



Planning, Environmental &
Development Services
Department

Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

August 4, 2022

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

| <u>Board Member</u> | <u>District</u> |
|----------------------------|------------------------|
| Thomas Moses | 1 |
| John Drago (Vice Chair) | 2 |
| Juan Velez | 3 |
| Deborah Moskowitz (Chair) | 4 |
| Joel Morales | 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 II |

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
AUGUST 4, 2022**

| Case # | Applicant | Commission District | Staff Recommendation | BZA | Page # |
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| VA-22-07-049 | Chris Savino For Enclave At Canopy Park | 6 | Approval w/Conditions | Approval w/Conditions | 1 |
| VA-22-08-069 | Jeremy Anderson | 2 | Denial | Approval w/Conditions | 19 |
| VA-22-08-072 | Jordan Strasberg | 1 | Approval w/Conditions | Approval w/Conditions | 39 |
| VA-22-06-030 | Jeremy Kibler | 4 | Continued | Continued | 50 |
| VA-22-07-050 | Robert Mcilwaine | 4 | Approval of Variance #1 w/Conditions and Denial of Variance #2 | Approval w/Conditions | 51 |
| VA-22-08-058 | Victor Romero | 3 | Continued | Continued | 66 |
| VA-22-08-065 | Charles Ayers | 1 | Denial of Variance #1 and Approval of Variances #2 and #3 w/Conditions | Approval w/Conditions | 67 |
| VA-22-09-076 | Daren Chencinski | 1 | Approval w/Conditions | Approval w/Conditions | 83 |
| SE-22-08-066 | Monique Togerson For Able Academics | 5 | Approval w/Conditions | Approval w/Conditions | 98 |
| VA-22-08-060 | Michael Miles For Orlando Commerce Center | 6 | Continued | Continued | 110 |

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| VA-22-08-061 | Min Cho | 5 | Denial | Approval w/Conditions | 111 |
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| VA-22-08-067 | Angela Hamlett For Sebi Social Services Inc. | 6 | Denial | Denial | 140 |

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 August 30, 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

| <i>District</i> | <i>Min. lot area (sq. ft.)^m</i> | <i>Min. living area (sq. ft.)</i> | <i>Min. lot width (ft.)</i> | <i>Min. front yard (ft.)^a</i> | <i>Min. rear yard (ft.)^a</i> | <i>Min. side yard (ft.)</i> | <i>Max. building height (ft.)</i> | <i>Lake setback (ft.)</i> |
|-----------------------|--|--------------------------------------|--------------------------------------|---|---|-----------------------------|-----------------------------------|---------------------------|
| 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 | | | | | | |
| | | Min. mobile home size 8 ft. x 35 ft. | | | | | | |

| <i>District</i> | <i>Min. lot area (sq. ft.)^m</i> | <i>Min. living area (sq. ft.)</i> | <i>Min. lot width (ft.)</i> | <i>Min. front yard (ft.)^a</i> | <i>Min. rear yard (ft.)^a</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> |

| <i>District</i> | <i>Min. lot area (sq. ft.) ^m</i> | <i>Min. living area (sq. ft.)</i> | <i>Min. lot width (ft.)</i> | <i>Min. front yard (ft.) ^a</i> | <i>Min. rear yard (ft.) ^a</i> | <i>Min. side yard (ft.)</i> | <i>Max. building height (ft.)</i> | <i>Lake setback (ft.)</i> |
|-----------------|---|-----------------------------------|--|--|--|---|--|---------------------------|
| 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"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (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. |
| <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: **AUG 04, 2022**

Commission District: **#6**

Case #: **VA-22-07-049**

Case Planner: **Ted Kozak, AICP (407) 836-5537**
Ted.Kozak@ocfl.net

GENERAL INFORMATION

APPLICANT(s): CHRIS SAVION FOR ENCLAVE AT CANOPY PARK

OWNER(s): ORANGE BLOSSOM SHOPPING CENTER LTD

REQUEST: Variance for multi-family development in the R-3 zoning district to allow a minimum parking ratio of 1.22 parking spaces per unit regardless of bedroom count in lieu of 1.5 parking spaces for every studio and 1 bedroom unit and 2 parking spaces for every 2 and 3 bedroom unit.

PROPERTY LOCATION: 45th St., Orlando, FL 32839, southeast corner of S. Rio Grande Ave. and 45th St., west of S. Orange Blossom Trl., north of Holden Ave.

PARCEL ID: 10-23-29-0000-00-041

LOT SIZE: +/- 3.2 acres

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 115

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Roberta Walton Johnson, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received July 17, 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, elevations, floor plans and photos of the site. Staff provided an analysis of the six (6) criteria for the Variance and the reasons for a recommendation for approval since the development is multi-family and demand for the number and size of parking spaces is lower.

Staff noted that no comments were received in support or in opposition.

The applicant agreed with the staff presentation and stated that the provided number of parking spaces will meet actual demand.

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

The BZA briefly discussed the proposal, and that the requested parking reduction was appropriate, and unanimously recommended approval of the variance by a 5-0 vote, with two 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 | R-3 | R-1A, R-2 | R-3 | C-2 | R-3 |
| Future Land Use | MHDR | LDR | MHDR | C | MDR |
| Current Use | Vacant | Single-family residential | Retention Pond | Commercial | Multi-Family Residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-3, Multiple-Family Residential zoning district, which allows single-family homes and multi-family development. The Future Land Use is Medium High Density Residential (MHDR), which allows up to 35 dwelling units per acre, and is consistent with the R-3 district.

