properties. It was also noted that another property in the area received a nearly identical Variance three (3) years ago. The applicant explained that the HOA approved the project and the surrounding neighbors are also in favor of the request. The applicant also clarified that the vacated right-of-way to the rear of the property acted as additional greenspace buffer to the property, limiting any impact of the encroachment.

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

The BZA discussed the architectural design of the covered patio was consistent with the surrounding development and stated the structure was an enhancement to the neighborhood. The BZA identified several structures in the area located closer to the golf course property line and noted had the property been oriented with the side property line abutting the golf course the request would not be required.

The BZA unanimously recommended approval of the Variance by a 5-0 vote, with one (1) absent and one (1) vacant, subject to the three (3) conditions found in the staff report.

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**STAFF RECOMMENDATIONS**

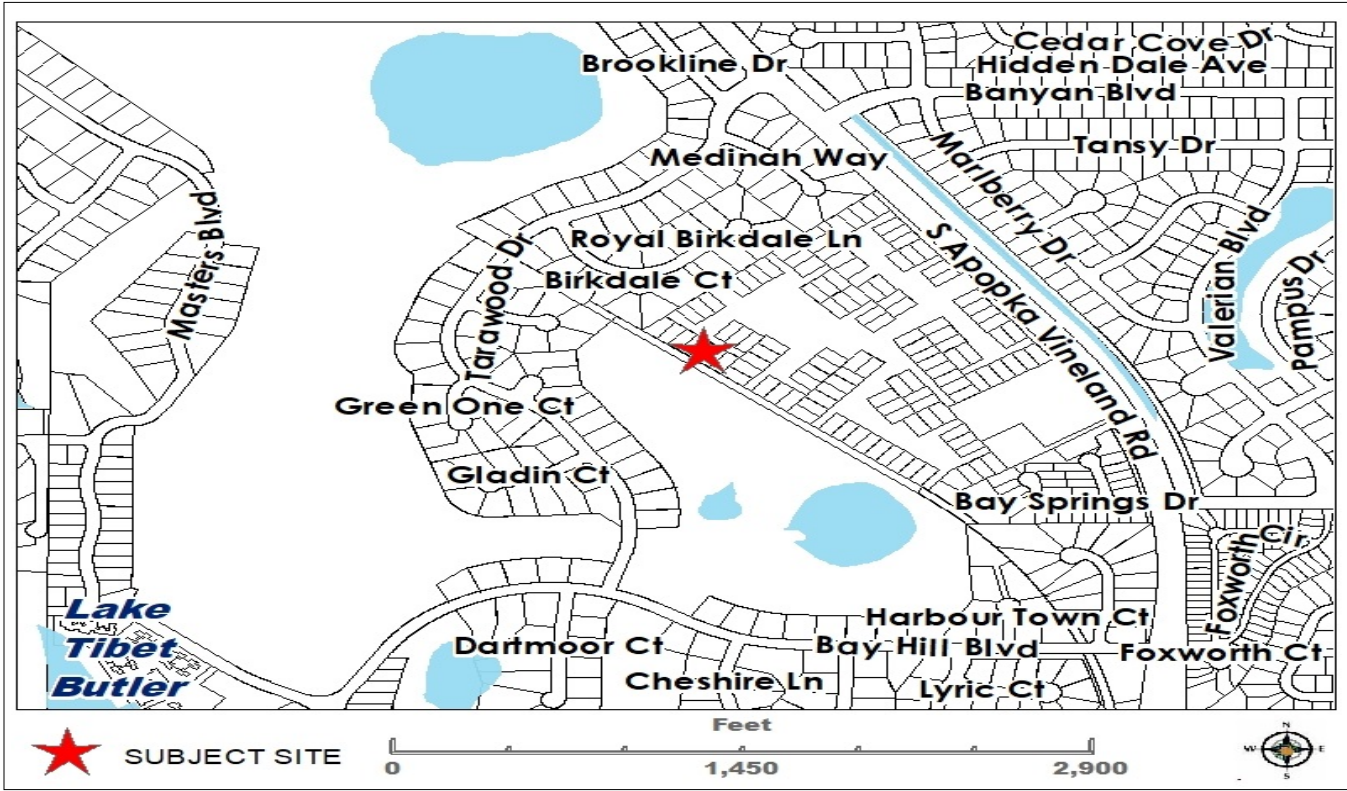
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Denial. However, if the BZA should find that the applicant has satisfied the criteria for the granting of the Variance, staff recommends that the approval be subject to the conditions in this report.

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**LOCATION MAP**

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	Bay Hill Condominium PD	Bay Hill Condominium PD	R-1AA	Bay Hill Condominium PD	Bay Hill Condominium PD / R-1AA
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Single-family residence	Single-family residence	Single-family residence / Golf Course	Single-family residence	Golf Course

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the Bay Hill Condominium Planned Development (PD) District, which allows for single family uses. The Future Land Use is Low Medium Density Residential (LMDR), which is consistent with the zoning district.

The area around the subject site consists of single-family homes, and a golf course to the southwest. The subject property is a 6,839 sq. ft. lot, located in the Bay Hill Village South and East Plat, recorded in 1983, and is considered to be a conforming lot of record. It is developed with a 3,034 gross sq. ft. single-family home, constructed in 1982, that is currently being renovated. The current owner purchased the property in 2023.

The applicant is proposing to construct a 17.3 ft. x 20.3 ft. covered patio at the rear of the house, located 6.7 ft. from the rear property line where a 15 ft rear setback is required, resulting in the Variance request.

The Bay Hill Golf Course abuts the property at the rear and abuts other homes in the subdivision on their side property line. As such, several properties have structures located closer to the property line shared with the golf course, as they are only required to meet the side setback. Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. While the request meets some of the criteria, it does not meet all the criteria. Based on staff analysis, alternative options exist for a covered patio on the property to either lessen or eliminate the need for the Variance. Therefore, staff is recommending denial of this request.

The request was routed to all relevant reviewing Divisions. There were no objections noted.

As of the date of the writing of this report, 2 comments have been received in favor, and no comments have been received in opposition to this request.

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff has determined that the Variance does not meet all the criteria, therefore staff is recommending denial of the Variance request

**Building Setbacks**

	Code Requirement	Proposed
Front:	20 ft.	20 ft. (North)
Rear:	15 ft.	6.7 ft. covered patio (South) Variance request 15 ft. existing house (South)
Side:	0 ft. and 10 ft. between structures	10.67 ft. (East) 10.67 ft. (West)
Max Height:	35 ft.	15 ft.

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

NOT MET – There are no special conditions or circumstances as the property is a conforming lot meeting all development standards and a usable patio could be constructed in a code compliant manner.

**Not Self-Created**

NOT MET - The requested variance is self-created, as a smaller covered patio could be constructed in a manner which would not encroach into the rear setback.

**No Special Privilege Conferred**

NOT MET - Granting the variance would confer special privilege since a smaller structure could be constructed in a manner to meet code.

**Deprivation of Rights**

NOT MET - There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and a covered patio could be built which complies with code setback requirements.

**Minimum Possible Variance**

NOT MET - The request is not the minimum possible as a code compliant covered patio could be constructed.

**Purpose and Intent**

MET - Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties, and the property backs up to a golf course thereby limiting the number of affected neighbors. Further, the covered patio will not be detrimental to the neighborhood since the design is consistent with the architectural design of the existing house and other residences in the surrounding area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations date stamped December 9, 2024, 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: Pierre Marsan  
7635 Ashley Park Ct., #503  
Orlando, Florida 32835

Hibiscus Land of Lake County LLC  
7635 Ashley Park Ct #503  
Orlando FL 32835

Orange County Zoning  
201 S. Rosalind Ave.  
Orlando, Fla 32801

October 29, 2024

*Re: Variance Application for: (1) covered patio at Lot 23 in Bay Hill Village; 6.7 feet from rear property line; property owner Hibiscus Land of Lake County, LLC*

Dear

In follow up to my email transmittal of yesterday and delivery of documents, please include this cover letter with our variance request for: (I) a variance from the rear yard setback to allow a covered patio with same roofing and architectural style as existing home to be 6.7 feet from the existing rear property line in lieu of the 15 rear yard setback feet which we understand would be required by the PD

We have previously provided a revised bullet point analysis of application of the variance criteria for each of the variance requests, which are incorporated herein as follows:

A. COVERED PATIO VARIANCE

Lot 23 Application of VARIANCE CRITERIA for covered patio request

- special conditions and circumstances "peculiar to land"- not applicable to other lands
  - The area behind Lot 23 is greenspace; a 40-foot prior railroad right of way; a large pond and a golf course
  - The home is in a zero-lot line type development planned to have open space behind it, not within the lots themselves
- Not self-created; Special conditions and circumstances not actions of applicant; and Minimum possible variance needed to fully enjoy lot and adjacent golf course views
- 1
  - Unique layout of small, platted lots in relationship to huge open space in the back was by design of developer, not homeowner
  - Layout of subdivision and beautiful open space view lends itself to covered patio to maximize developer's vision and intended design of Bay Hill golf course neighborhood

P.O.Box 2286 •Winter Park, FL 32790

- No special privilege conferred
  - Most other homes like applicants that back up to the golf course have pergolas or other similar structures 5 feet from rear yard because considered accessory uses
  - Several of those homes which have the golf course at side yard setback have pools and other structures/buildings within the setback adjoining the golf course
- literal interpretation of the provisions of the resolutions would deprive applicant of rights commonly enjoyed by other properties in the same district"
  - Proposed covered patio had architectural elements integrated into home unlike neighbors' accessory structures and is almost twice as far from rear yard setback (6.7 feet) as neighbors with accessory structures (5 feet)
- Approval of variance in harmony with purpose and intent of zoning regulations and not injurious to neighborhood
  - Consistent with pattern of development on lots in the neighborhood adjacent to golf course
  - Further from setback and more architecturally harmonious than many neighbors' accessory structures which are 5 feet from rear yard because considered accessory uses
  - Lot 23 has walls at both side yard property lines, so no impact to immediately adjacent neighbors
  - Lot 23 has partial wall and wrought iron fence at rear yard/ golf course boundary, and is further buffered from golf course with 40 railroad right of way and large pond, so no impact to golfers
  - Maximizes sweeping pond and golf course views as intended by developer and golf course designer in harmony with golf course neighborhood

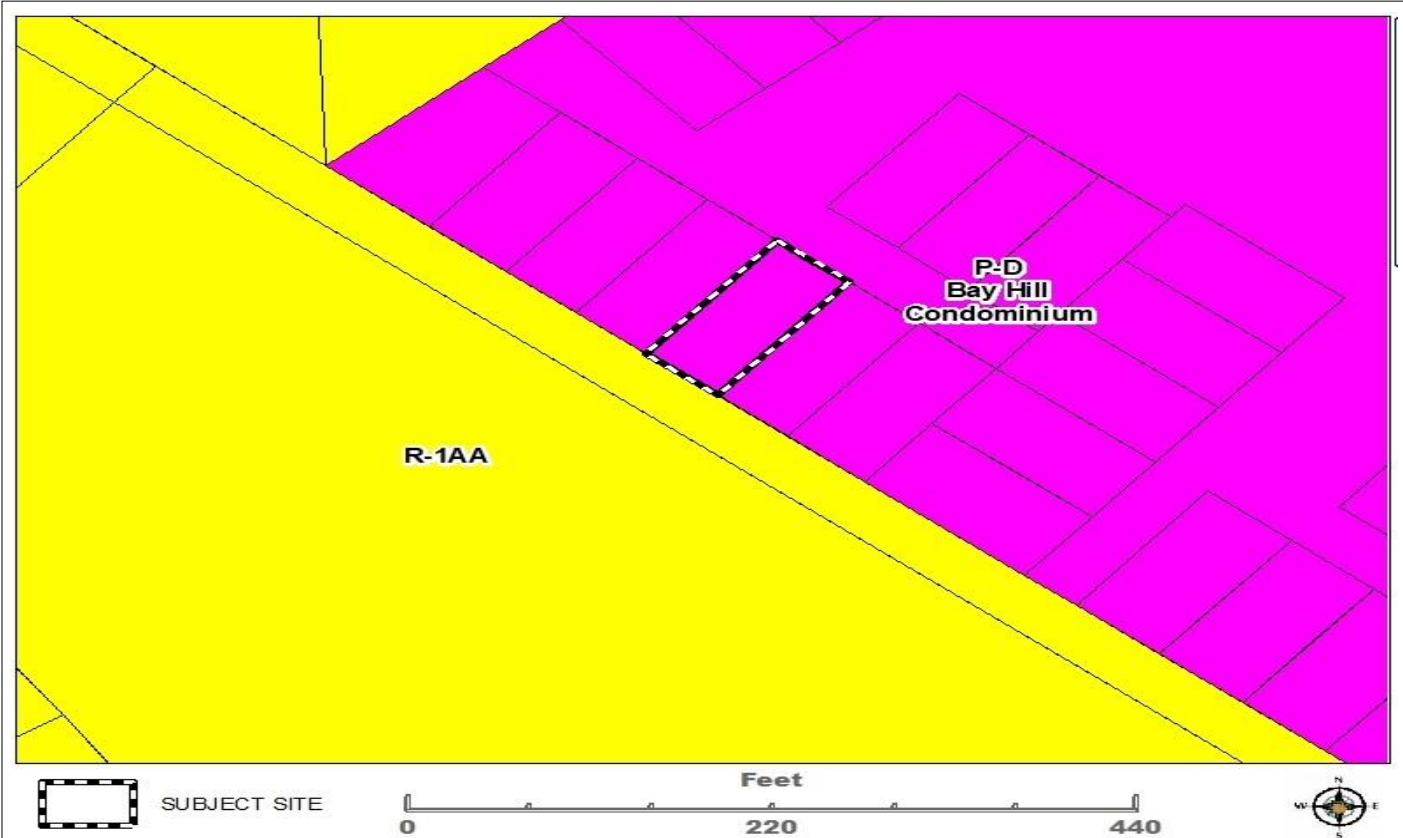
Thank you for your assistance and I look forward to working with you on this matter.

Very truly yours,  
Pierre Marsan

*Pierre Marsan*



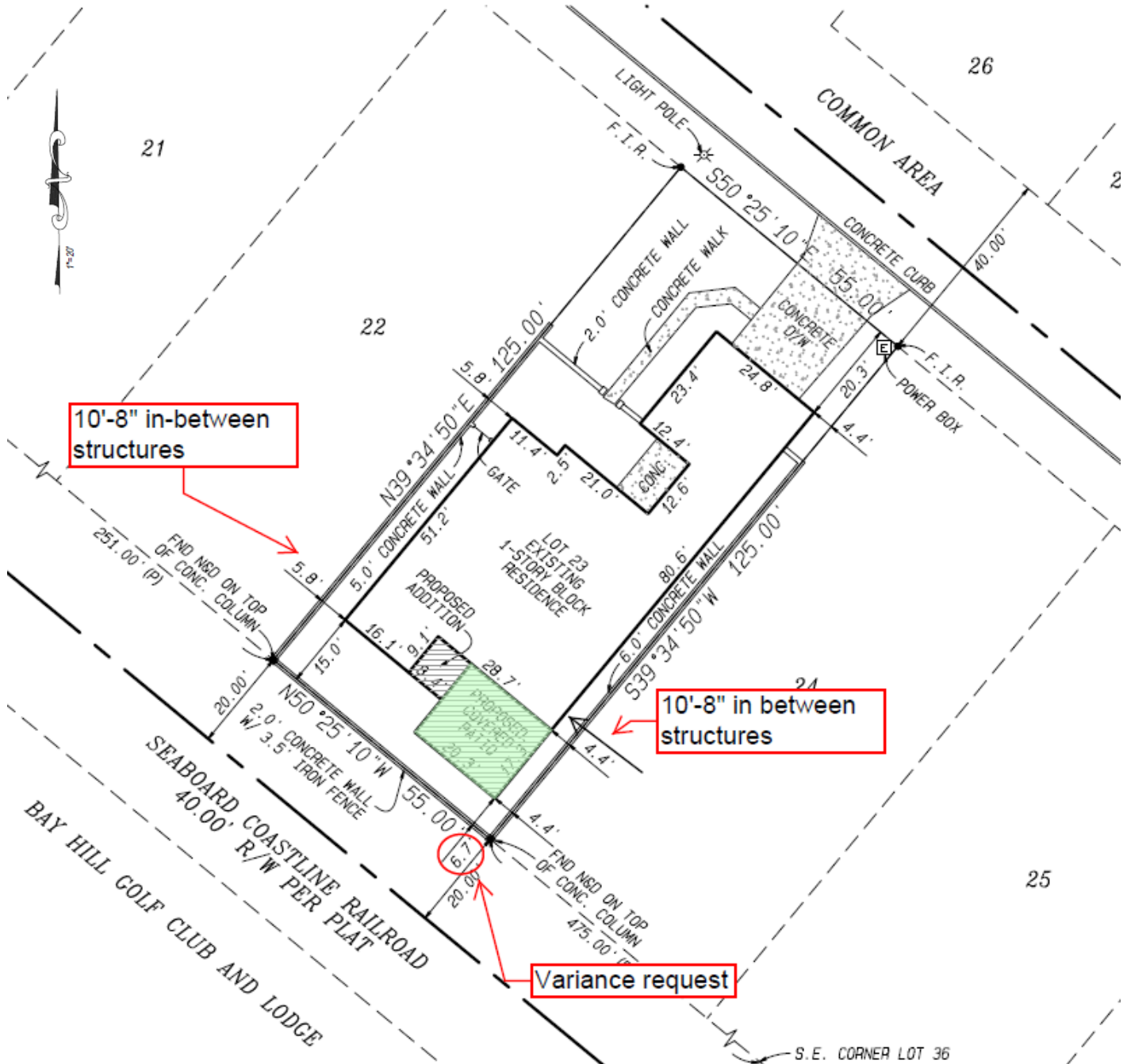
ZONING MAP



AERIAL MAP



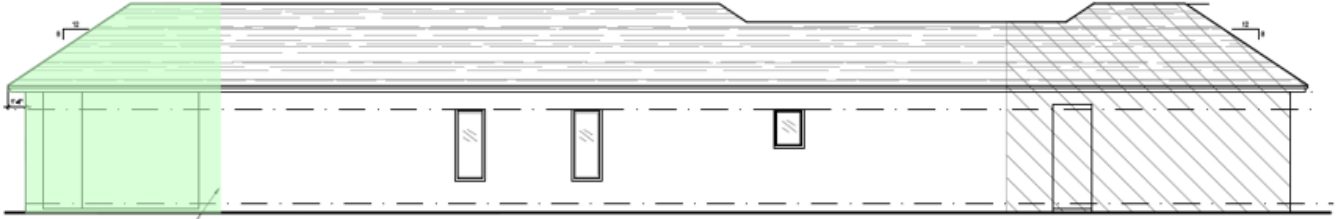
## SITE PLAN



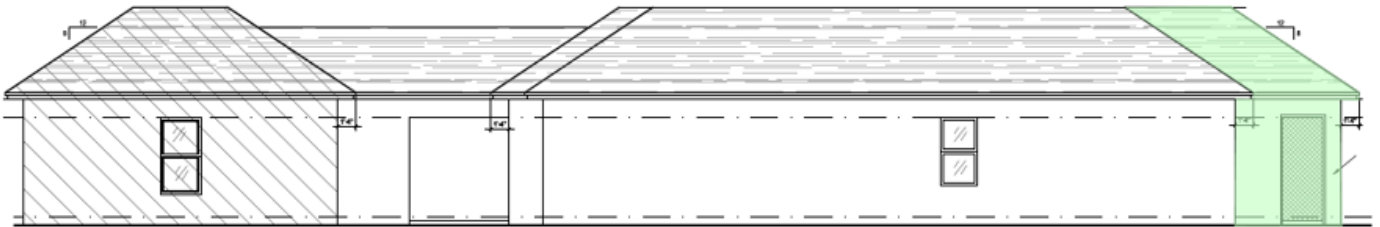
## ELEVATIONS



Rear Elevation – Patio addition shown in green



Left Elevation – Patio addition shown in green



Right Elevation – Patio addition shown in green



## SITE PHOTOS



**Facing southwest towards front of of subject property**



**Facing northeast towards rear yard**



## SITE PHOTOS



**Facing northwest towards the proposed location of covered patio**



**Facing southwest towards the golf course from the subject site**

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## SITE PHOTOS

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**Facing northwest towards rear yards of neighboring properties from golf course**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#3**

Case #: **VA-25-01-128**

Case Planner: **Catherine Glase (407) 836-9615**

**Catherine.Glase@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MCGREGOR LOVE

**OWNER(s):** REM: TYLER NAT TANEBAUM, WENDY TANENBAUM LIFE ESTATE

**REQUEST:** Variances in the R-2 zoning district to allow for a future lot split as follows:

~~1) To allow a lot width of 72.6 ft. in lieu of 80 ft. (new Parcel A).\*~~

~~2) To allow a lot width of 67.4 ft. in lieu of 80 ft. (new Parcel B).\*~~

~~3) To allow a minimum lot area of 6,532 sq. ft. in lieu of 8,000 sq. ft. (new Parcel A).\*~~

~~4) To allow a minimum lot area of 6,066 sq. ft. in lieu of 8,000 sq. ft. (new Parcel B).\*~~

5) To allow a north front setback of 15 ft. in lieu of 25 ft. (new Parcel A).

6) To allow a north front setback of 15 ft. in lieu of 25 ft. (new Parcel B).

*\* Variance requests #1-4 have since been determined to be unnecessary per Footnote D in Section 38-1501.*

**PROPERTY LOCATION:** 1336 E. Crystal Lake Ave., Orlando, FL 32806, south side of E. Crystal Lake Ave., north of E. Michigan St., east of S. Mills Ave., south of E. Kaley St., west of S. Fern Creek Ave.

**PARCEL ID:** 01-23-29-5631-00-261

**LOT SIZE:** +/- 12,710 sq. ft.

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 158

**DECISION:** Recommended **APPROVAL** of the Variance requests **#5** and **#6**, 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, and deemed Variance requests **#1**, **#2**, **#3** and **#4**, as **UNNECESSARY** (Motion by Roberta Walton Johnson, Second by Sonya Shakespeare; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan and elevations date stamped December 3, 2024, 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 of the Variances. Staff noted that no comments were received in favor or in opposition to the request.

The applicant was present and disagreed with the staff recommendation stating the structure is already permitted and constructed, however the issue is how the code determines the front of a residential property. The applicant went on to state the request is not self-created and the request does not impact the function of the lot, as no new development is proposed.

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

The BZA discussed the orientation of the existing property and the proposed parcels noting the applicant was under the impression that the structure was constructed in a way that would allow for the lot split without the Variance requests.

The BZA unanimously recommended approval of the Variance by a 5-0 vote, with one (1) absent and one (1) vacant, subject to the three (3) conditions found 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 the Variances, staff recommends that the approval be subject to the conditions in this report.



## LOCATION MAP



## SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Duplex under construction	Single-family residential	Single-family residential	Multi-family residential	Duplex

## BACKGROUND AND ANALYSIS

### **DESCRIPTION AND CONTEXT**

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The Future Land Use is Low Medium Density Residential (LMDR), which is consistent with the R-2 zoning district.

