



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**February 3, 2022**

Zoning Division

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

**Board Member**

**District**

Thomas Moses

1

John Drago

2

Juan Velez

3

Deborah Moskowitz (Chair)

4

Wes A. Hodge (Vice Chair)

5

Charles J. Hawkins, II

6

Roberta Walton Johnson

At Large

**BZA Staff**

Ted Kozak, AICP

Chief Planner

Nick Balevich

Planner II

Laekin O'Hara

Planner I

Jenale Garnett

Planner I

Michael Rosso

Planner I

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

<b><u>PUBLIC HEARING</u></b>	<b><u>APPLICANT</u></b>	<b><u>DISTRICT</u></b>	<b><u>BZA RECOMMENDATIONS</u></b>	<b><u>PAGE #</u></b>
VA-22-02-143	Ricardo Oliveira	3	Approved w/Conditions	1
VA-22-03-144	Rebecca Wilson for Petsuites	4	Approved w/Conditions	12
VA-22-03-145	Steven Kachelmeyer	1	Approved w/Conditions	28
SE-22-02-141	Jose Ramirez for Massey Street Apartments	4	Approved w/Conditions	41
VA-22-03-146	Melvin Adams	1	Continued to 4/7/22	58

**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 Feb 22, 2022.**

# ORANGE COUNTY ZONING DISTRICTS

## Agricultural Districts

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

## Residential Districts

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

## Non-Residential Districts

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

## Other District

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

# SITE & BUILDING REQUIREMENTS

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

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

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

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

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

**NOTE:** These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

#### FOOTNOTES

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

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

## VARIANCE CRITERIA:

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

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

## SPECIAL EXCEPTION CRITERIA:

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

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

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



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 03, 2022**

Commission District: **#3**

Case #: **VA-22-02-143**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): RICARDO OLIVEIRA

OWNER(s): JULIE DEVOSS

REQUEST: Variance in the R-1AA zoning district to allow the replacement of an existing screen room with a rear setback of 20 ft. in lieu of 22 ft.

PROPERTY LOCATION: 414 Bonifay Avenue, Orlando, Florida 32825, west side of Bonifay Ave., south of Lake Underhill Rd., west of S. Econlockhatchee Trl.

PARCEL ID: 31-22-31-1986-02-160

LOT SIZE: +/- 0.21 acres (9,201 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 78

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations received January 20, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that two (2) comments were received in support, and none in opposition.

The applicant was present but chose not to speak.

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

The BZA confirmed that the request is not a result of Code Enforcement action, confirmed that the variance runs with the land, and unanimously recommended approval of the variance by a 6-0 vote, with one absent, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

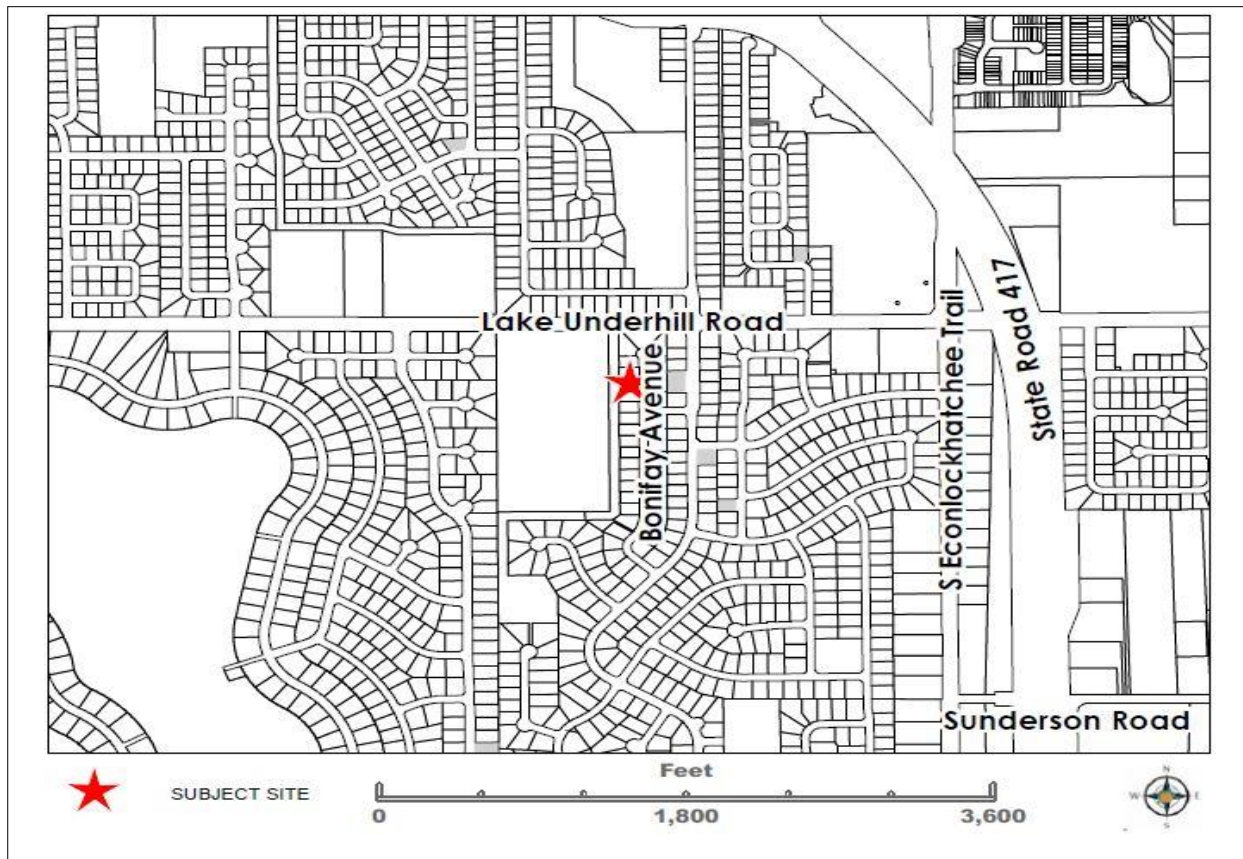
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Stormwater retention

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1AA, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 10,000 sq. ft. lots. The future land use is LDR, which is consistent with the R-1AA zoning district.

The area around the subject site consists of single-family homes, and a stormwater retention area to the west backing up to the rear of the property. The subject property is a 0.21 acre lot, located in the Deerwood Unit One Plat, recorded in 1972, and is considered to be a non-conforming lot of record per recorded Plat. The property has a 5 ft. drainage and utility easement along the north, south and west property lines, and a 15 ft. drainage easement along the west property line. None of these easements are affected by the variance request. It contains a 2,320 gross sq. ft. single-family home, and a swimming pool, screen enclosure and porch that according to County records, were all constructed in 1979. The applicant purchased the property in 2008. The screen enclosure and porch were replaced in 1986 and again in 2005, both times with permits, apparently issued in error, with approximately the same dimensions as the current proposal.

The applicant is proposing to replace the existing 18.34 ft. x 23.83 ft. screen enclosure, with a new screen enclosure with composite roof panels, located 20 ft. from the rear property line where a setback of 22 ft. is required. Orange County Code Sec 38-79 (18), allows a screen room with solid roof panels to extend up to 13 ft., into the required 35 ft. rear setback, which allows a setback for the enclosure of 22 ft. In August 2021, a building permit was submitted (B21016540) for this work, but it is on hold pending this request.

The applicant submitted 2 letters of support from the owners of the adjacent properties to the north and south.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	20 ft.
Min. Lot Width:	85 ft.	80 ft. (per Plat)
Min. Lot Size:	10,000 sq. ft.	9,201 sq. ft. (per Plat)

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

	Code Requirement	Proposed
Front:	30 ft.	30 ft. (east)
Rear:	35 ft. house 22 ft. screen enclosure with metal roof	43 ft. house (west) 20 ft. screen enclosure (west -Variance)
Side:	7.5 ft.	9 ft. (north) 8 ft. (south)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The screen enclosure was built in the current location in 1979. The proposal is within the existing footprint and will not extend any further.

**Not Self-Created**

The current owners were not responsible for the siting of the screen enclosure, as the house and screen enclosure were built in 1979. The need for the variance is not self-created.

**No Special Privilege Conferred**

Granting the variance as requested will not confer special privilege to the owners, since it will allow the renovation of a portion of a residence which has existed for over 43 years.

**Deprivation of Rights**

Not granting the variance would deprive the property owner from the ability to replace an existing screen enclosure.

**Minimum Possible Variance**

Due to the existing location of improvements, the requested variance is the minimum possible.

**Purpose and Intent**

Approval of the variance will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area. The existing screen enclosure is not out of character with the overall area, and will not be detrimental to adjacent properties, as it matches the outer extents of the existing pool screen enclosure, and the property backs up to a stormwater retention area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received January 20, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Ricardo Oliveira  
Superior Aluminum  
3005 N. Forsyth Road  
Winter Park, Florida, 32792

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COVER LETTER

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Fax: 407-678-5560  
Toll Free: 1-800-247-6768  
FL Reg. # RX11067027  
FL Lic. # SCC06770



MAIN OFFICE  
3005 Forsyth Road  
Winter Park, FL 32792  
(407) 678-0500  
Sales, Installation, Show Room

To whom it may concern:

This cover letter is for Permit Number **B21016540**.

Mrs. Devoss, Julie who resides on 414 Bonifay Ave. Orlando, FL 32825 wants to replace her existing screen room which is part of an existing pool enclosure which was built in 1986 and re-built in 2005 (**B05009573**) after suffering hurricane damages. The structure has been in place for all these years and it was permitted as it stands today. Much to our surprise, upon request for a permit to replace the screen room portion of the structure we were told the structure did not meet rear setback. We were told the rear setback is 35' of which we were allowed to go 13' into it, leaving us with 22' to work with were the current structure sits 20' away from the rear property line. Therefore...

We are requesting a setback of **20'** feet in the rear, where the required setback is **22'** feet. Which is a variance of **2'** feet.

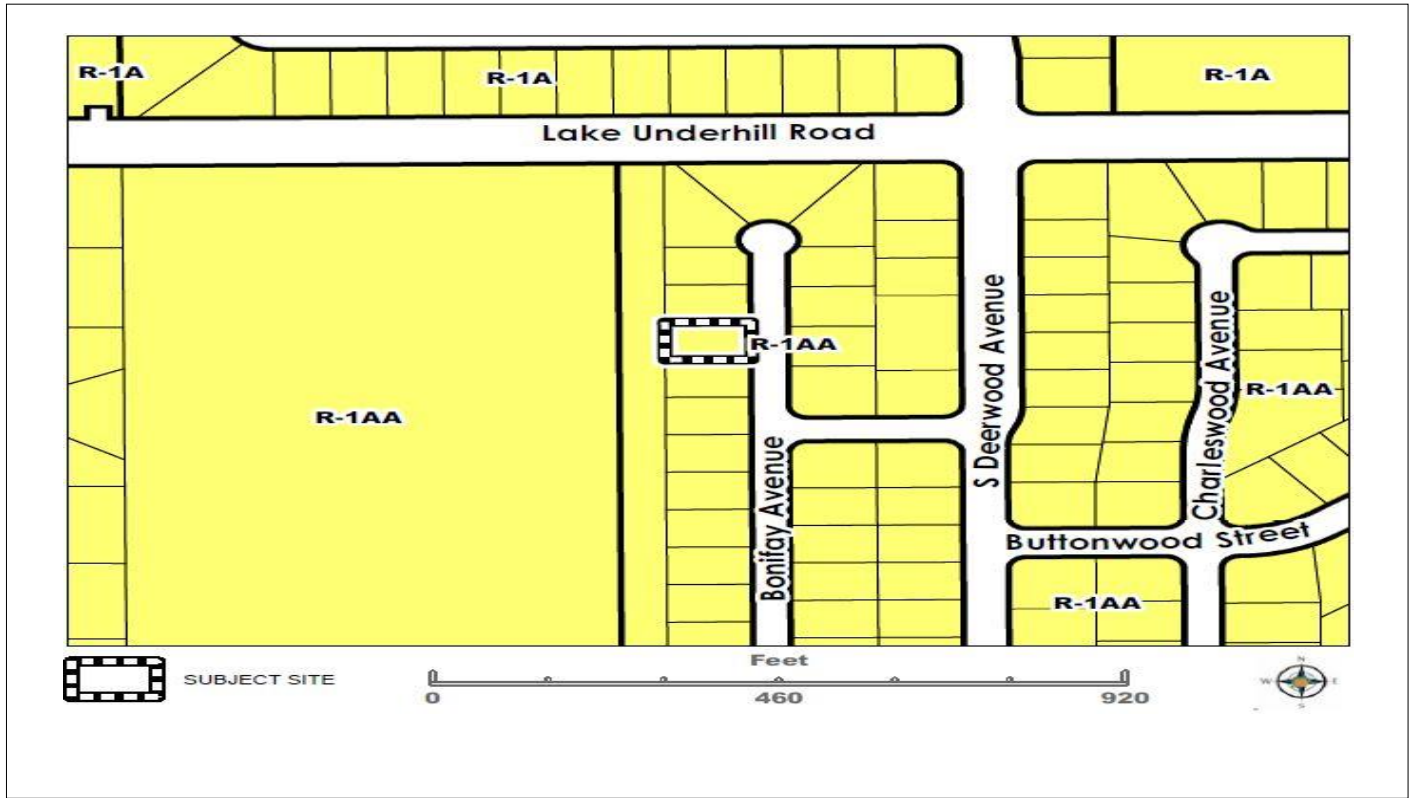
The following is an example of how we meet the 6 variance criterias:

1. **Special Conditions and Circumstances** - Special circumstance exists in the sense the structure in question was permitted 25 years ago, and renovated 16 years ago, once again, permitted by Orange County.
2. **Not Self-Created** - This newly found non compliance to setback requirements was never previously mentioned to homeowner upon her request to build such structure. Therefore she did not create this issue by her own means.
3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the homeowner of rights to continue enjoying her home as has for the past 35 years, and did so after obtaining two permits from the building department and having them approved as the structure currently stands.
5. **Minimum Possible Variance** - We are requesting the minimum possible variance to make possible the reasonable use of the land, building, and structure.
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. *That can be proved as true due to the fact the structure has been standing for the past 35 years without posing any threat to the community and general welfare of the public.*

Timothy Orie  
Superior Aluminum Installations, Inc.  
SCC056770  
3005 Forsyth Road  
Winter Park, FL 32792



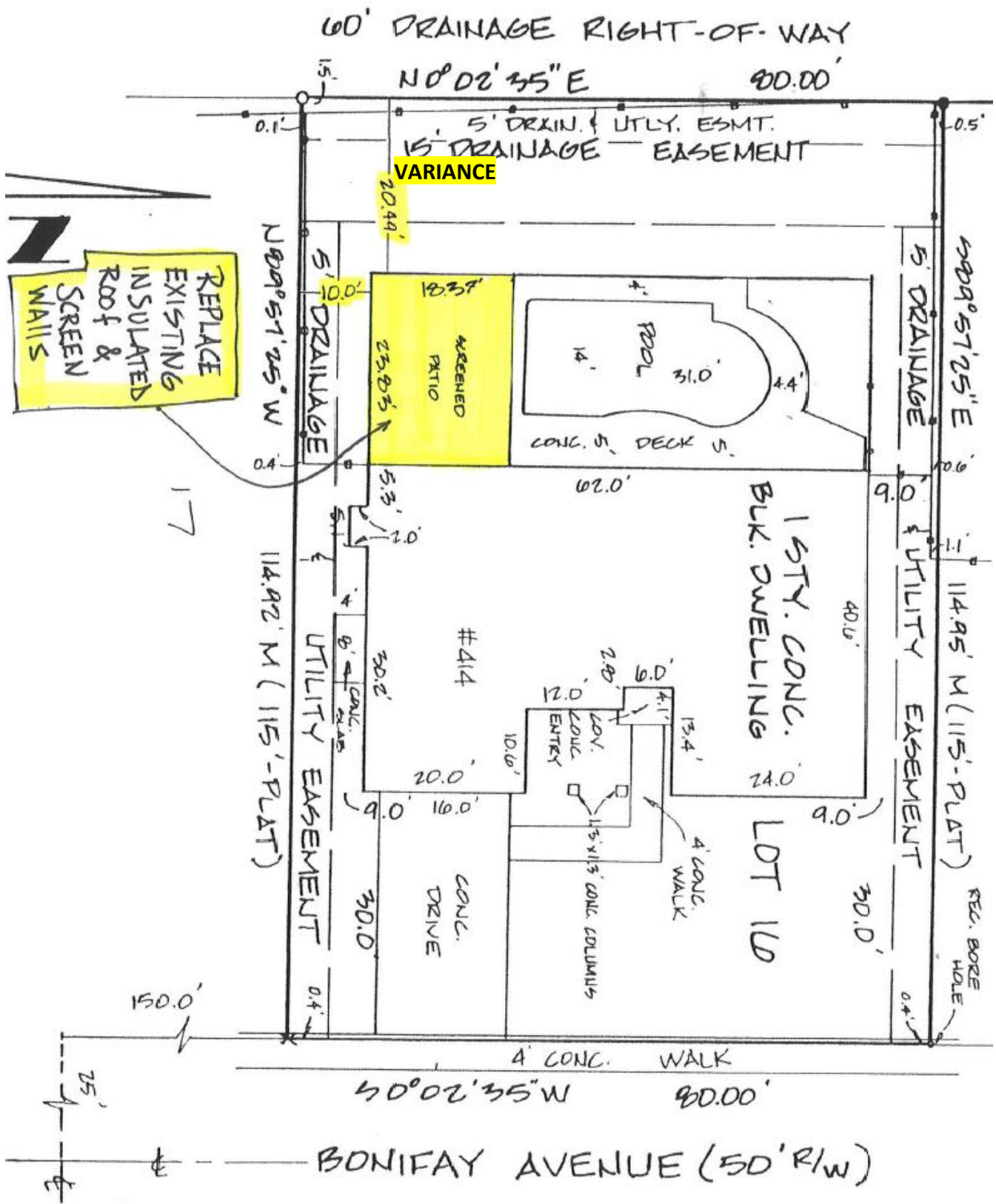
ZONING MAP



AERIAL MAP

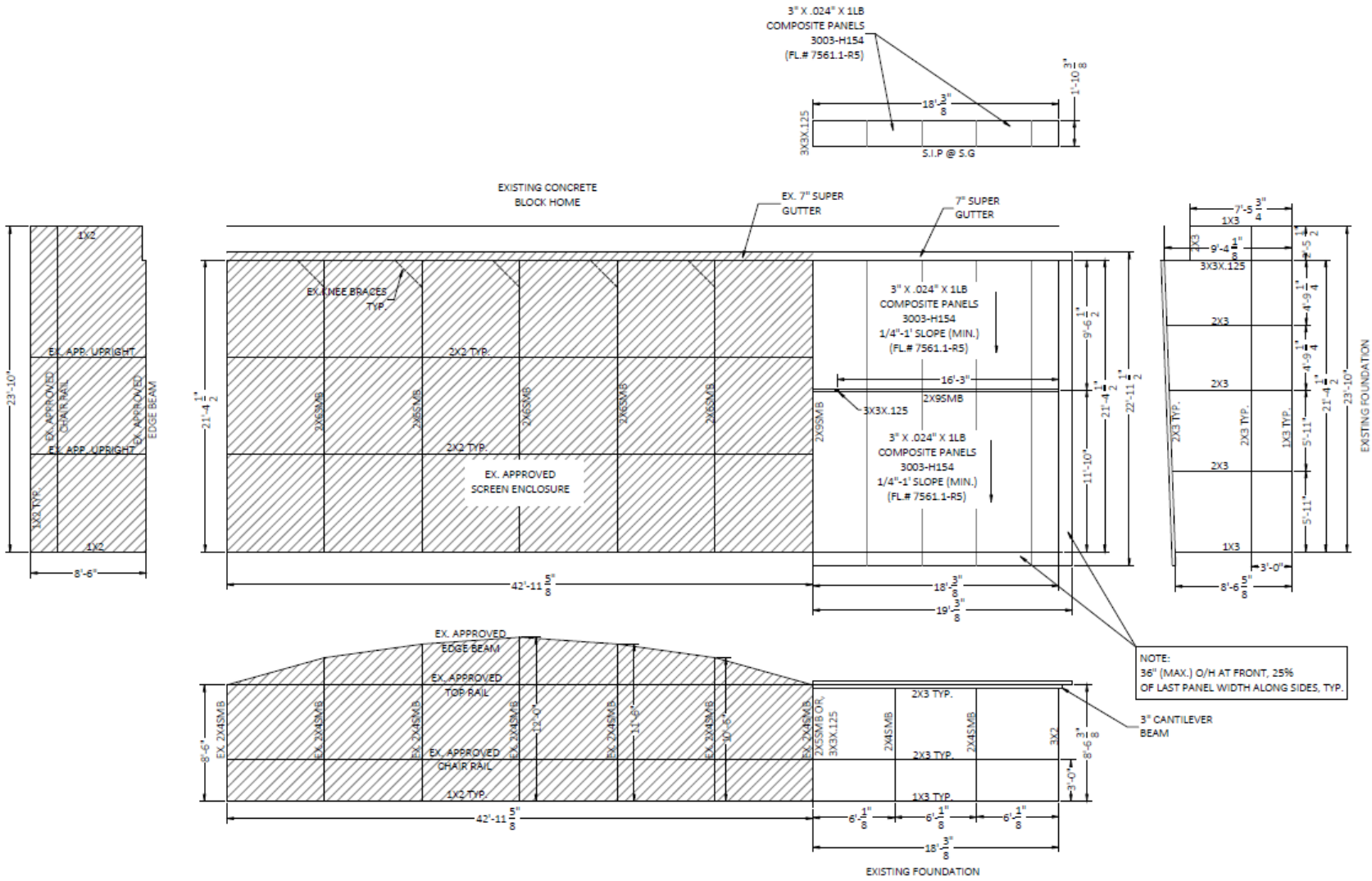


SITE PLAN





# FLOOR PLAN/ELEVATIONS



**SITE PHOTOS**



**Front from Bonifay Ave., facing west**



**Rear yard facing north**

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**SITE PHOTOS**

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**Screen room to be replaced facing east from the rear yard**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 03, 2022**

Commission District: **#4**

Case #: **VA-22-03-144**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

APPLICANT(s): REBECCA WILSON FOR PETSUITES

OWNER(s): 14300 E. COLONIAL DRIVE LLC

REQUEST: Variance in the C-3 Restricted zoning district to allow the provision of 24 parking spaces in lieu of 54 parking spaces for a 10,944 sq. ft. animal boarding facility with an outdoor compound.