The subject property is vacant and contains 3.2 acres of grassed area with no existing vegetation or trees. The property is located on the southeast corner of S. Rio Grande Ave. and 45th St., with the frontage considered to be 45th St. since it is the narrowest portion of the lot abutting a public street, and S. Rio Grande Ave. considered the side street. The area consists of multi-family development to the west and northwest, across S. Rio Grande Ave., one and two-story single-family residences to the north, across 45th St. and commercial development to the east. The property to the south is an existing retention pond.

On December 29, 2020, the BCC approved a small scale Future Land Use amendment (SS-20-10-059) from Planned Development (PD) to Medium High Density Residential to allow for future multi-family development. The prior PD Future Land Use was to allow for future mini-storage uses.

The proposal is to construct a 104-unit affordable housing project targeted to senior aged residents consisting of three 3-story multi-family buildings and a total of 127 parking spaces. The development is proposed to have a total of 54 one bedroom units and 50 two bedroom units.

Vehicular and pedestrian access to the property will be provided from S. Rio Grande Ave. to the west. Pedestrian only access will be provided from 45th St. The proposed building will meet the minimum building setback requirements for the R-3 district, as well as the Major Street setback requirements from S. Rio Grande Ave., a County Minor Arterial. The proposed landscaping plan for the project will provide a 15 ft. landscape buffer with trees and shrubs along the south and east perimeters, a 15 ft. landscape strip along the north (45th St.) property line and a 21 ft. landscape strip along the west (S. Rio Grande Ave.) property line. All proposed perimeter landscaping buffers along property lines and landscape strips adjacent to public rights-of-way will exceed the minimum landscape requirements.

The parking requirements for the development:

| Unit Type | Parking Requirement | Number of Units Provided | Required # of Spaces |
|---------------------------------------|---------------------|--------------------------|----------------------|
| Efficiencies and one-bedroom | 1.5 spaces/unit | 54 | 81 |
| 3 units or more with 2 and 3 bedrooms | 2 spaces/unit | 50 | 100 |
| Total | | | 181 (ratio of 1.74) |

Based upon the above unit count, the total 181 parking spaces are required. The applicant is proposing 127 spaces, at a parking ratio of 1.22 spaces per unit, requiring a Variance. The Orange County Transportation Planning Division requested that the applicant provide a parking study, based on the Orange County parking variance review procedure and methodology. In response, the applicant provided a parking technical memorandum which focused on consistency of the parking request with the Institute of Transportation Engineers (ITE) parking generation manual under the category for affordable housing. The parking memorandum concluded that the number of parking spaces proposed far exceeds the demand that will be realized. After review of the technical memorandum, the Transportation Planning Division agreed with the analysis based on the fact the project is within the Alternate Mobility Area and there are Lynx transit stops within 1/4 mile of the parcel that are walking distance on S. Rio Grande Ave. and S. Orange Blossom Trail, which has enhanced pedestrian facilities with 9 ft. wide sidewalks on both sides.

A list of comparable projects nationally, based upon studies provided by the ITE manual, which identified that nationally parking demand for apartments average between 0.42 and 0.85 spaces per unit. Around the State of Florida, in particular within the Tampa Bay region, the number of parking spaces provided at properties range from a 0.70 ratio at West River Boulevard Towers to a 1.0 ratio at Encore Tempo and Trio Apartments. The applicant asserts that comparable projects utilize an average parking demand ratio of 0.85 spaces per unit, but instead for the proposed development will provide a slightly higher parking ratio for the proposed development at 1.22 spaces per unit.

The reason for the low parking demand is because the majority of residents will not own an automobile, or will not use vehicles daily, and instead will utilize public transit. The closest transit service is the Lynx bus service operating #08 and #40 to the south, #107 to the south and west, and #304 to the north. The nearest northbound stop is along S. Rio Grande Ave. directly adjacent to the west property line of the subject property and the nearest southbound stop is approximately 40 ft. northwest of the subject property, both very much within walking distance of the site.

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

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|-----------|
| Max Height: | 35 ft. | 35 ft. |
| Min. Lot Width: | 85 ft. | 327.8 ft. |
| Min. Lot Size: | 15,000 sq. ft. | 3.2 acres |

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

| | Code Requirement | Proposed |
|---------------------------------------|--|-----------------------------------|
| Front: (45 th St.) | 20 ft. | 90.3 ft. (North) |
| Rear: | 30 ft. | 63.2 ft. (South) |
| Side: | 10 ft. | 48.5 ft. (East) |
| Side Street: (S. Rio Grande Ave.) | 15 ft. | 72 ft. (West) |
| Major Street: (S. Rio Grande Ave.) | 60 ft. building (from street centerline) 55 ft. parking area (from street centerline) | 107 ft. (West) 56.1 ft. (West) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance particular to this project is the parking data submitted tied to the parking demands of affordable housing projects. Typical parking requirements are excessive for this type of development. Furthermore, the demand for public transit will be greater for this complex than typical multi-family development.

Not Self-Created

The request is not self-created since the owner is requesting to provide only the parking necessary to serve the development.

No Special Privilege Conferred

Granting the parking variance will not confer any special privilege since meeting the literal interpretation of the code would be unnecessary and more environmentally impactful, based upon the actual parking demand of other comparable projects.

Deprivation of Rights

Without the variance, the number of proposed units would have to be reduced in order to provide unnecessary parking and cover the site with greater impervious surfaces.

Minimum Possible Variance

The requested variance is the minimum necessary to provide an affordable housing product with an appropriate density and to provide the minimum necessary parking spaces to meet actual parking demand.