The area around the subject site consists of a mixture of single-family and multi-family homes and some commercial development to the south. The subject property is a 0.29 acre parcel which consists of lot 27 and a portion of lot 26, within the Michigan Avenue Park Plat, platted in 1926. The property is considered conforming with respect to lot size and area. The property is a corner lot with right-of-way along Mayer St. to the west, and E. Crystal Lake Ave. to the north. For residential properties, Code considers the narrow portion of the lot to be the front; as such, Mayer St. is considered the front and E. Crystal Lake Ave. is considered the side street. The property was purchased by the current owner in March 2003, and is currently being developed with a 4,448 sq. ft. 2-story duplex (B23025535).

The owner is proposing to split the property into 2 parcels (identified on the site plan as Parcel A and Parcel B), each of which would meet the minimum lot size and width for the R-2 zoning district. Though initially advertised as needed, Variance requests # 1-4 were deemed not necessary per Sec. 38-1501, footnote D, which states: *attached units (common fire wall and zero (0) separation between units) the minimum duplex lot width is eighty (80) feet, the minimum duplex lot size is eight thousand (8,000) square feet, and the minimum living area is five hundred (500) square feet. Footnote D allows fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half.* As such, the overall parent lot is meeting the minimum lot width and size, which allows for a fee simple split. A lot split subject to the approval of this Variance request would meet the minimum density requirements of the Orange County Comprehensive Land Use Plan which allows ten (10) dwelling units per acre.

The structure was permitted and is under construction in compliance with a 15 ft. side street setback along E. Crystal Lake Ave. The proposed lot split will change the narrowest width of both proposed lots abutting a street right-of-way to the north property line, making E. Crystal Lake Ave., the front. Code requires a 25 ft. front setback, requiring Variance requests #5 and #6.

The request was routed to all relevant reviewing Divisions. No objections were noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. While the requests meet some of the criteria, it does not meet all the criteria. Therefore, staff is recommending denial of the Variance requests. Based on staff's analysis, the property can remain as one lot, or the building could have been designed to accommodate a future lot split without the need for any Variance requests.

#### **R-2 Zoning District Development Standards**

	Code Requirement	Proposed Parcels
Min. Lot Width:	80 ft. total	72.6 ft. (Parcel A) 67.4 ft. (Parcel B)
Min. Lot Size:	8,000 sq. ft. total	6,532 sq. ft. (Parcel A) 6,066 sq. ft. (Parcel B)
Min. Living Area	500 sq. ft.	1,680 sq. ft. (Parcel A) 1,690 sq. ft. (Parcel B)

#### **Building Setbacks (Existing unit #1 on proposed new Parcel A/west lot)**

	Code Requirement	Proposed
Front (E. Crystal Lake Ave.):	25 ft.	15 ft. (North) Variance request
Side:	0 ft. for attached	0 ft. (East)
Side Street (Mayer St. - Reverse Corner):	25 ft.	25.2 ft. (West)
Rear:	25 ft.	+/- 45 ft. (South)

**Building Setbacks (Existing unit #2 on proposed new Parcel B/east lot)**

	Code Requirement	Proposed
Front (E. Crystal Lake Ave.):	25 ft.	15 ft. (North) Variance request
Side:	0 ft. for attached 6 ft.	0 ft. (West) 24.81 ft. (East)
Rear:	25 ft.	+/- 45 ft. (South)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

NOT MET - There are no special conditions or circumstances particular to the subject property as the structure conforms with the R-2 zoning district standards and can remain as one parcel without any variance requests.

**Not Self-Created**

NOT MET - The Variance requests are self-created since the property can remain as is, eliminating the need for both Variance requests.

**No Special Privilege Conferred**

NOT MET - Granting the Variances as requested would confer special privilege as the request would be inconsistent with the development in the surrounding area, which generally conforms to the required front setback.

**Deprivation of Rights**

NOT MET - Denial of the Variances would not deprive the applicant the right to keep the duplex in its current location.

**Minimum Possible Variance**

MET - The Variance requests are the minimum possible to split the property along the common firewall of the already under construction duplex.

**Purpose and Intent**

MET - Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The lot line is for fee simple ownership and does not impact the function or development which is consistent and compatible with the surrounding area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations date stamped December 3, 2024, 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:     McGregor Love  
       215 N. Eola Drive  
       Orlando, Florida 32801



MCGREGOR T. LOVE

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MAIN NUMBER: 407-843-4600

 MERITAS® LAW FIRMS WORLDWIDE

November 8, 2024

Taylor Jones  
Orange County Zoning Division  
201 S. Rosalind Avenue  
Orlando, FL 32801

**Re: Application for R-2 Zoning District Front Setback Variance for Property Located at  
1336 East Crystal Lake Avenue (PID: 01-23-29-5631-00-261)**

Dear Taylor:

This law firm represents the Wendy Tanenbaum Life Estate (the "Owner"), which owns of the above-referenced Property, with respect to the application for a variance that is enclosed herein (the "Variance"). The purpose of this letter is to describe how the requested Variance<sup>1</sup> meets the approval criteria under Section 30-43(3) of the Orange County Code. The Property is approximately 12,711 square feet and is located within the R-2 zoning district.

The Property has been developed as a duplex, consistent with Building Permit No. B23025535 (the "Duplex Permit") and the attached County-approved Site Plan. The proposed variance would allow the Property to be divided into two conforming duplex lots fronting Crystal Lake Avenue. Section 30-43(3) of the Orange County Code details the specific criteria that must be met for all variance requests. In this case, all criteria have been met, as is discussed in more detail below.

*(1) Special Conditions and Circumstances.*

Special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district. In December of 2023, the Owner submitted the Duplex Permit application. During permitting review, the County requested that the Owner redesign the site plan to move the access driveway from Mayer Street to Crystal Lake Avenue. In addition, the County requested that the Property be re-addressed to Crystal Lake Avenue. As shown below, the Property is now addressed along Crystal Lake Avenue and the surrounding properties are addressed along Mayer Street:

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<sup>1</sup> Variance from R-2 zoning district's front setback requirement to all a 15 foot front setback in lieu of a 25-foot front setback.



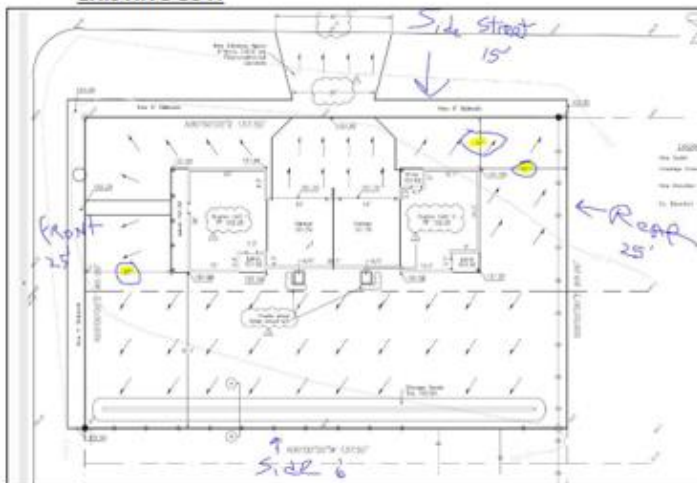


In addition, consistent with the County's comments, the Owner redesigned the duplex Site Plan to face Crystal Lake Avenue. This redesigned Site Plan was reviewed and approved by the County's Development Engineering, Building, and Zoning departments. On March 6, 2024, the County issued the Duplex Permit. The Owner submitted a Notice of Commencement on March 12, 2024, and has substantially completed construction of the duplex.

At all times, the Owner intended to split the Property to create two tax parcels—one for each duplex unit. When applying for the lot split, County staff informed the Owner that a front setback variance would be required. According to staff, the proposed lot split would change the front setback

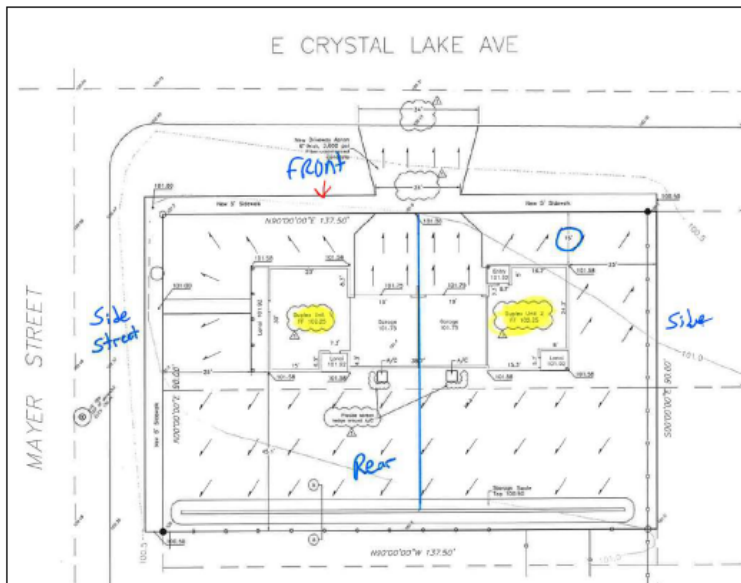
from Mayer Street to Crystal Lake Avenue. The County sent the below Site Plan markups to the Owner explaining how the split would apparently change the setbacks:

**EXISTING LOT:**



**PROPOSED SPLIT:**





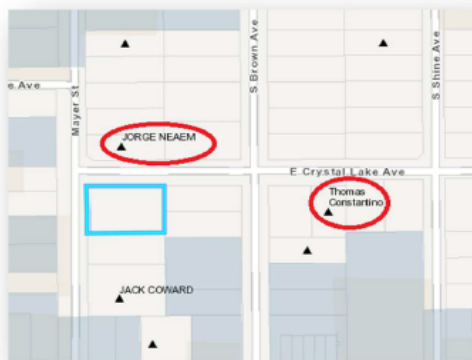
The Owner believed that the “front” of the Property already had been changed to Crystal Lake Avenue. Given that the County had requested the re-addressing and redesign, had approved the Site Plan, and had issued the Duplex Permit, the Owner did not believe that a setback variance would be required to split the Property. Had the Owner known, they could have moved the structures further to the rear of the Property to comply with Code. As the Site Plan currently provides a rear setback of more than 45 feet, the Site Plan could have been redesigned to avoid the necessity of a variance. As outlined above, the circumstances surrounding the Duplex Permit constitute special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district.

*(2) Not Self-Created.*

The special conditions and circumstances presented by the Duplex Permit did not result from the Owner’s actions. As noted above, the County requested the re-addressing and redesign, approved the Site Plan, and issued the Duplex Permit.

*(3) No Special Privilege Conferred.*

Approval of the requested variance will not confer on the applicant any special privilege that is denied to other lands or buildings in the same zoning district. As outlined above, the requested variance is justified by the peculiar special conditions and circumstances presented by the Duplex Permit. Moreover, as shown in the below image, R-2 zoned properties in the direct vicinity of the Property have been granted front setback variances:



*(4) Deprivation of Rights.*

The denial of the requested Variance would deprive the Owner of rights commonly enjoyed by other property owners in the vicinity of the Property and would work unnecessary and undue hardship on the applicant. The Property is comprised of two lots from the Michigan Avenue Park Subdivision; the variance would allow the Owner to create two individual duplex lots. At approximately 6,355 square feet, each duplex lot would exceed the minimum required lot size of 4,500 square feet and would be larger than several of the parcels in the immediate vicinity. Given that the duplex has already been developed—consistent with the Duplex Permit and in the configuration requested by the County—the Property only may be split if the variance is granted. Accordingly, strict adherence to the R-2 front setback would deprive the applicant of rights commonly enjoyed by other property owners in the vicinity of the Property.

*(5) Minimum Possible Variance.*

The requested variance is the minimum variance that will allow the Property to be split into two individual duplex lots.

*(6) Purpose and Intent.*

Approval of the requested variance will be in harmony with the purpose and intent of Orange County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Broadly speaking, lot setback requirements are meant to encourage uniformity of design and protect public safety. The requested variance will not impair public safety—the County, in fact, requested the present configuration along Crystal Lake Avenue in response to public safety concerns. Moreover, whether the Property is split or remains a single parcel will have no impact on the location of the already constructed building or its proximity to Crystal Lake Avenue. The “change” sought by this variance is strictly a legal fiction that would be visible only on the Property Appraiser’s Map. As a result, the requested variance will have no impact on the purpose and intent of the Code’s lot setback requirements.

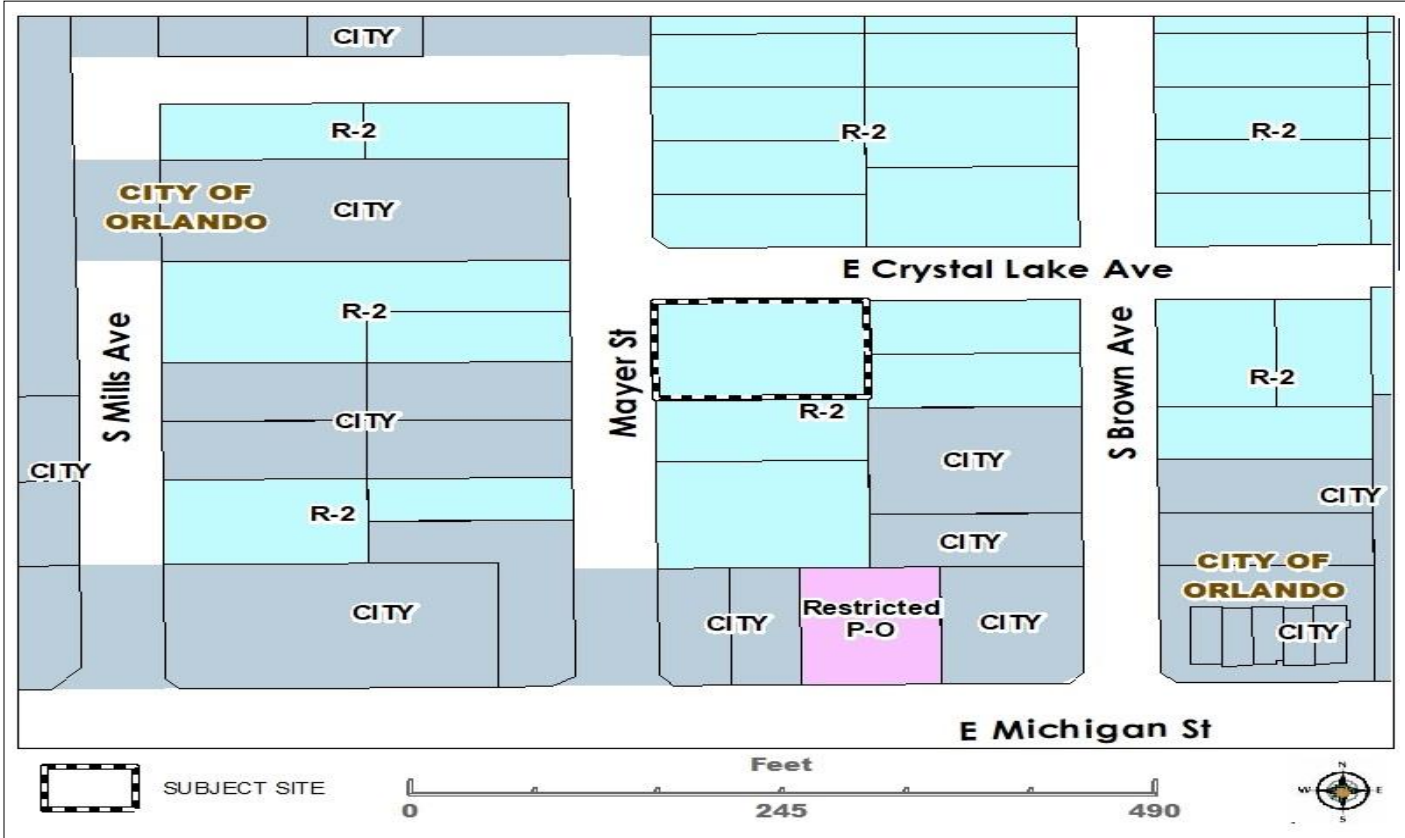
As illustrated above, the proposed use meets all of the required standards for a variance that are set forth in the County Code. In support of this variance request, enclosed please find the following:

- (a) Application form;
- (b) Application fee payment;
- (c) OCPA Map of the Property;
- (d) Legal Description of the Property (copy of the deed);
- (e) Copies of site plan;
- (f) Agent Authorization;
- (g) Specific Project Expenditure Report;
- (h) Relationship Disclosure Form; and

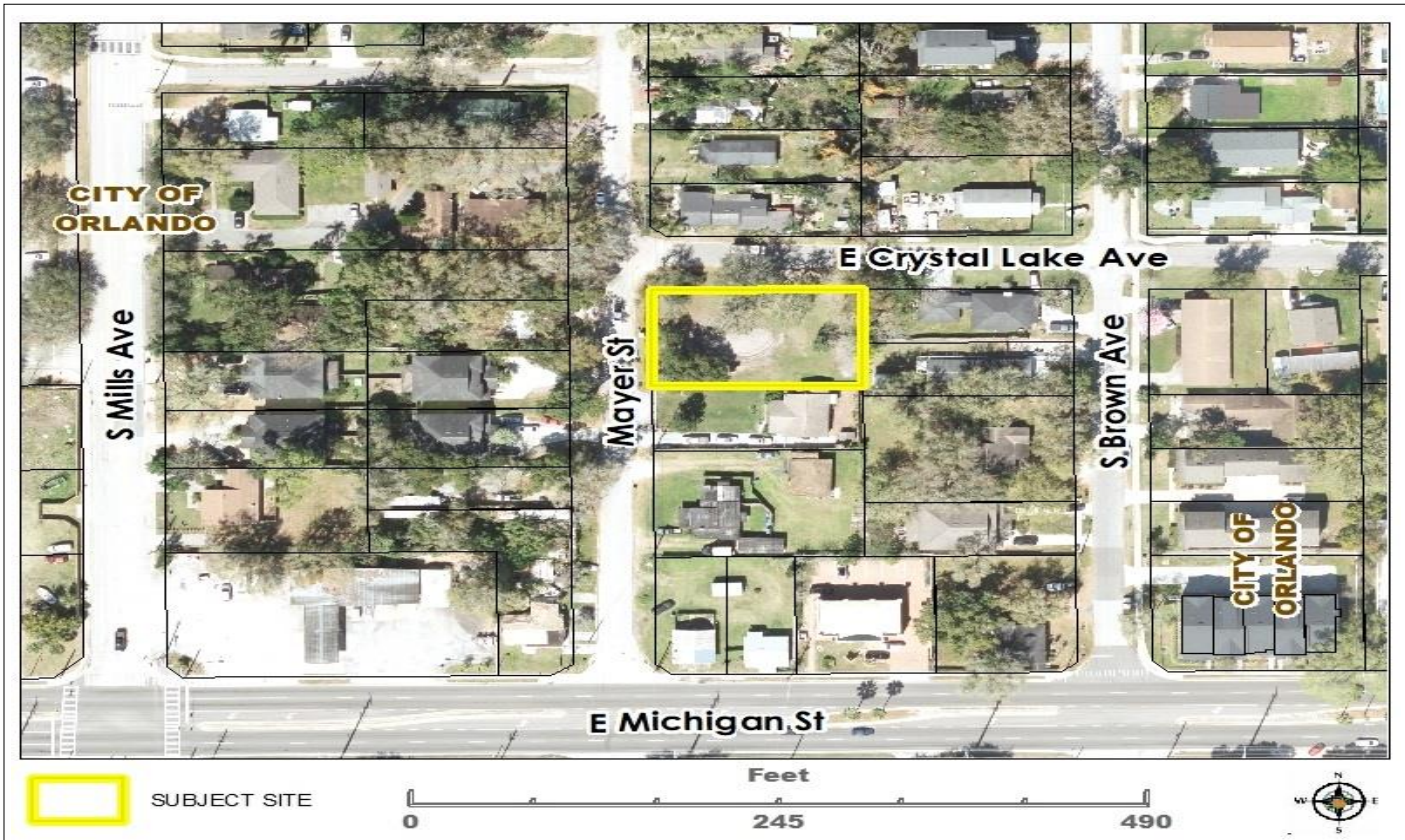
We appreciate the opportunity to request this variance. Please let me know if you have any questions or require any further information.



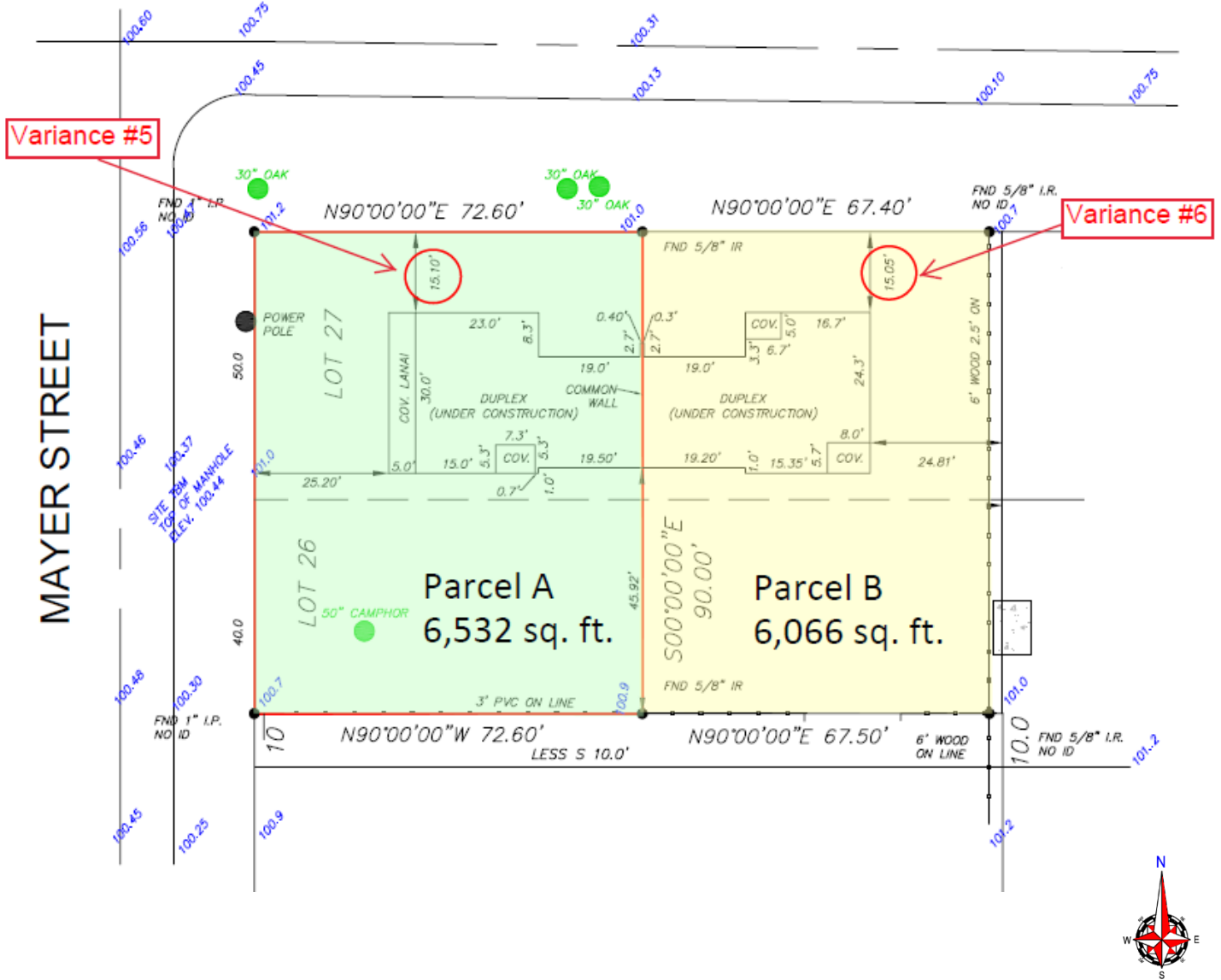
ZONING MAP



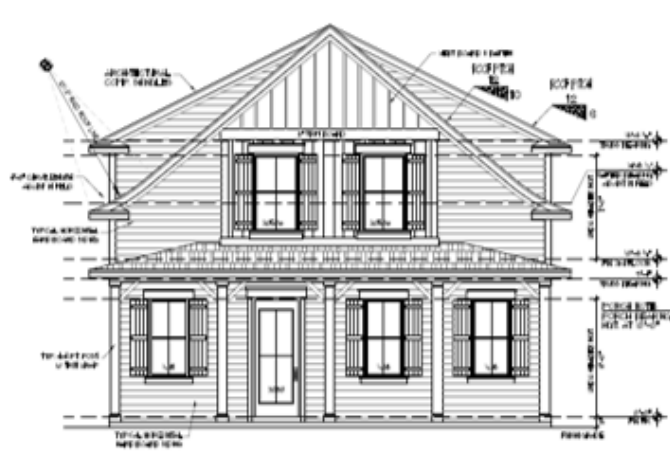
AERIAL MAP



E. CRYSTAL LAKE AVE.



## ELEVATIONS



### West Elevation



### East Elevation



### South Elevation



North Elevation



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## SITE PHOTOS

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**Side street yard, facing south towards existing duplex the proposed property line**



**Front and side street yards, facing southeast from the intersection of Mayer St. and E. Crystal Lake Ave.**



## SITE PHOTOS



**Facing east from Mayer St. towards front yard**



**Side street yard/proposed front yard, facing west towards existing duplex**



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## SITE PHOTOS

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**Rear yard, facing northwest towards existing duplex**



**Rear yard, facing north towards rear of existing duplex**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#1**

Case #: **VA-24-12-122**

Case Planner: **Catherine Glase (407)836-9615**  
**Catherine.Glase@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** DINA DAHAN

**OWNER(s):** REDALA LLC

**REQUEST:** Variances in the PD zoning district for the installation of a multi-tenant monument sign as follows:

- 1) To allow a copy area of 126 sq. ft. in lieu of 96 sq. ft.
- 2) To allow height of 13 ft. in lieu of 8 ft.
- 3) To allow a west side setback of 0 ft. in lieu of 10 ft.