PROPERTY LOCATION: 14300 E. Colonial Drive, Orlando, FL 32826, southwest corner of E. Colonial Dr. and Pel St., west of N. Avalon Park Blvd., east of S.R. 408.

PARCEL ID: 24-22-31-0000-00-065

LOT SIZE: +/- 1.83 acres (80,095 sq. ft.)

NOTICE AREA: 800 ft.

NUMBER OF NOTICES: 242

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan received January 27, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, floor plan, elevations 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 as depicted on the provided building elevations, signage was conceptual. Staff also noted that one (1) comment was received in favor of the application, and one (1) was received in opposition.

The applicant agreed with the staff presentation and noted the generic requirement for parking would result in the reduction of open space through the provision of excess parking spaces.

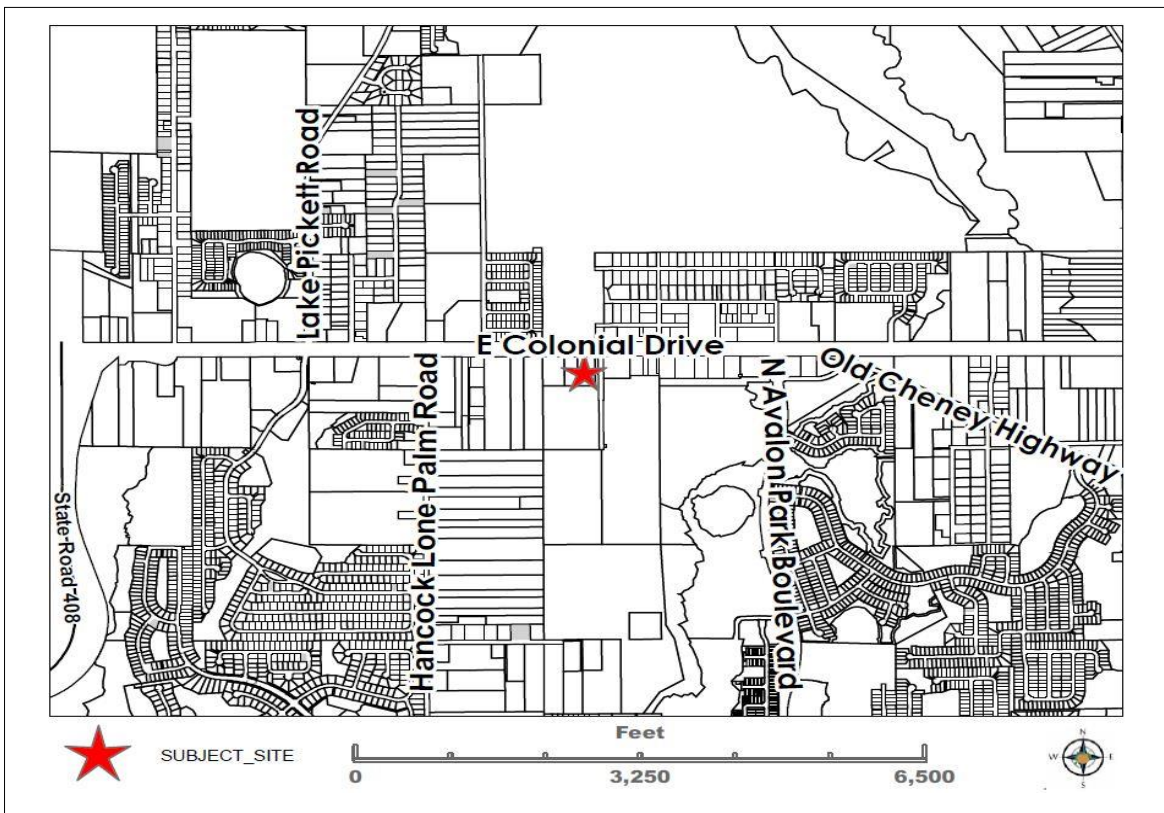
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed site drainage, the number of proposed parking spaces for the use, and the conceptual signage and unanimously recommended approval of the variance by a 6-0 vote, with one absent, subject to the three (3) conditions 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	C-3 Restricted	C-1	R-T	C-2	C-1
Future Land Use	C	C	LMDR	C	C
Current Use	Vacant	Mobile Home Community	Mobile Home Community	Office	Retail

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## BACKGROUND AND ANALYSIS

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### **DESCRIPTION AND CONTEXT**

The subject property is located in the C-3 Restricted, Wholesale Commercial district, which allows more intense commercial activity including certain outdoor uses. The future land use is Commercial (C), which is consistent with the zoning district.

The subject property consists of 1.83 acres of vacant land, which is currently heavily treed. The area surrounding the subject property consists mostly of commercial developments along E. Colonial Drive and a mobile home park to the south. The property was rezoned in November 2021 (RZ-21-11-078), from a split zoning of C-1 (Retail Commercial) District and A-2 (Farmland Rural District) to C-3 Restricted, with the following restrictions:

1. New billboards and pole signs shall be prohibited;
2. The applicant/developer shall submit a site plan to demonstrate compliance with all Orange County Code requirements (including landscaping and paved surfaces) prior to the accommodation of any C-3 cases;
3. A 100 ft. buffer (no site improvements except for landscaping and stormwater retention) shall be provided along the southern property line;
4. The site shall be developed in such a way that noise generated from outdoor areas dedicated for pets shall be directed away from nearby residential areas to the greatest extent possible; and
5. Uses shall be limited to C-1 uses plus the C-3 use of pet daycare with overnight boarding, grooming and outdoor training services.

The approved rezone request was made to allow for a pet resort which offers pet day care, overnight boarding, grooming and outdoor training services. The applicant is proposing to construct a 10,944 sq. ft. animal boarding facility with a 5,000 sq. ft. outdoor compound area. The variance request is to allow for the provision of 24 parking spaces in lieu of 54 parking spaces. Per Section 38-1476 of the Orange County Code, the parking requirements for the use most similar to kennels and veterinary clinics is 1 space for each 300 sq. ft. of office, animal shelter and run area, which in this case would be applied to the total of 15,944 sq. ft. of area, resulting in 54 required parking spaces.

The parking study conducted by Elizabeth Rodrigues & Associates, Inc., calculated that 36 parking spaces are required based off the proposed 10,944 sq. ft. development. However, the parking study provided did not include the outdoor area in the calculation. That said, a Transportation review was completed by Orange County and found that based on the three (3) comparable pet suites that were analyzed in the parking study submitted, the proposed 24 parking spaces should be sufficient to accommodate the peak parking demand for the proposed site.

The proposed parking area and building for the animal boarding facility meets all required setbacks, including the major street setback of 65 ft. for the parking and 70 ft. for the building.

As of the date of this report, one comment has been received in favor to this request and no comments have been received in opposition to this request

**District Development Standards**

	Code Requirement	Proposed
Max Height:	75 ft. (35 ft. within 100 ft. of residential)	27 ft.
Min. Lot Width:	125 ft. on major streets	200.23 ft.
Min. Lot Size:	12,000 sq. ft.	80,095 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	84.6 ft. (North)
Major Street:	70 ft. building (from street centerline) 65 ft. parking area (from street centerline)	184.6 ft. (North) 100 ft. (North)
Rear:	15 ft. (20 ft. when abutting residential)	186 ft. (South)
Side:	5 ft. (25 ft. when abutting residential)	25.2 ft. (East) 94.7 ft. (West)

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**STAFF FINDINGS**

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

The special condition and circumstances particular to this project is the parking data submitted specifically attributed to the parking demand of similar pet grooming/boarding/daycare facilities. Typical parking requirements could be considered excessive for this type of development since the parking ratio stated in the code is a requirement for commercial uses not specifically defined elsewhere.

**Not Self-Created**

The need for the variance is not self-created since the generic parking ratio for this use is excessive and there are site constraints, such as the required 100 ft. south buffer.

**No Special Privilege Conferred**

Granting of the variance for the parking reduction as requested would not confer special privilege since there have been equivalent approved requests with similar use of kennels and veterinary clinics.

**Deprivation of Rights**

Without the reduction in parking, the applicant would be providing an unnecessary number of spaces.

**Minimum Possible Variance**

The request is the minimum possible due to it meeting the actual parking demand, which was concluded by the Transportation Division.

### **Purpose and Intent**

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the nearby area since the number of parking spaces provided will meet the actual parking demand for the specific use.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan received January 27, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Rebecca Wilson  
215 N. Eola Drive  
Orlando, FL 32801

C: 14300 E. Colonial Drive LLC  
1117 N. Pine Hills Road  
Orlando, FL 32808



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COVER LETTER

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MCGREGOR T. LOVE

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



January 26, 2022

Ted Kozak  
Chief Planner  
Orange County, Florida  
201 S. Rosalind Avenue  
First Floor  
Orlando, FL 32801

**Re: Application for Parking Variance for Proposed Pet Daycare, Training, and Boarding Facility Located at 14300 East Colonial Drive (Parcel ID: 24-22-31-0000-00-065)**

Dear Ted:

This law firm represents 14300 East Colonial Dr, LLC, the owner of the above-referenced Property ("Owner"), with respect to the application for parking variance that is enclosed herein and described in more detail below. The Property is approximately 1.84 acres and is located generally southwest of the intersection of E. Colonial Drive and Pel Street. The Property has a Comprehensive Plan Future Land Use Designation of Commercial and is zoned C-1 and A-2, with a pending rezoning request to C-3 Restricted (the "Rezoning Request"). The Property is bounded by office use to the east, retail to the west, a mobile home community to the south, and State Road 50 to the north.

The proposed use of the Property is a pet daycare, training, and boarding facility (the "Project"), and is shown more particularly in the conceptual site plan attached as **Exhibit "A."** The Project proposes a 10,944 square foot building and a 5,000 square foot outdoor play area. On November 18, 2021, the Planning and Zoning Commission (PZC) recommended approval of the Rezoning Request subject to a staff-imposed condition requiring a 100-foot buffer along the southern property line. In addition, an access driveway must be constructed at the northern boundary and within State Road 50. Under Section 38-1476 of the County's Code, "kennels and veterinary clinics" are required to provide 1 space for each 300 square feet of office, animal shelter and run area. Under this requirement, fifty-four (54) parking spaces would be required for the Project.

This request is for a variance to allow twenty-four (24) parking spaces in lieu of the required fifty-four (54) parking spaces. As discussed in more detail below, the specific use proposed by the Project requires substantially less parking than required under Code. Section 30-43(3) of the Orange County

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Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

lowndes-law.com



0215261\194995\11617186v2

Code details the specific criteria that must be met for all variance requests. In this case, all of the criteria have been met, as is discussed in more detail below.

*(1) Special Conditions and Circumstances.*

The Property's relatively small size coupled with the need to construct an access driveway and provide a buffer along the southern property line present special conditions and circumstances for the Property. As discussed above, in order to provide separation between the Project and the residential use to the south, PZC recommended approval of the Rezoning Request subject to a condition requiring a 100-foot buffer along the southern property line. As a result, any development of the Property must be located on the northern half of the Property, leaving a limited area for the principal structure and street parking spaces. Moreover, the need to construct an access driveway with curb cuts along the northern boundary of the Property further limits the portion of the Property that may be occupied by parking spaces.

*(2) Not Self-Created.*

The Property's relatively small size, the requested buffer along the southern property line, and the required access driveway and curb cut did not result from the Owner's actions.

*(3) No Special Privilege Conferred.*

Approval of the requested variance will not confer on the Owner any special privilege. As outlined in more detail in the Parking Study conducted for the Project, which is attached as **Exhibit "B,"** a large number of parking spaces is not required for pet grooming/boarding/daycare facilities. When compared with general retail or a veterinary clinic, customers of pet grooming/boarding/daycare facilities drop off and pick up pets relatively quickly, and the same parking spaces are able to be utilized several times per hour. The Parking Study concludes that the parking ratio proposed by the requested variance—2.2 spaces per 1,000 SF—is greater than the observed 1.3 spaces per 1,000 SF required at comparable facilities. Accordingly, no special privilege would be conferred on the Owner by approving the requested variance.

*(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 Owner. As discussed in Section (1) above, the buffer requested by the County allows only the northern half of the Property to be developed. Coupled with the need to construct an access driveway along the northern Property, limited area is available for parking. Moreover, a parking lot driveway

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## COVER LETTER

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longer than 150 feet would require a turnaround to meet fire code, which could not be accomplished on the Property. As shown on the conceptual site plan, the twenty-four (24) spaces proposed by the Application are the maximum number of spaces that would allow the Project to be developed. As a result, literal interpretation of Code would deprive the Owner of the right to develop the Property.

*(5) Minimum Possible Variance.*

The proposed variance is the minimum variance that will allow the Property to be developed. The area of the Property on which parking spaces may be developed is limited as a result of three factors: (1) the relatively small size of the Property; (2) the buffer requested by the County; and (3) the need to construct an access driveway at the northern boundary of the Property. As shown on the conceptual site plan, all three factors impact the area available for parking, and the requested variance is the minimum that would allow the Project to be developed.

*(6) Purpose and Intent.*

The approval of the requested variance will be in harmony with the purpose and intent of the Orange County Code. As set forth in the Parking Study, the proposed twenty-four (24) parking spaces are expected to provide ample parking to accommodate the Project. Literal interpretation of Code would require portions of the Property currently proposed as open space to be paved over for unnecessary parking spaces, and would result in the unnecessary removal trees. As outlined in Chapter 15, Article III of Code, “the general removal of trees should be appropriately controlled and where possible, existing trees should be preserved on-site as property is developed.” Approval of the requested variance will allow the applicant to preserve existing trees where possible. Accordingly, the requested variance will be in harmony with the purpose and intent of Code.

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;

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**COVER LETTER**

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- (g) Specific Project Expenditure Report;
- (h) Relationship Disclosure Form; and
- (i) Traffic Analysis.

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

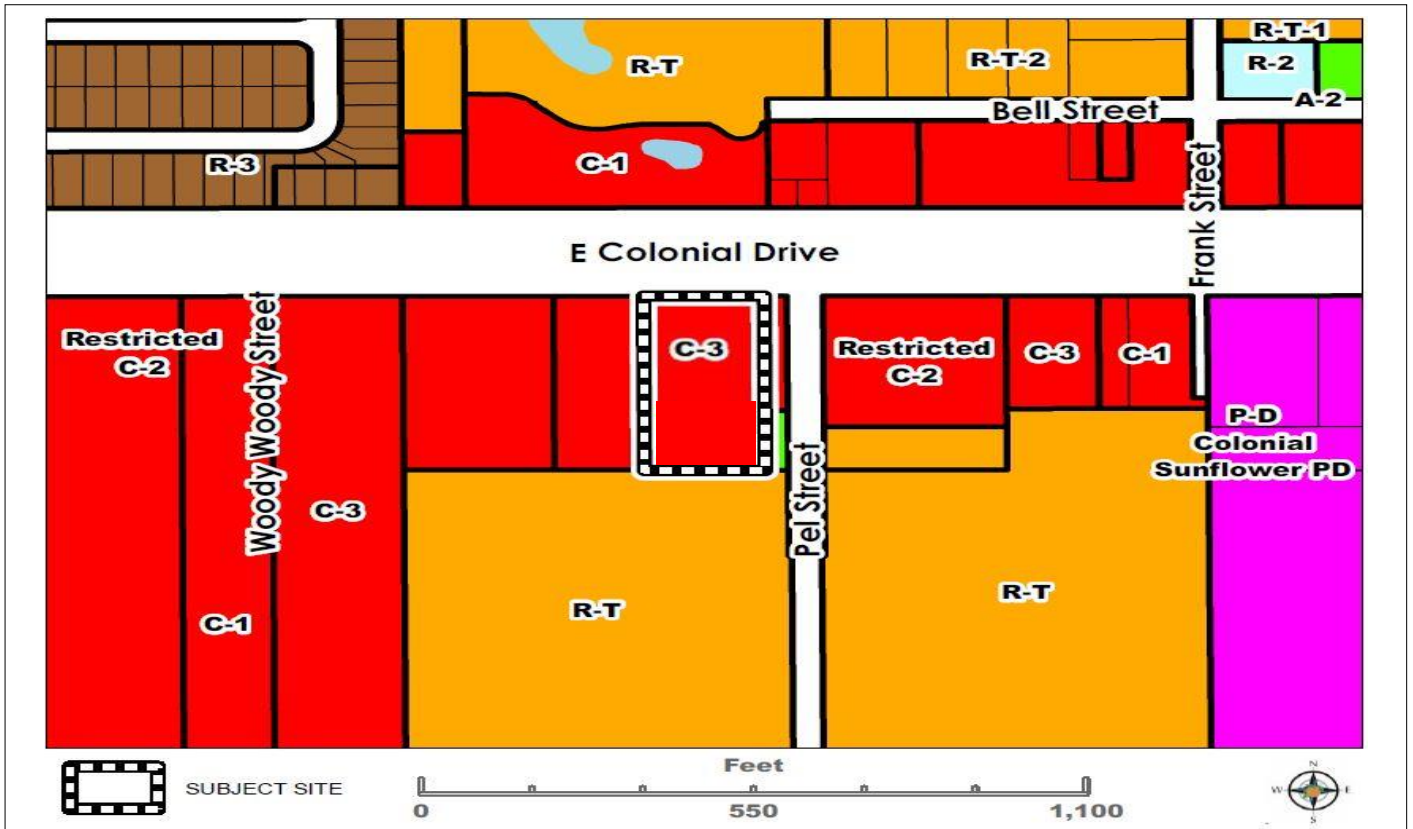
Very truly yours,

A handwritten signature in black ink, appearing to read 'MTL', followed by a horizontal line extending to the right.