Purpose and Intent

Approval of the request of the reduction of required parking will 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 demand.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received July 17, 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: Chris Savino
Archway Partners
7575 Dr. Philips Blvd., #390
Orlando, FL 34819

COVER LETTER



April 6, 2022

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

RE: VA-22-07-049-Parking Reduction Request

To Whom it May Concern,

We are writing you regarding a request for a Zoning Variance for The Enclave at Canopy Park. The proposed multi-family development is located at 45th Street (currently vacant land), in the city of Orlando, FL (Unincorporated Orange County). Archway Partners is trying to bring this much needed development to the citizens of Orange County. The proposed development will consist of 104 certified affordable housing units constructed in three separate garden style buildings. The unit mix will have 54 one-bedroom units and 50 two-bedroom units. 5% of the units will be set aside for extremely low-income households, those making 22% of the average median income (AMI) or less. 15% of the units will be set aside for extremely low-income households making 30% of the average median income (AMI) or less. 65% of the units will be set aside for those making 60% or less of AMI and 15% of the units will be set aside for those making 80% or less of AMI. Combined, the average per unit income will be 60% of AMI with 20% of the units being set aside for extremely low-income families. The property is currently zoned R-3 and has a future land use of MHDR.

The parking requirement is 181 spaces under the current code. We are asking for a variance to reduce the parking by 54 parking spaces from 181 to 127 based upon Orange County Parking Variance Methodology, Method 2-Multimodal Reduction. It is noteworthy that the property is located in an Alternative Mobility Area (AMA) as designated by the county.

In our request to reduce the parking at The Enclave at Canopy Park we hired an engineering firm, VHB, to conduct a parking study (enclosed). VHB has used the following Multimodal Reduction Strategies as outlined in the Orange County Parking Variance Review Procedure and Methodology as a justification to reduce parking:

- Premium transit nearby
- Affordable Housing Inclusion

- Enhanced bike/pedestrian facilities
- Complementary land use
- Dedicated ride share

In our experience as affordable housing developers we are finding that renters of low-income housing are utilizing parking on a far less basis than market rate housing. This is particularly evident in urban areas where enhanced mobility features such as a bus stops, transfer stations, bike racks/lanes, and large pedestrian sidewalks can be found. Typically, those households that are making 30% AMI or less do not own a vehicle. For the tenants making between 50%-80% of AMI it is our experience based on "reserved parking counts" that almost no households have two vehicles, some households have one vehicle while there are still many households that have no vehicle at all. Our personal experience shows that less than one parking space per household is being utilized during peak night-time hours. Additionally, we recently hired VHB, to conduct a parking study at West River Boulevard Towers and Encore Tempo and Trio Apartments in Tampa, FL. These completed projects are similar affordable housing developments located in urban infill areas. That study found that the average parking demand during peak hours was .98 to 1.08 spaces per unit. Both Encore properties and West River have one, two, three, and four-bedroom units. The Enclave at Canopy Park only has one and two-bedroom units with the majority of the units being one bedroom. We are asking for a reduction to 1.221 spaces per unit. The parking study further analyzed the data looking at the number of utilized parking spaces per bedroom. The ratio is further reduced to between .30-.50 parking spaces per bedroom at the comparable properties. The Enclave at Canopy Park has a total of 154 bedrooms and are only asking for the per bedroom ratio to be reduced to .82 spaces per bedroom.

Florida municipalities have adopted reduced parking requirements for traditional multifamily developments as well as incentives for affordable housing. The City of St. Petersburg does not require any parking for units that are less than 750 sq. ft. The City of Clearwater and Sarasota also have reduced parking requirements for affordable housing (These are shown in the Tampa VHB Memorandum). The City of Orlando has reduced parking under Alternative Development Standards.

The need for less parking at the site is further supported by the enhanced mobility features in the immediate area. There are five bus lines in the immediate area. There are two enhanced crosswalks along Rio Grande Avenue adjacent to the property. There is also an enhanced bike/pedestrian path along Orange Blossom Trail.

Below we have included justification that the proposed reduced parking meets the six standards for variance approval.

- 1) **Special Conditions and Circumstances**-The proposed development is certified affordable housing which is unique when compared to other neighboring properties. The property is located in the Alternative Mobility Area. Many of the units are being set aside for families with an income of 30% of the AMI while the community will have an average AMI of 60%. Many of these residents do not own a vehicle. There is an abundance of public transportation in the area.

COVER LETTER

- 2) **Not Self-Created**- The applicant has not created a hardship. The reduced need for parking occurs due to the abundance of public transportation in the immediate area, enhanced pedestrian crosswalks and sidewalks and the lack of vehicles due to the units being set aside for certified affordable housing. The property is located in an Alternative Mobility Area.
- 3) **No Special Privilege Conferred**- There is no special privilege. The applicant is using the Multimodal Reduction Strategy Provided by Orange County Government to determine the necessary parking reduction.
- 4) **Deprivation of Rights**- The applicant is allowed to seek a parking reduction for certified affordable housing via the county's Multimodal Reduction Strategy.
- 5) **Minimum Possible Variance**- The requested variance is the minimum variance the applicant qualifies for under the Multimodal Reduction Strategy.
- 6) **Purpose and Intent**- Approval of the zoning variance is in harmony with the purpose and intent of the Zoning Regulations and is not injurious to the surrounding multi-family, single family and retail.

In our request to reduce the parking at The Enclave at Canopy Park we conducted extensive research and hired third party consultants to perform comprehensive studies. We hired an engineering firm to conduct a parking study using the Orange County Parking Variance Methodology. We considered the availability of mass transit in the immediate area and nearby amenities. We analyzed Land Development Codes of major Florida metros to help determine parking standards for the greater Orlando area. Based on the information compiled by VHM and our own findings, we believe it is justifiable to reduce the parking to 127 space or 1.221 spaces per unit.

We believe your review of the enclosed documentation will show the proper justification to approve both the Variance and Special Exception Request. Please contact us with any questions you may have. We look forward to your response and a continued relationship with Orange County.