**PROPERTY LOCATION:** 11895 S Apopka Vineland Rd., Orlando, FL 32836, east side of S. Apopka Vineland Rd., south of Daryl Carter Pkwy., west of I-4, north of Palm Pkwy.

**PARCEL ID:** 15-24-28-6211-34-010

**LOT SIZE:** +/- 1.65 acres

**NOTICE AREA:** 1,300 ft.

**NUMBER OF NOTICES:** 73

**DECISION:** Recommended **APPROVAL** of the Variance request **#3**, in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as modified, and **DENIAL** of the Variance requests **#1** and **#2**, in that there was no unnecessary hardship shown on the land; and further, they do not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Thomas Moses, Second by Roberta Walton Johnson; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan date stamped December 13, 2024, as modified to reflect the BZA's decision, 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 of the Variances. Staff noted that no comments were received in favor and two (2) comments were received in opposition to the request.

The applicant was present and disagreed with the staff recommendation stating the sign would be similar to other signs in the surrounding area and the site requires the Variances as the building is set back from the road and contains landscaping that would block the sign without the Variances.

There was no one in attendance to speak in favor and one (1) individual spoke in opposition to the request. The individual stated they are the property manager for the neighboring property's retail plaza and objected to the size of the proposed sign. They went on to state that the sign was disproportionate to the size of the building and the existing wall signs are visible from the right-of-way.

The BZA discussed the location of the property line in relation to the sidewalk and determined that Variance request #3 was not intrusive to the roadway or sidewalk. They went on to discuss requests #1 and #2 stating that the maximum allowance by code for the height and copy area of the sign would allow for an adequate size sign to be constructed.

The BZA unanimously recommended denial of Variance requests #1 and #2 and approval of Variance request #3 by a 5-0 vote, with one (1) absent and one (1) vacant, subject to the three (3) conditions found in the staff report with a modification to Condition #1 as follows:

1. Development shall be in accordance with the site plan and sign plan date stamped December 13, 2024, as modified to reflect the BZA's decision, 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).

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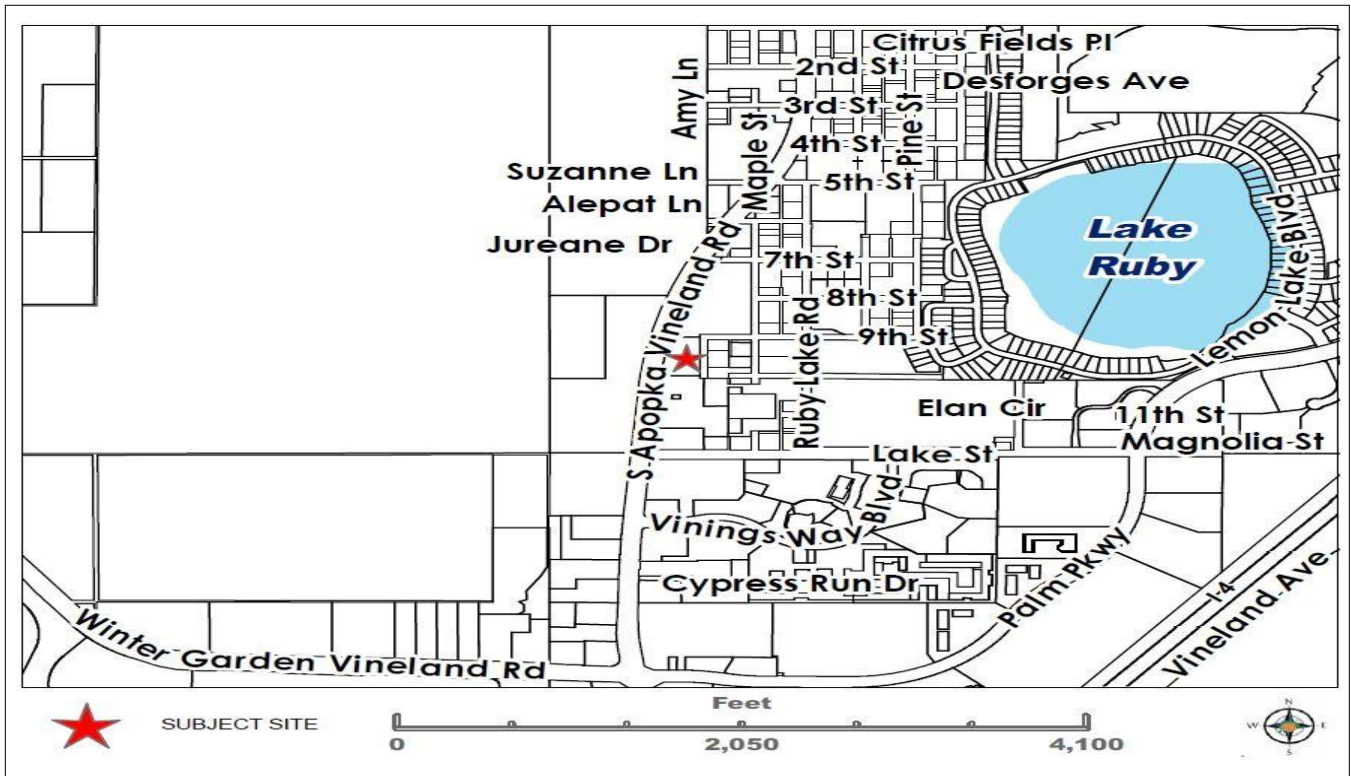
#### **STAFF RECOMMENDATIONS**

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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.



## LOCATION MAP



## SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Davis PD	Davis PD	Shops of Lake Avenue PD	R-CE	Davis PD
Future Land Use	ACMU	ACMU	ACMU	ACMU	ACR
Current Use	Multi-tenant retail	Vacant	Multi-tenant retail	Vacant	Multi-family residential

## BACKGROUND AND ANALYSIS

### **DESCRIPTION AND CONTEXT**

The subject property is located in the Davis Planned Development (PD). This PD allows a variety of uses including single-family, multi-family, and commercial. The future land use is Activity Center Mixed Use (ACMU), which is consistent with the PD zoning district. The property is also located in the Buena Vista North (BVN) overlay district. The BVN overlay district has restrictions and prohibitions related to architectural design, including for signage. These code requirements are intended to provide specific design standards for the BVN district with the purpose of fostering higher quality developments through unique design elements, including building materials, signs, and landscaping.

The subject property is 1.65 acres and is developed with a 15,230 sq. ft. multi-tenant retail plaza and associated surface parking lot. Proposed is a multi-tenant monument sign to be located along S. Apopka Vineland Rd. The Code establishes the maximum copy area and height for all multi-tenant ground signage in the Buena Vista North overlay district as 8 ft. tall with 96 sq. ft. of copy area. The proposed sign is 13 ft. in

height, and 126 sq. ft. of copy area, requiring Variance requests #1 and #2. While the cover letter notes the request is for 169 sq. ft. of copy area, that number is the size of the entire sign, not the proposed copy area. The original application included a request for the sign to be internally illuminated in lieu of externally illuminated. This request was reviewed by the County Attorney's Office, and it was determined that a deviation from the lighting requirement could not be requested as internally illuminated signs are prohibited. The proposed location of the monument sign at a 0 ft. setback, also does not meet the required 10 ft. ground sign setback from the right-of-way, requiring Variance request #3.

#### **Buena Vista North Overlay District Multi-tenant Ground Sign Standards**

	Code Requirement	Proposed
Max Copy Area:	96 sq. ft.	126 ft. (Variance #1)
Max Sign Height:	8 ft.	13 ft. (Variance #2)
Min. Sign Setbacks (All property lines):	10 ft.	0 ft. (Variance #3)

The request was routed to all relevant reviewing Divisions. There were no objections noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. While the request meets some of the criteria, it does not meet all the criteria. Based on staff analysis, a smaller, code compliant sign could be constructed in a way to eliminate all the Variance requests. The subject property provides adequate space to construct a sign in a code compliant manner and does not contain any major visual obstructions to necessitate the Variance requests.

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### **STAFF FINDINGS**

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#### **VARIANCE CRITERIA**

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

NOT MET - There are no special conditions or circumstances specific to the lot. The subject property provides adequate space to construct a monument sign and does not contain any major visual obstructions to necessitate the Variance requests.

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

NOT MET - The Variance requests are self-created, as a monument sign could be constructed in a code compliant manner.

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

NOT MET - Granting the Variances as requested would confer special privilege as the other properties in the area are subject to the same standard.

##### **Deprivation of Rights**

NOT MET - There is no deprivation of rights as a monument sign could be constructed in a code compliant manner.

**Minimum Possible Variance**

NOT MET - The request is not the minimum possible as a code compliant sign could be constructed.

**Purpose and Intent**

NOT MET - Approval of the requested Variances would not be in harmony with the purpose and intent of the Zoning Regulations as the Buena Vista North overlay district is a special design overlay district which is primarily focused on minimizing incompatible surroundings and visual clutter. The monument sign would be incompatible with the guidelines established by the BVN overlay district.

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**CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and sign plan date stamped December 13, 2024, 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: Dina Dahan  
9293 Wickham Way  
Orlando, Florida 32836

**Overview**

REDALA LLC is requesting a variance to allow for modifications to the proposed monument sign located at 11895 S Apopka Vineland Rd. Orlando, FL 32836

The client requires these changes to ensure visibility for their business, which is obstructed by the building's setback from South Apopka Vineland Road and mature trees on the property. Additionally, the sign is blocked by a neighboring 15-foot sign, further limiting visibility. The requested variances will help improve the business's ability to communicate effectively with customers, ensuring proper signage for traffic passing by the site.

**Variance(s) Requested:**

- #1 • A maximum copy area of **169 square feet** (instead of the allowable 96 square feet).
- #2 • A sign height of **13 feet** (instead of the allowable 8 feet).
- #3 • A **0-foot setback** from the parcel line (instead of the required 10-foot setback).

**1. Special Conditions and Circumstances:**

The property is set back **40 feet** from South Apopka Vineland Road, and the visibility of the business is obstructed by both **mature trees** and a **15-foot sign** on an adjacent property. These special conditions are unique to this site and not typical for other properties in the same zoning district. To overcome these obstacles, the requested larger sign size, increased height, and reduced setback are necessary to ensure visibility.

**2. Not Self-Created:**

The unique conditions that necessitate the requested variances were pre-existing when REDALA LLC acquired the property. The building setback, trees, and neighboring sign were not created or altered by the applicant. These are natural and structural challenges that the client cannot control, and the requested variances are a response to these conditions rather than a result of any self-created hardships.

**3. No Special Privilege Conferred:**

Approving these variances will not grant REDALA LLC any special privileges, as the requests aim to bring the business's signage visibility in line with other businesses in the area. Many properties in the district have clear visibility, while REDALA LLC's property is uniquely hindered by natural and man-made obstructions. These variances are necessary to level the playing field.

**4. Deprivation of Rights:**

A strict interpretation of the zoning code would deprive REDALA LLC of the visibility and signage rights enjoyed by other businesses in the same district. Without these variances, the business would suffer from significantly reduced visibility, placing them at a competitive disadvantage, which would be an undue and unnecessary hardship.

**5. Minimum Possible Variance:**

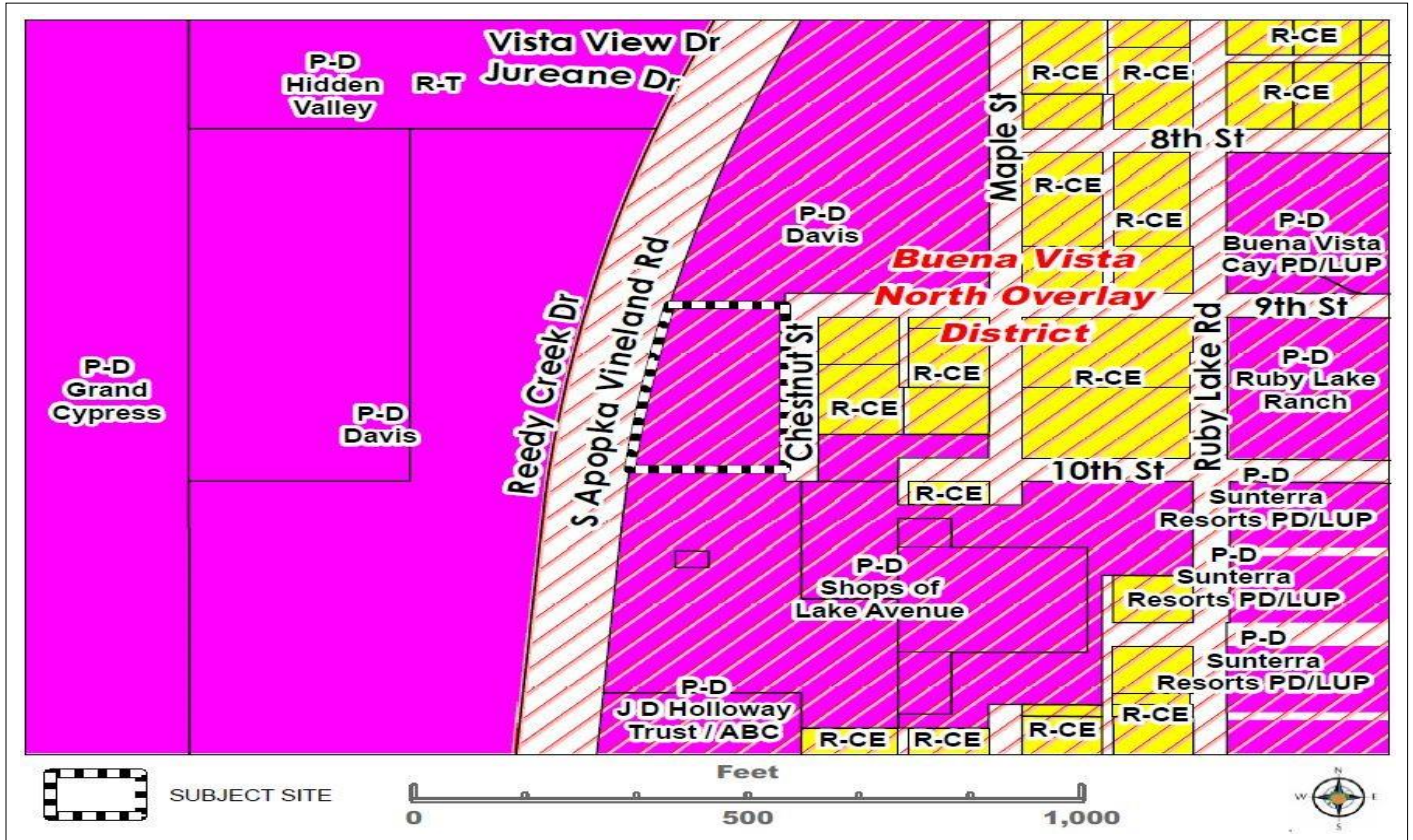
The variances requested represent the minimum adjustments required to achieve reasonable visibility. The proposed sign size, height, setback, and tenant space reductions are designed to address the site-specific challenges without exceeding what is necessary for effective signage.

**6. Purpose and Intent:**

The requested variances align with the purpose and intent of the zoning regulations, as they allow for an aesthetically pleasing and functional sign that will not harm the surrounding neighborhood. The proposed sign will enhance the visibility of the business while maintaining harmony with the commercial area and contributing positively to the local community's development.