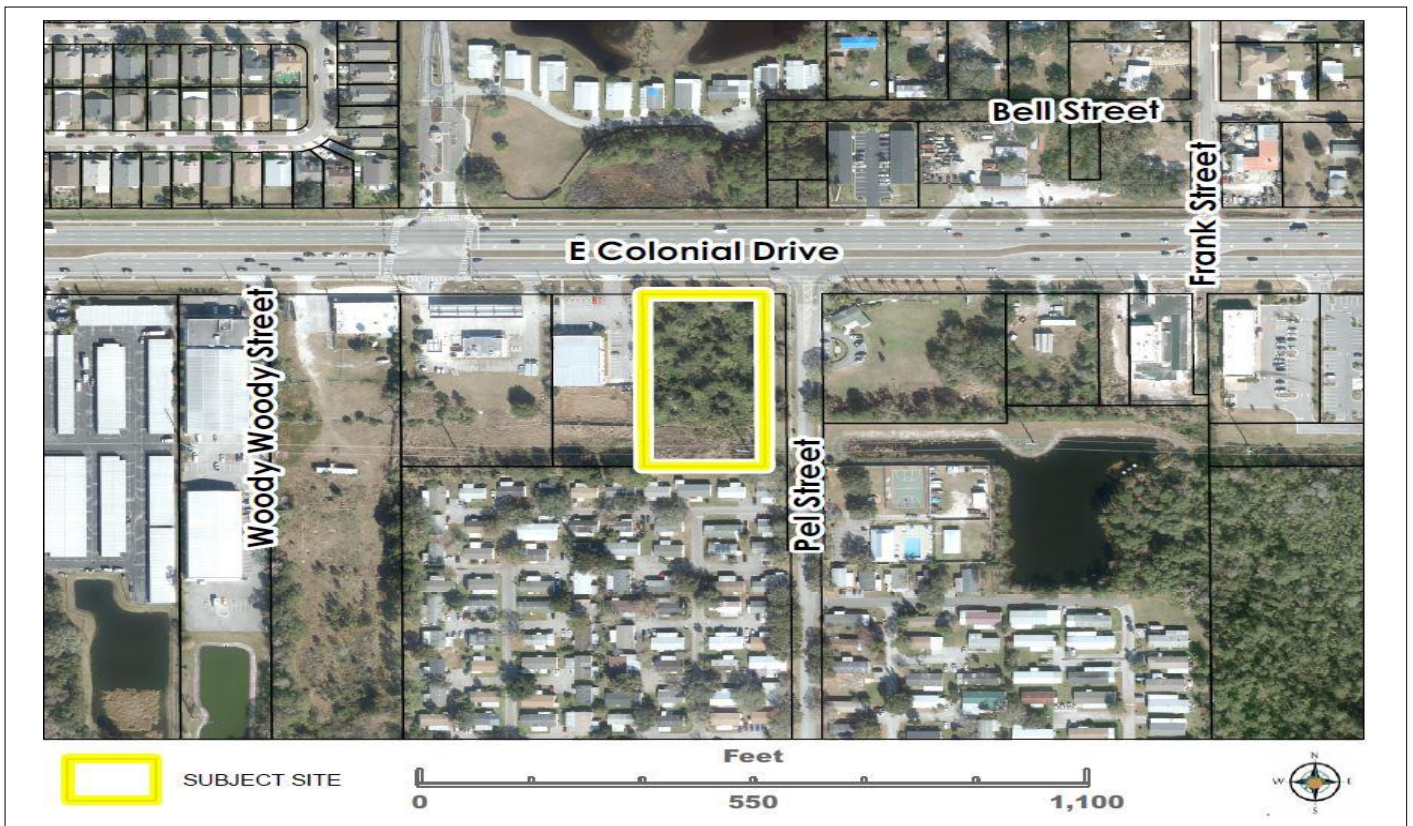
McGregor T. Love

MTL/MTL

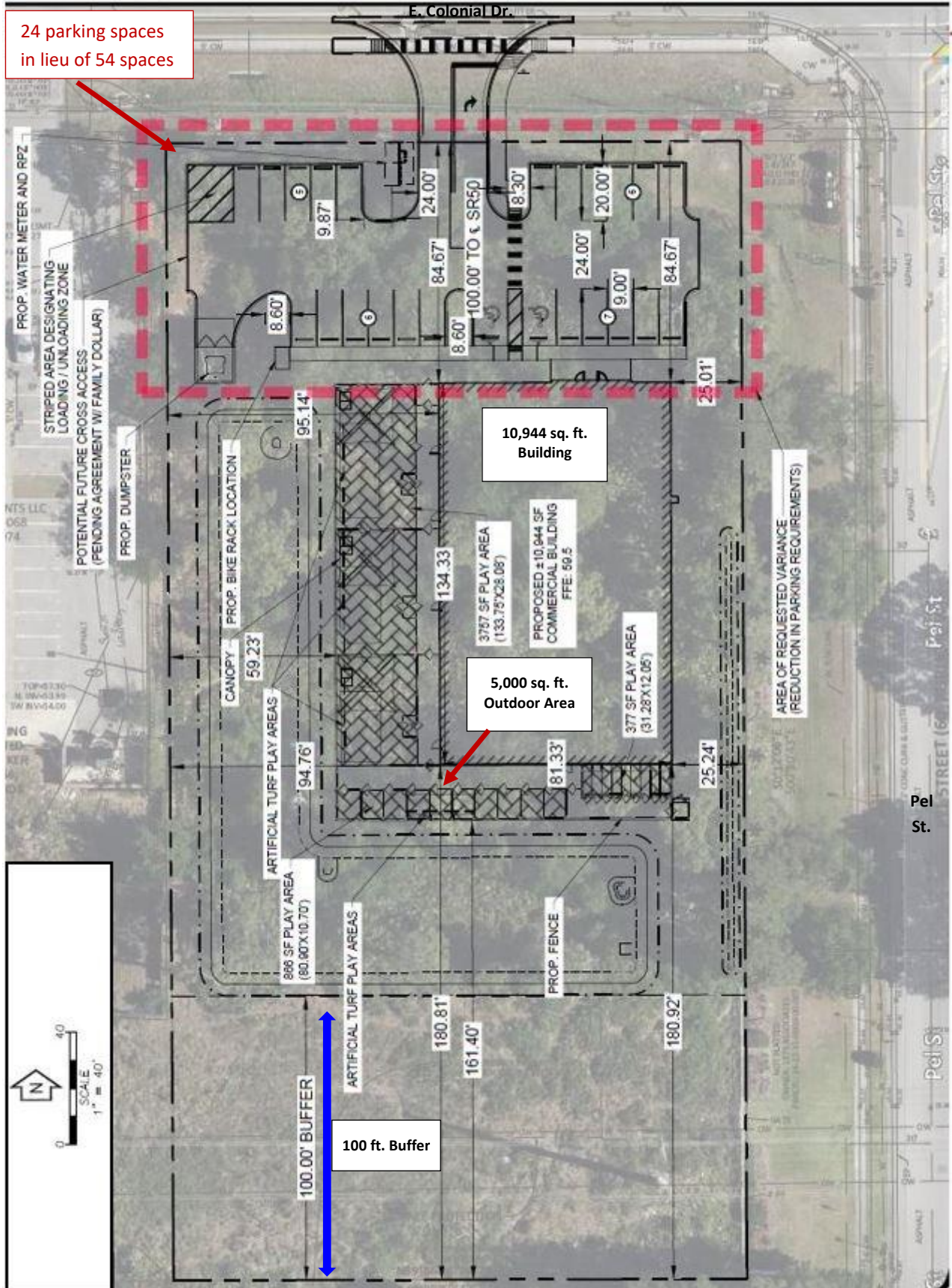
ZONING MAP



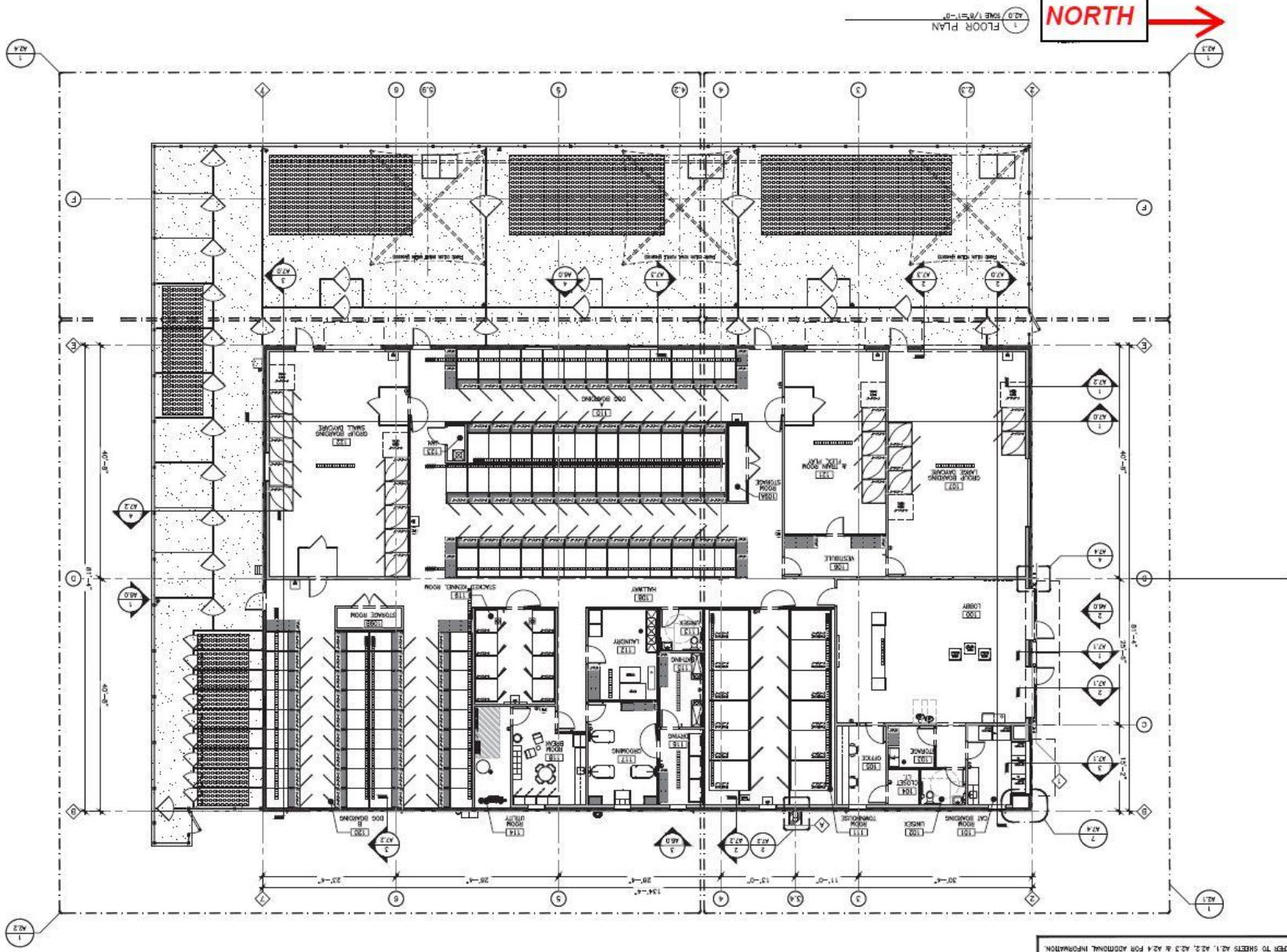
AERIAL MAP



SITE PLAN



FLOOR PLAN



# ELEVATIONS



1 REAR ELEVATION  
AS.O SCALE: 1/8"=1'-0"

North



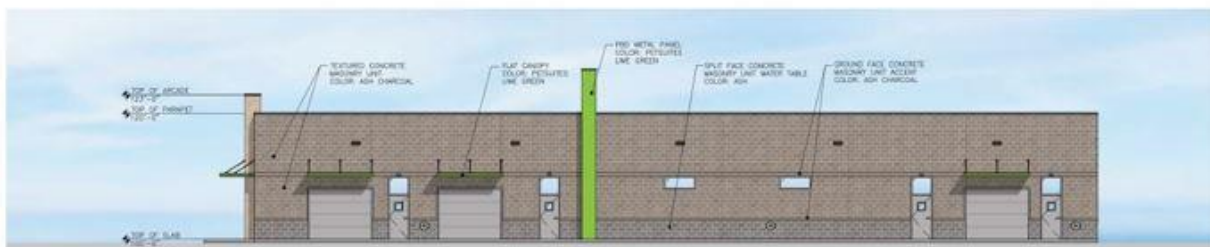
2 FRONT ELEVATION  
AS.O SCALE: 1/8"=1'-0"

South



3 SIDE ELEVATION  
AS.O SCALE: 1/8"=1'-0"

West



4 SIDE ELEVATION  
AS.O SCALE: 1/8"=1'-0"

East



**SITE PHOTOS**



**Facing south towards front of subject property**



**Facing north towards rear of subject property**

**SITE PHOTOS**



**Facing south towards front side of subject property on Pel St.**



**Facing south towards front side of subject property**

**SITE PHOTOS**



**Facing west towards front side of subject property**



**Facing east towards front side of subject property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 03, 2022**

Commission District: **#1**

Case #: **VA-22-03-145**

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

## GENERAL INFORMATION

APPLICANT(s): STEVEN KACHELMEYER

OWNER(s): STEVEN KACHELMEYER, SARA KACHELMEYER

REQUEST: Variances in the R-CE zoning district for the construction of a screen enclosure as follows:

1) To allow a setback of 29 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

2) To allow a south rear setback of 29 ft. in lieu of 50 ft.

PROPERTY LOCATION: 12128 Mckinnon Road, Windermere, FL 34786, south side of Mckinnon Rd., north side of Lake Crescent, west of Windermere Rd., and southeast of S.R. 429.

PARCEL ID: 01-23-27-0000-00-026

LOT SIZE: +/- 0.87 acres (38,308 sq. ft.) (0.36 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 123

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations received December 7, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall execute and, upon receipt of Orange County's approval, subsequently record in the official records of Orange County an Indemnification/Hold Harmless Agreement, prepared by Orange County, which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the addition is located no closer than 29 feet from the Normal High Water Elevation (NHWE) of Lake Crescent.

**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 since the request is substantially similar to the setback in the recently approved variance for the new residence and pool. Staff noted that one (1) comment was received in favor and one (1) comment was received in opposition.

The applicant agreed with the staff presentation and had nothing further to add.

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

The County Attorney's Office recommended an amended Normal High Water Elevation (NHWE) condition to clarify the County Attorney's Office will commence the Hold Harmless Agreement process through the creation of the documents to be recorded by the owner after County execution.

The BZA unanimously recommended approval of the variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report, with an amended Condition #5, which states "Prior to the issuance of a building permit, the property owner shall execute and, upon receipt of Orange County's approval, subsequently record in the official records of Orange County an Indemnification/Hold Harmless Agreement, prepared by Orange County, which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the addition is located no closer than 29 feet from the Normal High Water Elevation (NHWE) of Lake Crescent."

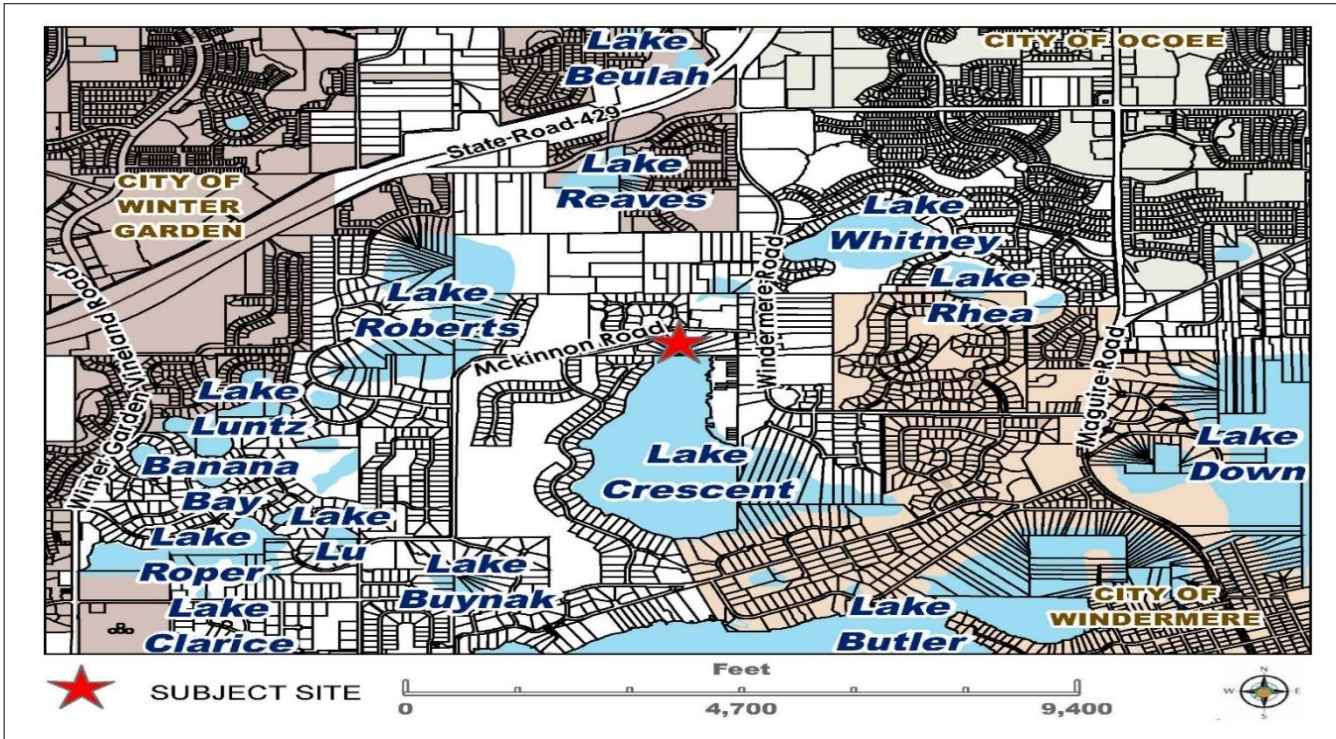
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#### **STAFF RECOMMENDATIONS**

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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-CE	R-CE-C	Lake Crescent	R-CE	R-CE
Future Land Use	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1	Lake Crescent	West Windermere Rural Settlement RS 1/1	West Windermere Rural Settlement RS 1/1
Current Use	Single-Family Residential	Single-Family Residential	Lake Crescent	Single-Family Residential	Single-Family Residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-CE, Rural Country Estate zoning district, which allows primarily single-family homes and certain agricultural uses. The future land use is RS 1/1 and it is located in the West Windermere Rural Settlement. Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those area wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. In the West Windermere Rural Settlement, the maximum density is one (1) unit per acre for new development. The R-CE district is consistent with the future land use.

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is a +/-0.87 acre unplatted parcel of land that is considered to be a nonconforming legal parcel of record due to being in the same configuration since 1955, according to Orange County records, of which +/-0.36 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Crescent. It is developed with a newly constructed 3,430 gross sq. ft. single-family home permitted via B20015906, and a pool and pool deck, permitted via B21005554. In January 2018, variances (VA-18-02-152) were approved to construct the house 44 ft. from the Normal High Water Elevation (NHWE) of Lake Crescent in lieu of 50 ft. and a pool 25 ft. from the NWHE of Lake Crescent in lieu of 50 ft. The current owners acquired the property in July 2020, and are currently constructing a boat dock permitted via B21026174.

A 16.5 ft. by 45.5 ft., 14 ft. high screen enclosure for the existing pool and deck is proposed to be located in the rear yard of the property with a 29 ft. Normal High Water Elevation (NWHE) setback being requested in lieu of 50 ft., requiring Variance #1. A 29 ft. rear setback in lieu of 50 ft., is also being requested requiring Variance #2. The previous variance was approved for improvements specific to the site plan included in that request and did not consider a future screen enclosure, therefore these variances are required to allow the screen enclosure to be installed. In November 2021, a permit B210245040 was submitted for the subject screen enclosure, which is on-hold pending the outcome of this request.

The Orange County Environmental Protection Division has no objection to the request.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft.
Min. Lot Width:	130 ft.	125 ft.
Min. Lot Size:	43,560 sq. ft.	38,308 sq. ft.

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

	Code Requirement	Proposed
Rear:	50 ft.	29 ft. (South – Variance #2)
Side:	10 ft.	38.5 ft. (East) 19.9 ft. (West)
NWHE	50 ft.	29 ft. screen enclosure (South – Variance #1)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

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

The special conditions and circumstance particular to the subject property are a result of a variance being approved for a pool and pool deck 25 ft. from the Normal High Water Elevation (NHWE).

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

The need for the variances is not self-created as the owners are requesting a variance to enclose the pool and pool deck to mitigate for insects and safety requirements.

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

Granting the variances as requested would not confer special privilege as several other properties in the area appear to have screen enclosures that also encroach into the Normal High Water Elevation (NHWE) and rear setback.

#### **Deprivation of Rights**

Denial of this variance would deprive the owner of the right to utilize and enjoy structures on the property that similar surrounding properties are allowed.

#### **Minimum Possible Variance**

The requested variances are the minimum necessary to construct a screen enclosure for the existing pool and pool deck.

#### **Purpose and Intent**

Approval of the requested variances will allow improvements to the site, which will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to adjacent properties.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received December 7, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the addition is located no closer than 29 feet from the Normal High Water Elevation (NHWE) of Lake Crescent.

C: Steven & Sara Kachelmeyer  
12128 Mckinnon Road  
Windermere, FL 32792

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## COVER LETTER

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December 7, 2021

To Whom It May Concern:

We are requesting for a screen variance to be approved so we may construct a screen on the new pool deck. When we purchased the property, a variance from prior ownership had already had the pool/pool deck variance approved. The screen enclosure will be constructed out of bronze aluminum and will sit on the perimeter of the pool deck – approx. 18' x 45' x 8'. The proposed height is 10'.