Sincerely,



Chris Savino

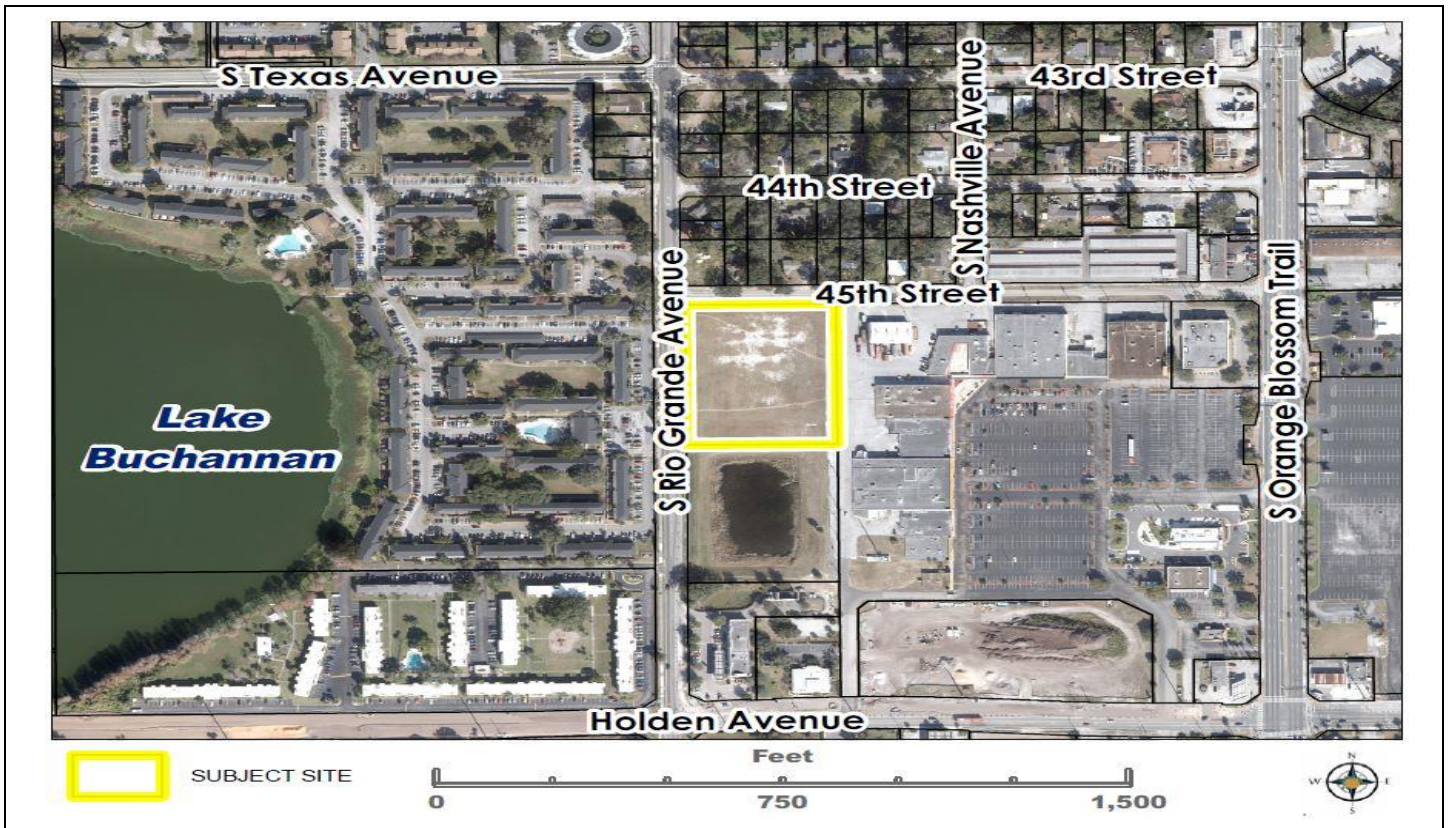
Principal

Archway Partners

ZONING MAP



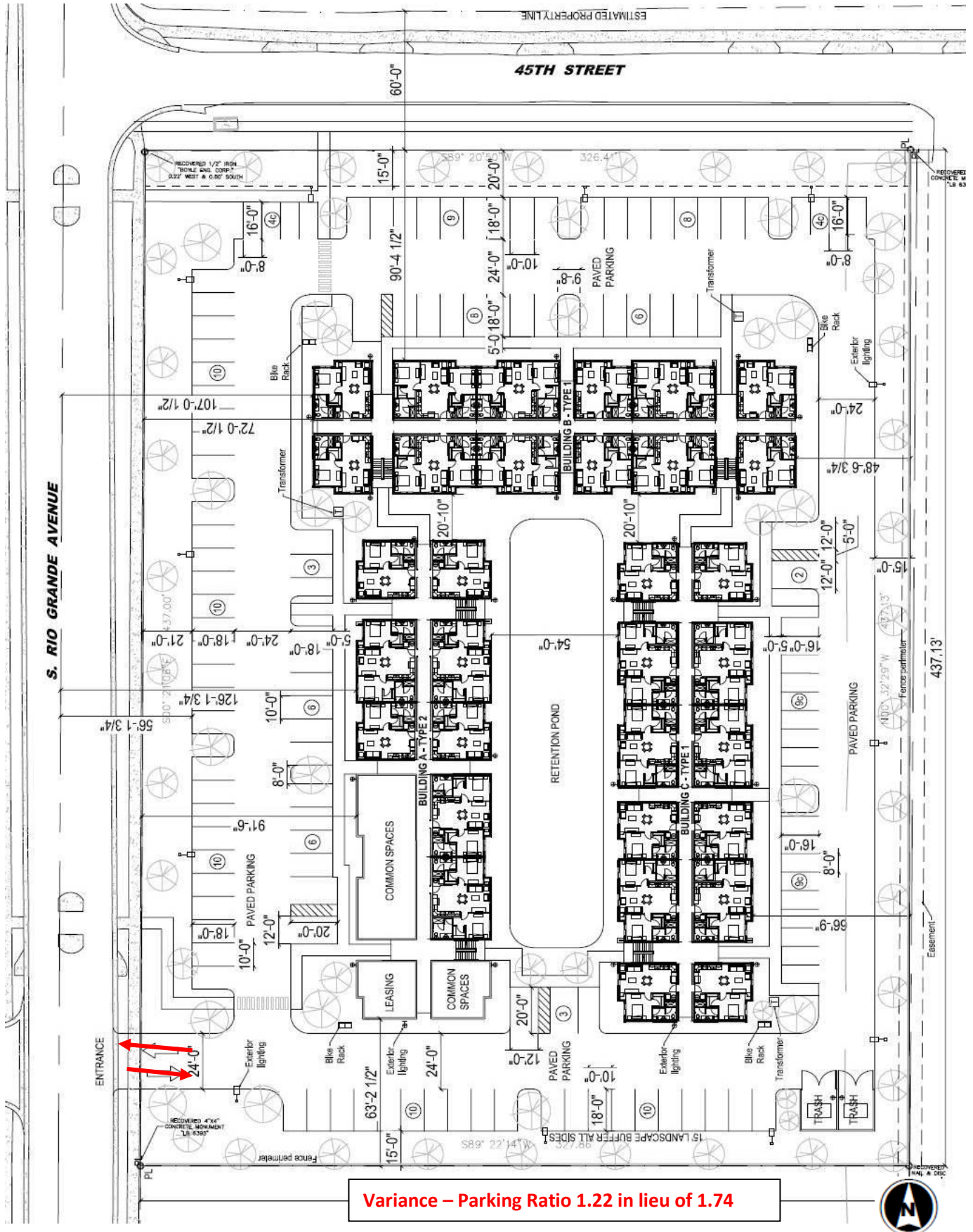