## ZONING MAP

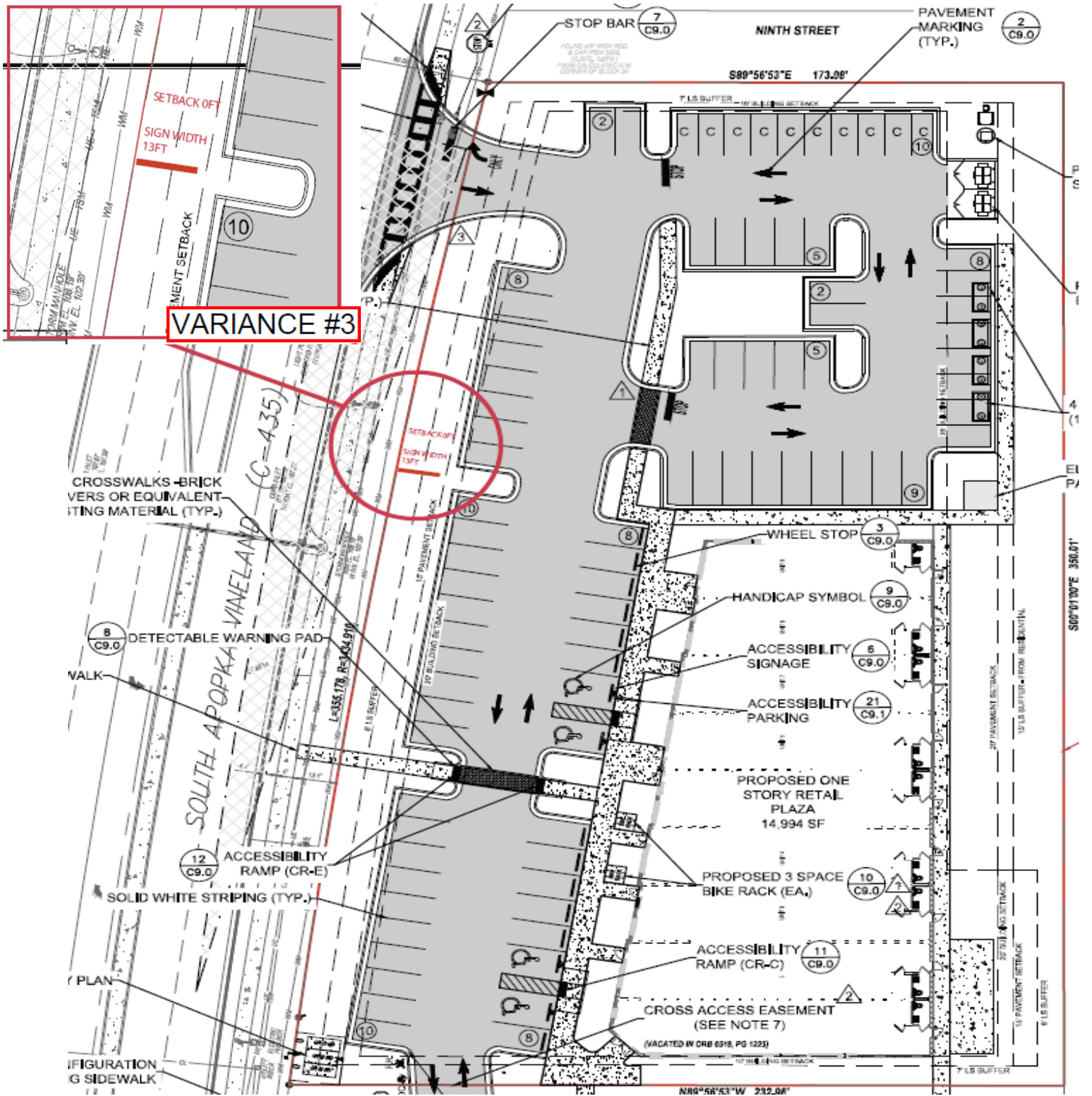


## AERIAL MAP

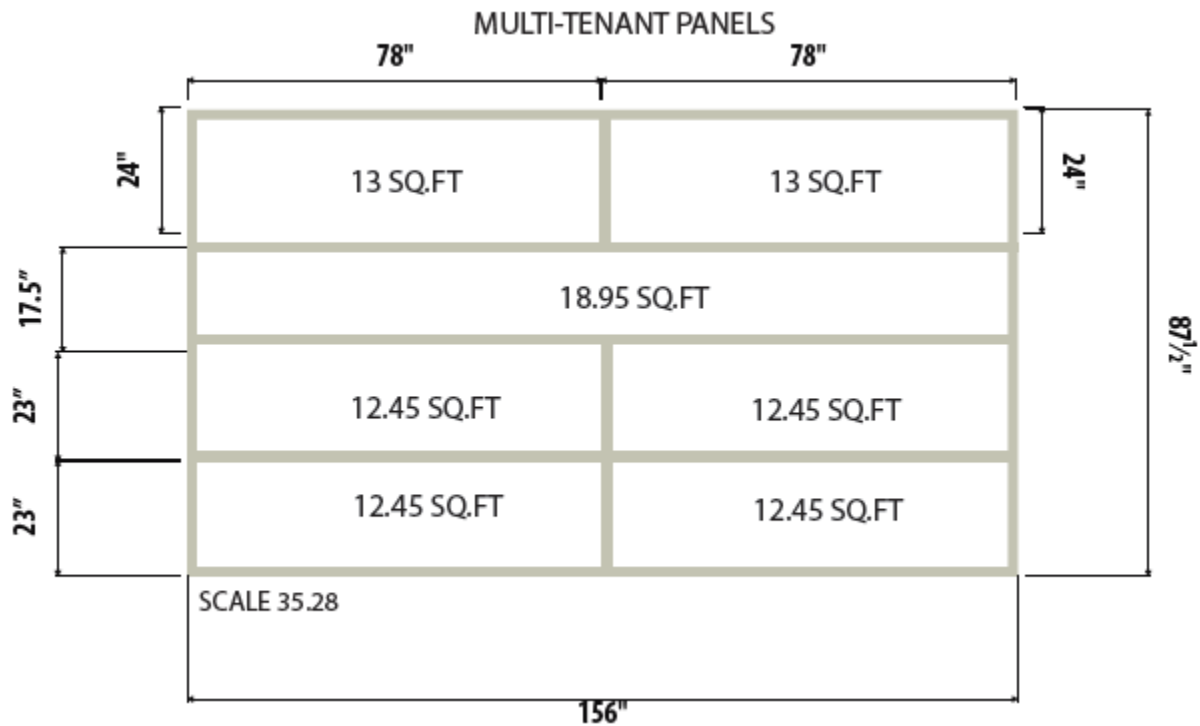
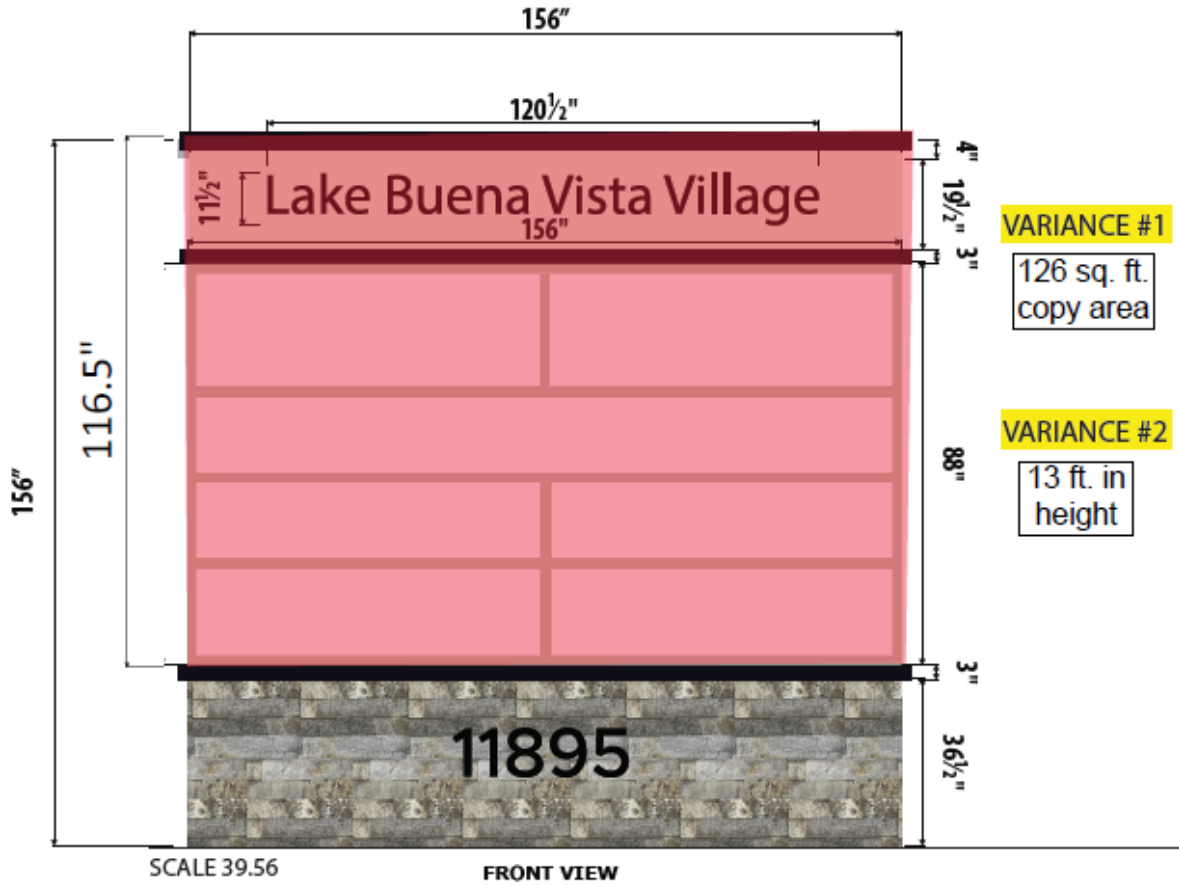




## SITE PLAN



# SIGN PLANS





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## SITE PHOTOS

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**Facing east towards the proposed location of the monument sign**



**Facing south towards the proposed location of the monument sign**



## SITE PHOTOS



**Facing southeast towards the proposed location of the monument sign**



**Facing northeast towards the proposed location of the monument sign**



## SITE PHOTOS



**Facing north towards the proposed location of the monument sign**



**Existing signage onsite**



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## SITE PHOTOS

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Existing signage onsite

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#5**

Case #: **VA-24-12-121**

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

## GENERAL INFORMATION

**APPLICANT(s):** NICK DANCAESCU

**OWNER(s):** CAROLYN SALZMANN, JON GIBBS

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

- 1) To allow the construction of a single-family residence with a maximum height of 39 ft. in lieu of 35 ft.
- 2) To allow an existing detached accessory structure with a south side setback of 2.6 ft. in lieu of 5 ft.

**PROPERTY LOCATION:** 703 Greens Avenue, Winter Park, FL 32789, northwest side of Greens Ave., east side of Little Lake Fairview, south of W. Fairbanks Ave., east of Edgewater Dr., north of E. Par St., west of I-4

**PARCEL ID:** 11-22-29-8320-00-051

**LOT SIZE:** +/- 2.16 acres (+/- 1.56 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 67

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as modified (Motion by Chris Dowdy, Second by Roberta Walton Johnson; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan and elevations date stamped November 12, 2024, 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 a permit for the residence, a permit for the accessory structure (storage and gazebo) shall be obtained or it shall be removed.

**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 of Variance #1, and approval of Variance #2. Staff noted that six (6) comments that include two (2) duplicates were received in favor of the request, and no comments were received in opposition to the request.

The applicant discussed the staff recommendation of denial, noting the height of the residence as proposed is due to the lot constraints since it abuts a lake that minimizes the buildable area.

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

The BZA discussed the request pertaining to the height of the residence as proposed, determining the foundation would be at least four feet below the crown of the road making the height of the residence appear lower and would not negatively impact the surrounding area.

The BZA unanimously recommended approval of the Variances by a 5-0 vote, with one (1) absent and one (1) seat vacant, subject to the four (4) conditions found in the staff report with the modification to Condition #1 as follows:

“Development shall be in accordance with the site plan and elevations date stamped November 12, 2024, 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).”

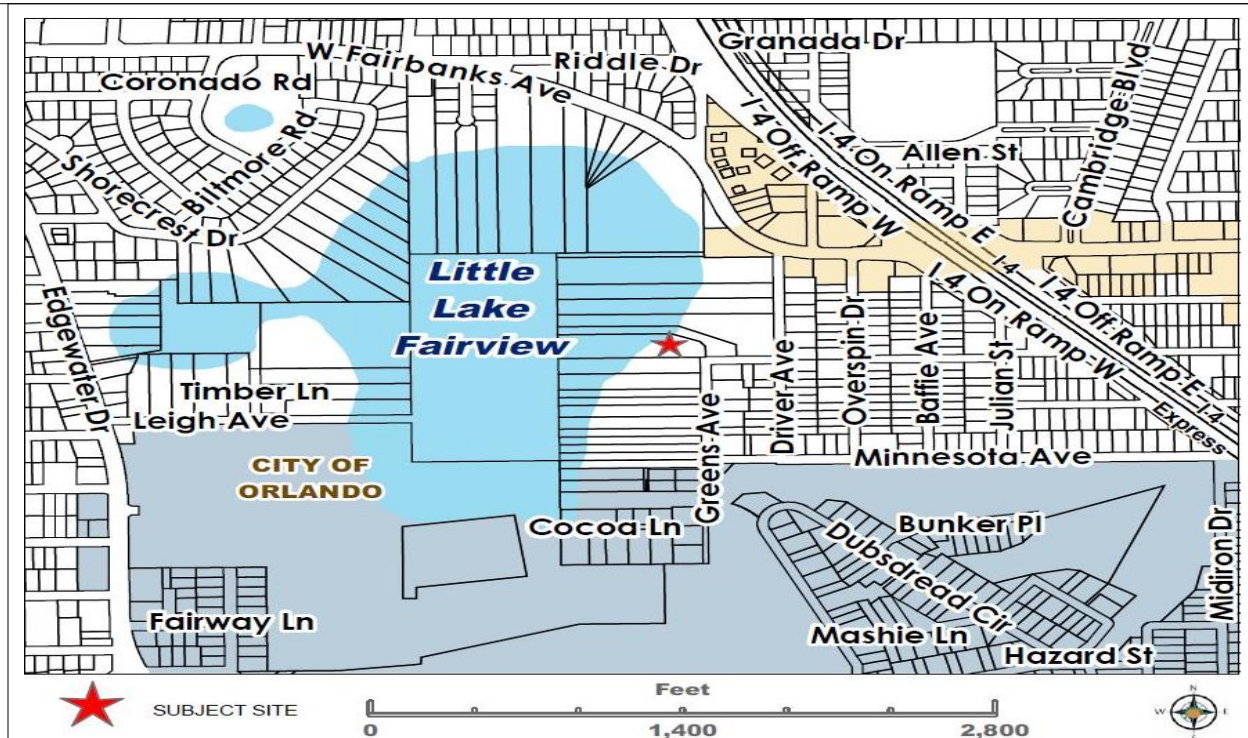
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#### **STAFF RECOMMENDATIONS**

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Denial of Variance #1, and approval of Variance #2, subject to the conditions in this report. 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	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	Water Body (Little Lake Fairview)
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Little Lake Fairview

## BACKGROUND AND ANALYSIS

### DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area surrounding the subject site consists of single-family homes, many of which are lakefront. The subject property is a +/- 2.16 acre parcel and was platted in 1924, consisting of portions of lots 3, 4, and 5 of the Stokes Subdivision Plat and is a conforming lot of record. The property is located on the eastern side of Little Lake Fairview, and consists of +/- 1.56 acres upland, with the remainder of the parcel being either wetland or submerged property under Little Lake Fairview. It is developed with a one-story 5,954 gross sq. ft. single-family home constructed in 1951. Improvements to the property include a 363 sq. ft. detached accessory structure and gazebo attached with a breezeway. No record of permits for the improvements are available and due to the heavily vegetated property prior to 2003 image where it is visible, the year of



installation cannot be ascertained via aerial photography. The property was purchased by the current owners in 2019.

The proposal is to demolish the existing residence and to construct a new 9,234 gross sq. ft., three-story single-family home, to include a pool and deck. The existing detached accessory structure (storage and gazebo) is proposed to remain. The proposed residence will be constructed to meet all required code provisions with the exception of a height of 39 ft. in lieu of 35 ft., requiring Variance #1. Additionally, the accessory structure has an existing non-conforming setback of 2.6 ft. from the south side property line in lieu of 5 ft., requiring Variance #2 to recognize the existing condition. Staff recommends denial of Variance #1 since this is new construction, the residence could be designed with a height that would be code compliant, thereby eliminating the need for the Variance request. Furthermore, there appear to be no similar requests for variances for a height which exceeds the 35 ft. code requirement in the surrounding area. However, staff recommends approval of Variance #2 to allow the recognition of the existing location of the structure.

The request was routed to all relevant reviewing Divisions. There were no objections noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff has determined that Variance #1 does not meet all the criteria. Based on staff analysis the height could be reduced to meet code. However, staff has determined that Variance #2 meets all the criteria, therefore staff is recommending approval of that Variance request.

#### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	39 ft. (Variance #1)
Min. Lot Width:	75 ft.	83.2 ft.
Min. Lot Size:	7,500 sq. ft.	94,607 sq. ft. (67,953 sq. ft.)

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

	Code Requirement	Proposed
Front:	25 ft.	30 ft. (East)
Rear:	30 ft.	514.9 ft. (West)
Side:	7.5 ft.	7.9 ft. residence (North) 10 ft. residence (South) 2.6 ft. accessory structure (South – Variance #2)
NHWE:	50 ft. 35 ft. (accessory structure)	103.4 ft. residence (West) 50 ft. accessory structure (West)

**VARIANCE CRITERIA****Special Conditions and Circumstances**

Not Met - Variance #1: There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could reduce the height of the building to meet code.

Met - Variance #2: The special condition and circumstance particular to the subject property is the structure being in the same location since at least 2003.

**Not Self-Created**

Not Met - Variance #1: The request is self-created in that it is new construction and there are alternatives to build a code compliant residence.

Met - Variance #2: The request is not self-created since the owner is not responsible for the existing location of the accessory structure.

**No Special Privilege Conferred**

Not Met - Variance #1: Granting the Variance as requested will confer special privilege since the height could be reduced to meet code. Furthermore, there appear to be no similar requests for variances for a height which exceeds the 35 ft. code requirement in the surrounding area.

Met - Variance #2: Due to the orientation of the accessory structure, granting the requested Variance will not confer any special privilege conferred to others under the same circumstances.

**Deprivation of Rights**

Not Met - Variance #1: There is no deprivation of rights since there are other options to meet the building standards for height requirements in the code for the residence.

Met - Variance #2: Approval of the request will allow the recognition of the existing location of the accessory structure.

**Minimum Possible Variance**

Not Met - Variance #1: The request is not the minimum since the design of the residence and height can be reduced to meet code.

Met - Variance #2: Due to the existing setbacks and location of the accessory structure, the Variance is the minimum possible.

**Purpose and Intent**

Not Met - Variance #1: Approval of the requested variance will not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed height will not be compatible with the residences since there are one and two story residences in the surrounding area.

Met - Variance #2: Approval of the requests will be in harmony with the purpose and intent of the Code. The accessory structure will not be significantly visible from any surrounding properties due the existing vegetation surrounding 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 date stamped November 12, 2024, as modified, 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 a permit for the residence, a permit for the accessory structure (storage and gazebo) shall be obtained or it shall be removed.
- C: Nick Dancaescu  
301 E. Pine Street, Suite 1400  
Orlando, Florida 32801

# GRAYROBINSON

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Nick Dancaescu | Nick.Dancaescu@gray-robinson.com | D 407.244.5634  
301 East Pine Street, Suite 1400, Orlando, Florida 32801 | T 407.843.8880 | F 407.244.5690

September 10, 2024

**EMAIL AND HAND DELIVERY**

Orange County Zoning Division  
201 S. Rosalind Avenue, 1st Floor  
Orlando, FL 32801

**Re: Application: Board of Zoning Adjustment**  
**Homeowners: Jon Gibbs & Caroline Salzman**  
**Address: 703 Greens Avenue, Winter Park, FL 32789**

To Whom It May Concern:

We represent Ms. Carolyn Salzmann and Jon Gibb (hereinafter "Homeowners"). The Homeowner own 703 Greens Ave. in Orange County (the "Property"). By way of this letter and the attached application, the Homeowners are requesting a 3' height variance for the Property for the construction of a 4' architectural feature above a 650-square-foot area. This variance request meets the County's criteria for such a variance as set forth more fully below.

**Summary of Special Conditions and Circumstances on the Property**

The Special conditions and circumstances that exist that are peculiar to the land, structure, and building involved and that are not applicable to other lands, structures, or buildings in the same zoning district are as follows:

First, the Property is on the outside corner of a local road (Oglesby/Greens). The road contains no drainage swales or curb and gutter. Sometime between 2015 and 2020 the County resurfaced and/or blacktopped this road, raising its elevation even more than it was (it was already higher than the Property and sloped towards the Property).

Water from the road sheet flows to the low point at the corner, right where the existing driveway is. The water then rushes down the Property towards the lake. This sheet flow, coupled with the configuration of the current home creates water flooding and intrusion at the southerly portion of the house. During heavy downpours the water becomes almost a river.

The Homeowners installed, at substantial personal cost, water management improvements along the southern portions of the Property to convey the County's stormwater more efficiently and avoid flooding the structures. This system will become

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Orange County Zoning Division  
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even larger with the newly constructed home and reconfigured driveway. Much, if not all, of this will be installed in areas of the property which would otherwise be available for building footprint and outside the setbacks. This variance request for nominal additional height would allow the Homeowners to replace the home square footage, which would have otherwise been available if the roadway drainage issue did not preclude the use of the water drainage area on the southern end of the Property beyond the required setbacks.

Exacerbating the issue, because of the water moving through this area, the septic system necessary for this home cannot be located on the south side of the Property. Accordingly, the Homeowners have had to locate their septic system on the north side of the Property, pushing the north-facing walls of the home further into the Property and further squeezing of the building footprint.

Second, the recent County change in setbacks to lake and wetland areas occurred during the design and planning phase for the structure. In order to comply, the structure had to be moved and, again, to replace the lost square footage of prior plans, additional height was proposed and needed.

Third, the steep slope from the roadway to the lake impacts both the above drainage issue and also means the construction of the home will start below the crown of the road. The new home is also set back a distance from the roadway. From a review of the height limitation codes, it is questionable whether the height limitation is from foundation to peak or is to be measured from the crown of an adjacent road. In any event, the drop of the Property away from the roadway will mean the height of the home will not appear taller than nearby homes.

Finally, as can be seen in the attached notices of no objection, neither adjacent neighbor has any objection to the additional height. This is, in part, because a taller structure also means a narrower structure. Narrowing the structural footprint by making the new home taller allows both adjacent owners a better viewshed of the lake. This is particularly true for the property to the north which sits at an angle and somewhat wraps around the subject Property.

#### **The Special Conditions Necessitating the Variance are Not Self-Created**

As set forth above, the special conditions and circumstances do not result from the actions of the Homeowners.

#### **Granting the Variance Would Not Confer a Special Privilege on the Property**

As can be seen from the issues set forth in this correspondence, the variance will not confer any special privilege. As mentioned above, the additional height will not be distinguishable by anyone walking or driving by the Property. Additionally, the area that would be above the height (to which the variance would apply) is not large, and the variance is for a four-foot architectural feature above an area that is less than 650 square

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feet (less than 10% of the total home square footage) towards the center of the home's footprint.

**Denying the Request Would Lead to a Deprivation of the Homeowners' Rights**

The 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 put unnecessary and undue hardship on the applicant. Because of the unusual configuration of the lot, the water flow and drainage issues associated with the adjacent roadway and the slope of the Property, forcing literal interpretation and strict compliance would force less usable property upon these Homeowners than adjacent same-zoned homes.

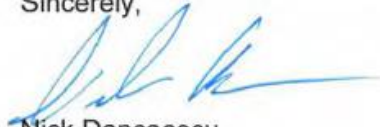
**The Request is for the Minimum Possible Variance**

The zoning variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure. As mentioned above, the variance would be an additional 3' for less than 650 SF in or near the center of the building footprint to allow for a 4' architectural feature at the roofline. Internally, the home has already dropped the ceiling heights below what the Homeowners originally wanted and intended to minimize the request.

**Approval of the Variance is in Harmony with Purpose and Intent of Zoning Regulations**

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. As mentioned above, the home will look in place with the other homes in the neighborhood and on Little Lake Fairview, particularly since it will be set back and rise from an elevation starting below the crown of the road.