In regard to the six standards for variance approval, please see below:

- Special Conditions & Circumstances – We have the variance approved to build a swimming pool/pool deck at 25' from the normal high water elevation but we are unable to construct a screen enclosure due to the original variance not including the enclosure.
- Not Self-Created – This issue is not “self-created” as we are asking for a variance to enclose our new swimming pool/pool deck to help mitigate for insects and safety requirements.
- No Special Privilege Conferred – The approval of this request will not confer on the applicant for any special privileges.
- Deprivation of Rights – By approving this variance, there will be no loss or deprivation of rights by any other properties in the same zoning district.
- Minimum Possible Variance – We will accept the variance to match the previous approved variance.
- Purpose & Intent – The approval of this variance will not hurt or harm the public welfare or neighborhood.

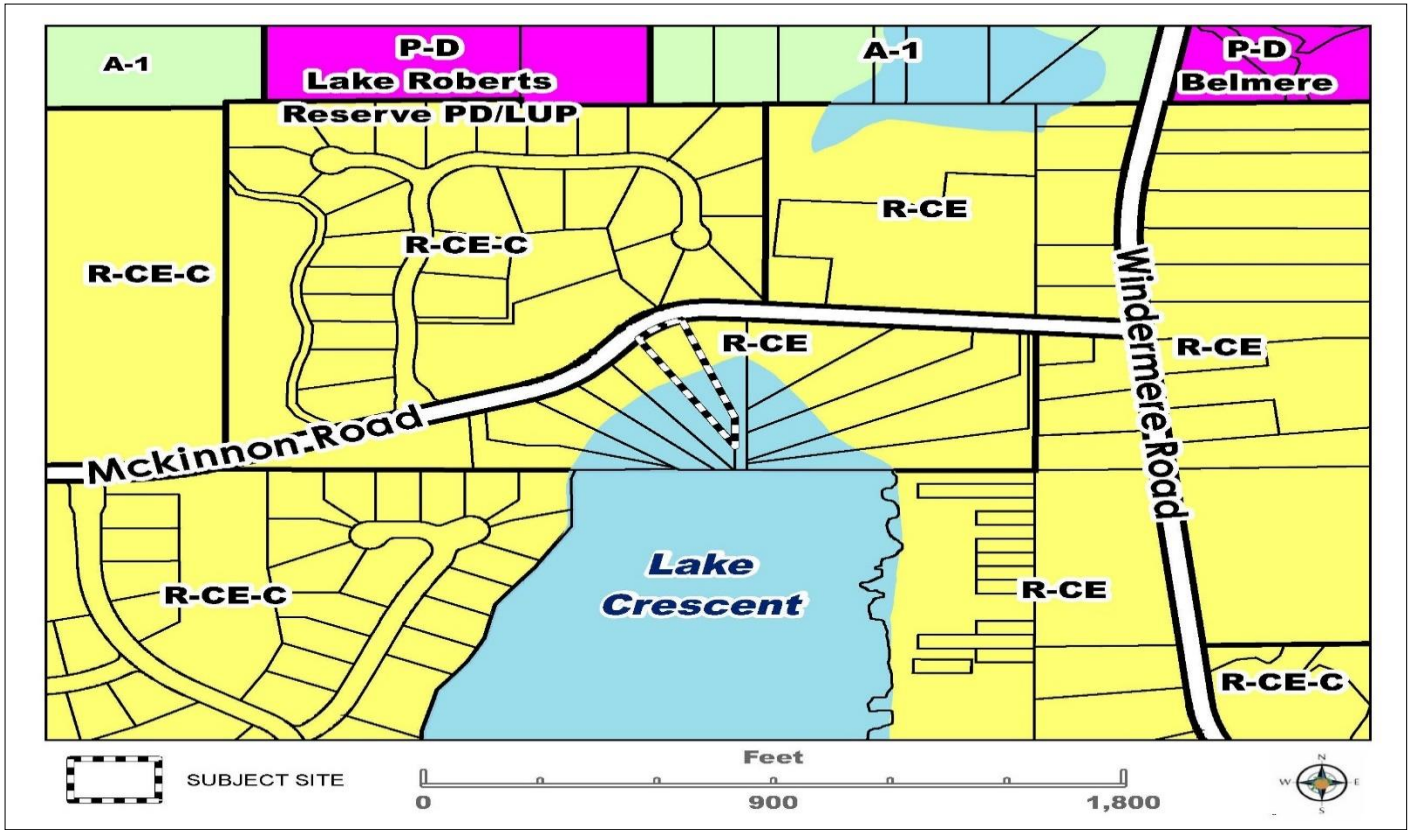
Please see the attached detailed site plan/survey showing where the proposed screen room is to be in relationship to the Normal High Water Elevation Line & 100 year flood elevation line. This will also show the proposed finished floor elevation for this improvement.

Please see the attached architectural elevation drawn to scale for the proposed structure.

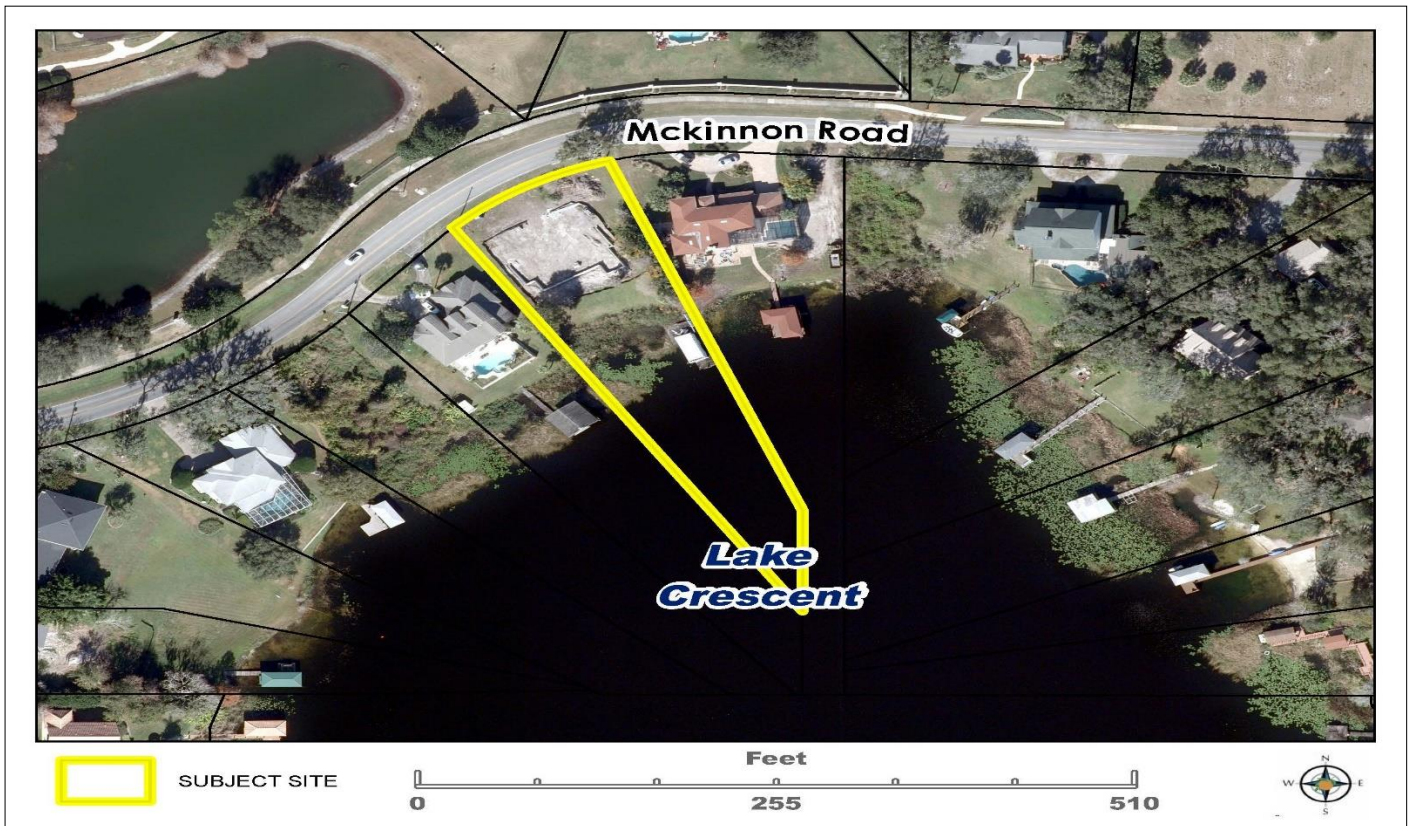
Thank you,

Steven & Sara Kachelmeyer  
[sckachelmeyer@gmail.com](mailto:sckachelmeyer@gmail.com)  
262-492-3949

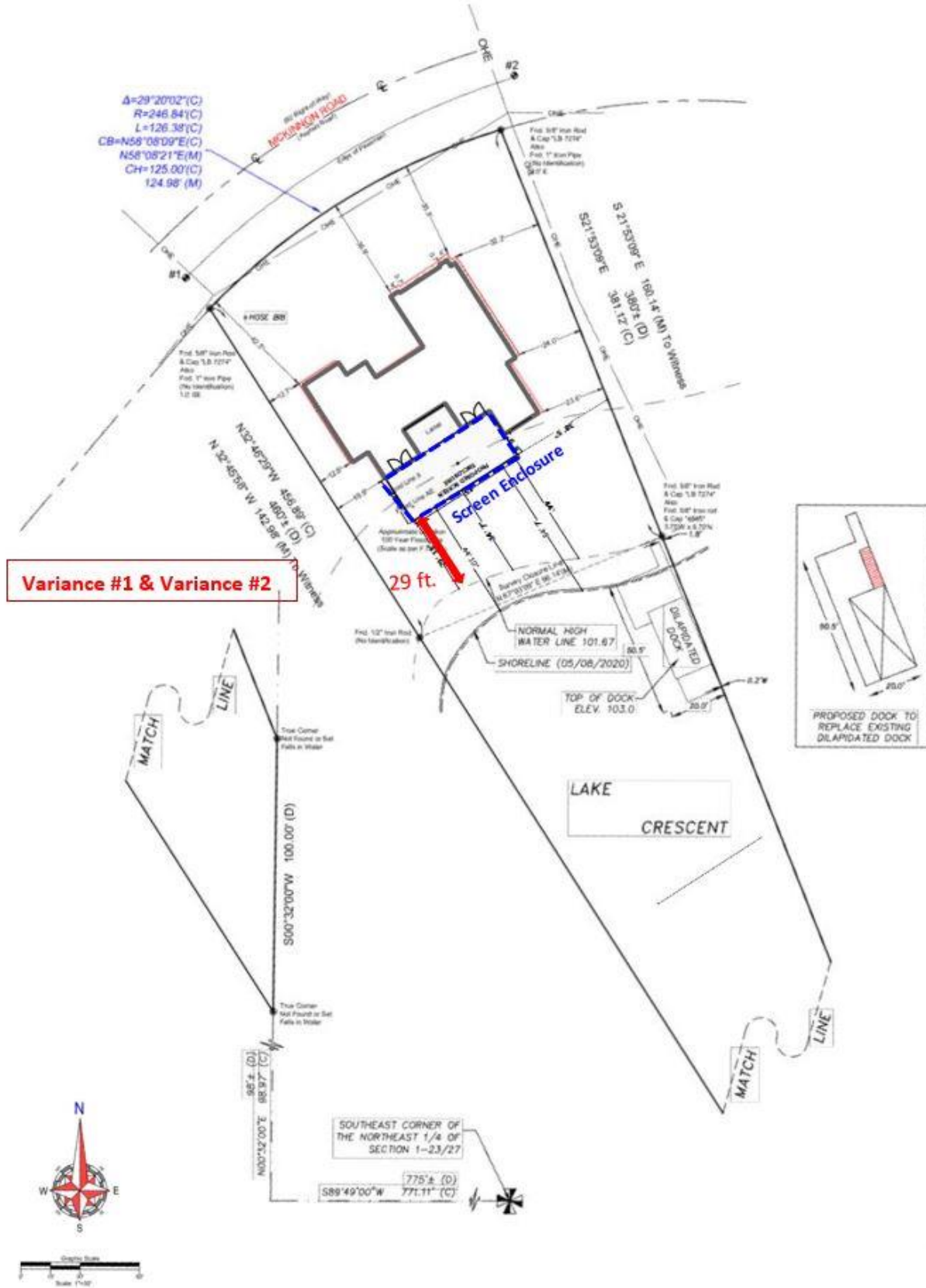
ZONING MAP



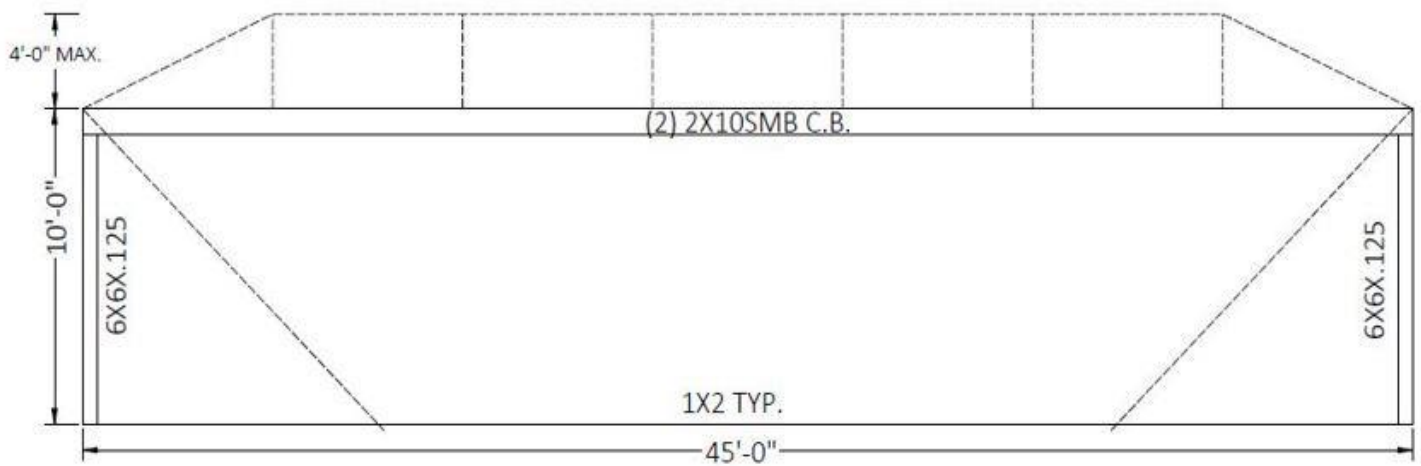
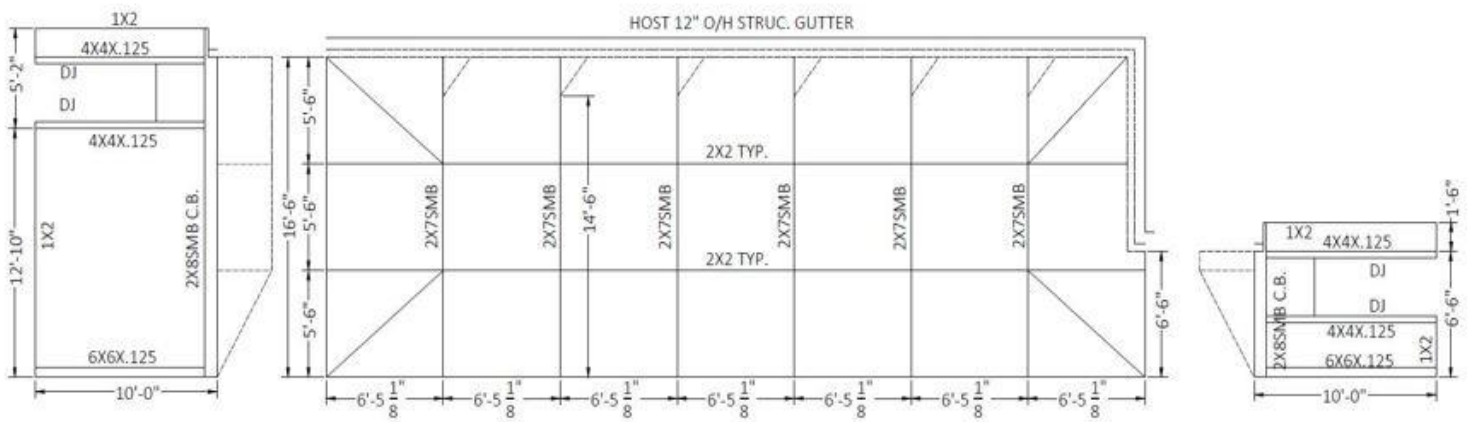
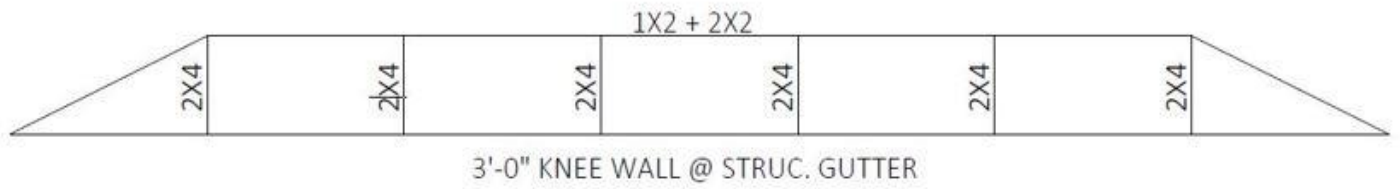
AERIAL MAP



# SITE PLAN



ELEVATIONS



**SITE PHOTOS**



**Facing south towards front of subject property**



**Rear yard, facing north towards rear of subject property (proposed screen enclosure)**

**SITE PHOTOS**



**Rear yard, facing northwest towards pool and pool deck**



**Rear yard, facing south towards Lake Crescent**

**SITE PHOTOS**



**Rear yard, facing west towards pool and pool deck**



**Rear yard, facing east towards pool and pool deck**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 03, 2022**

Commission District: **#4**

Case #: **SE-22-02-141**

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

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

## GENERAL INFORMATION

APPLICANT(s): JOSE RAMIREZ FOR MASSEY STREET APARTMENTS

OWNER(s): ADVANCED CONSTRUCTION WORKS INC.

REQUEST: Special Exception in the R-2 zoning district to allow a 2-story multi-family development to be located within 100 ft. of the property line of a single-family dwelling district and use, as follows: 63.7 ft. from the east property line in lieu of 100 ft.; 30 ft. from the south property line in lieu of 100 ft.

PROPERTY LOCATION: 10002 and 10014 Massey St., Orlando, Florida 32825, southeast corner of Massey St. and N. Dean Rd., south of E. Colonial Dr.

PARCEL ID: 20-22-31-0000-00-034 and 20-22-31-0000-00-028

LOT SIZE: +/- 0.86 acres (37,693 sq. ft.)

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 417

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (5 in favor, 1 opposed and 1 absent):

1. Development shall be in accordance with the site plan received December 22, 2021 and elevations received January 14, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall combine parcels 20-22-31-0000-00-034 and 20-22-31-0000-00-028.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, the distance separation between the site and the surrounding single family uses and districts, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of denial since there are other options to reconfigure the location of the improvements to minimize the impact to the surrounding 1 story, single-family residences. Staff noted that six (6) comments were received in opposition and none in support.

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

The applicant presented and provided information regarding site layout and landscaping and described the rationale for the configuration as proposed.

The BZA discussed the proposal and felt that the buildings are compatible with the surrounding area, that the applicant has done the maximum possible to minimize the impact to the surrounding properties and recommended approval of the variance by a 5-1 vote, with one absent, subject to the five (5) conditions in the staff report.