AERIAL MAP



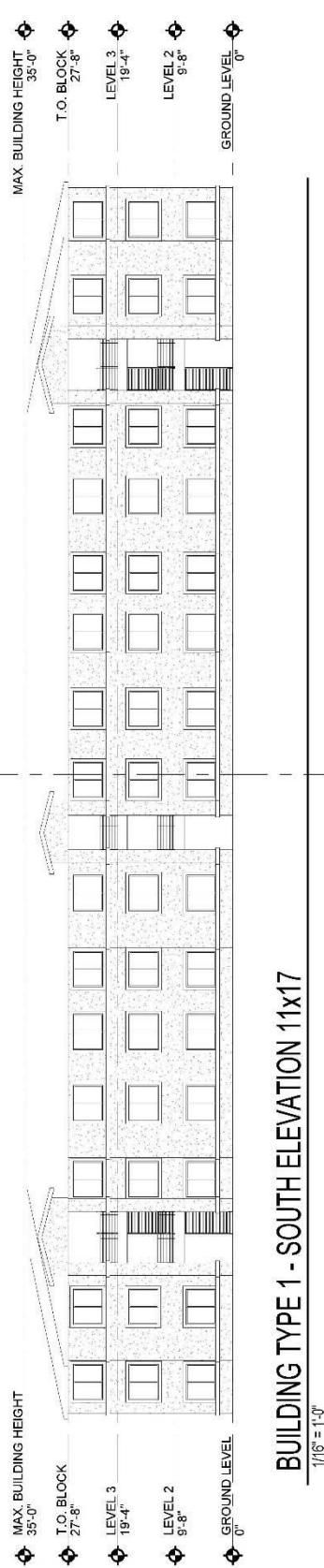
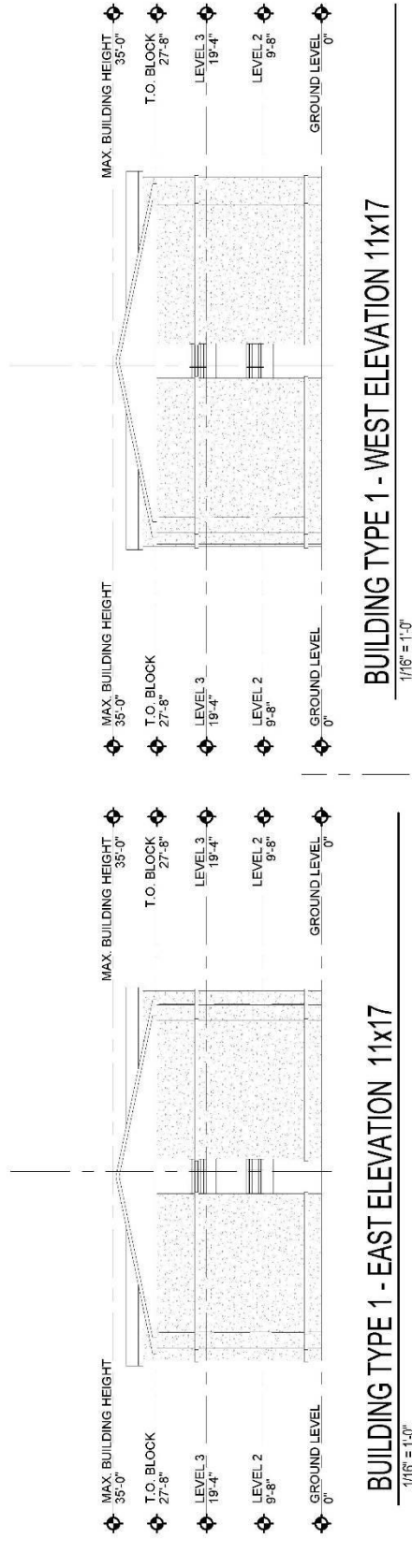
AERIAL CONTEXT SURROUNDING PROPERTY