Sincerely,



Nick Dancaescu

ND/dmf

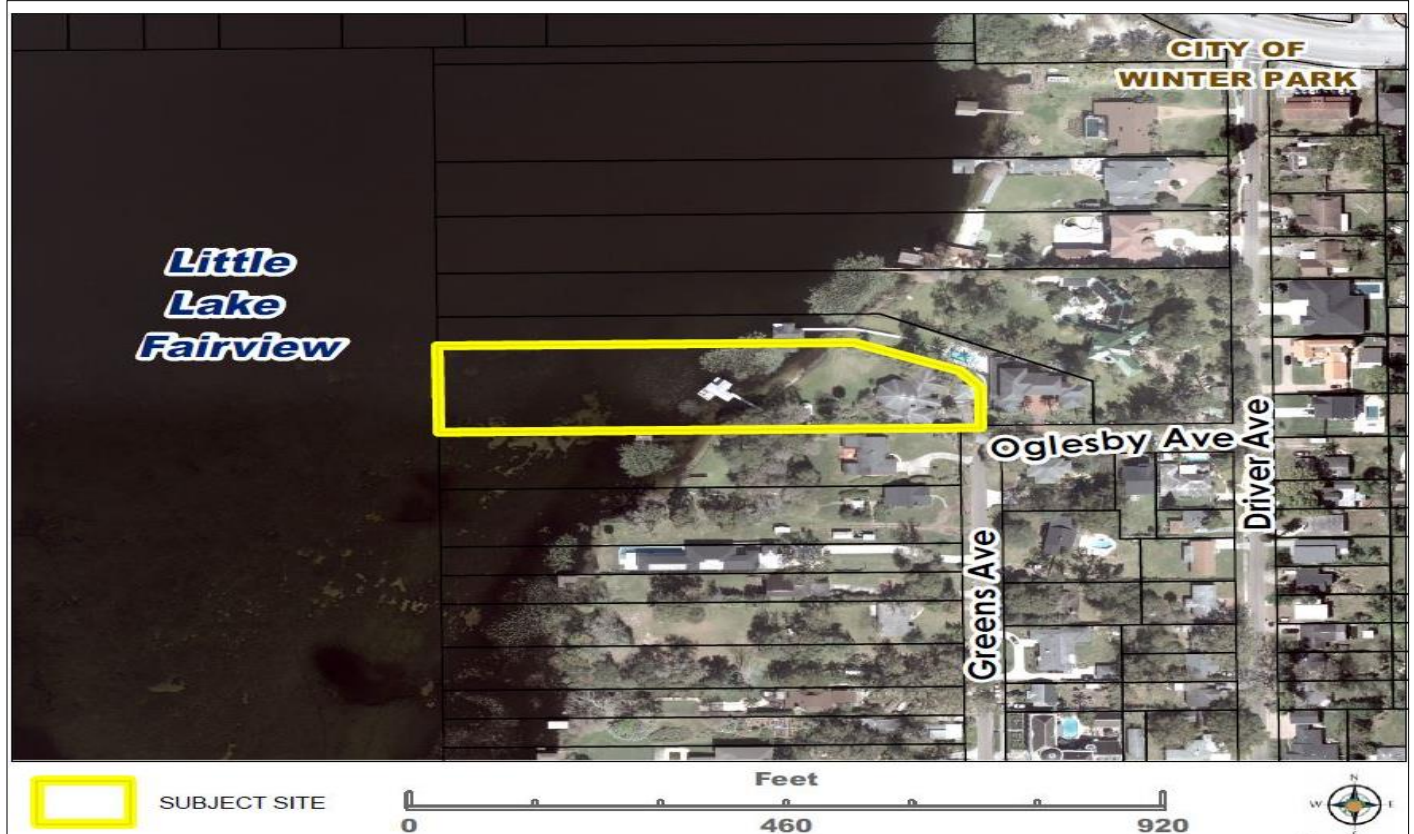
Enc. Application & Supporting Documentation

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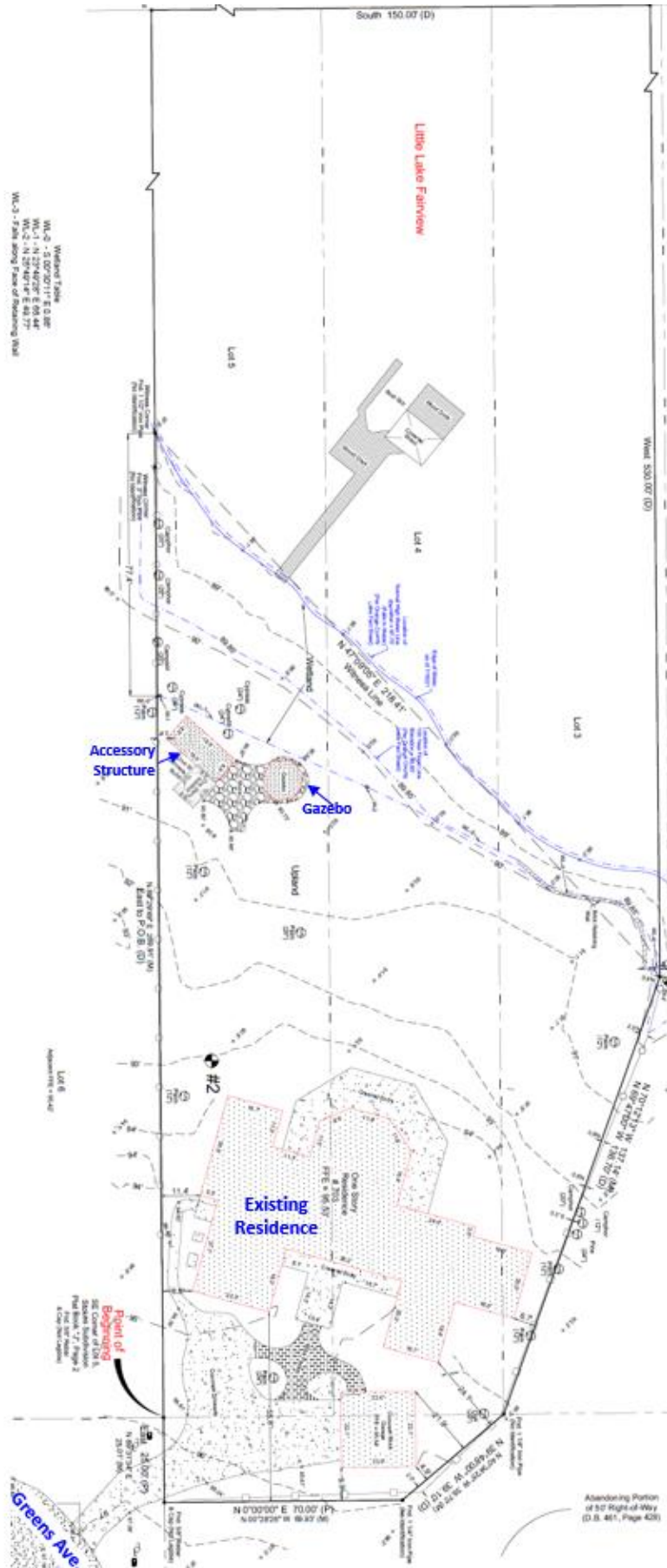
## ZONING MAP



## AERIAL MAP

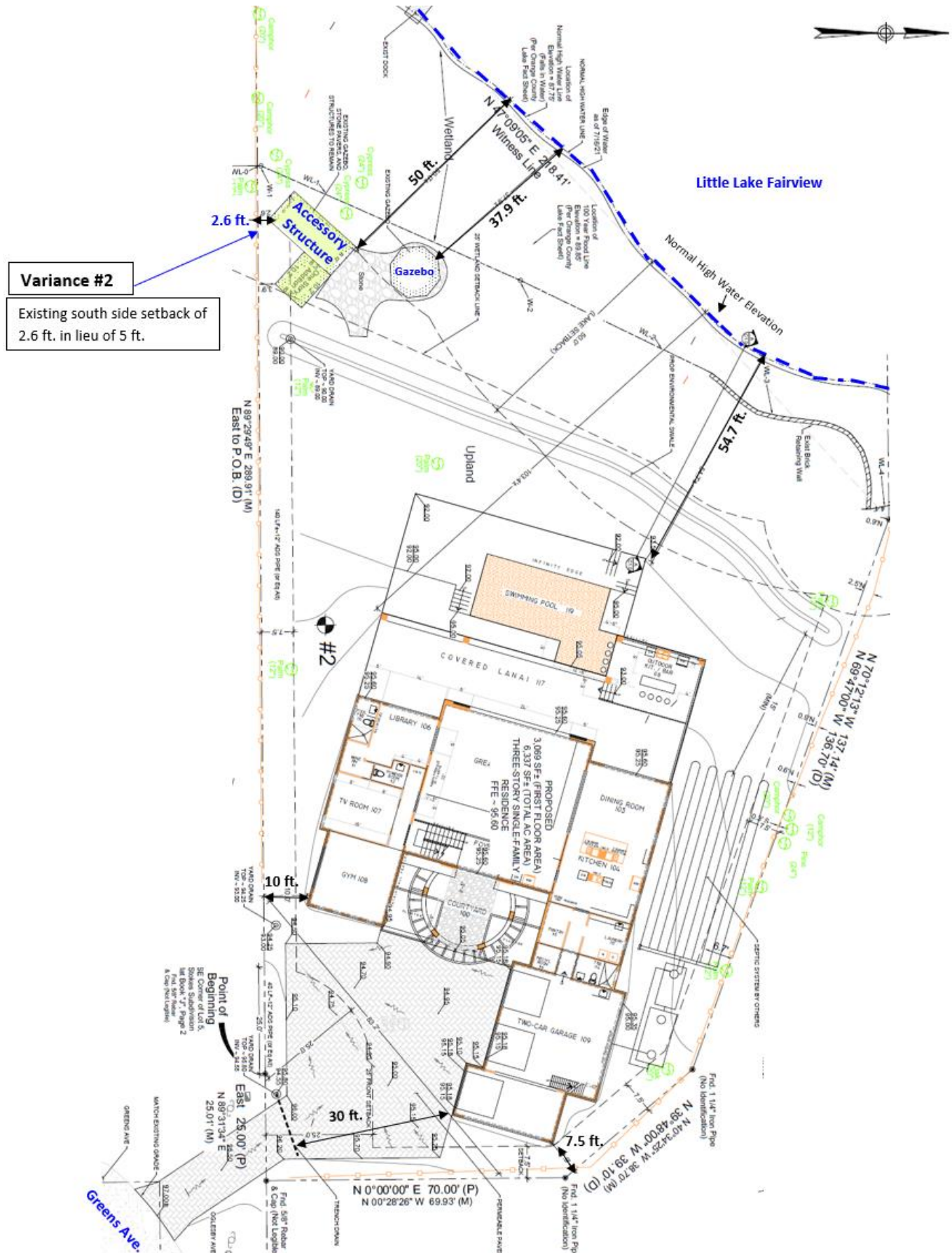








# PARTIAL SITE PLAN



# ELEVATIONS

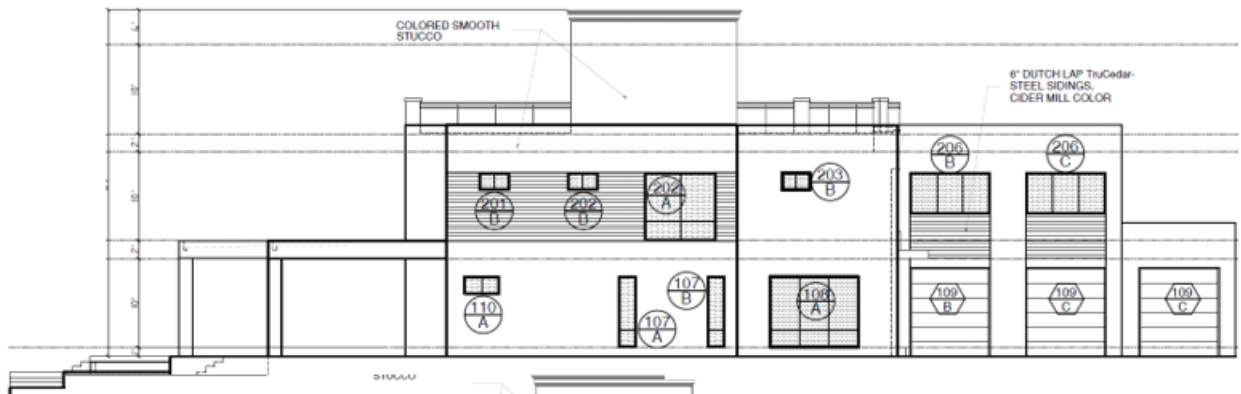
Front Elevation - East



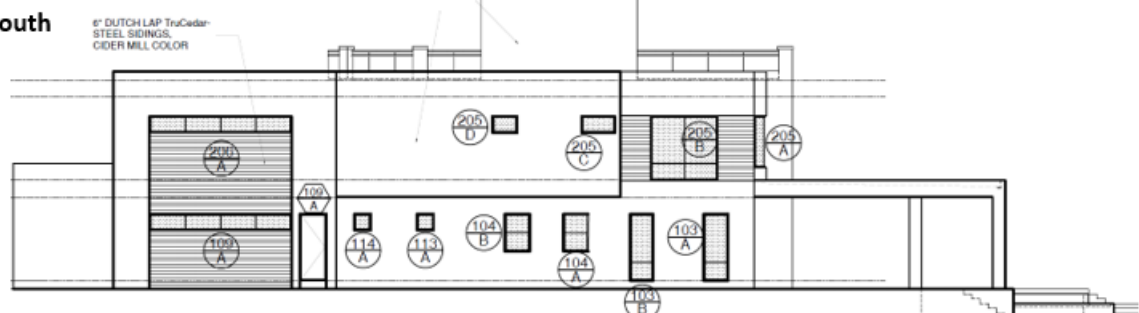
Rear Elevation - West



Right Elevation - North



Left Elevation - South





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**SITE PHOTOS**

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**Facing northwest Greens Ave. towards subject property**



**Rear yard, facing northeast from boat dock towards existng rear of residence**



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## SITE PHOTOS

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**Rear yard, facing south towards existing accessory structure and gazebo to remain**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#3**

Case #: **VA-24-12-118**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** VICTOR RODRIGUEZ

**OWNER(s):** LISMA HOLDINGS LLC

**REQUEST:** Variances in the I-1/I-5 zoning district as follows:

- 1) To allow an existing 1,220 sq. ft. structure with an east front setback of 8.5 ft. in lieu of 35 ft.
- 2) To allow an existing 1,220 sq. ft. structure with a south side setback of 8.9 ft. in lieu of 25 ft.
- 3) To allow an existing structure (shed) with a south side setback of 5 ft. in lieu of 25 ft.
- 4) To allow an existing structure with a north side setback of 12.8 ft. in lieu of 25 ft.

Note: This is a result of Code Enforcement.

**PROPERTY LOCATION:** 4800 Patch Road, Orlando, FL 32822, west side of Patch Rd., south of Hoffner Ave., east of S. Semoran Blvd., north of Lee Vista Blvd.

**PARCEL ID:** 14-23-30-5240-03-053

**LOT SIZE:** +/- 1.45 acres

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

**NUMBER OF NOTICES:** 127

**DECISION:** Recommended **DENIAL** of the Variance requests **#1**, **#2**, and **#3**, in that there was no unnecessary hardship shown on the land; and further, they do not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3), and **APPROVAL** of the Variance request **#4**, in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Roberta Walton Johnson, Second by Thomas Moses; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan date stamped November 18, 2024, and elevations date stamped August 30, 2024, as modified, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the

obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the carport structure and shed within 180 days of final action on this application by Orange County or this approval becomes null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a permit for the carport and shed, the signage located on the entrance gate shall be removed, and a permit shall be obtained for the storage containers and portable bathroom in a code compliant location, or they shall be removed.
6. The carport structure shall be enclosed to meet code requirements upon permit completion.

**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 of Variances #1, #2, and #3, and for approval of Variance #4. Staff noted that no comments were received in favor or in opposition to the request.

The applicant's team described the location of the unpermitted structures within the property, noting the placement allows for the maneuvering of the trucks.

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

Code enforcement staff discussed the history of citation, noting many unpermitted structures have been constructed since the rezoning of the property to an industrial district along Patch Road.

The BZA discussed the requests determining the unpermitted structures could be relocated to code compliant locations since structures are not anchored to the concrete pad and are movable. The BZA unanimously recommended denial of Variances #1, #2, and #3, and recommended approval of Variance #4 by a 5-0 vote, with one (1) absent and one (1) seat vacant, subject to the six (6) conditions found in the staff report.

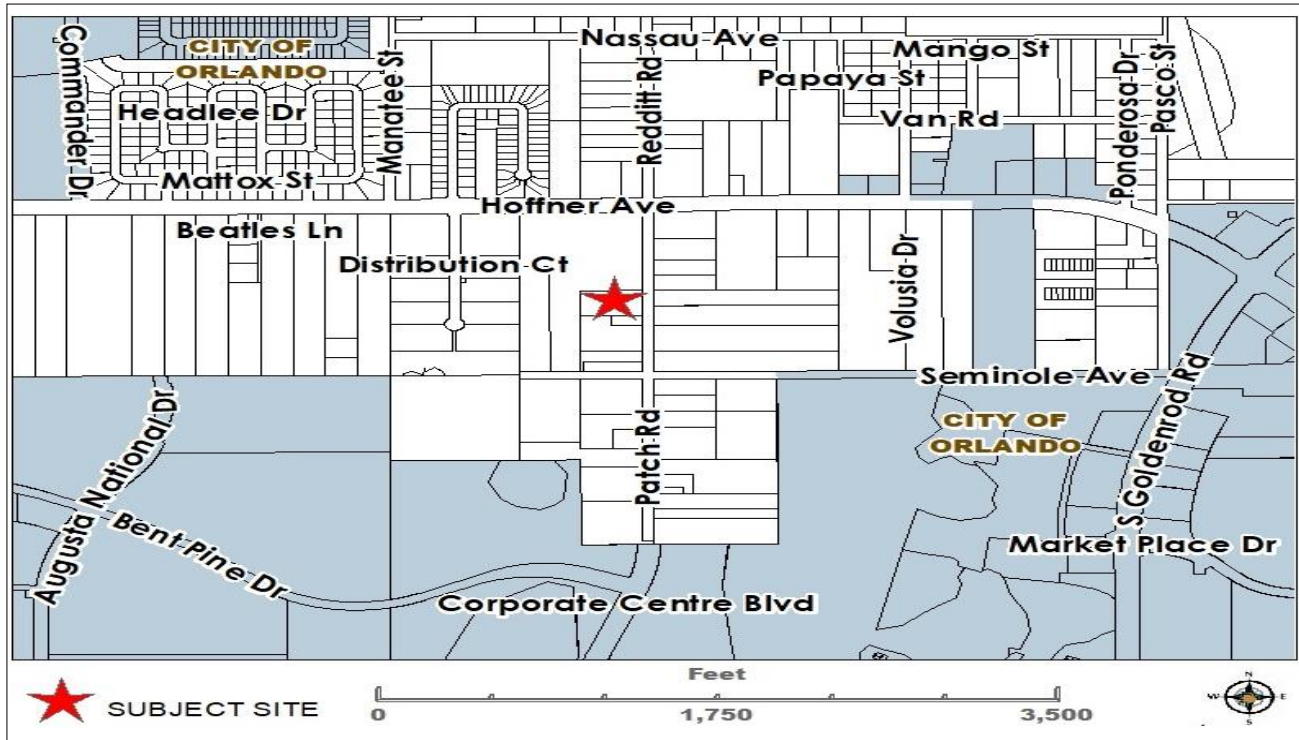
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#### **STAFF RECOMMENDATIONS**

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

## LOCATION MAP



## SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	I-1/I-5	Restricted I-1/I-5	I-1/I-5	I-1/I-5, A-2	Restricted I-1/I-5
Future Land Use	IND	IND	IND	IND	IND
Current Use	Trucking Company	Distribution Center	Modular Office, Industrial Warehouse	Office, Industrial	Distribution Center, Stormwater/Retention Pond

## 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 I-1/I-5 zoning district.

The area around the subject site consists of commercial and industrial buildings, and a retention pond to the west. The subject property is a +/- 1.45 acre lot, located in the Los Terranos subdivision recorded in 1928, and is a conforming lot of record. The property was originally developed as a single-family residence with an accessory structure at the rear. In 2020, the single-family residence was demolished (B19002406), but the approximately 1,377 sq. ft. storage structure remained and was being used in association with the current freight trucking service. A commercial site work permit for a water main extension (B17902546) was issued



and completed in 2017 noted that a conversion permit for a change of use from single-family residential to commercial was never approved. The current owner purchased the property in 2019.

Several improvements were made to the site without permits including a 1,220 sq. ft. carport structure, several shipping containers being used for permanent storage, a portable bathroom, and a shed. The carport structure, which appears to have been installed in 2024 via aerial imagery, is being used for vehicle maintenance. The applicant applied for a permit for the structure (B20904920) in 2020, but the permit was never issued, and it has since expired. A Code Enforcement citation was issued on February 2024 (CE#: 635538) to obtain the required permit for the installation of a carport structure on the southeast corner of the lot or remove the structure. A new permit will be required. The other unpermitted structures referenced above were identified by County staff during the site visit. Further, the site's entrance gate includes a design, which is considered signage and prohibited according to Sec.31.5-14(14).

The proposal is to allow the existing 1,220 sq. ft., 19.25 ft. tall carport structure to remain with an 8.5 ft. east front setback in lieu of 35 ft., and south side setback of 8.9 ft. in lieu of 25 ft., requiring Variances #1 and #2. Although the cover letter states the carport structure is 1,380 sq. ft., 20 ft. tall the dimensions on the floor plan equate to 1,220 sq. ft. and the elevation plans show a height of 19.2 ft. Also proposed is to allow the existing shed to remain 5 ft. from the south side property line in lieu of the required 25 ft. setback, requiring Variance #3. The existing 1,377 sq. ft. storage structure, originally built in 1945 as a garage for the single-family residence, has a 12.8 ft. north side setback in lieu of the required 25 ft. Variance #4 recognizes the existing non-conforming condition.

As they are not included as part of the Variance requests, the other unpermitted improvements to the property will either need to be permitted or removed, which is addressed by Condition of Approval #5. Staff is recommending denial of Variances #1, #2, and #3 since the structures could be relocated to comply with the required setbacks, and had permits been submitted for the structures, changes could have been made to comply with the code. There is sufficient space elsewhere on the property for the structures to be moved where they would meet code. However, staff recommends approval of Variance #4 since the existing structure has been in the same location for over 79 years.

Additionally, as indicated in the cover letter, the business intends to perform light vehicle maintenance in the carport structure. Per Sec.38-79 (82) (b), "All paint, body, automotive and mechanical repairs and work shall be conducted and confined within an enclosed structure." Therefore, the carport structure will need to be enclosed where vehicle maintenance is conducted.

The Orange County Environmental Protection Division has reviewed the request and has no objections but noted that all property development requirements will have to be met during permitting process. The request was routed to all other relevant reviewing Divisions. There were no objections noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff has determined that Variances #1, #2, and #3 do not meet all the criteria, therefore staff is recommending denial of those Variance requests. Based on staff analysis the structures could be relocated to meet code. However, staff has determined that Variance #4 meets all the criteria, therefore staff is recommending approval of that Variance request.

## District Development Standards

	Code Requirement	Proposed
Max Height:	50 ft. or 35 ft. within 100 ft. of any residential district	19.2 ft. (carport structure)

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

	Code Requirement	Proposed
Front:	35 ft.	8.5 ft. carport structure (East – Variance #1)
Rear:	25 ft.	276.2 ft. carport structure (West)
Side:	25 ft., 50 ft. when abuts any residential district	8.9 ft. carport structure (South – Variance #2) 5 ft. shed (South – Variance #3) 12.8 ft. storage structure (North -Variance #4)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### Special Conditions and Circumstances

Not Met-Variations #1, #2, and #3: There are no special conditions or circumstances as there are other options to relocate the structures to a location that will meet code, eliminating the need for the Variations.

Met-Variance #4: The special condition and circumstance particular to the subject property is the age of the storage structure, originally built as a garage in 1945 prior to zoning regulations, which has been in the same location since construction.

#### Not Self-Created

Not Met-Variations #1, #2, and #3: The requests are self-created since there are alternatives available to relocate the structures to a location that will meet code, and the structures were installed without a permit.

Met-Variance #4: The request is not self-created since the owner is not responsible for the existing location of the storage structure for over 79 years.

#### No Special Privilege Conferred

Not Met-Variations #1, #2, and #3: Granting the Variations as requested would confer special privilege since all the developed properties in the surrounding area appear to contain structures that meet zoning setbacks, and no Variations have been granted.

Met-Variance #4: Due to the orientation of the storage structure and the year built, granting the requested Variance will not confer any special privilege conferred to others under the same circumstances.

#### Deprivation of Rights

Not Met-Variations #1, #2, and #3: There is no deprivation of rights since there is plenty of room on the property to build a conforming structure, and there are other options available.

Met-Variance #4: Approval of the request will allow the recognition of the existing location of the storage structure since 1945 and would allow for reconstruction in the same location in the event it would need to be reconstructed or replaced.

#### **Minimum Possible Variance**

Not Met-Variations #1, #2, and #3: The requests are not the minimum possible as the site provides sufficient space to relocate the structures to meet the required setbacks.

Met-Variance #4: Due to the existing setbacks and location of the storage structure, the Variance is the minimum possible.

#### **Purpose and Intent**

Not Met-Variations #1, #2, and #3: Approval of the requested Variances will not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The existing location of the unpermitted structures is not compatible with the surrounding area.

Met-Variance #4: Approval of the requests will be in harmony with the purpose and intent of the Code since the request will allow the existing north side setback to remain, the proposed request will not be detrimental to the surrounding area.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan date stamped November 18, 2024, and elevations date stamped August 30, 2024, as modified, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the carport structure and shed within 180 days of final action on this application by Orange County or this approval becomes null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a permit for the carport and shed, the signage located on the entrance gate shall be removed, and a permit shall be obtained for the storage containers and portable bathroom in a code compliant location, or they shall be removed.
6. The carport structure shall be enclosed to meet code requirements upon permit completion.

C: Victor Rodriguez  
5950 Hazeltine Nation Drive, Suite 680  
Orlando, Florida 32822



Orlando Trucking  
Lisma Logistics Inc.

