




Interoffice Memorandum

DATE: January 25, 2023

TO: Katie Smith, Deputy Clerk
Board of County Commissioners

THROUGH: Agenda Development BCC

FROM: Jennifer Moreau, AICP
Manager, Zoning Division 

CONTACT PERSON: **Ted Kozak, AICP**
Chief Planner, Zoning Division
(407) 836-5537 or Ted.Kozak@ocfl.net

SUBJECT: Request for Public Hearing to consider an appeal of the January 5, 2023 Board of Zoning Adjustment Recommendation for Variance Application SE-22-07-047, McGregor Love for Growing Minds School, located at 8841 Palm Lake Drive, Orlando, FL 32836, Parcel ID # 22-23-28-6560-01-030, District 1

**APPLICANT:/
APPELLANT:**

McGregor Love

CASE INFORMATION:

Case # SE-22-07-047 – January 5, 2023

TYPE OF HEARING:

Board of Zoning Adjustment Appeal

**HEARING REQUIRED BY
FL STATUTE OR CODE:**

Chapter 30, Orange County Code

**ADVERTISING
REQUIREMENTS:**

Publish once in a newspaper of general circulation in Orange County at least (15) fifteen days prior to public hearing.

**ADVERTISING
TIMEFRAMES:**

At least fifteen (15) days prior to the BCC public hearing date, publish an advertisement in the legal notice section of The Orlando Sentinel describing the particular request, the general location of the subject property, and the date, time, and place when the BCC public hearing will be held;

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ADVERTISING

Special Exception and Variance in the R-CE zoning district as follows:

- 1) Special Exception to allow for an 8,500 sq. ft. day care center and private school (kindergarten) with 146 students.
- 2) Variance to allow a south front setback of 10.4 ft. in lieu of 35 ft.

**NOTIFICATION
REQUIREMENTS:**

At least 10 days before the BCC hearing date, send notices of the public hearing by U.S. mail to owners of property within 600 feet of the property.

**ESTIMATED TIME
REQUIRED:**

Five (5) minutes

**MUNICIPALITY OR
OTHER PUBLIC
AGENCY TO BE
NOTIFIED:**

N/A

**HEARING
CONTROVERSIAL:**

Yes

DISTRICT #:

1

The following materials will be submitted as backup for this public hearing request:

1. Names and known addresses of property owners within 600 feet of the property (via email from Fiscal and Operational Support Division); and
2. Location map (to be mailed to property owners).

SPECIAL INSTRUCTIONS TO CLERK:

1. Notify abutters of the public hearing at least two (2) weeks prior to the hearing and copy staff.
2. Public hearing should be scheduled within 45 days after the filing of the notice of appeal received on January 17, 2022, or as soon thereafter, as the BCC's calendar reasonably permits.

Attachment (Location map)

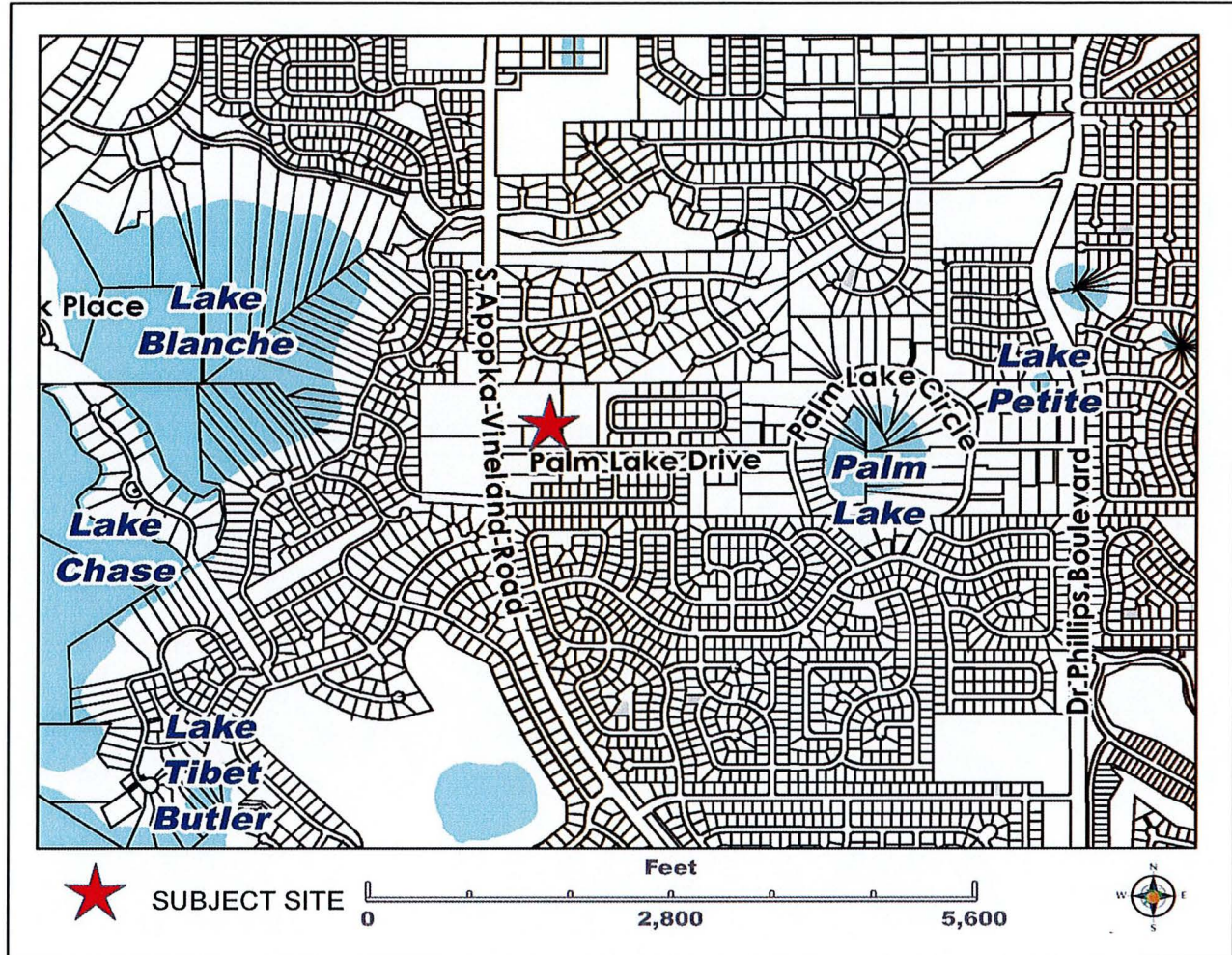
cc via email: Jon Weiss, P.E., Deputy County Administrator
Tim Boldig, Interim Director, Planning, Environmental, and
Development Services Department