SITE PLAN



SOUTH, WEST AND EAST ELEVATIONS

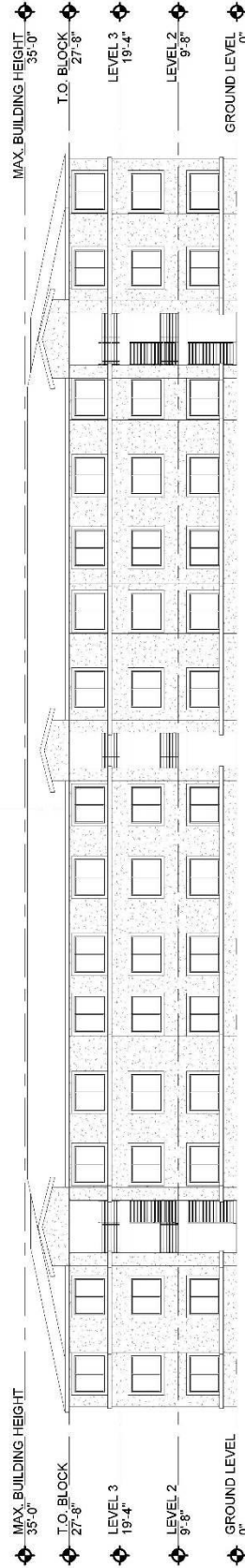


ARCHITECTURE

TYPICAL BUILDING ELEVATIONS | Enclave at Canopy Park

© 2021 | FUGLEBERG LOCH COMPANY | 2555 TRIPLE TRAIL, WINTER PARK, FL 32789 | TEL (407) 657-5895 | DATE: 03/02/22 | PROJECT No. 19279 | www.FUGLEBERGLOCH.com | FL LICENSE # 000597

NORTH ELEVATIONS



BUILDING TYPE 1 - NORTH ELEVATION 11x17
1/16" = 1'-0"



TYPICAL BUILDING ELEVATIONS 2 | Enclave at Canopy Park

© 2021 | FUGLEBERG KOCH COMPANY | 2555 LAWLE TRAIL, WINNEBAGO, IL 60093 | TEL: (815) 424-4095 | DATE: 06/02/22 | PROJECT No. P0279 | www.FUGLEBERGKOCH.COM | FL LICENSE # 0009967

SITE PHOTOS



Property from S. Rio Grande Avenue at west property line, facing east towards existing commercial



East side of S. Rio Grande Avenue at south property line facing north towards 45th St.

SITE PHOTOS



Corner of S. Rio Grande Ave. & 45th St. at NW property line facing north towards multi-family residential



West side of property along S. Rio Grande Ave. at bus stop, facing south towards multi-family residential

SITE PHOTOS



South side of 45th St. at north property line, facing east



Facing north towards 45th St. at north property line

SITE PHOTOS



East property line facing northeast



Facing northwest from the southeast property line, adjacent to retention pond to the left

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#2**

Case #: **VA-22-08-069**

Case Planner: **Michael Rosso (407) 836-5592**
Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JEREMY ANDERSON

OWNER(s): JEREMY ANDERSON, TARA ANDERSON

REQUEST: Variance in the Restricted P-O zoning district to allow an office building with an east front setback of 14.4 ft. in lieu of 25 ft.

PROPERTY LOCATION: 4020 Edgewater Dr., Orlando, FL, 32804, southwest corner of Edgewater Dr. and Venetian Ave., south of W. Fairbanks Ave., north of W. Par St.

PARCEL ID: 10-22-29-8828-06-130

LOT SIZE: +/- 0.31 acres (13,909 sq. ft.)

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 96

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Juan Velez; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received July 18, 2022, and elevations received June 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.

4. Provide enhanced landscaping along the Edgewater Drive frontage consisting of understory shade trees, planted 15 ft. on center.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial, since the proposal is for new construction and the requested setback variance could be lessened by reducing the drive aisle width. Staff noted that no comments were received in support or in opposition.

The applicant provided a presentation of the request, discussed the building aesthetics, street context, the comparison with the County and adjacent City of Orlando setback requirements and the unique size and configuration of the property.

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

The BZA discussed the aesthetics of the building, the circumstances requiring the need for the Variance, including the past right-of-way widening, the lack of available public sewer, and compared the requested setback with the similar properties in the surrounding area. The BZA stated how the project meets each of the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|----------------|--------|--------|-----------------------|------|
| Current Zoning | Restricted P-O | P-O | P-O | P-O & City of Orlando | R-1A |
| Future Land Use | O | O | O | O & City of Orlando | LDR |
| Current Use | Vacant | Office | Office | Office, School | SFR |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Restricted P-O, Professional Office District, which allows for office uses. The restriction on the P-O zoning is that both lots (Lots 13 and 14) must be used as one parcel, and since the two lots have been consolidated, the restriction is satisfied. The Future Land Use is Office (O), which is consistent with the zoning district.

The area around the subject site consists of office buildings along Edgewater Drive, with single-family homes to the rear of the office buildings, and a high school across the street. The subject property is 13,909 sq. ft., is currently vacant, and was platted in 1958 as Lots 13 and 14 of Block F of the University Heights Plat. Previously, there were two, 1-story office buildings on the two lots that make up this parcel, which were demolished earlier this year. The parcel is also a corner lot, with frontage on both Edgewater Drive and Venetian Avenue. For the purpose of determining setbacks, the frontage of this property is considered to be Edgewater Drive since it is the street with the heaviest traffic usage; and the side street is Venetian Avenue. This portion of Edgewater Drive is classified as a Minor Arterial, and therefore has a 60 ft. setback requirement from the centerline of the road. However, zoning code defers to the most restrictive setback; and in this case, the most restrictive setback is the standard P-O front setback, which is 25 ft. from the front property line.