August 30, 2024

**LISMA LOGISTICS INC.**  
4800 Patch Road  
Orlando, Florida 32822  
407-999-6393  
info@lismalogistics.com

## VARIANCE REQUEST LETTER

### ORANGE COUNTY ZONING DIVISION

201 South Rosalind Avenue, 1st

Floor, Orlando, Florida 32801

Phone: (407) 836-3111

Email: BZA@ocfl.net

www.ocfl.net

Application – Board of Zoning Adjustment

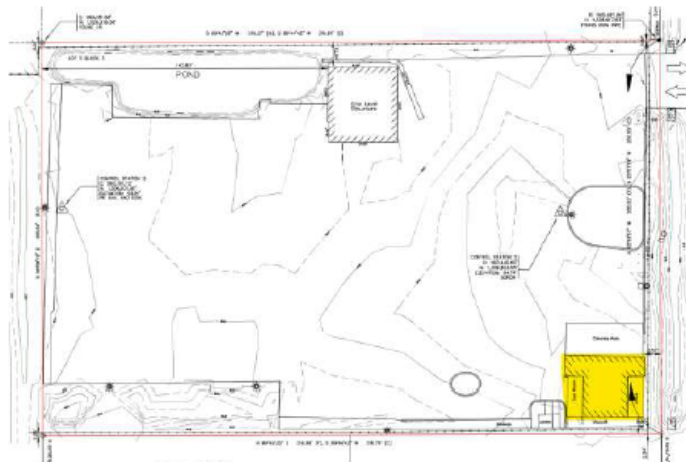
Variance, Special Exception, and Appeal of Zoning Manager's Determination

We are writing to submit our application for a Zoning Variance for the construction of a Carport and 2 Storage Containers on my property located at and Parcel ID#:

- 4800 Patch Road, Orlando FL 32822
- 14-23-30-5240-03-053.

Below, I have provided the necessary details as requested:

- **Request:** we are seeking approval for the construction of a Carport and 2 Storage Containers on an Industrial IND-1 / IND-5 zoning parcel. The proposed construction is necessary for vehicle light maintenance for the regular operation of the business.  
The Carport is on an existing concrete slab and due to the nature of the business, the space of the lot is required for the safe transit and turning of the trucks.  
The location of the carport is the best location for the regular operation of the business. Additional there is an existing house that is intended to be renovated to be the main office of the building.



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## COVER LETTER

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- **Type of Construction Proposed:** The proposed construction is a non-permanent structure and is made of metal and steel.



- **Square Footage:** The proposed construction occupies approximately 1,380 sq ft.
- **Proposed Dimensions:** The dimensions of the proposed construction are 46ft by 30 ft.
- **Distance from Property Lines:** The proposed construction and existing slab will allow the Carport installation at 8.5 feet from the front of the property line and at 8.9 feet from the left side of the property line. This is an Industrial IND-1 / IND-5 zoning parcel.
- **Proposed Height:** The proposed height of the construction is 20 ft height.
- **Numerical Values:** The allowable dimensions for the front yards and Side yards are 35 feet and 25 feet respectfully. The request is to allow the Carport installation at 8.5 feet from the front of the property line and at 8.9 feet from the left side of the property line. At the front yard, the carport is at 25.80 feet to the edge of road.

Furthermore, I have provided justification for how the proposal meets the six standards for variance approval as outlined in Section 30-43(3) of the Orange County Code:

**Special Conditions and Circumstances:** Special conditions exist on our property; the nature of our business requires a large space for the maneuvers of the trucks safely. The location of the carport is the best location for the regular operation of the business. Additional there is an existing house that is intended to be renovated to be the main office of the building. These conditions necessitate the variance to achieve a reasonable use of the land while maintaining compliance with zoning regulations.

**Not Self-Created:** The special conditions and circumstances leading to this variance request are not a result of our actions. We have not created the hardship I am seeking relief from. There was an existing concrete Slab and what we have done is to install a Non-Permanent Structure; a carport with 2 containers; one at each side of the carport.

**No Special Privilege Conferred:** Approval of this variance will not grant us any special privileges denied to other properties in the same zoning district. It is necessary for the reasonable use of my property.

---

## COVER LETTER

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**Deprivation of Rights:** A strict, literal interpretation of the zoning provisions would result in the deprivation of the full potential use of the land/parcel without conferring any additional rights. Granting the variance is essential to prevent unnecessary and undue hardship, ensuring the regular operations of the business can proceed under standard conditions. It enables the reasonable utilization of the property while maintaining compliance with zoning regulations. This adjustment emphasizes that the variance is necessary to prevent hardship without bestowing any additional rights beyond what is commonly enjoyed by other properties in the same zoning district. It highlights the need for variance to ensure the smooth operation of the business within the framework of zoning regulations.

**Minimum Possible Variance:** The variance requested is the minimum necessary to achieve reasonable use of the land while complying with zoning regulations.

**Purpose and Intent:** Approval of the variance will be in harmony with the purpose and intent of the Zoning Regulations. It will not be injurious to the neighborhood or detrimental to public welfare.

We trust that the Board of Zoning Adjustment will consider our application favorably.

Should you require any additional information or clarification, please do not hesitate to contact us.

Thank you for considering my request.

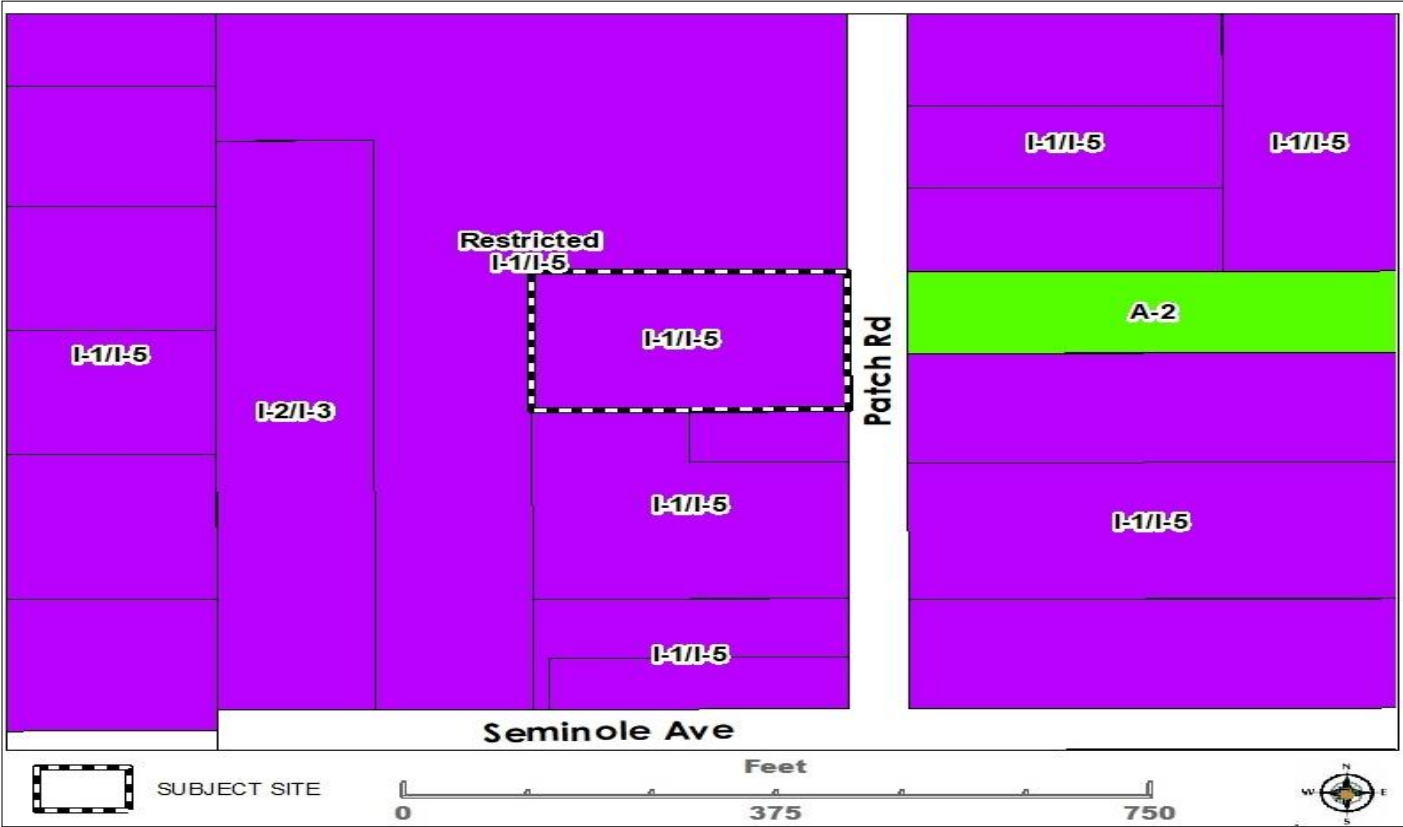
Sincerely,

VICTOR Rodriguez, President  
954-665-6655  
info@lismalogistics.com

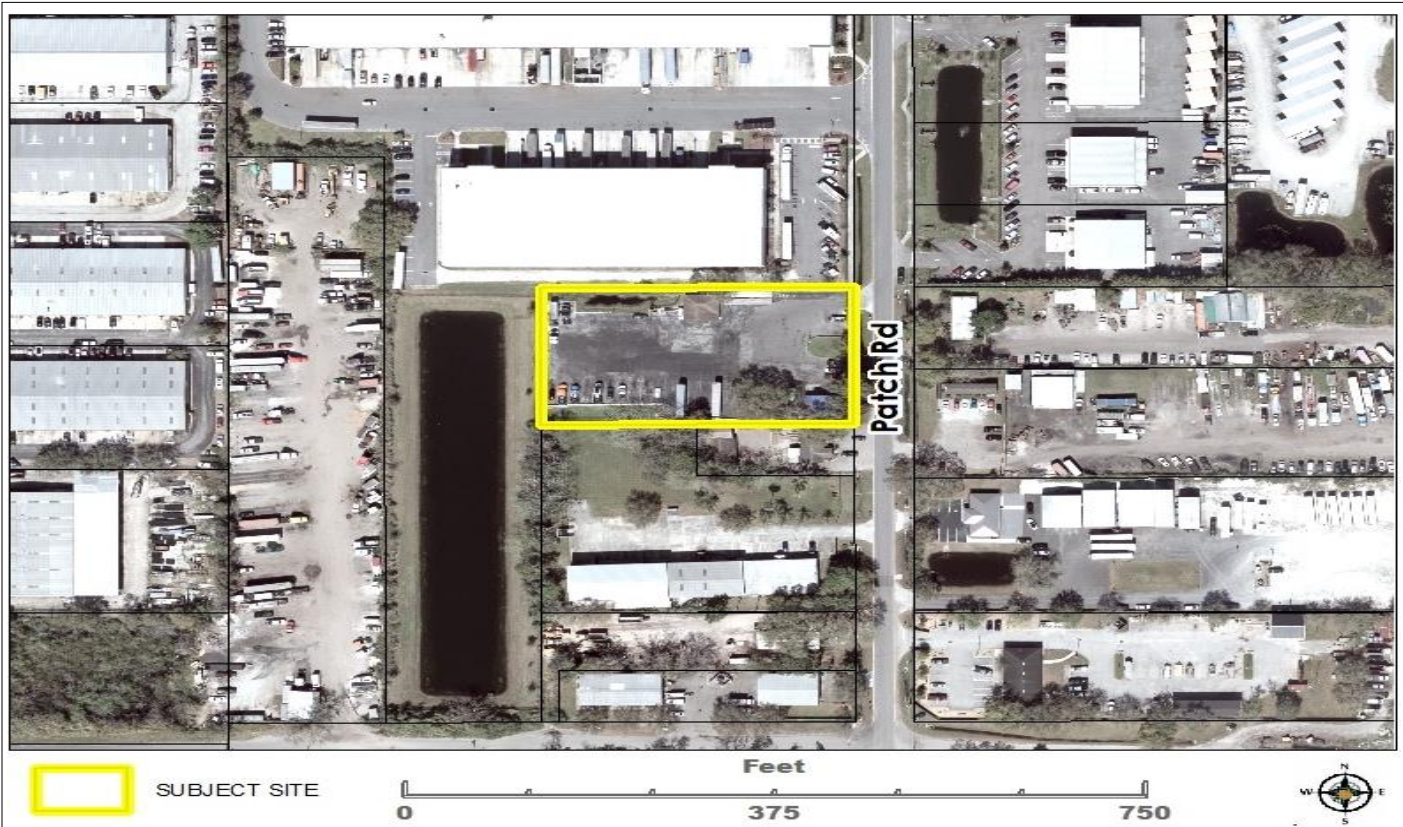
LISMA LOGISTICS INC.  
4800 Patch Road  
Orlando, Florida 32822



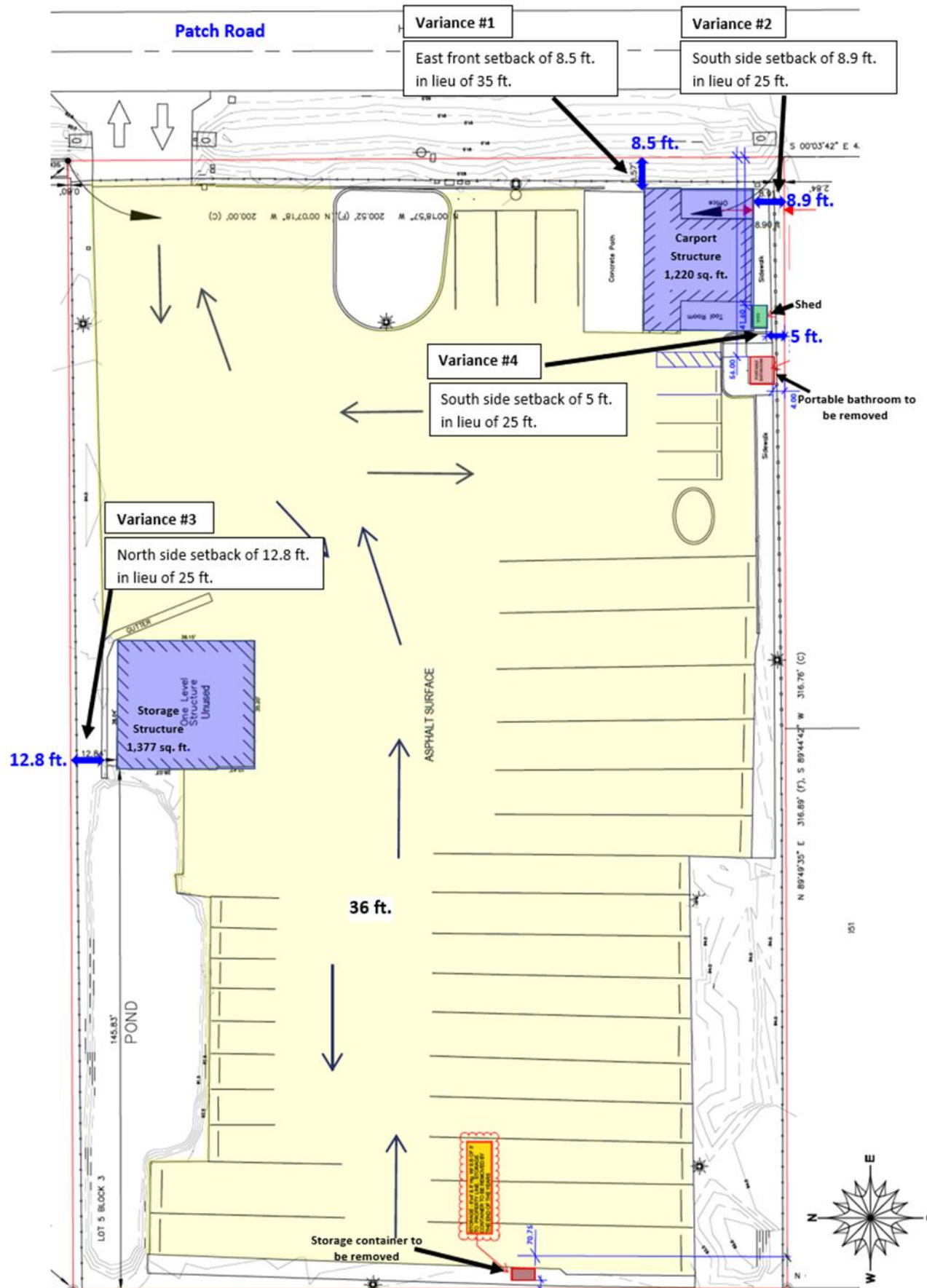
ZONING MAP



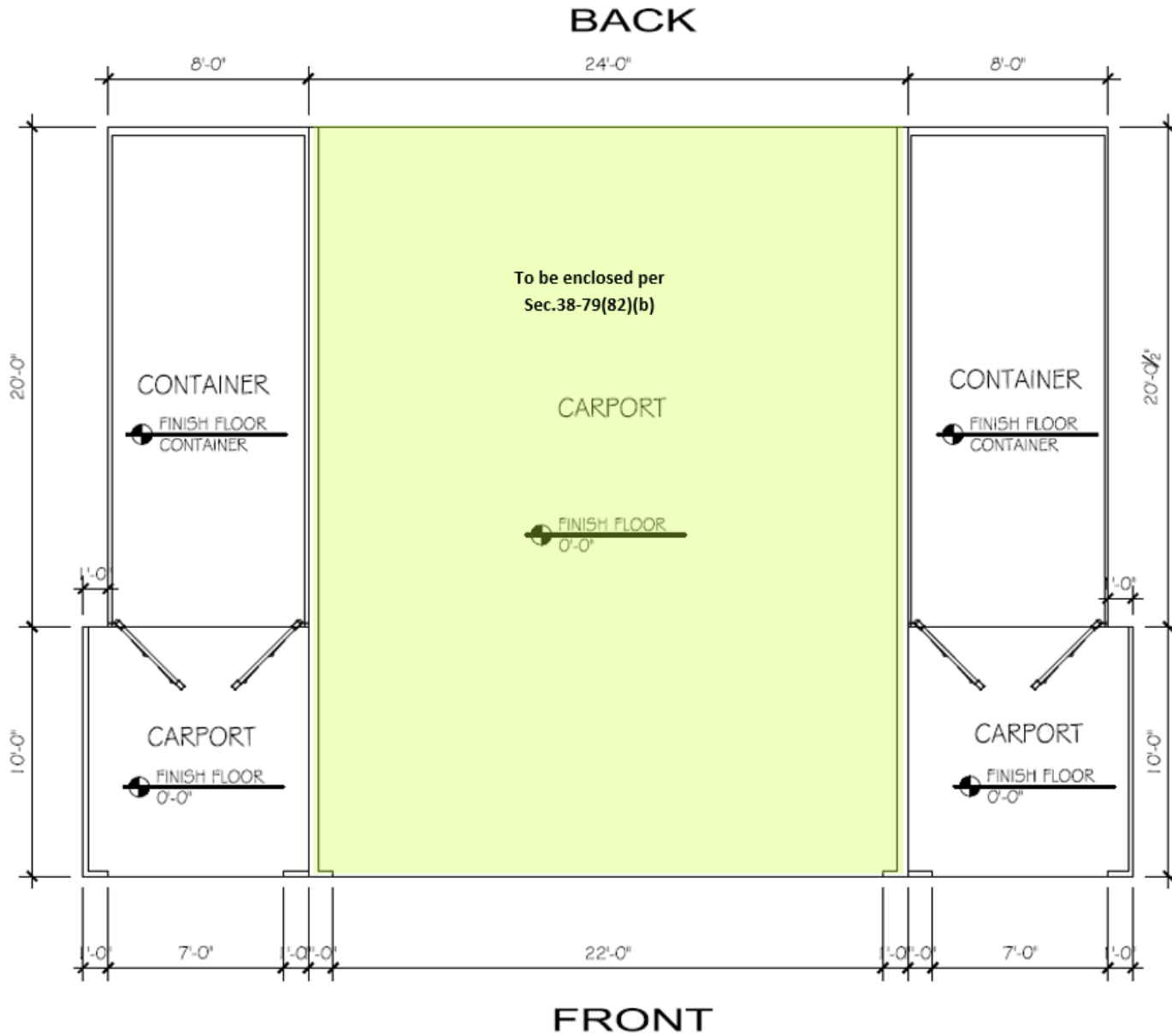
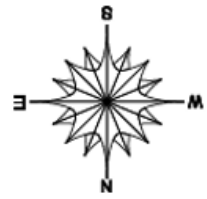
AERIAL MAP