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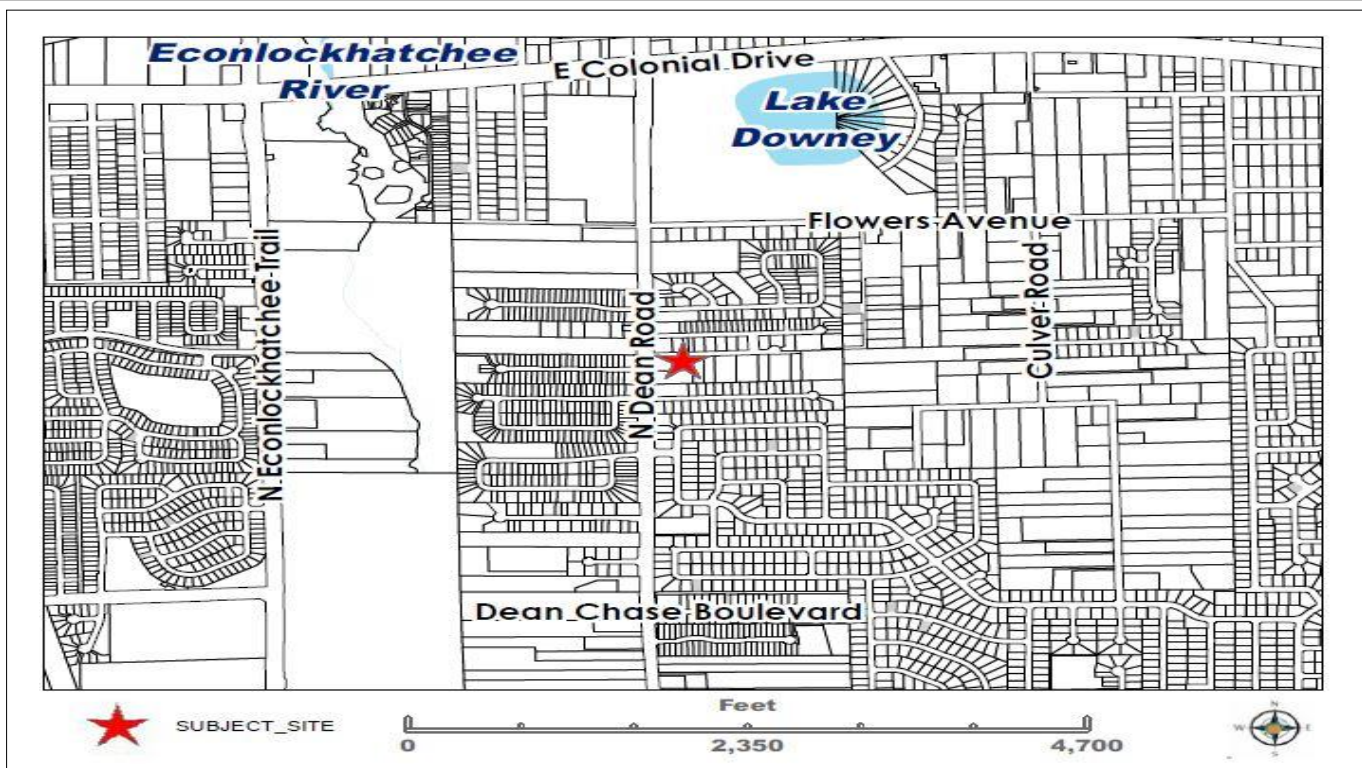
### STAFF RECOMMENDATIONS

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

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### LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-2	R-3	R-1	R-1	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Single-family residential	Duplex	Single-family residential	Single-family residential	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The future land use is Low-Medium Density Residential, which is consistent with the zoning district.

The subject property is 37,693 sq. ft. in size, and is currently vacant. It is a corner lot, with right-of-way frontage on both N. Dean Road and Massey Street. The area consists of one-story single-family homes in the immediate vicinity, one-story duplexes directly to the north across Massey Street, and some vacant lots and pond tracts. The property was purchased by the current owner in 2020.

Proposed is an 8-unit, two-story multi-family development, consisting of 2 multi-family buildings and a total of 16 parking spaces. The end units are proposed to be 2,175 sq. ft. in size and the middle units are proposed to be 2,157 sq. ft. in size. All units will contain 3 bedrooms and 2.5 bathrooms. Vehicular access to the site will be provided from Massey Street to the north, and a sidewalk connection to the west is being proposed to N. Dean Road. The proposed landscaping plan for the project will provide a landscape buffer with canopy trees and shrubs along the perimeter, meeting code. There are two large trees existing on site, one Oak tree and one Pine tree, both are proposed to be removed, which is subject to Chapter 15 of the Orange County Code.

The buildings are proposed to be a minimum of 26.4 ft. from the west property line, 30 ft. from the south property line, 63.7 ft. from the east property line, and 50 ft. from the north property line, meeting the setback requirements. Orange County Code requires special exception approval for multi-family residential buildings in excess of one-story less than 100 ft. from any single-family district and use (including duplexes). To the north is a multi-family zoning district, that has one-story duplexes, so while the 100 ft. separation does not apply to the district boundary, it would apply to the actual buildings/use. There are single-family properties and uses located to the west, however, these uses are over 100 feet away, across N. Dean Road from the proposed multi-family buildings. The proposed separations are provided in the table below.

Multi-Family building distances from single family district or use:

	Zoning District Type	Current Use	Distance from Zoning District Boundary	Distance from Use
<b>North</b>	Multiple-Family District	Duplex	N/A	148 feet
<b>South</b>	Single-Family District	Single-Family	30 feet	124.4 feet
<b>East</b>	Single-Family District	Single-Family	63.7 feet	152.1 feet

The parking requirements for the development:

Unit Type	Parking Requirement	Number of Units Provided	Required # of Spaces	Provided # of Spaces
3 units or more with 2 and 3 bedrooms	2 spaces/unit	8	16	16

Based upon the above unit count, the total parking spaces required is 16 parking spaces. The applicant is proposing a one car garage and driveway for each unit, for a total of 16 spaces, which meets the requirement.

Transportation Planning indicated that the reduced separation from single-family residential subject to this Special Exception request will not have an impact on the roadway network within the project’s impact area.

A virtual Community Meeting hosted by the applicant team was held on January 20, 2022. A total of 7 residents attended; the District Commissioner and County staff were also in attendance. The response was generally negative, with community concerns related to the removal of trees on-site, infrastructure and public safety resources, school capacity, parking and traffic, and privacy related to the two-story product. As of the date of this report, no comments have been received in favor of this request, and three (3) comments have been received in opposition.

It should be noted that staff is recommending denial, because though some of the special exception criteria are met, there are ways to increase the requested distance separation and between the intrusion to the surrounding area. If the multi-family buildings were pulled up to the side street setback along Massey Street, it would still be located over 100 feet from the duplexes across Massey Street, but would increase the separation between the multi-family buildings and single-family uses to the south, reducing the requested distance separation the special exception.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft., limited to 1-story within 100 ft. of single-family zoned property or use	32.75 ft. (2-story/Special Exception)
Min. Lot Width:	85 ft.	138.8 ft.
Min. Lot Size:	15,000 sq. ft.	37,693 sq. ft.

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

	Code Requirement	Proposed
Front (N. Dean Rd.):	20 ft.	26.4 ft. (west)
Rear:	30 ft.	63.7 ft. (east- Special Exception)
Side:	30 ft.	30 ft. (south – Special Exception)
Side Street (Massey St.):	15 ft.	50 ft. (north)
Major Street	60 ft. building (from street centerline) 55 ft. parking area (from street centerline)	86.4 ft. 67 ft.

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**STAFF FINDINGS**

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

The Future Land Use is Low Medium Density Residential and with approval of the special exception, the project will be consistent with the Comprehensive Plan. The Future Land Use allows for a density of 10 dwelling units per acre and the Orange County Comprehensive Plan encourages infill development. The applicant is proposing 8 units on an 0.86 acre site, which is a compliant density of approximately 9.3 dwelling units per acre.

**Similar and Compatible with the Surrounding Area**

The scale and massing of the proposed buildings are designed to be similar to the scale and massing of a single-family home. However, the abutting properties are all one-story single-family dwellings and the proposed multi-family structures are two-story, 4-unit buildings.

**Shall Not Act as a Detrimental Intrusion into a Surrounding Area**

The development as proposed will act as a detrimental intrusion into the surrounding area. The site plan and multi-family buildings could have been designed in a way that located the structures further away from the single-family dwellings and provided a greater separation between the districts and uses which prompted the need for the Special Exception, and which would lessen the impact of the proposed development on the adjacent single family. A rear-loaded product would allow the buildings to be pulled closer to the street and provide further separation between the single family uses and districts, in addition to better site maneuverability and connectivity.

**Meet the performance standards of the district**

The development as proposed will meet the performance standards of the district.

**Similar in Noise, Vibration, Dust, Odor, Glare, Heat Producing**

The characteristics and impacts of the multi-family residential development, as designed is consistent with the surrounding uses in the area.

## **Landscape Buffer Yards Shall be in Accordance With Section 24-5 of the Orange County Code**

The applicant has provided a landscaping plan which addresses perimeter landscaping in compliance with Section 24-5 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 received December 22, 2021 and elevations received January 14, 2022 subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall combine parcels 20-22-31-0000-00-034 and 20-22-31-0000-00-028.

C: Jose Ramirez  
29 Cardamon Dr.  
Orlando, FL 32825

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## COVER LETTER

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### Special Exception Criteria – Massey Street Apartments

This special exception request is submitted in order to construct a building in a R-2 zoning district that is two story in height, adjacent to single family homes within the R-1 zoning district.

- 1) The future land use designation for the subject site is LMDR which includes the R-2 zoning category and allows up to 10 DU/Acre. The subject development is located within the R-2 zoning district and is proposing a density of 9.1 DU/Acre. The project site is also located within the urban service area. The project will further the goal of FLU8.2.2 which states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types shall be promoted. UD1.5.10 states that projects are encouraged to provide a stormwater management system that is designed to be aesthetic in nature. The pond has been designed with dense vegetation which not only meets the objective but also provides greater buffering between the proposed building and the neighboring single family homes.
  
- 2) The requested use will be similar to another nearby two story apartment project, located within the R-2 zoning district. The map below depicts the location of the Dean Woods apartment development. This is a two story apartment development that is located approximately 500-600 feet north of the subject site. Also, in order to be compatible with the surrounding area, the site has been designed with a stormwater retention area between the building and the property line on both the south and east property lines. This will provide greater separation/buffer between the building and the affected property lines. This greater separation between the building and the affected property lines will serve to buffer the single family residential properties that are adjacent to the subject site.



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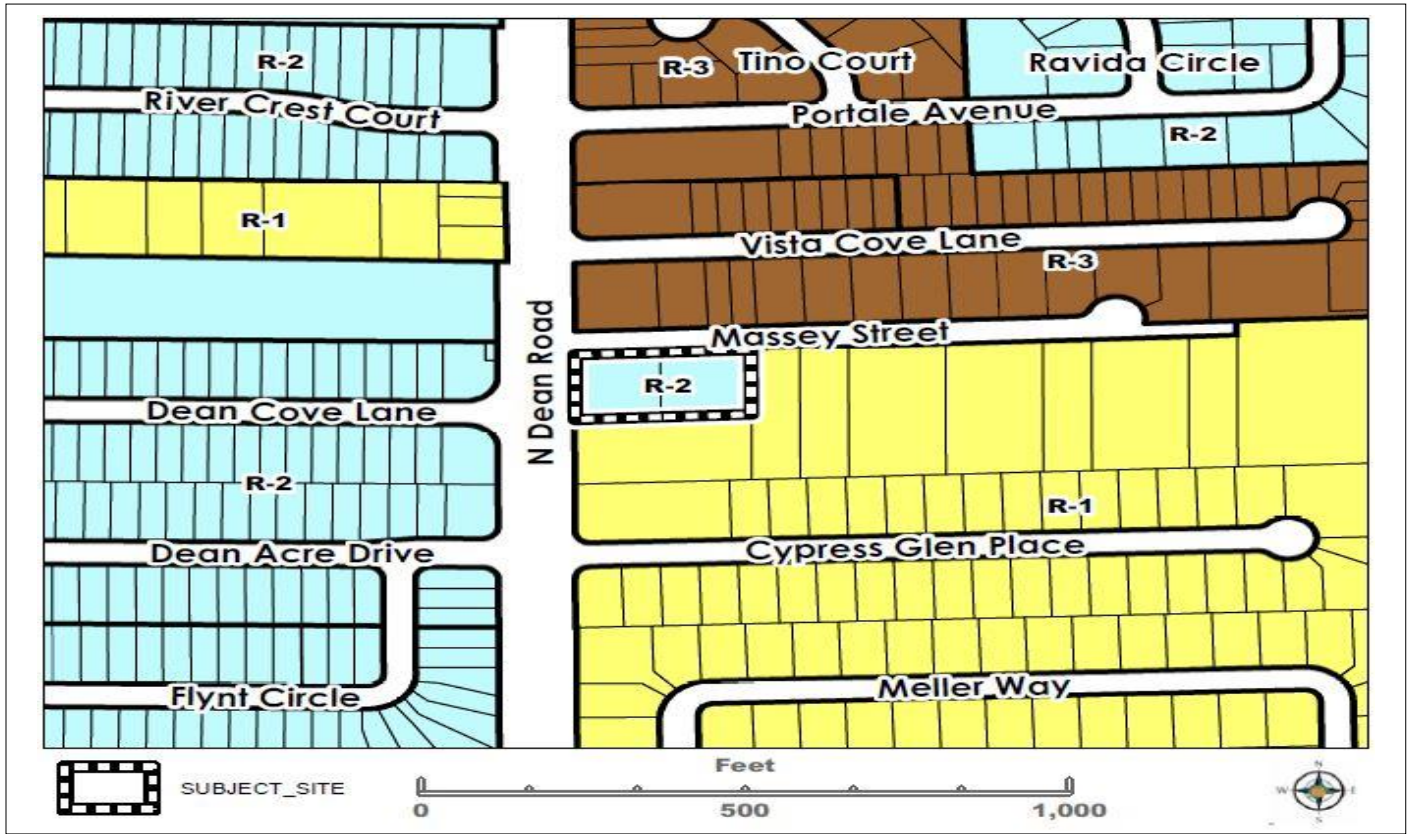
## COVER LETTER

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- 3) The proposed use will not act as a detrimental intrusion into the surrounding area. In order to buffer the proposed site from the adjacent single family residential property, the site has been designed with the stormwater management pond between the building and the southern and eastern property boundaries. The building is set 30 ft from the southern property line and 64 ft from the eastern property line. Both the eastern and southern landscape buffers will contain dense vegetation and we are also proposing a 6 ft high PVC fence, along both of these property lines.
- 4) All performance standards for the R-2 Zoning district have been met or exceeded with the proposed plan.
- 5) The proposed use will not generate any additional noise as the project will utilize residential rollout refuse containers, instead of a dumpster enclosure as this tends to contribute to additional noise for an apartment project. The project will also generate no vibration, dust or odor that would be offensive to the surrounding property owners. The lighting for the project will meet all Orange County standards and will not be permitted to spill onto adjacent properties. The project is also proposing concrete pavement which will reduce the heat producing effects of asphalt pavement.
- 6) The landscape buffers proposed for this project exceed the requirements of Section 24-5 of the Orange County code. The buffers along the southern and eastern property lines have been increased in density in order to further buffer the proposed buildings from the adjacent single family residential properties.



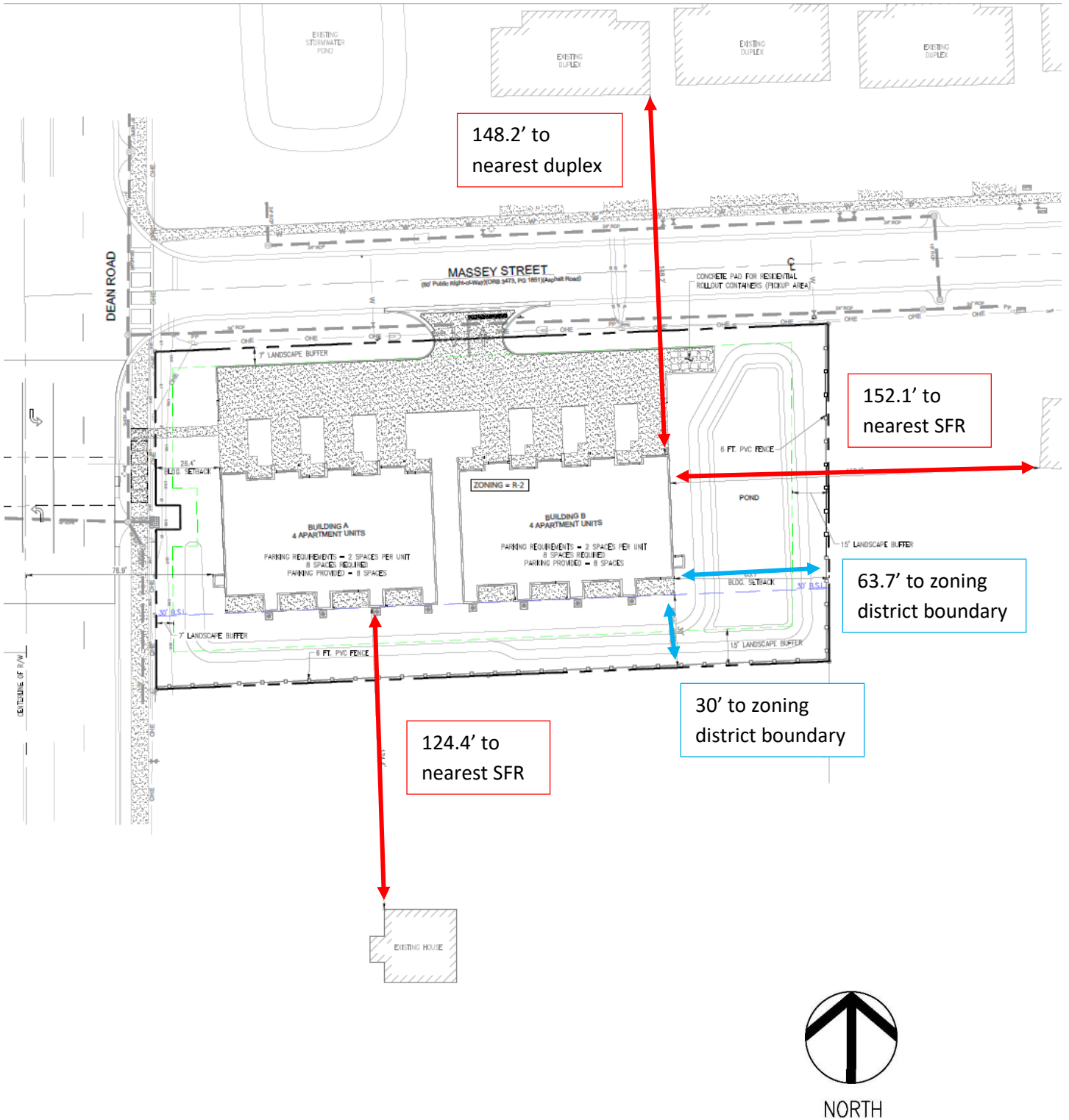
ZONING MAP



AERIAL MAP



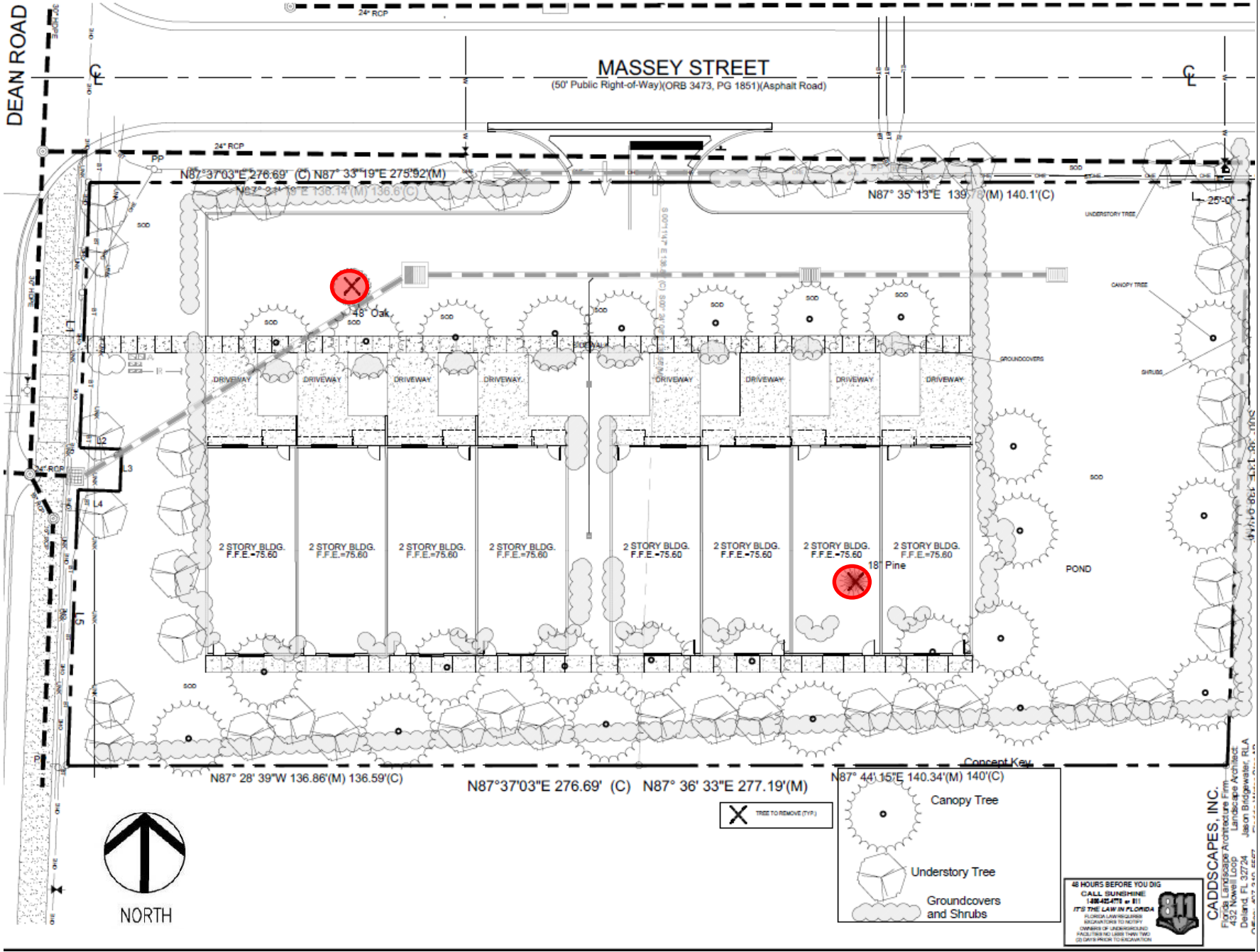
SITE PLAN



DEAN ROAD

MASSEY STREET

(50' Public Right-of-Way)(ORB 3473, PG 1851)(Asphalt Road)