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Location Map



If you have any questions regarding
this map please contact Ted Kozak
at 407-836-5537

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ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801
Phone: (407) 836-3111 Email: Zoning@ocfl.net
www.orangecountyfl.net

Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: McGregor Love (Lowndes Law Firm)

Address: 215 N Eola Drive, Orlando, FL 32801

Email: mcgregor.love@lowndes-law.com Phone #: (407) 418-6311

BZA Case # and Applicant: SE-22-07-047

Date of BZA Hearing: 2023-01-05

Reason for the Appeal (provide a brief summary or attach additional pages of necessary):

See attached.

Signature of Appellant: [Signature] Date: 1-17-2023

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 17th day of January, 2023, by McGregor Love who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

[Signature]
Notary Public Signature



NOTICE: Per Orange County Code [Section 30-45](#), this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)

Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

See Page 2 of application for the Appeal Submittal Process.



MCGREGOR T. LOVE

Associate

mcgregor.love@lowndes-law.com

215 North Eola Drive, Orlando, Florida 32801-2028

T: 407-418-6311 | F: 407-843-4444

MAIN NUMBER: 407-843-4600

MERITAS® LAW FIRMS WORLDWIDE

January 17, 2023

Jennifer Moreau
Orange County Zoning Division
201 S. Rosalind Avenue
Orlando, FL 32802

**Re: Growing Minds Montessori – Appeal of Board of Zoning Adjustment Denial
(SE-22-07-047)**

Dear Jennifer:

This law firm represents Growing Minds Montessori (the “Applicant”) with respect to its applications for a special exception and variance (the “Applications”) for the proposed 8,500 SF private Montessori school to be developed at the property located at 8841 Palm Lake Drive. At the January 5, 2023 meeting of the Board of Zoning Adjustment (“BZA” or “Board”), the BZA approved a motion to deny the special exception application by a vote of four (4) to three (3) (the “BZA Denial”)¹.

At the hearing and within the written materials provided to the BZA in connection with the Applications, the Applicant presented competent substantial evidence to demonstrate that the Applications met all criteria for approval under the Land Development Code. In response, no countervailing competent substantial evidence was presented to demonstrate that the special exception application did not meet the requirements for approval under the County’s Land Development Code. Instead, the Board based the BZA Denial on speculation, which does not rise to the level of competent substantial evidence. As a result, the BZA Denial was not supported by competent substantial evidence and, therefore, was improper under Florida law:

“In the case of a special exception, where the applicant has otherwise complied with those conditions set forth in the zoning code, the burden is upon the zoning authority to demonstrate by competent substantial evidence that the special exception is adverse to the public interest. A special exception is a permitted use

¹ During the Board’s deliberation prior to the vote, Board members stated that the variance would automatically be denied if the special exception were denied, in which case no vote on the variance would be necessary. When the Applicant’s counsel attempted to clarify, he was told that he could not speak during Board deliberation. Accordingly, the term “BZA Denial,” as used in this letter, encompasses the Board’s denial of the Applicant’s special exception and the “automatic denial” of the Applicant’s variance request.



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to which the applicant is entitled *unless* the zoning authority determines according to the standards of the zoning ordinance that such use would adversely affect the public interest." *Rural New Town, Inc. v. Palm Beach County*, 315 So.2d 478, 480 (Fla. 4th DCA 1975).

This letter constitutes the Applicant's formal appeal of the BZA Denial. The Applicant requests a *de novo* hearing before the Board of County Commissioners on its Applications.

Sincerely,

A handwritten signature in blue ink, appearing to read 'McGregor Love', with a horizontal line extending to the right.

McGregor Love