# SITE PLAN

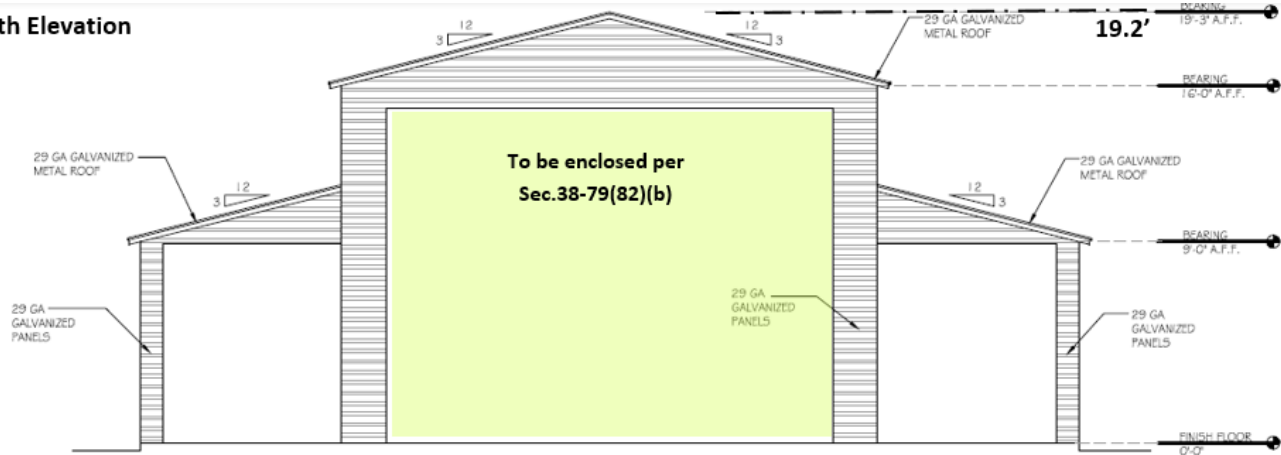


## FLOOR PLAN FOR EXISTING CARPORT STRUCTURE

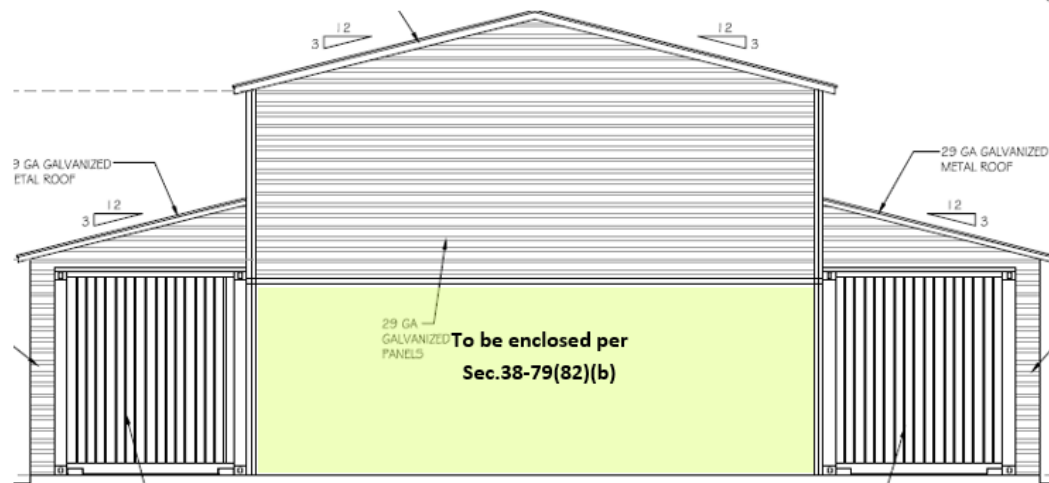


## ELEVATIONS FOR EXISTING CARPORT STRUCTURE

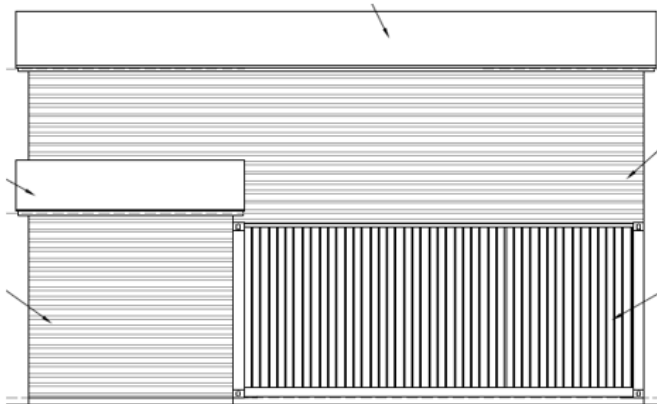
North Elevation



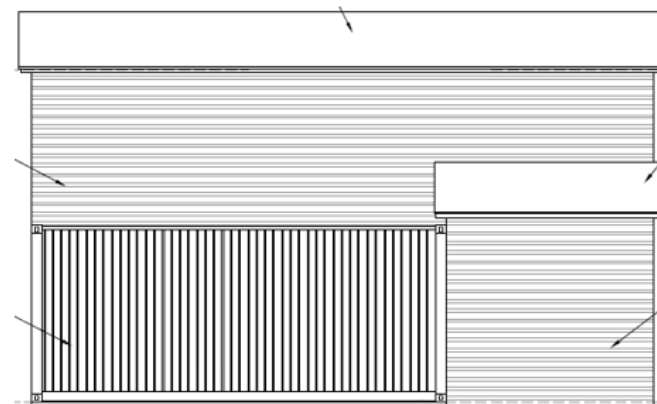
South Elevation



West Elevation



East Elevation

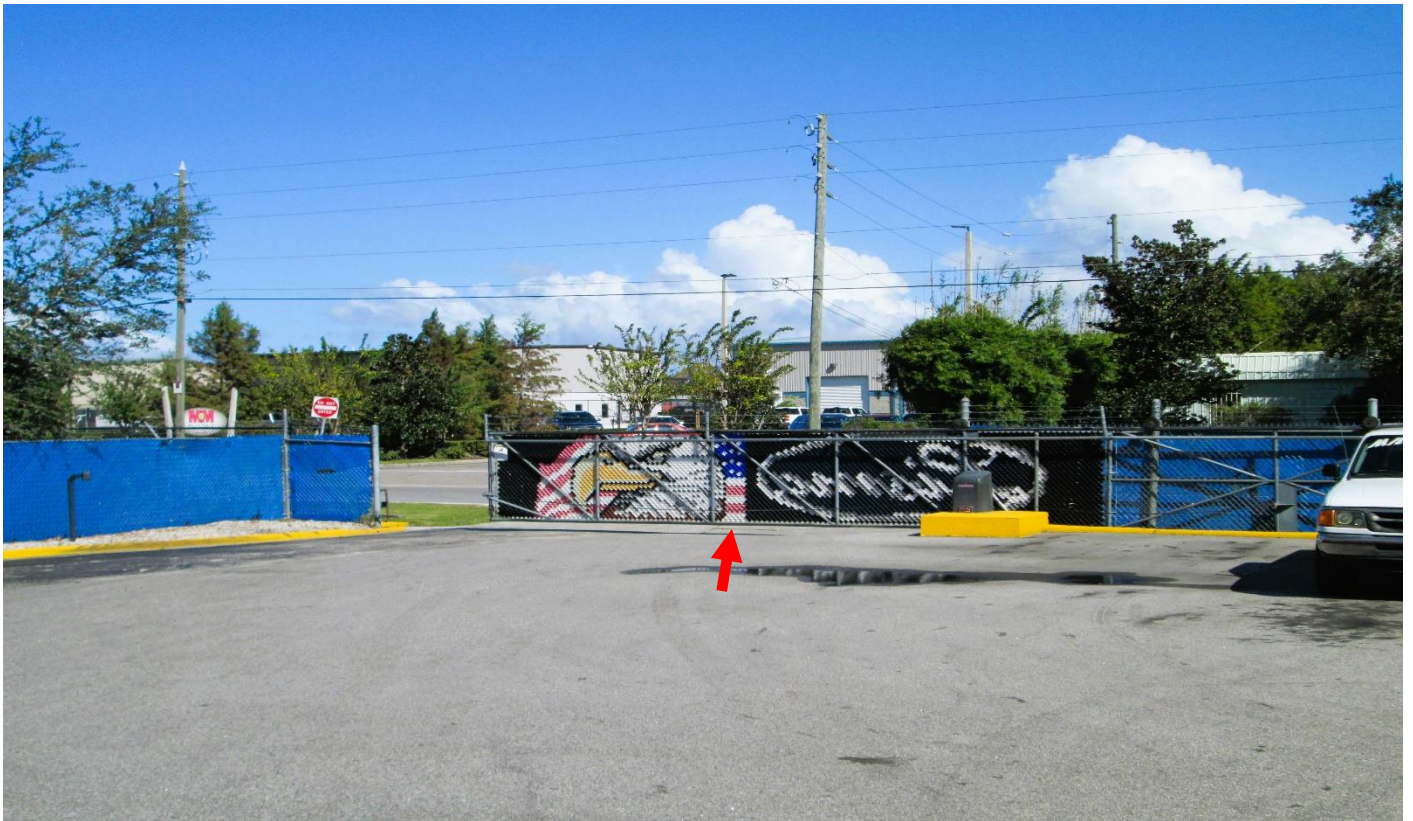




## SITE PHOTOS



**Facing west from N. Patch Rd. towards front of subject property**



**Facing east towards gate entrance signage to be removed**



## SITE PHOTOS



Storage Container  
to be removed

Existing Structure  
(1,377 sq. ft.)

Facing west towards existing structure and storage container



Facing south towards carport structure



## SITE PHOTOS



Facing south towards front of carport structure



Facing west towards shed



## SITE PHOTOS



**Facing south towards portable bathroom to be removed**



**Facing west towards storage container to be removed**



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**SITE PHOTOS**

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**Facing east towards parking area**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 02, 2025**

Commission District: **#2**

Case #: **SE-25-01-127**

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

## GENERAL INFORMATION

**APPLICANT(s):** VAN JOHNSON FOR THE PLACE OF GRACE CHURCH

**OWNER(s):** AXTEGRITY CONSULTING LLC

**REQUEST:** Special Exception in the R-1A zoning district to allow a daycare with 48 children.

**PROPERTY LOCATION:** 5230 Indian Hill Road, Orlando, FL 32808, south side of Indian Hill Rd., west of N. Pine Hills Rd., north of Silver Star Rd., east of N. Powers Dr.

**PARCEL ID:** 07-22-29-5844-00-740

**LOT SIZE:** +/- 4.87 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 149

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by John Drago, Second by Chris Dowdy; unanimous; 5 in favor: Chris Dowdy, John Drago, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Juan Velez; 1 vacant):

1. Development shall be in accordance with the site plan date stamped December 6, 2024, as modified, 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 zoning approval for the business tax receipt, the dumpster shall be permitted in compliance with the code or removed.

5. Permits for the ground sign and fence shall be obtained within 180 days or they shall be removed.
6. Hours of operation for the day care shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m.
7. The maximum number of children for the daycare shall not exceed 48.
8. Prior to the issuance of the zoning approval for the business tax receipt, a site work permit shall be obtained to bring the parking lot into compliance with the code.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that eight (8) comments that includes one (1) duplicate and one (1) unmapped were received in favor of the request, and no comments were received in opposition to the request.

The applicant agreed with 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 Special Exception by a 5-0 vote, with one (1) absent and one (1) seat vacant, subject to the eight (8) conditions found in the staff report.

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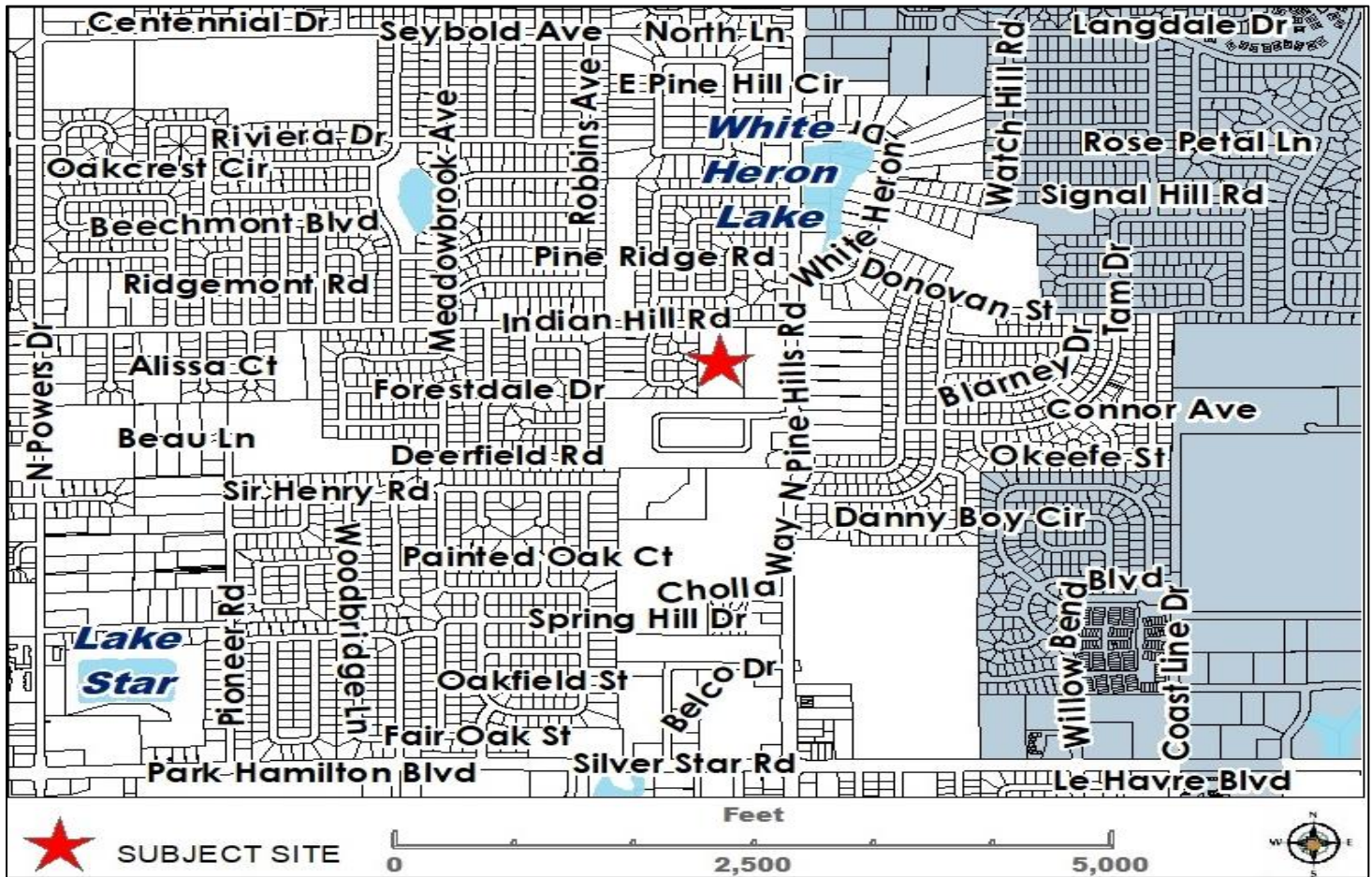
#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.



## LOCATION MAP



## SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-3	R-3	R-1A
Future Land Use	LDR	LDR	MDR	LDR	LDR
Current Use	Religious Institution	Single-Family Residential	Multi-Family	Multi-Family	Single-Family Residential

## BACKGROUND AND ANALYSIS

### DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures. Certain non-residential uses, such as churches and daycares are permitted through the Special Exception process. 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 and multi-family residential uses. The site is currently developed with a 7,569 gross sq. ft. church which includes a 3,060 sq. ft. sanctuary, classrooms, a multi-purpose room, and offices. The site also contains a 2,287 sq. ft. dwelling unit, a 100 sq. ft. shed, a playground surrounded by an unpermitted 6 ft. tall chain link fence, and a paved parking lot with 31 spaces. At the time of the site visit

there were unpermitted signs including two flag signs and 3 banner signs, which have since been removed. There is also an unpermitted ground sign. According to Orange County Zoning Division records, the property has been used as a church since prior to the adoption of the Zoning Code in 1957. The existing hours of operation for church services are Sunday from 11:00 a.m. to 1:00 p.m. and Tuesday from 7:00 p.m. to 8:30 p.m.

The request is to allow a day care to be operated within the existing church building, utilizing the existing infrastructure. The proposed day care is for up to 48 children, ranging from infants to 5 years of age, and will have 7 staff members. The day care operating hours will be from 7:00 a.m. to 5:00 p.m., Monday through Friday. Parking requirements for the subject property are as follows:

Type	Parking Requirement	Number of Attendees, Classrooms or Seats	Number of Employees	Required # of Spaces
Daycare	1 space for each 10 children, plus with a pickup and drop-off area one space for each 10 children	48 Attendees	N/A	10
Religious Institution	1 space for each 3 patrons, plus 1 space per employee	85 Patrons	1	30
Single Family Residence	2 spaces per unit	N/A	N/A	2

There are a total of 31 spaces provided onsite and the parking demands of each operation occur at different times. As a result, the parking requirements are met.

The existing dumpster located between the south parking area and exit drive aisle is required to be screened from public view by a masonry wall at a minimum of six (6) feet high per Sec.9-560 (b) of the Orange County Code. Additionally, permits shall be obtained for the unpermitted ground sign and fence as required in Condition of Approval #5 or they shall be removed.

The Orange County Transportation Planning has reviewed the request and indicated that all roadway segments are projected to operate within their adopted capacity upon addition of project trips. Additionally, a traffic study may be required prior to obtaining a capacity encumbrance letter and building permit.

The request was routed to all relevant reviewing Divisions. There were no objections noted.

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

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff has determined that this request meets all the criteria, therefore staff is recommending approval.

**SPECIAL EXCEPTION CRITERIA****Consistent with the Comprehensive Plan**

Met-The provision of daycares as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

Met-The daycare use will utilize existing structures located on an existing developed site, which contains existing landscaping and buffers, and as such will be similar and compatible with the surrounding area.

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

Met-The proposed use will be located in an existing building on the property, with no modifications to buildings or parking area proposed, and as a result will not be detrimental in the surrounding area.

**Meet the performance standards of the district**

Met-All structures on the property currently meet the performance standards of the zoning district. The required parking for the day care use will be satisfied by the existing improvements.

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

Met-There are not any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the other uses in the surrounding area.

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

Met-The proposed landscaping and onsite tree preservation will be in compliance with Section 24-5 Landscaping, Buffering, and Open Space and Article VIII. Tree Protection and Removal of Orange County Code.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan date stamped December 6, 2024, as modified 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 zoning approval for the business tax receipt, the dumpster shall be permitted in compliance with the code or removed.
5. Permits for the ground sign and fence shall be obtained within 180 days or they shall be removed.
6. Hours of operation for the day care shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m.
7. The maximum number of children for the daycare shall not exceed 48.
8. Prior to the issuance of the zoning approval for the business tax receipt, a site work permit shall be obtained to bring the parking lot into compliance with the code.

C: Van Johnson  
825 McCullough Avenue, Apt.311  
Orlando, Florida 32803-7226

C: Marcus Jacson  
5230 Indian Hill Road  
Orlando, Florida 32808

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**VAN JOHNSON**

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SONOFJOHN.V@HOTMAIL.COM  
EMAIL



(305) 877-7964  
MOBILE PHONE

825 MCCULLOUGH AVENUE  
APARTMENT #311  
ORLANDO, FL 32803

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**ORANGE COUNTY - ZONING DIVISION**  
201 SOUTH ROSALIND AVENUE - ORLANDO, FL – 32801

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November 6, 2024

**RE: THE PLACE OF GRACE CHURCH**  
BZA APPLICATION FOR SPECIAL EXCEPTION

**OWNER: Axtegrity Consulting, LLC/ Keith Odom**  
**PARCEL ID: 07-22-29-5844-00-740**

**TO:** Orange County, Chief Planner – Zoning Division

**PURPOSE OF THE REQUEST**

The Owner desires to lease some of its existing office/ classroom space and fellowship hall to a local Daycare Services Provider. The current zoning (R1-A) does not permit the desired use. In residential districts R-3 is the only zoning classification that will permit the desired use. After a survey and analysis of existing space by a licensed architect, it was determined that the Owner will be able to accommodate up to 48 pre-school age children as follows:

- (a) 14 infants & toddlers (aged 6 to 23 months)
- (b) 11- 2 year olds
- (c) 12- 3 year olds
- (d) 11- 4 to 5 year olds

The daycare will make use of the existing church toilet facilities, warming kitchen and multi-purpose room to serve breakfast, snacks and lunch. They will also use the existing playground for outdoor activities. The Daycare will be staffed with five (5) teachers, a director and assistant director. The hours of operation will be 7:00 am to 5:00 pm, Monday thru Friday. The church's regularly scheduled service times are Sunday 11:00 am to 1:00 pm and Tuesday 7:00 pm to 8:30 pm. All other uses by the church will be held on Saturday (occasionally) and random weekdays after 6:00 pm.

**EXISTING STRUCTURES & USES ON-SITE**

- 1) **Church Sanctuary** 3060 sf (approx. 250 un-fixed seats) 2 story
- 2) **Fellowship Hall w/ Kitchen & Restrooms** (1687sf) 1 story
- 3) **Office/ Classroom Wing** 2822 sf 1 story
- 4) **Outdoor Court Yard** 2972 sf (uncovered)
- 5) **31 Car Parking Lot** (paved with drop-off)
- 6) **Private Residence** 2287 sf
- 7) **Children's Playground** 2532 sf (enclosed w/ 6' chain-link fence)
- 8) **Vacant Lot** 327' x 380' (124,260 sf) = 2.85 acres (suitable for development of affordable housing).



**BZA APPLICATION FOR SPECIAL EXCEPTION**  
5230 INDIAN HILL ROAD, ORLANDO FLORIDA, 32808  
THE PLACE OF GRACE CHURCH: 07-22-29-5844-00-740

NOVEMBER 6, 2024

**NO NEW CONSTRUCTION**

There are no plans to expand, renovate or build additions to any of the existing structures or uses mentioned above. The proposed use (child daycare center) will not require the installation of new signage. The daycare center will be operated within the physical confines of items 2, 3, 5 & 7 described above. The daycare services provider will be restricted from using the sanctuary, private residence and the vacant lot for its day-to-day operations. Also, the daycare hours of operation **will not overlap** with activities scheduled by the church. All weekday uses by the church are scheduled in the evening after 6:00 pm.

**PARKING REQUIREMENTS & VEHICULAR CIRCULATION**

The existing paved parking lot mentioned above consists of thirty-one (31) 9' x 18' parking spaces (striped at 45° degrees). Two (2) of the parking spaces are provided as required for ADA (designated "H" for handicap). The one-way entrance to the parking lot is located off of Indian Hill Road (14 feet wide) and runs parallel to the east property line. A 14 foot one-way travel lane is provided for double loaded parking stalls in accordance with **Section 38-1476 (Figure 1: Off-Street Parking Design Standards)**. The one-way exit from the parking lot is also 14 feet wide. It runs parallel to the west property line and terminates at Indian Hill Road. A drop-off area (equivalent to the size of two (2) parking spaces) has been provided. Parking Spaces designated "D" on the Site Plan (drawing AB.1), are for exclusive use of the proposed Daycare Center. According to **Orange County Code: Section 38-1476:**

*"provide 1 space for each 10 children, plus with a pick-up and drop-off area one space for each 10 children or without a pick-up or drop-off area one space for each 5 children"*

The Proposed Daycare can accommodate up to 48 pre-school aged children. Therefore, 10 spaces have been allocated to meet code requirements.

**LANDSCAPE BUFFERING & OPEN SPACE**

On October 22, 2024, Senior Arborist, Matthew Melvin wrote:


*"In accordance with Section 24-3 (c & d) a landscape plan is not necessary if you are not expanding the existing building in any way. If you are adding any new vehicular use areas, a landscape plan would be needed for those same areas, however. As for the existing tree inventory, it would be necessary if any existing trees are in conflict with the proposed scope of work."*

As a result of the above written observations (made by Matthew Melvin) and statements made at the pre-application meeting held Monday, October 28, 2024. We concur with the following:

- 1) Since there are no plans to expand the existing facilities to accommodate the proposed child daycare use, **a landscape plan will not be required.**
- 2) Since there are no existing trees in conflict with the proposed daycare use, **an inventory of existing trees will not be required.**
- 3) The existing property set-backs, landscape, fencing, trees and buffers will not have any impact upon the proposed use.







**BZA APPLICATION FOR SPECIAL EXCEPTION**  
5230 INDIAN HILL ROAD, ORLANDO FLORIDA, 32808  
THE PLACE OF GRACE CHURCH: 07-22-29-5844-00-740

NOVEMBER 6, 2024

**JUSTIFICATION FOR THE REQUEST**

The Owner's request for a Special Exception is justified because it satisfies all six (6) standards of the Special Exception Criteria stipulated in the Orange County Code (Section 38-78) as follows:

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

This requested change to permit the use of a Child Daycare Center on the subject property referenced above is consistent with the **Orange County, Florida Comprehensive Plan 2010-2030**, goals, objectives and policies (*adopted May 19, 2009; amended May 10, 2022 through ordinance 2022-18; effective July 1, 2022*).

The request is consistent with the **FUTURE LAND USE ELEMENT**:

**GOAL FLU1: URBAN FRAMEWORK**

*"Orange County shall use urban densities and intensities and Smart Growth tools and strategies to direct development to the Urban Service Area and to facilitate such development. The Urban Service Area shall be the area for which Orange County is responsible for providing infrastructure and services to support urban development. (Added 12/00, Ord. 00-25-r, Obj. 1.1)"*

**OBJ FLU1.1 "Direct development to the Urban Service Area"**

The requested use is located within the boundaries of the Orange County Urban Service Area and is consistent with the following policies:

**FLU1.1.1 "Urban uses shall be concentrated within the Urban Service Area"**

The requested use is for authorization to lease existing space at the church, which is consistent with the policy to "concentrate uses".