LANDSCAPE PLAN

X TREE TO REMOVE (TYP)

Legend:

- Canopy Tree
- Understory Tree
- Groundcovers and Shrubs

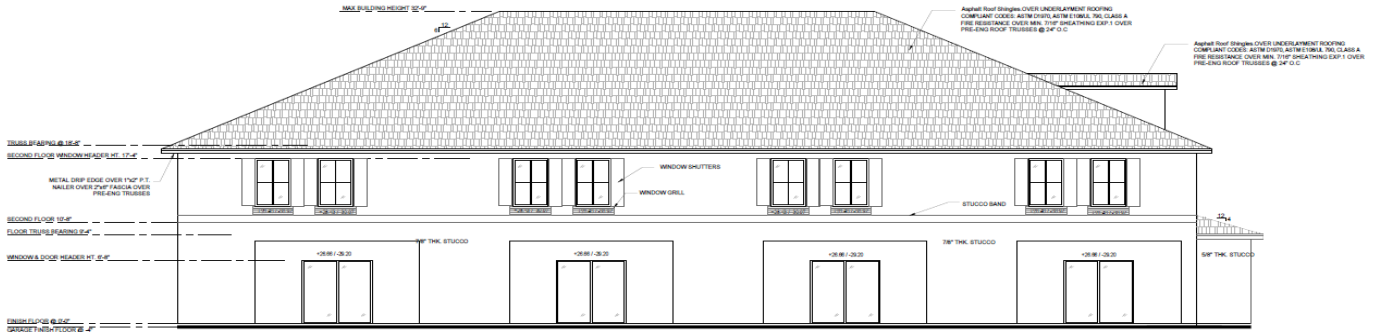
48 HOURS BEFORE YOU DIG  
CALL SUNSHINE  
1-888-446-8111  
IT'S THE LAW IN FLORIDA  
FLORIDA LANDSCAPE ARCHITECTS  
REGISTERED TO RECEIPT  
COMPASS OF UNDERGROUND  
UTILITIES AND LINES EVERY YEAR  
(2) DAYS PRIOR TO EXCAVATION

CADSCAPES, INC.  
FLORIDA LANDSCAPE ARCHITECT  
4373 Newell Loop  
Deland, FL 32724  
JASON BRIDGWATER, R.L.A.  
Landscape Architect

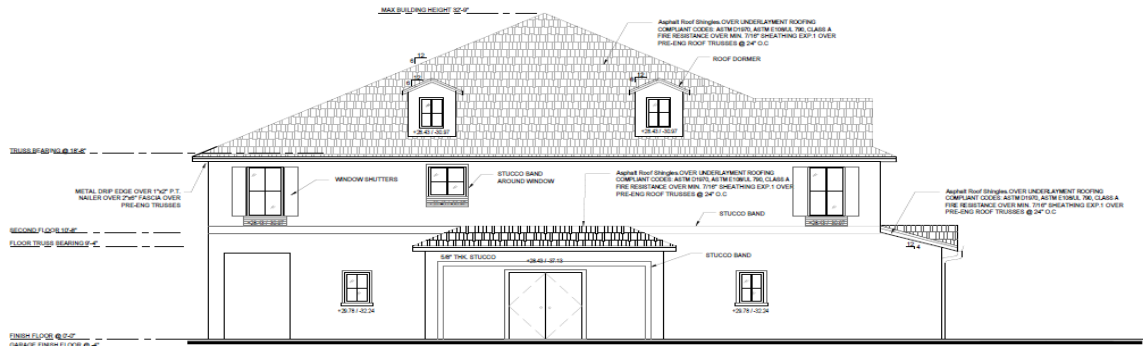
# BUILDING "A" ELEVATIONS



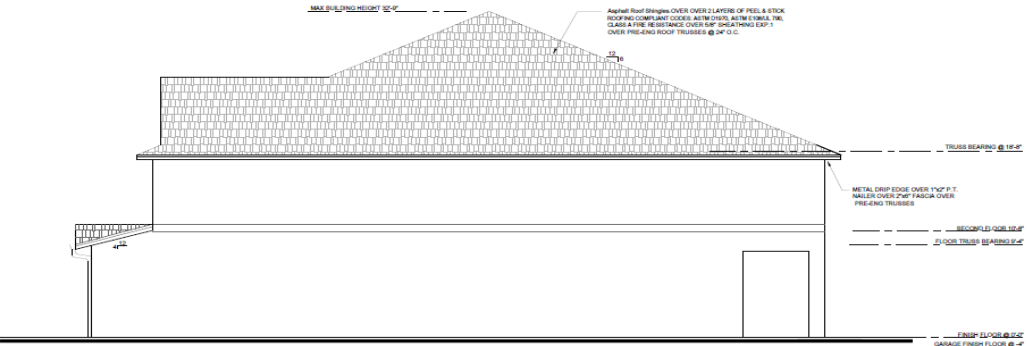
1  
AS.01  
**BUILDING "A" NORTH ELEVATION**  
1/4" = 1'-0"



1  
AS.02  
**BUILDING "A" SOUTH ELEVATION**  
1/4" = 1'-0"

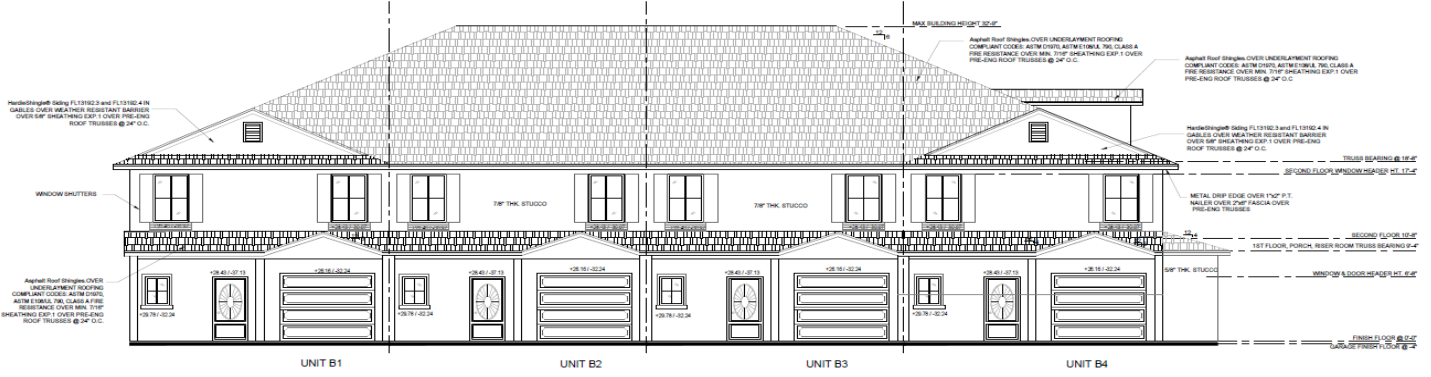


1  
AS.03  
**BUILDING "A" EAST ELEVATION**  
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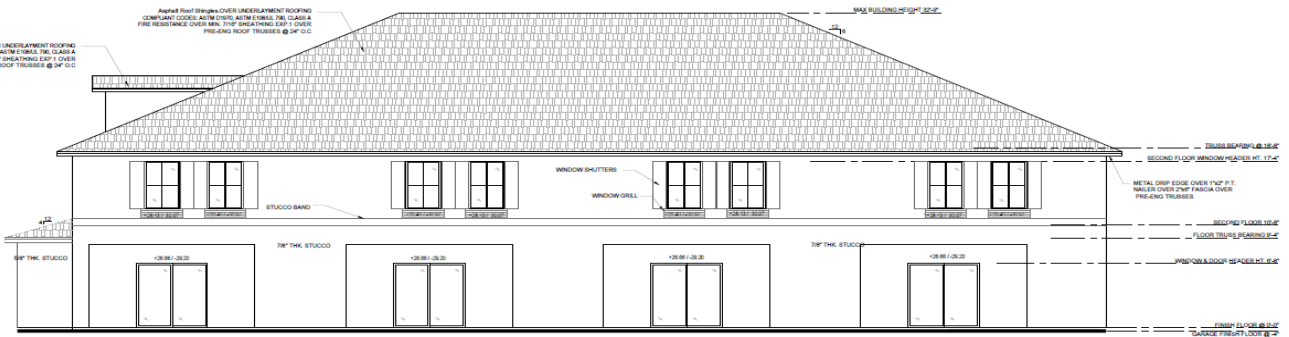


1  
AS.04  
**BUILDING "A" WEST ELEVATION**  
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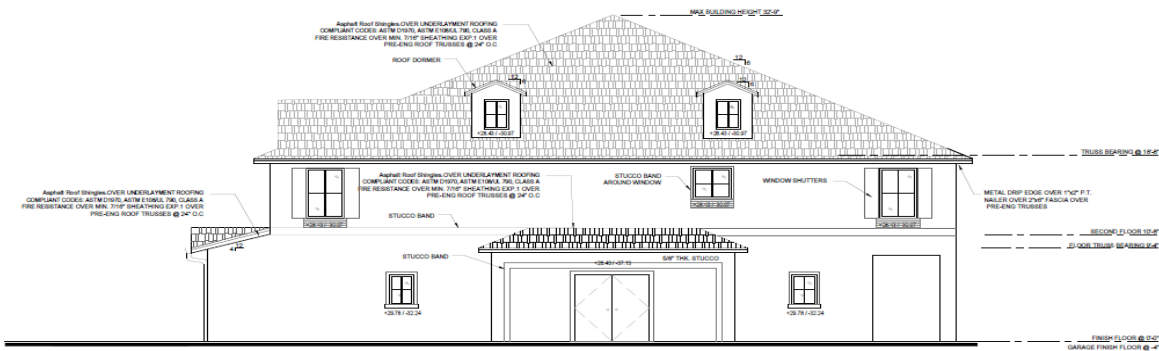
# BUILDING "B" ELEVATIONS



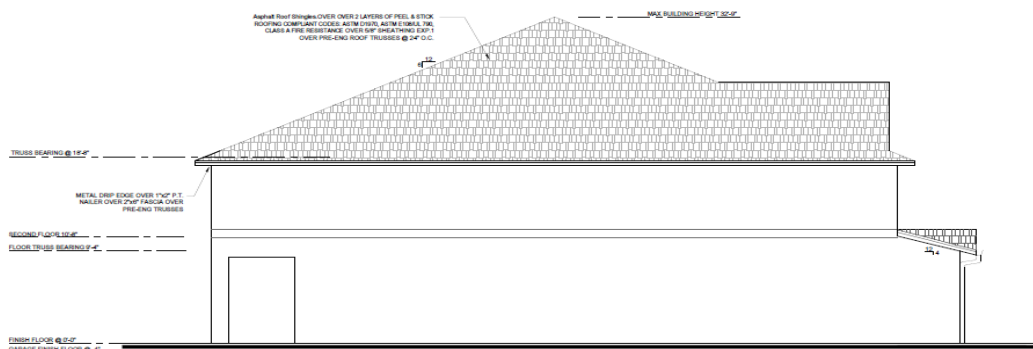
**BUILDING "B" NORTH ELEVATION**  
1/4" = 1'-0"