The proposal is for a 1-story, 3,044 sq. ft. office building with a 14.4 ft. front setback, requiring a variance from the required 25 ft. front setback. There is currently a permit (B20906776) which has already been issued for the demolition work, site work and vertical construction. However, the permit was issued with information provided on the survey which incorrectly indicated compliance with the front setback requirement.

This proposed office building with a reduced front setback would be consistent with the office building directly across the street from this site, built in 1992, which is also zoned P-O. Based on aerials it appears to have an approximately 17 ft. front setback along Edgewater Drive. There is another office building zoned P-O just two properties to the north of this site, which was built in 1955, and based on aerials it appears to have an approximately 15 ft. front setback along Edgewater Drive.

The proposal incorporates many urban design features desirable in more urban-style development. For example, the proposed site plan favorably places the widest mass of the building fronting the primary ROW, Edgewater Drive. Additionally, architectural treatment of the façade facing Edgewater Drive has been well designed, and features plenty of transparency. In addition, a sidewalk connection has been added to the proposed site plan from the office building to Venetian Avenue, which will provide safe pedestrian access to the site.

While this property is in Unincorporated Orange County, it is important to note that is mixed in with several properties along Edgewater Drive which are located in the City of Orlando’s jurisdiction. The City of Orlando has an overlay district called the Edgewater Drive Special Plan which applies to many of the properties along this portion of Edgewater Drive, and continuing further south. The property in question is near properties in this City of Orlando overlay that are part of the “T4: General Urban” Transition Area, which grants properties within this T4 area a decreased front setback requirement of 15 feet. Although this proposal is for a 14.4 ft. setback, the approximately 6-inch difference between that and the City of Orlando’s 15 ft. building setback requirement is indiscernible to the human eye. Thus, the location of this building would also be consistent with many of the office buildings on Edgewater Drive which are located in the City of Orlando.

In order to construct an office with the proposed square footage on this property, some type of variance or special exception would be needed. The current request for a setback variance is one route to accomplish the desired development. The other route would be to split the square footage between two floors in order to meet the setback requirements. This would require the approval of a special exception to allow a 2-story office adjacent to single family residential. However, a 2-story structure would not be in harmony with any of the surrounding development as all the surrounding properties are developed with 1-story structures.

Despite the factors above, staff is recommending denial as the request is a self-created hardship. The site is currently vacant and this is proposed new construction that could be modified to meet code. However, it should be noted that the applicant could reduce the parking lot drive aisle by 2 ft. to make it 22 ft. wide. This would then allow the proposed office building to be moved 2 ft. further away from Edgewater Drive, resulting in a proposed 16.4 ft. front setback. If the BZA recommends approval of a setback variance, the minimum setback necessary would be 16.4 ft., which could be accommodated by modifying the site plan to reduce the drive aisle width and move the office building back accordingly.

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

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|----------------|
| Max Height: | 35 ft. | 18.7 ft. |
| Min. Lot Width: | 85 ft. | 130 ft. |
| Min. Lot Size: | 10,000 sq. ft. | 13,909 sq. ft. |

Building Setbacks

| | Code Requirement | Proposed |
|---|------------------|---------------------------|
| Front: | 25 ft. | 14.4 ft (East) - Variance |
| Major Street (Edgewater Dr.) (Minor Arterial): | 60 ft. from CL | 67 ft. (approx.) (East) |
| Rear: | 30 ft. | 52.5 ft. (West) |
| Side Street (Venetian Ave.): | 15 ft. | 15 ft. (North) |
| Side: | 10 ft. | 10.2 ft. (South) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The subject property has a relatively shallow lot depth, which makes it very difficult to construct a new office structure on the lot while meeting setbacks and also providing all other code required site improvements such as vehicle parking.

Not Self-Created

The need for the requested variance is self-created as the site is currently vacant and this is proposed new construction, which could be modified to meet code.

No Special Privilege Conferred

Approval of the variance as requested will not confer special privilege as there is an office building directly across the street from this site which is zoned P-O and encroaches approximately 8 ft. into the 25 ft. front setback along Edgewater Drive. There is also an office building just two properties to the north of this site which is also zoned P-O and encroaches approximately 10 ft. into the 25 ft. front setback along Edgewater Drive.

Deprivation of Rights

Denying the variance request would not result in a deprivation of rights as it would not deprive the owner of building an office on the property. It would just likely have to be a smaller office to meet all code requirements, including setbacks.

Minimum Possible Variance

The minimum possible variance to allow a one story office building with the proposed sq. footage on this site would be 16.4 ft. as the applicant could reduce the parking lot drive aisle by 2 ft. to make it 22 ft. wide. This would then allow the proposed office building to be moved 2 ft. further away from Edgewater Drive, resulting in a proposed 16.4 ft. front setback. The only other way to get an office building with a similar amount of square footage on this lot, while meeting setbacks, would be to build a 2-story structure. However, approval of a special exception would be required to propose a 2-story office adjacent to single family residential.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. As previously mentioned, there are several other structures along this portion of Edgewood Drive, including two office buildings very close to this site, which are much closer than 25 ft. to their front property lines. Thus, this office building will not have any discernable negative impact, and in fact, will actually more closely match the existing building placement of other office buildings along Edgewater Drive.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received July 18, 2022, and elevations received June 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.
4. Provide enhanced landscaping along the Edgewater Drive frontage consisting of understory shade trees, planted 15 ft. on center.