**FLU1.1.5** *"Orange County shall encourage mixed-use development, infill development, and transit-oriented development to promote compact urban form and the efficient use of land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County's desired urban framework".*

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

**GOAL FLU8: IMPLEMENTATION**

*"Orange County shall use its codes and ordinances to implement the goals, objectives and policies of the Comprehensive Plan consistent with the health, safety and welfare of the general public".*

**OBJ FLU 8.2 "Compatibility will continue to be the fundamental consideration in all land use and zoning decisions".**

The requested use is similar and compatible with the surrounding area and is consistent with the pattern of surrounding development. The subject property is surrounded by single-family homes to the north and west, zoned R-1A and designated LDR. Directly adjacent to the east of the subject property (at the intersection of Indian Hill Road & N. Pine Hills Road) is the location of National Church Residences, a multi-family senior housing complex zoned R-3 and designated MDR since August 16, 1990. Immediately adjacent to the south property line of the subject property is more multi-family housing (The Villas at Pine Hills II), 5200 Champagne Circle, also zoned R-3 and designated MDR. Clayhouse Academy (a licensed daycare provider) is located less than a quarter (¼) mile from the subject property (3615 N. Pine Hills Road) and is zoned R-3.



**BZA APPLICATION FOR SPECIAL EXCEPTION**  
 5230 INDIAN HILL ROAD, ORLANDO FLORIDA, 32808  
 THE PLACE OF GRACE CHURCH: 07-22-29-5844-00-740

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Another licensed daycare (Irene's Christian Academy) is located at 3403 N. Pine Hills Road, which is affiliated with the **First Baptist Church Ebenezer of Orlando, Inc.** Another (Champs Learning Center Inc., LLC) is located at 3207 N. Pine Hills Road. There are five (5) other churches located less than ½ mile from the subject property on the east side of N. Pine Hills Road as follows:

- 1) Apostolic Faith Mission of Portland Oregon (3203)
- 2) First Gospel Assembly of Orlando, Inc. (3511)
- 3) Missionary Christian Shield of Faith Church (3521)
- 4) Ambassador Gospel Assembly of Orlando, Inc. (3623)
- 5) Vermisseau Church of Jacob Inc. (3701)

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

This request is consistent with the **URBAN DESIGN ELEMENT:**

**GOAL UD3: SMART GROWTH**

*"Orange County will encourage infill and redevelopment strategies for adaptive reuse and rehabilitation of existing structures to maximize infrastructure investments".*

**OBJ UD3.1** *Infill and redevelopment projects should take into consideration the pre-existing residential "fabric" of the immediate and surrounding neighborhoods and ensure that such projects are compatible with their surrounding uses.*

The subject property is a church, built in the 60's for worship, and to accommodate its educational ("Sunday School") and community outreach programs. In many churches the educational and multi-purpose space is underutilized (used only on Sunday and occasionally on Saturday). The owners of this facility have every intention to be "good stewards" and to optimize the use of all available resources. The existing improvements, buffers and infrastructure are sufficient to support the intended use without concerns for detrimental intrusion.

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

**OBJ FLU 8.2 COMPATIBILITY** *"Compatibility will continue to be the fundamental consideration in all land use and zoning decisions".*

The subject property satisfies the performance standards of the district in which the use is requested in accordance with the following **FUTURE LAND USE** policy:

**FLU 8.2.10** *"To ensure land use compatibility with nearby residential zoned areas and protection of the residential character of those areas, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, including but not limited to the following:*

- A. Building height restrictions;
- B. Requirements for architectural design compatible with the residential units nearby;
- C. Floor area ratio (FAR) limitations;
- D. Lighting type and location requirements;
- E. Tree protection and landscaping requirements including those for infill development;
- and
- F. Parking design. (Policy 3.1.33-r)





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The building height, architectural design, floor area ratio, lighting, tree protection, landscaping and parking have all been documented as part of the "As-Built" drawing attachments with this application. All performance standards have been met or exceeded.

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

The requested use is consistent with the **NEIGHBORHOOD ELEMENT**

**GOAL N1:** *Maintain the residential character of neighborhoods through land use regulations.*

**OBJ N1.1** *"Orange County shall ensure that future land use changes are compatible with or do not adversely impact existing or proposed neighborhoods".*

The requested use will be located within the confines of the existing building and grounds and will be consistent with the following policies:

**OBJ N1.1.2** *The County shall ensure that industrial uses that produce or emit loud noises, significant vibrations, or noxious/hazardous waste/fumes are not approved if they have adverse impacts to nearby residential areas, consistent with Future Land Use Policy FLU1.4.24.*

The chatter, play, feeding and education of children indoors (in classrooms) and in an outdoor playground is consistent with the majority of uses currently permitted in the existing R1-A residential district. The requested use **will not** emit loud noises, significant vibrations, or noxious/ hazardous waste or fumes in accordance with the above stated policy.

**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 requested use is consistent with the **CONSERVATION ELEMENT**.

**GOAL C1:** *Orange County shall conserve, protect, and enhance the County's natural resources*

**OBJ C1.12** *Orange County shall protect, preserve and enhance its vegetative resources, including, but not limited to, tree species, emergent and submerged aquatic vegetation. (Added 12/00, Ord. 00-25)*

**C1.12.1** *" Orange County shall augment its protection of vegetated natural resources, including but not limited to the tree protection ordinance. This action would ensure that high quality trees would receive greater protection in the development review process, require preservation of valuable tree species, prohibit indiscriminate clearing, require replacement, and maintenance measures, and establish ratios for replacement if removal is unavoidable. The County shall maintain the existing Tree Protection Ordinance. (Added 12/00, Ord. 00-25)*

All landscape buffer yards will be maintained in accordance with Section 24-5 of the Orange County Code. The subject property maintains the following setbacks from existing property lines:

North 162' from Indian Hill Road ( front of the property)  
 South 425' from rear of the property  
 East 110' from property line adjacent to National Church Residences  
 West 95' from adjacent single family homes







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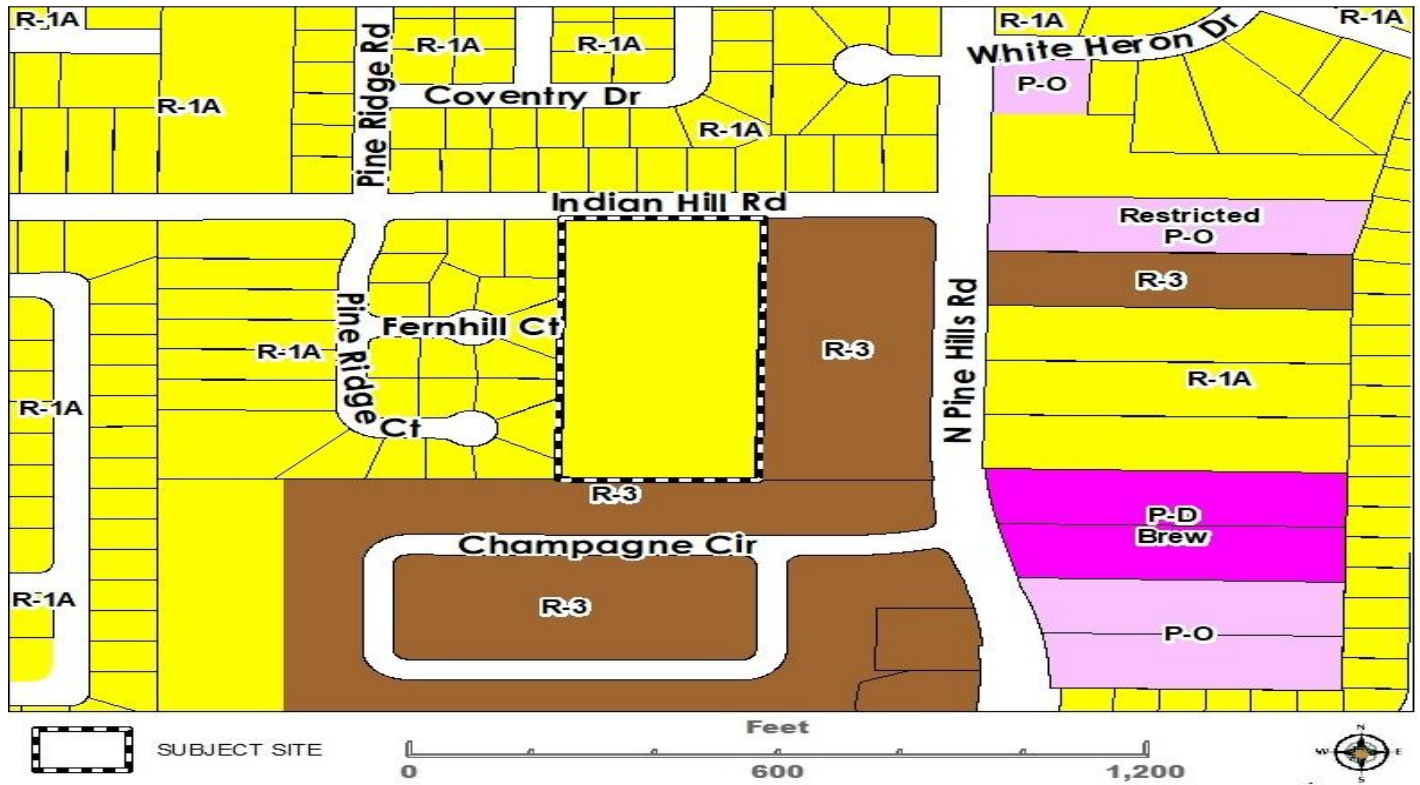
NOVEMBER 6, 2024

The only existing *opaque* landscape buffer is a privacy fence 6 feet high separating the private residences along the west property line. Mature existing trees provide additional screening against the residences to the west and multi-family housing to the south. These existing trees do not conflict with the proposed change of use.

**END OF JUSTIFICATION**



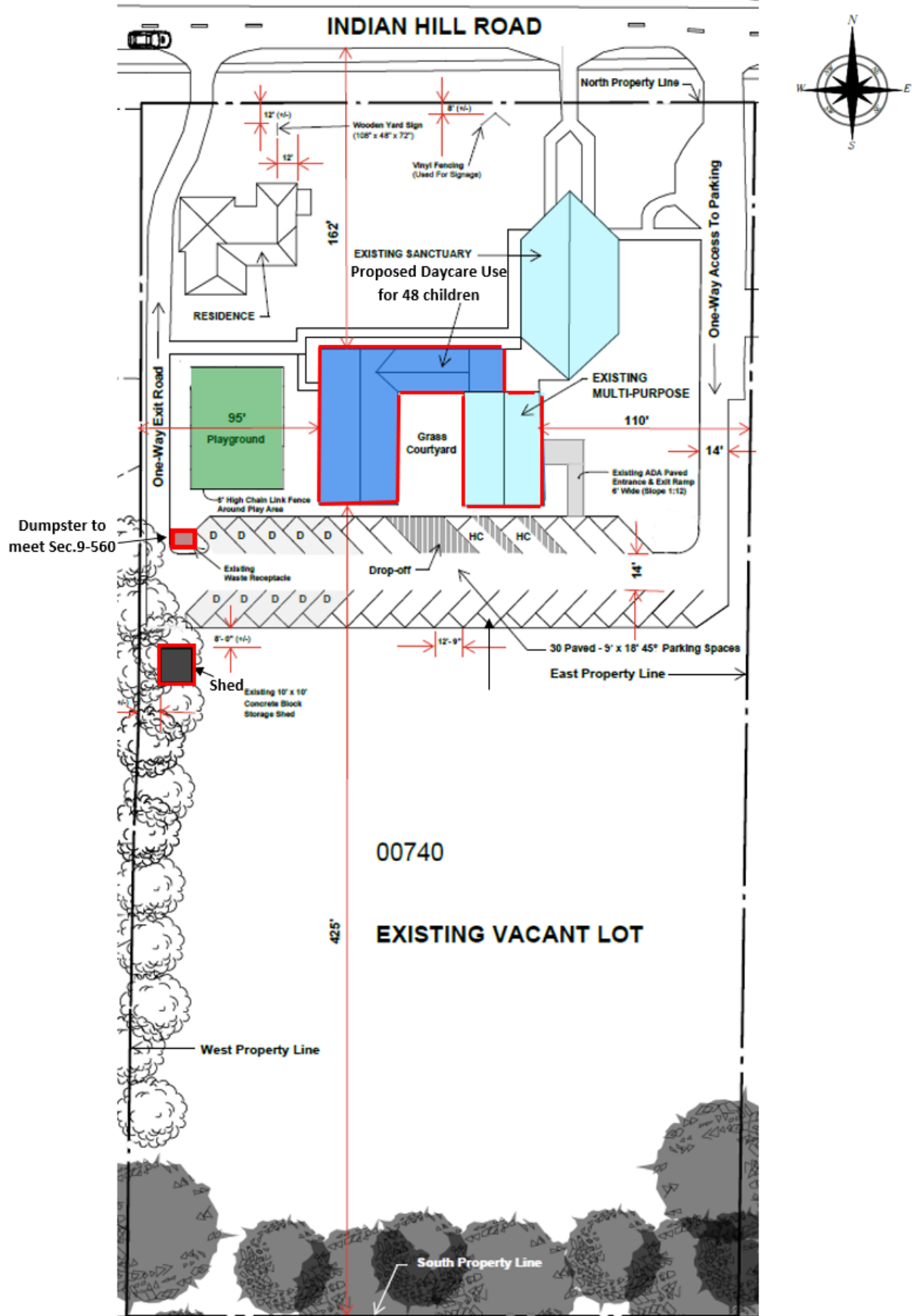
## ZONING MAP



## AERIAL MAP

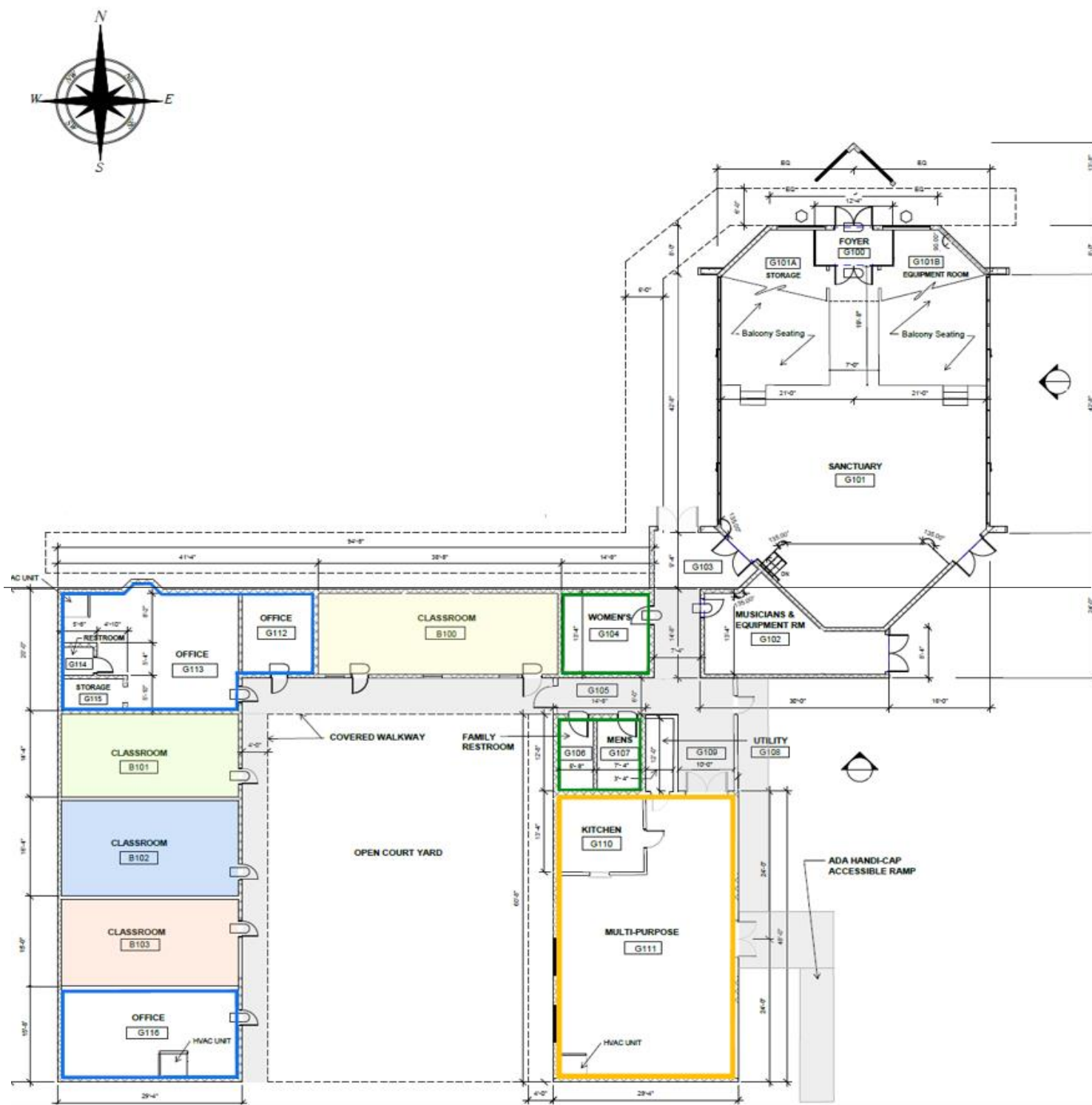


# SITE PLAN

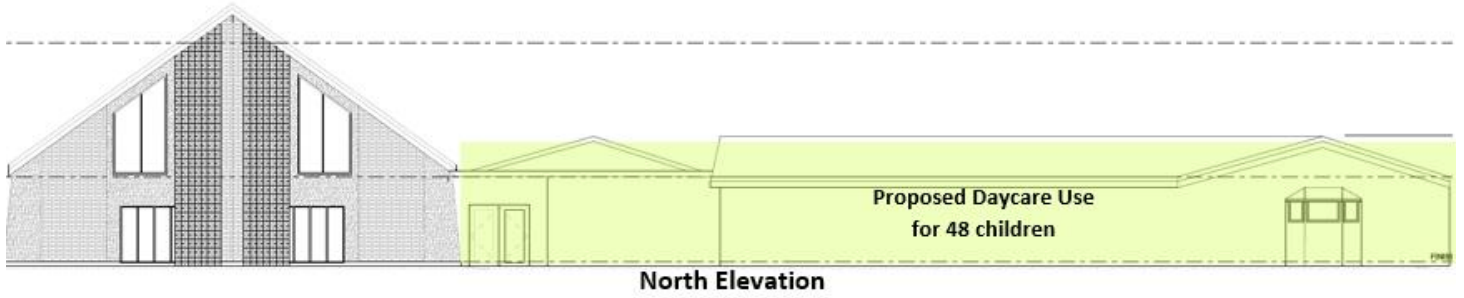




## FLOOR PLAN



## EXISTING ELEVATIONS





## SITE PHOTOS



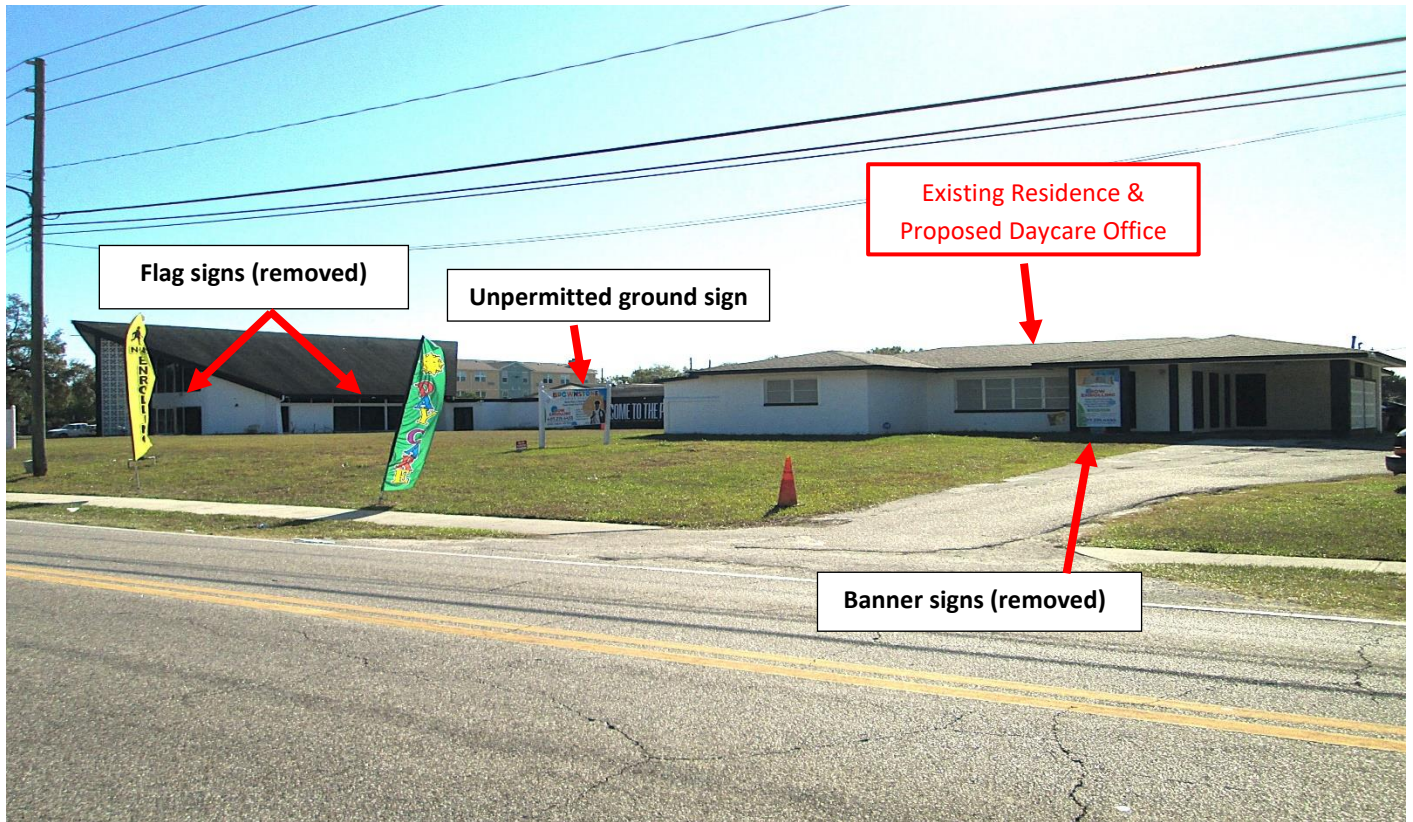
Facing southeast from Indian Hill Rd. towards subject property



Existing religious institution and proposed location of daycare, facing south



## SITE PHOTOS



**Existing residence and proposed location of daycare office, facing southeast**



**Rear of existing church and proposed location of daycare, facing north**



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## SITE PHOTOS

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**Existing playground for proposed daycare, facing northwest**



**Dumpster to be in compliance with code, facing north**



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## SITE PHOTOS

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**Proposed location of daycare pickup and drop-off, facing west**





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