**BUILDING "B" SOUTH ELEVATION**  
1/4" = 1'-0"

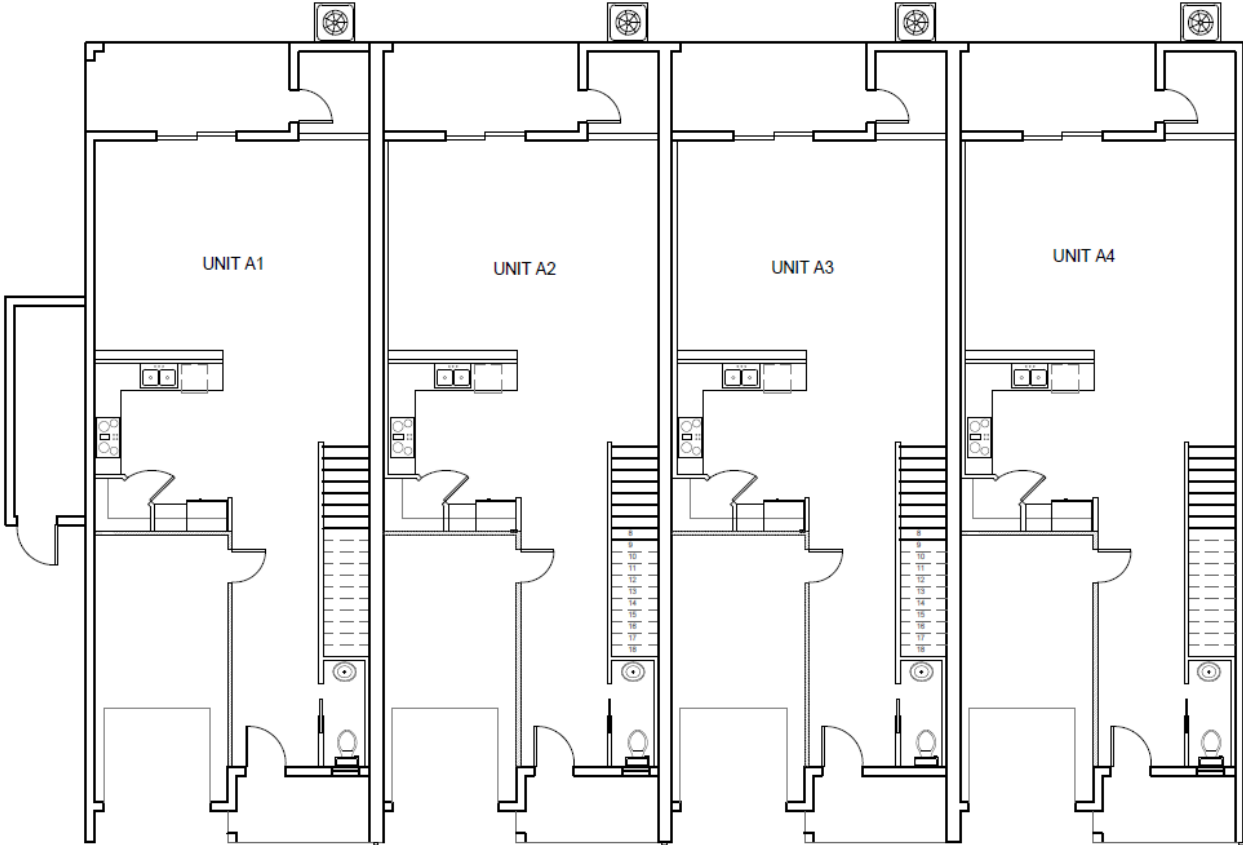


**BUILDING "B" WEST ELEVATION**  
1/4" = 1'-0"

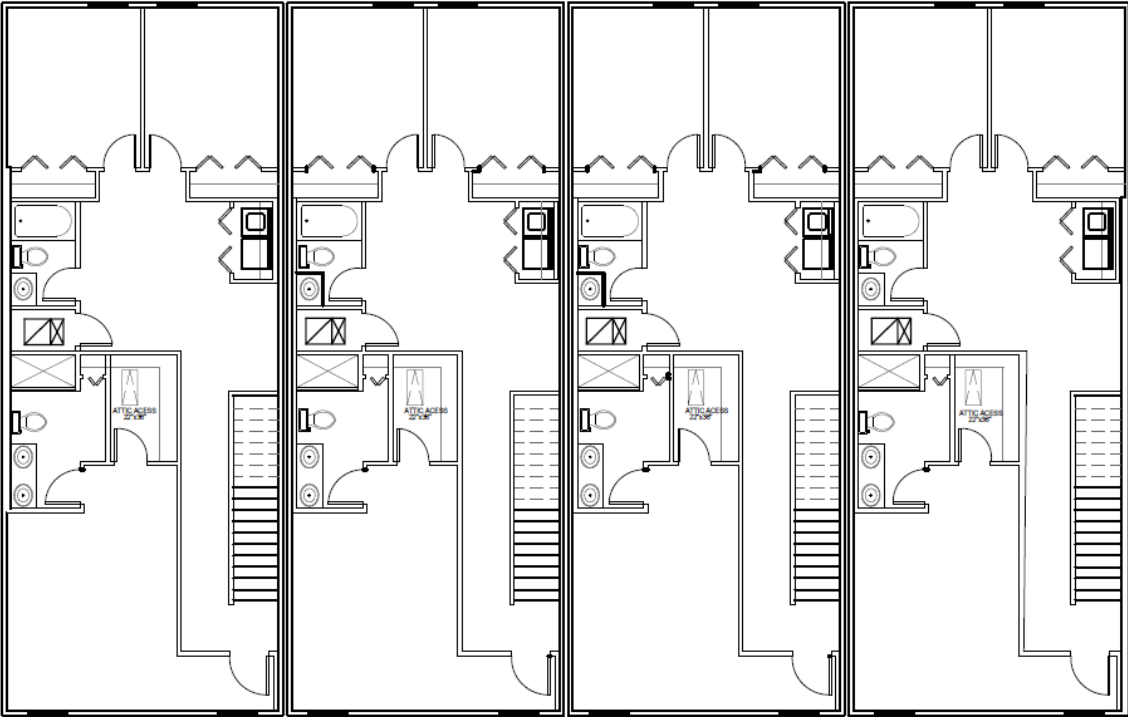


**BUILDING "B" EAST ELEVATION**  
1/4" = 1'-0"

**BUILDING "A" FLOOR PLANS**

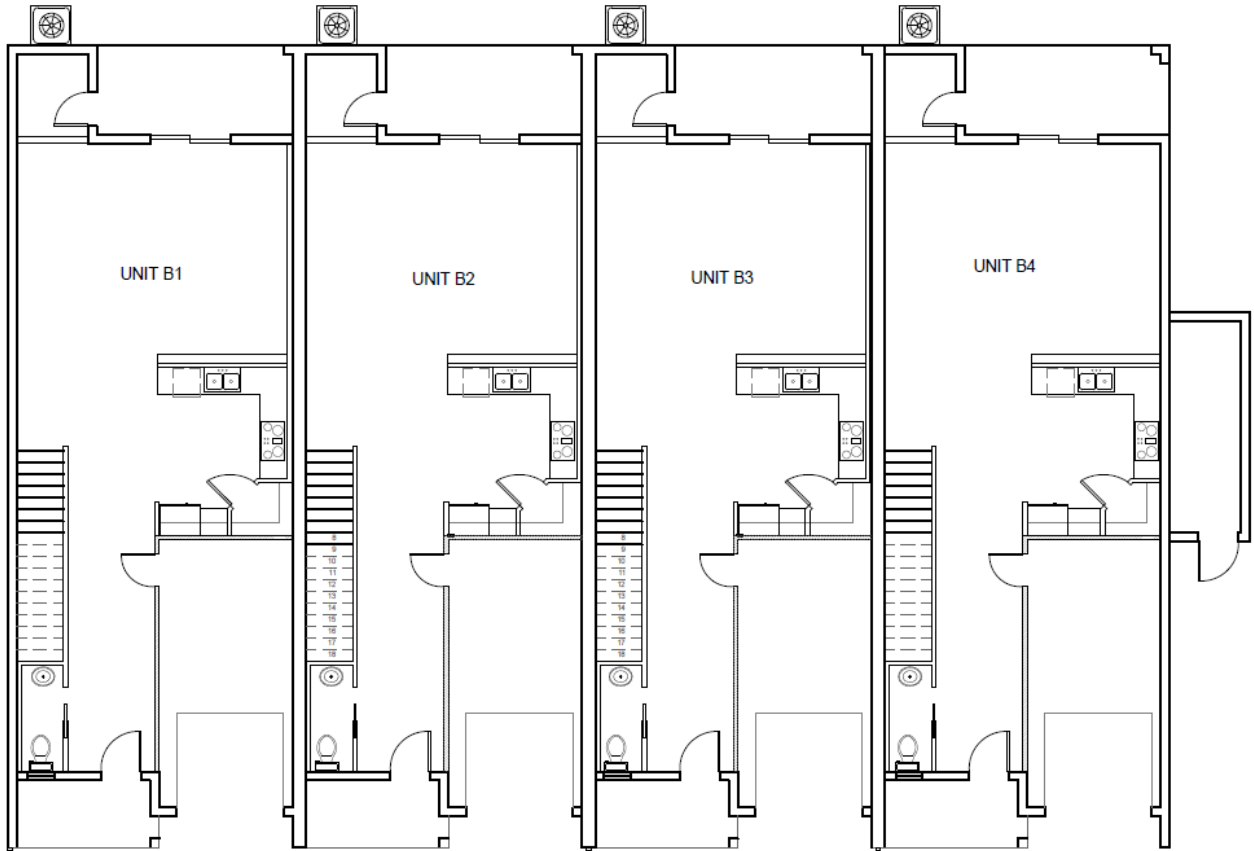


**Building "A" First Floor**

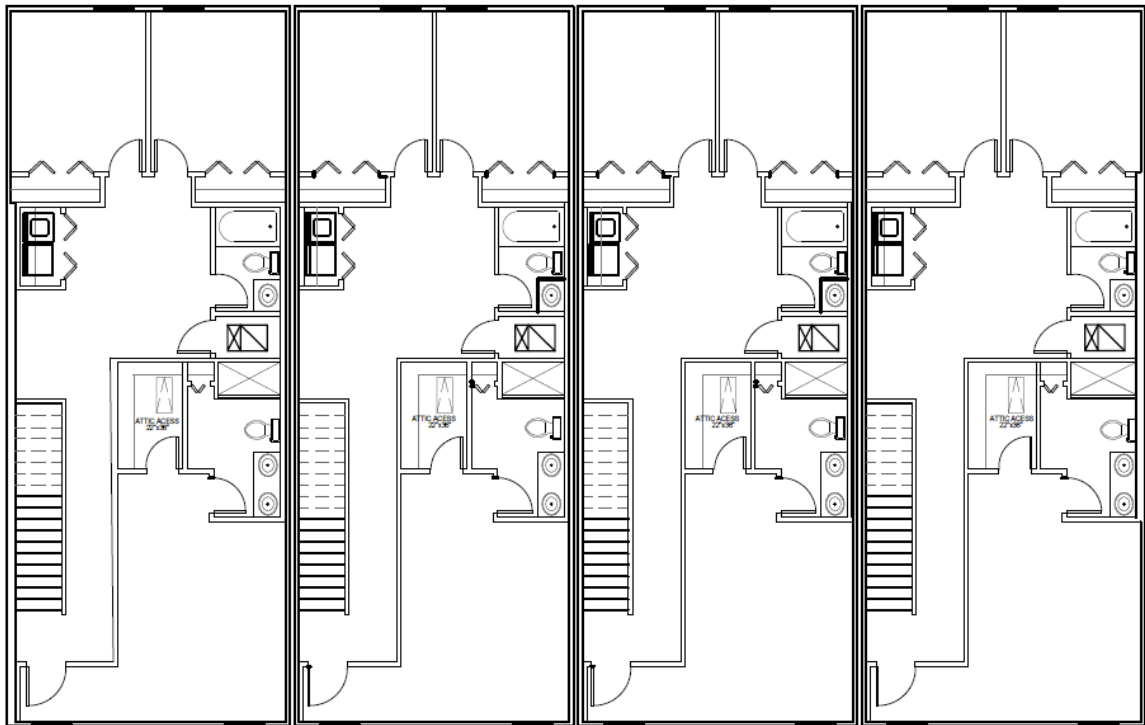


**Building "A" Second Floor**

**BUILDING "B" FLOOR PLANS**



**Building "B" First Floor**



**Building "B" Second Floor**

**SITE PHOTOS**



**Facing south from Massey St. side of subject property**



**Front, facing east from across N. Dean Rd.**



**SITE PHOTOS**



**Rear of the property, facing Duplexes to the north**



**Subject property facing south**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 03, 2022**

Commission District: **#1**

Case #: **VA-22-03-146**

Case Planner: **Michael Rosso (407) 836-5592**

**Michael.Rosso@ocfl.net**

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## GENERAL INFORMATION

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APPLICANT(s): MELVIN ADAMS

OWNER(s): MELVIN ADAMS, TAMELA ADAMS

REQUEST: Variances in the R-CE zoning district for the construction of a two-story addition as follows:

1) To allow a lot width of 113 ft. in lieu of a minimum lot width of 130 ft.

2) To allow a north side setback of 8.2 ft. in lieu of 10 ft.

3) To allow a south side setback of 7 ft. in lieu of 10 ft.

4) To allow an east rear setback of 5.2 ft. in lieu of 50 ft.

PROPERTY LOCATION: 16217 Lake Johns Circle, Winter Garden, FL 34787, northeast corner of Lake Johns Cir. and 4th St., south of Florida's Turnpike, north of Johns Lake.

PARCEL ID: 29-22-27-4534-03-100

LOT SIZE: +/- 0.31 acres (13,779 sq. ft.)

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 29

**DECISION:** This public hearing was **CONTINUED** to the April 7, 2022 BZA Meeting (unanimous; 6 in favor, 0 opposed and 1 absent).

**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 of Variances #1 and #2, and denial of Variances #3 and #4. Staff noted that 6 letters of no objection were received (and 3 duplicate correspondences in favor of this request from individuals who also submitted letters of no objection), and that no correspondence was received in opposition.

The applicant was present and discussed their reasons for wanting to build the proposed addition, requiring the requested setback variances.

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

The BZA discussed the Variances, and was concerned about Variance #4 for the requested 5.2 ft. rear yard setback in particular, due the proportionally high degree of the request and unanimously voted to continue the request to the April 7, 2022 BZA Hearing, to allow the applicant time to reduce the size of the proposed addition and revise the layout in a way that allows for a larger rear yard setback.

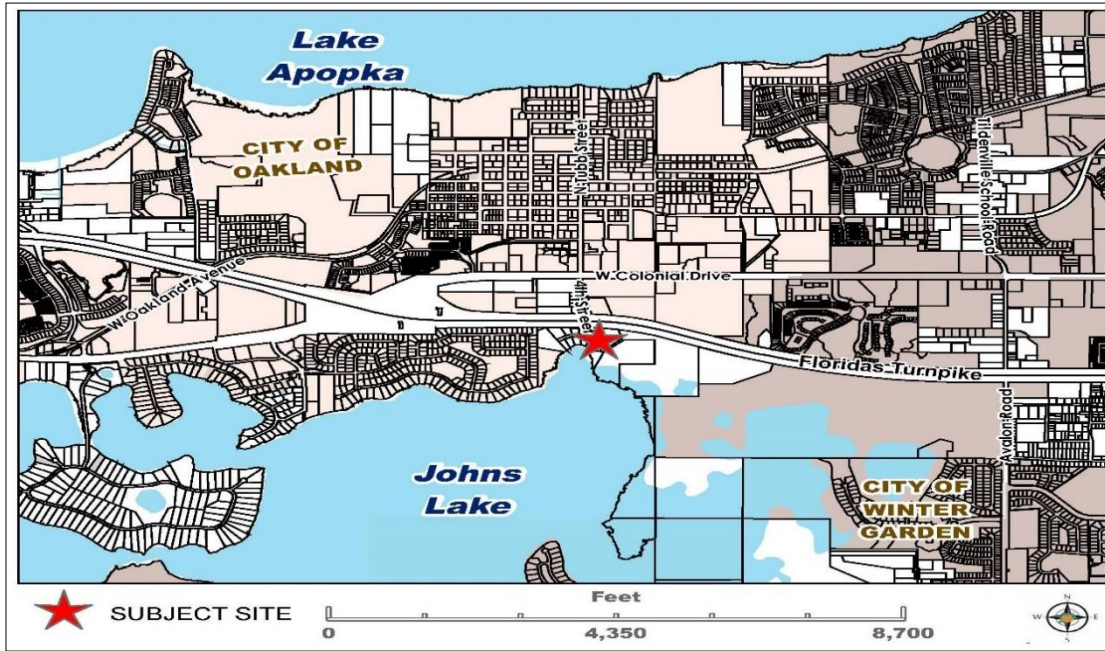
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## STAFF RECOMMENDATIONS

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

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-CE
Future Land Use	R	R	R	R	R
Current Use	Single-family residential	Single-family residential	Single-family residential	Vacant	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

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

The subject property is 13,779 sq. ft., approximately 0.31 acres in size, and was platted in 1958 as Lot 10 of the Lake Johns Shores Plat. The property was previously zoned R-1A, but was rezoned to the R-CE district administratively by Orange County in 1983, along with the rest of the neighborhood. The existing 2,430 sq. ft. residence on the property was constructed in 1973, meeting R-1A district setback requirements at that time. The lot is considered a non-conforming legal lot of record as it was rezoned to R-CE, which requires a larger lot size than R-1A, after the lot was platted. There is also a small shed in the rear of the lot which meets setback requirements and is in the process of being permitted.

The proposal is to construct a 2,504 sq. ft., two-story addition, including a covered entryway. The lot in question is irregularly shaped, due to its location at the intersection of 4<sup>th</sup> Street and Lake Johns Circle.

Although the property is addressed on Lake Johns Circle, the front of the lot with the 35 ft. setback is actually to the west along 4<sup>th</sup> Street; and, the required setback along the portion of the lot adjacent to Lake Johns Circle is a 15 ft. side street setback. The rear of the lot is to the east, and the sides of the lot are to the north and south.

Variance #1, is being requested as the existing lot meets the R-CE lot width requirement of 130 ft.; however, with the proposed covered entryway addition in front of the existing residence, the lot width measurement changes, and becomes 113 feet. Here, the proposed lot width is measured by drawing a straight line across the front of the proposed covered entryway, and measuring the distance of that line from where it intersects the north side property line to where it intersects the south side street property line.

Variance #2, is being requested as the existing home was built before the property was rezoned to R-CE and the north side setback of 8.2 ft. does not meet the 10 ft. side setback requirement. Staff is recommending approval of Variance #1 and #2, as they meet all six variance criteria. Furthermore, the lot width and north side setback are consistent with R-1A standards, which were in place at the time the existing residence was constructed.

Variances #3 and #4, are being requested by the applicant in order to construct the proposed 2,504 sq. ft., two-story addition, which would encroach into the required south side and east rear setbacks. While it may

be appropriate to provide reduced setback for this lot given the irregular shape and the size, compared to the requirements of the R-CE zoning district it was administratively rezoned to, the requested 5.2 ft. rear setback is a substantial deviation and neither the 7 ft. side nor the 5.2 ft. rear are the minimum possible. The proposed setbacks are not even consistent with the 7.5 ft. side and 30 ft. rear setback requirements in the R-1A zoning district. Consequently, staff is recommending denial of Variance #3 and #4.

Although the advertised request for Variance #4 was a 4.8 ft. rear setback, this setback would encroach into a 5 ft. utility easement that runs along the rear of the property, and structures cannot be built within utility easements. Therefore, the size of the proposed addition was slightly reduced, and the request has been revised to allow an east rear setback of 5.2 ft. in lieu of 50 ft., and a south side setback of 7 ft. in lieu of 10 feet. These revised requests for Variance #3 and #4, are reflected on the provided site plan.

Alternatively, staff recommends approval of a variance of a 33.7 ft. east rear setback to recognize the existing location of the residence, if the variance request for a 5.2 ft. rear setback is denied, so that a residence could be rebuilt in the same location as the existing home.

As of the date of this report, six letters of no objection have been received from surrounding property owners, of which includes three responses that have been received in favor of the request, and no comments have been received in opposition to the request.

### District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	27.9 ft.
Min. Lot Width:	130 ft.	113 ft. (Variance #1)
Min. Lot Size:	1 ac. (43,560 sq. ft.)	+/- 0.31 ac. (13,779 sq. ft.)

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

	Code Requirement	Proposed
Front (4 <sup>th</sup> Street):	35 ft.	35.4 ft. (West)
Rear:	50 ft.	5.2 ft. (East – Variance #4)
Side:	10 ft.	7 ft. (South – Variance #3)
Side:	10 ft.	8.2 ft. (North – Variance #2)
Side Street (Lake Johns Circle):	15 ft.	22.5 ft. (Southwest)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### Special Conditions and Circumstances

The existing lot was not platted in a way that would make building a home to meet R-CE zoning standards feasible due to setback requirements. In the case of minimum lot width, if the original home had been built to the current 35 ft. front setback line of R-CE, the lot width would actually be slightly less than the 113 ft. being proposed. Due to these setback and lot width requirements and the odd shape of the lot, it is very difficult for an addition to even meet R-1A standards, let alone R-CE standards.

#### Not Self-Created

**Variances #1 & #2:** The need for the requested variances is not self-created as the requested lot width and north side setback would meet R-1A standards, which is what the lot was zoned before the County rezoned it in 1983, after the existing residence was constructed.

**Variances #3 & #4:** While staff recognizes the need for some variances on the lot, the variances requested are extensive. The need for the requested variances is self-created, as the proposed addition is larger than the existing residence and the proposal could be modified to be more in conformance with the code requirements, such as by adding a second floor over the existing building footprint.

#### No Special Privilege Conferred

**Variances #1 – #3:** Granting Variance #1 as requested, would not confer special privilege as there are several other properties in the Lake Johns Circle Neighborhood which would meet the R-1A lot width requirement as platted, but do not meet the R-CE lot width requirement.

Granting Variances #2 and #3 as requested, would not confer special privilege as although no setbacks have been granted in the neighborhood, there are properties which appear to have smaller side setbacks than the 7 ft. and 8.2 ft. being requested, and thus, would also not meet R-CE or R-1A setback requirements.

**Variance #4:** Granting the variance as requested would confer special privilege as all of the other properties in the neighborhood appear to be meeting the 50 ft. R-CE rear setback requirement.

### **Deprivation of Rights**

**Variances #1 & #2:** Not granting Variance #1 would deprive the property owner of the ability to build a covered entryway on the front which would have been allowed with the original R-1A zoning.

Not granting Variance #2 would deprive the property owner from the ability to rebuild the residence in the same location if demolished.

**Variances #3 & #4:** There is no deprivation of rights as the existing residence can continue to be enjoyed as it exists without the need for either variance. Furthermore, the proposed addition would not even meet the requirements of the original R-1A zoning.

### **Minimum Possible Variance**

**Variances #1 & #2:** Variance #1 is the minimum possible to allow the property owner to build the proposed covered entryway addition on the front, which would have been allowed with the original R-1A zoning.

Variance #2 is the minimum possible to allow the property owner to rebuild the residence in the same location should something happen to the existing home.

**Variances #3 & #4:** The requests are not the minimum possible as a smaller addition could be built which does not encroach into the rear setback any more than the existing residence does, and at a minimum, meets the 7.5 ft. side setback requirement of R-1A zoning. Alternatively, a second floor could be constructed over the existing building footprint.

### **Purpose and Intent**

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. As previously mentioned, there are other properties in the surrounding area which are deficient in lot width, and some which are more deficient than the 113 ft. lot width being proposed. Therefore, this lot being deficient by 17 ft. will not cause any discernable negative impact. Furthermore, there are several other instances of residences in the area which appear to be encroaching into required side setbacks, many of which appear to be encroaching more than the 7 ft. and 8.2 ft. side setbacks being proposed. Thus, the proposed side setbacks should also not cause any discernable negative impact when compared to what currently exists in the neighborhood. Additionally, the rear of this property backs up to the side of the adjacent parcel to the east. Due to the size and shape of that adjacent parcel, it is unlikely that the proposed addition, with a 5.2 ft. rear setback, would be within close proximity to any residence built in the future on the adjacent parcel to the east.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received January 25, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Melvin Adams, Tamela Adams  
16217 Lake Johns Circle  
Winter Garden, Florida 34787

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COVER LETTER

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Re; Variance Request

12/7/21

To whom it may concern,

We submit this letter requesting a variance for an addition to our home. The reason for the request is to enlarge the structure due to our growing family. The house was originally unreasonably small, and due to the setbacks, we are not permitted to do any addition to the structure. The lot being large, having two front property lines and a very unusual rear setback requirement, makes this property impossible to build on or enlarge the structure.

The construction type will be concrete block addition in a two-story frame; standard asphalt shingle roofing to match the existing house. We also want to add a front covered entry because we don't have one. We will be adding approx. 2000 square feet of living space. This will consist of bedrooms above a 3-car garage. The size is approximately 30' x 40' with a covered front porch, and walkway attached. The structure will be 20' from the front two property lines, 7.5' from the side property line, and one small corner will be 5' from the rear property line, which is also the utility easement. The allowed setbacks for the code are now 35' front (2 front property lines), 10' on the sides, and 50' in the rear. As you can see, with these numbers, there's no place to build. Please see attached site plan. The proposed height will not exceed 28'.

Special conditions and circumstances: Due to the shape of the lot and having two front property lines, plus the required setbacks, makes an addition impossible.

Not self-created: This is not a self-imposed condition or circumstance. This hardship is brought on by the required setbacks.

No special privilege conferred: The proposed setback variance does not confer any special privileges.

Deprivation of rights: We are unable to expand our small home and increase the square footage for our growing family. All homes in the neighborhood are either two story or larger in square footage.

Minimum possible variance: With the approved variance, we will be able to make reasonable use of the land and property.

Purpose and Intent: The intent for the variance will be in harmony with the purpose and the intent of the zoning regulations.

Thank you very much for your consideration.

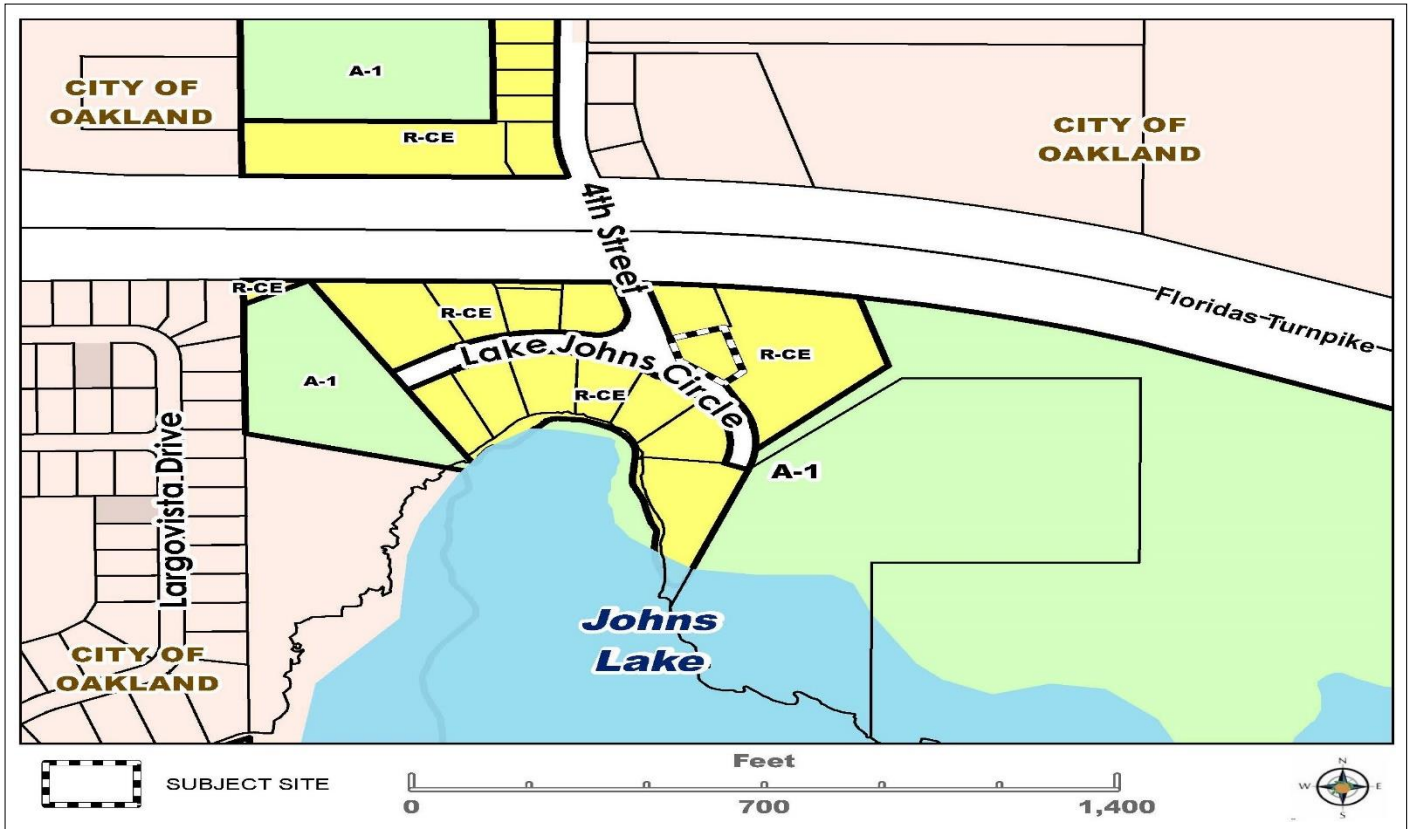


12/8/21

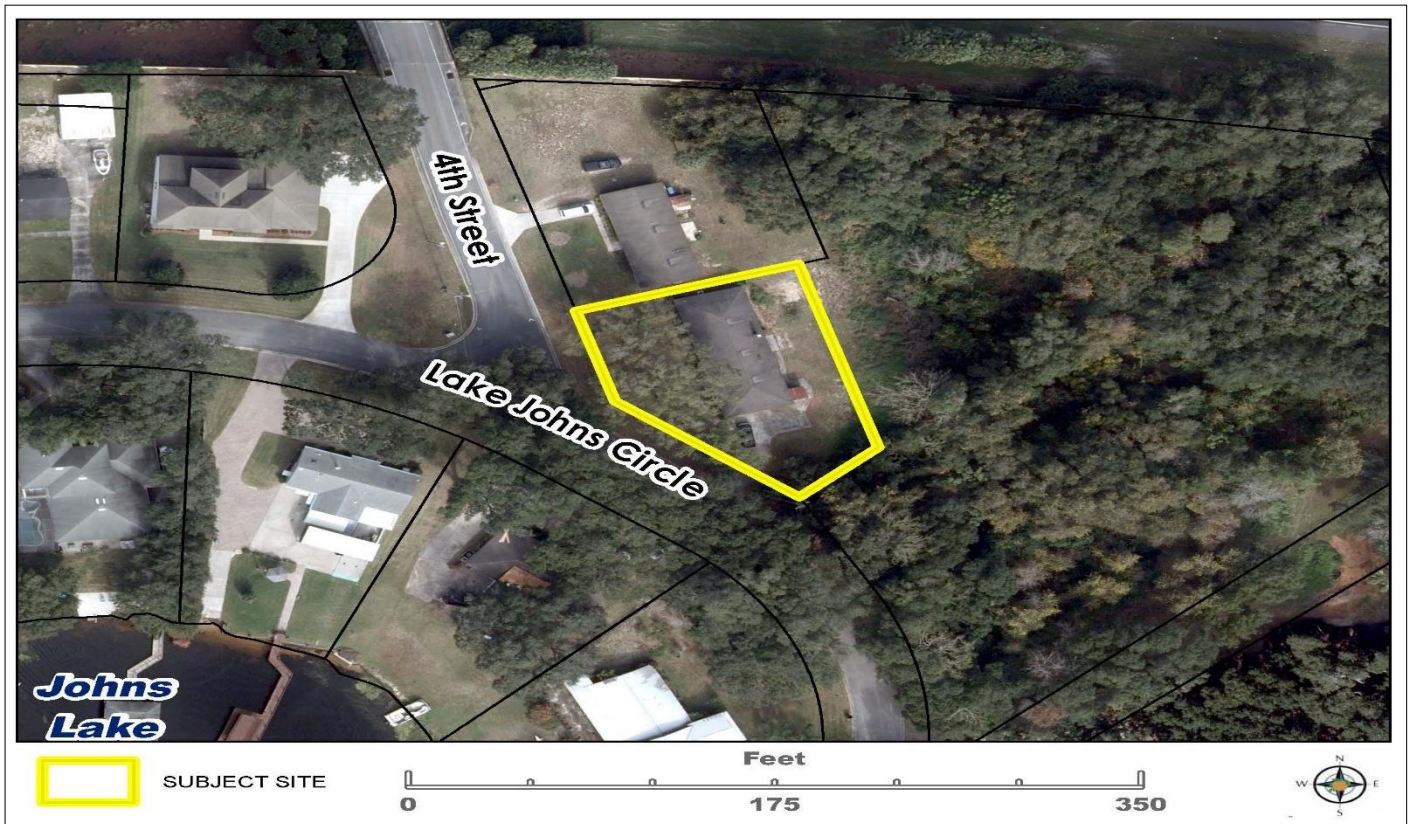
Melvin Adams



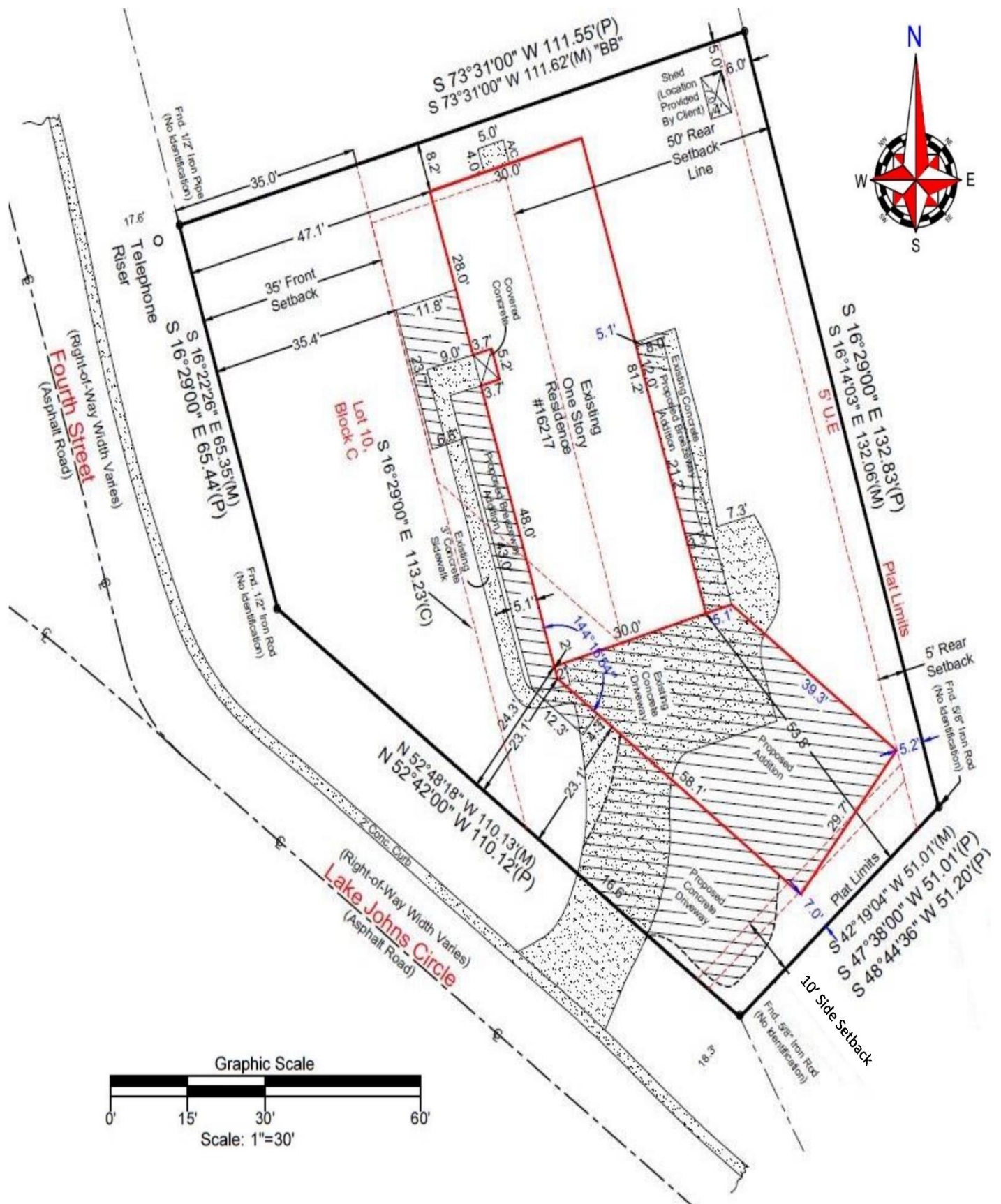
ZONING MAP



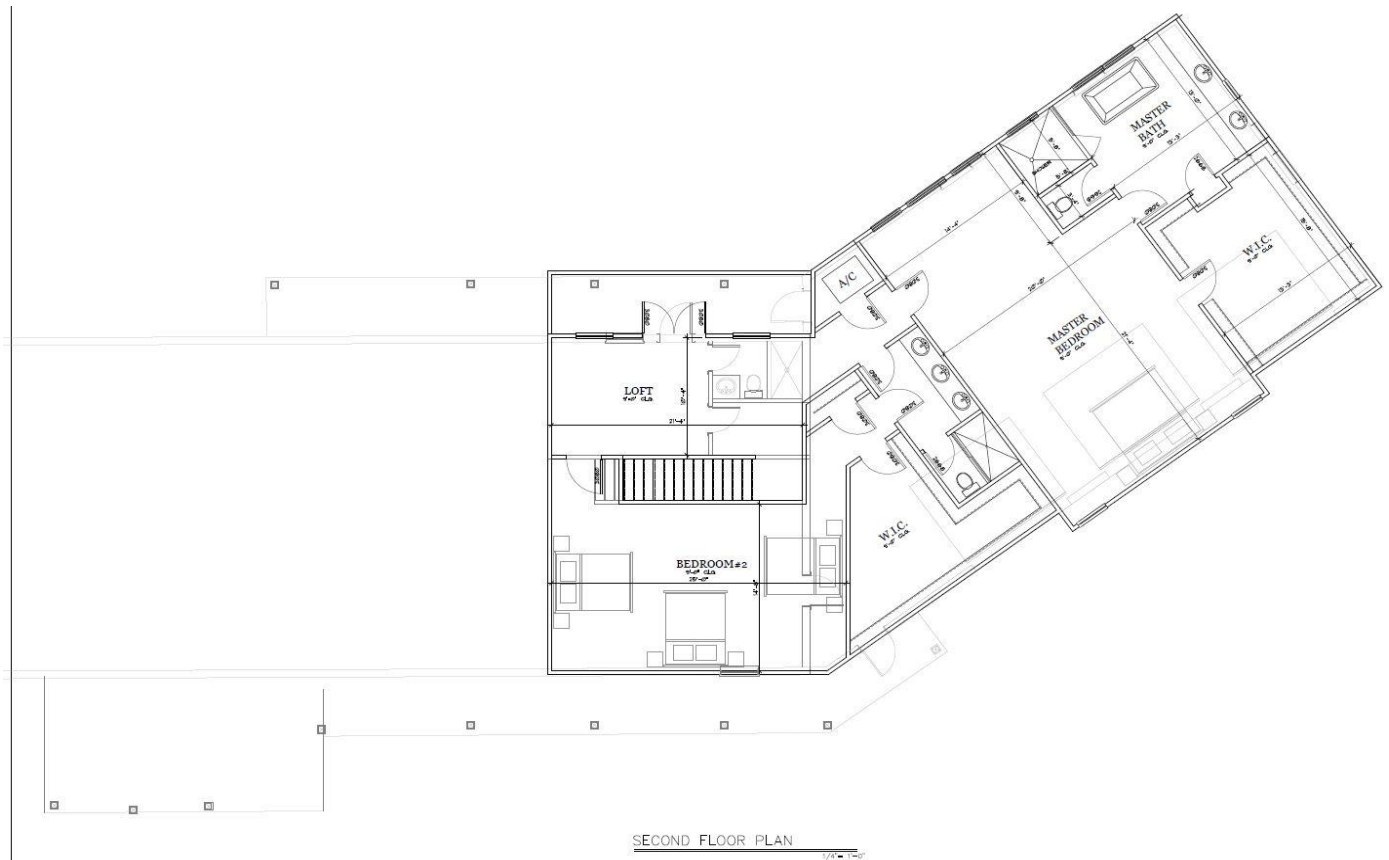
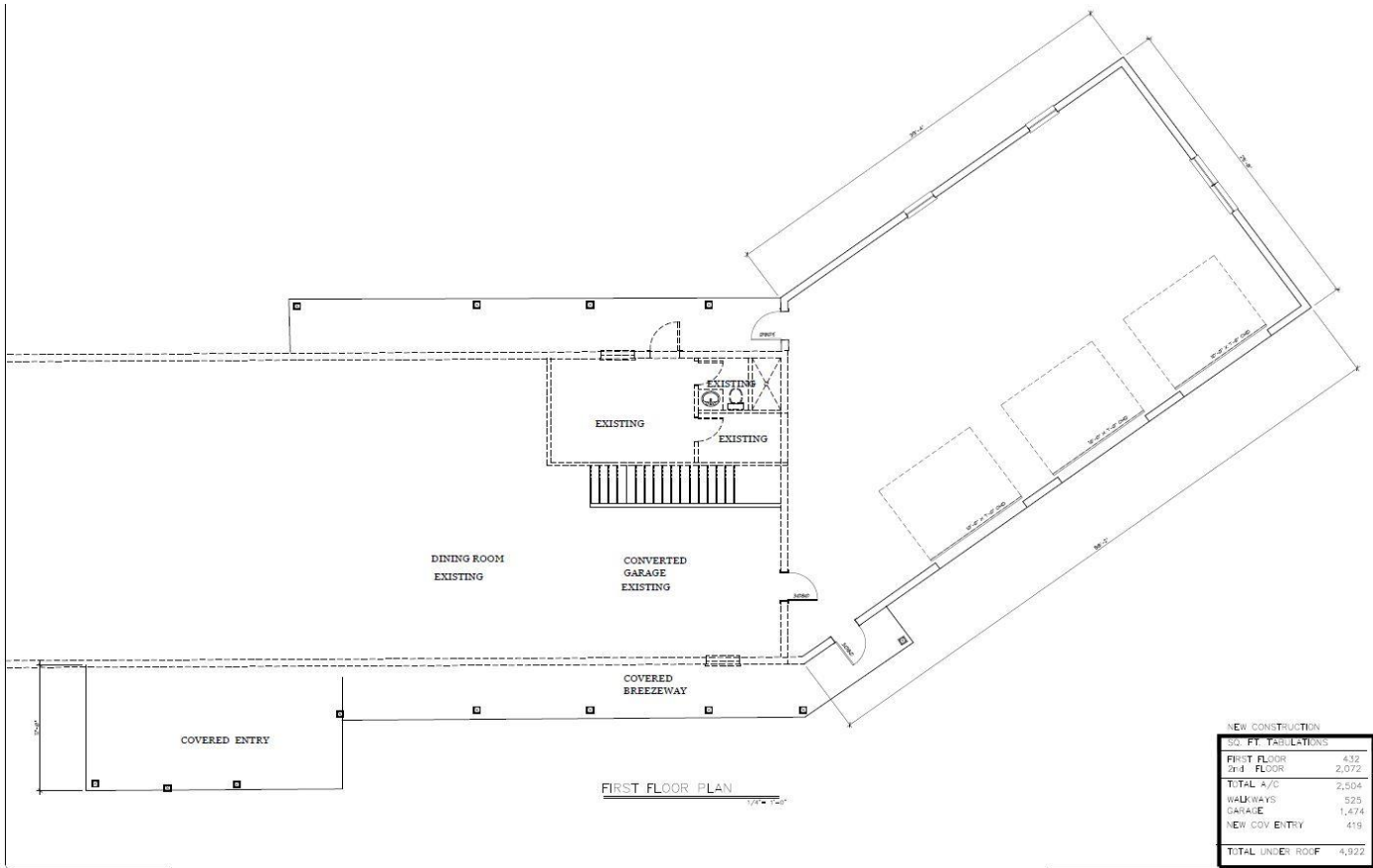
AERIAL MAP

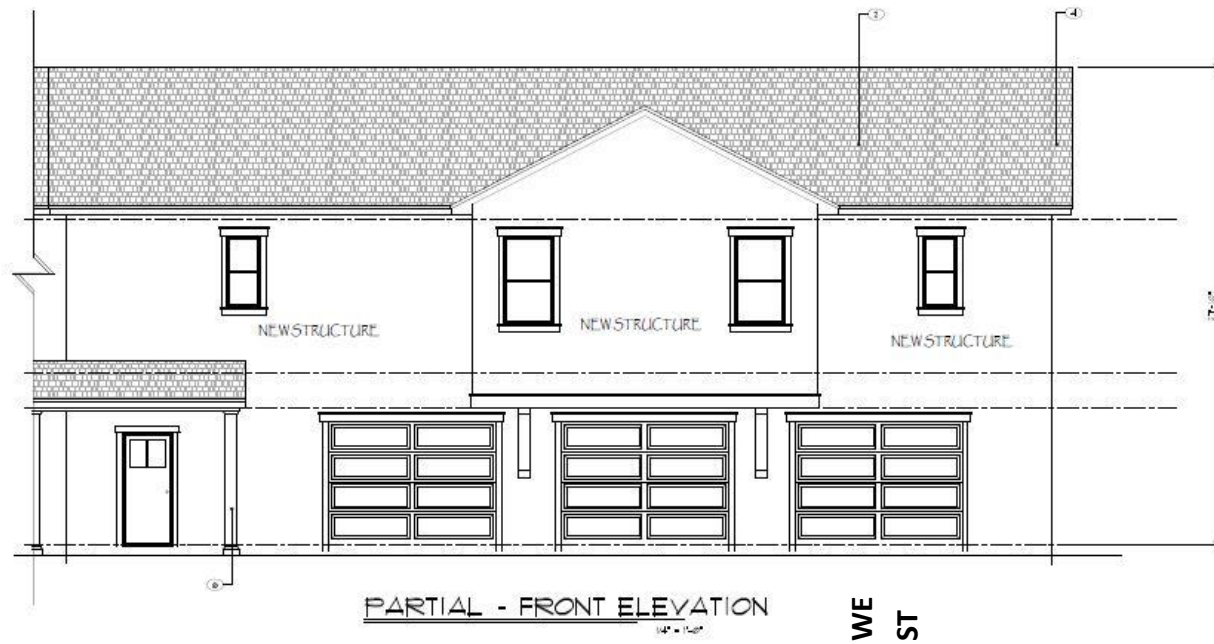


**SITE PLAN**

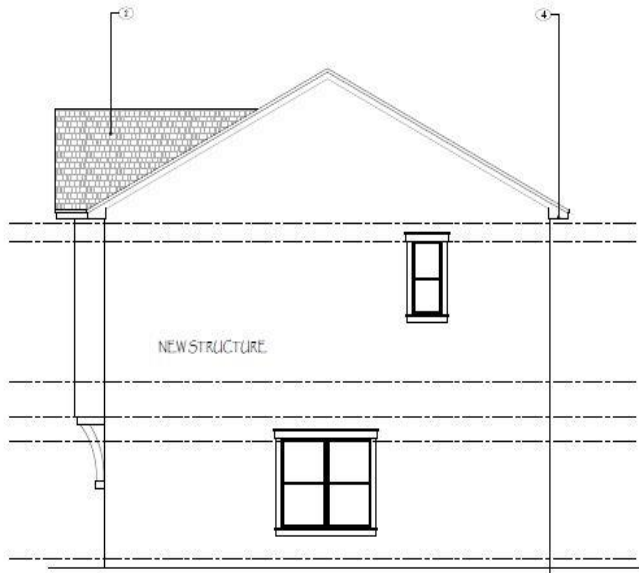


# FLOOR PLANS





ELEVATIONS



RIGHT ELEVATION

1/4" = 1'-0"

SO UT :



PARTIAL - REAR ELEVATION

1/4" = 1'-0"

EAS  
T



PARTIAL - REAR ELEVATION

1/4" = 1'-0"

EAS  
T

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**SITE PHOTOS**

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**Facing east towards front of subject property**



**Facing north towards side of subject property**

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**SITE PHOTOS**

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**Facing east towards side of subject property**



**Facing south towards rear of subject property**

**SITE PHOTOS**



**Facing west towards rear of subject property**



**Facing west towards side of subject property**





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