C: Jeremy Anderson
 3669 Dubsdread Circle
 Orlando, Florida 32804

COVER LETTER



June 6, 2022

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

Reference: Building Setback Variance Request
Project Name: Common Oak Professional Office
Project Location: 4020 Edgewater Dr., Orlando, FL 32804
Site Permit #: B20906776

To whom it may concern,

The subject variance request is associated with the Professional Office currently under construction at 4020 Edgewater Dr, under Building Permit Number B20906776. During construction, while working on constructing the building slab, the contractor's surveyor expressed concern that there was an error in the original boundary of the survey we used to design and permit the project with Orange County and other agencies. Since receiving this concern, we have verified the original boundary is inaccurate and the approved building location does not meet Orange County's building setback as measured from the property line.

Orange County's Major Street setbacks for building and vehicular use areas shall apply if greater than standard Zoning District setbacks from all rights of ways and or centerline. The Major Street building setback at this location is 60' measured from the centerline of Edgewater Drive; whereas, the standard building setback is 25' measured from the property line. Orange County requires the most restrictive of the two setbacks to be met.

While the development meets the Major Street building setback from the centerline of Edgewater Drive, the project no longer meets the County's required 25' setback measured from the property line, due to the error in the original survey.

Therefore, we are requesting a variance to approve the approved location of the Professional Office building.

Historically, the buildings on Edgewater Drive in College Park are positioned at the 0' building setback line. As you drive north past Edgewater High School, many are positioned at a 0' setback, or within 25' of the property line, and many of the buildings

Common Oak Engineering, LLC
4016 Edgewater Drive
Orlando, FL 32804
o: (407) 951-5915
www.commonoakengineering.com

COVER LETTER



have parking directly in front with direct access to Edgewater Dr. The building setbacks at the immediate vicinity of the subject parcel vary from 8.5' to 25' or so. Historically, the subject property had two office buildings, with the closest building being located about 12.5' from Edgewater Drive since the right of way expansion in 1976.

The subject property comprises Lots 13 and 14, Block F, of the University Heights Plat. The properties were originally platted as 140 foot deep lots; however, due to the expansion of Edgewater Dr over the years, the property has lost between 18.33 feet and 20.21 feet in depth, resulting in a property that is roughly 120 feet deep.

When you subtract the 25 foot front building setback, and the rear 10 foot wide landscape buffer and building foundation landscaping, we are left with only about 80 feet in depth to fit parking, the drive lane, and the building. Subtracting two rows of parking and a drive lane from the available 80 foot depth, you are left with a building that is only approximately 20 feet deep, which is not wide enough to make a single story office building viable.

For these reasons, we request your approval of our variance to construct the building at the location approved with the Building Permit, which will allow us to continue construction with our approved plans, as we look forward to occupying the future home of our company.

Please refer to our variance criteria responses found on the following pages of this letter.

Thank you,

A handwritten signature in black ink, appearing to read "J. Anderson", with a long, sweeping horizontal stroke extending to the right.

Jeremy Anderson, P.E.
Owner
(407) 505-8374

Common Oak Engineering, LLC
4016 Edgewater Drive
Orlando, FL 32804
o: (407) 951-5915
www.commonoakengineering.com



Variance Criteria:

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

1. **The subject property comprises Lots 13 and 14, Block F, of the University Heights Plat. The properties were originally platted as 140 foot deep lots; however, due to the expansion of Edgewater Dr over the years, the property has lost between 18.33 feet and 20.21 feet in depth, resulting in a property that is roughly 120 feet deep.**

When you subtract the 25 foot front building setback, and the rear 10 foot wide landscape buffer and building foundation landscaping, we are left with only about 80 feet in depth to fit parking, the drive lane, and the building. Subtracting two rows of parking and a drive lane from the available 80 foot depth, you are left with a building that is only approximately 20 feet deep, which is not wide enough to make a single story office building viable.

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

2. **The hardship is not self-created. The hardship was created by the roadway expansion, as it is not economically feasible or usable to construct a 20 foot wide single story professional office building, which is the estimated building width available without the variance.**

Additionally, the owner and design professionals relied on an inaccurate survey to design and permit the project, which was an error discovered by the contractor's surveyor during building foundation construction activities.

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, buildings, or structures in the same zoning district.

3. **Response: Historically, the buildings on Edgewater Drive in College Park are positioned at the 0' building setback line. As you drive north past Edgewater**

Common Oak Engineering, LLC
4016 Edgewater Drive
Orlando, FL 32804
o: (407) 951-5915
www.commonoakengineering.com



High School, many are positioned at a 0' building setback, or within 25' of the property line, and many of the buildings have parking directly in front with direct access to Edgewater Dr. The building setbacks at the immediate vicinity of the subject parcel vary from 8.5' to 25' or so. Historically, the subject property had two office buildings, with the closest building being located about 12.5' from Edgewater Drive since the right of way expansion in 1976.

Therefore, the approval of the variance request will not confer on the applicant any special privilege that is denied by this 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 property with intent to develop in violation of the restrictions if this Chapter shall not constitute grounds for approval or objection.

- 4. Response: Historically, the buildings on Edgewater Drive in College Park are positioned at the 0' building setback line. As you drive north past Edgewater High School, many are positioned at a 0' building setback, or within 25' of the property line, and many of the buildings have parking directly in front with direct access to Edgewater Dr. The building setbacks at the immediate vicinity of the subject parcel vary from 8.5' to 25' or so. Historically, the subject property had two office buildings, with the closest building being located about 12.5' from Edgewater Drive since the right of way expansion in 1976.**

The denial of this request would work unnecessary and undue hardship on the applicant, because of the historic nature of the positioning of the buildings along this corridor and the available property depth after the right of way expansion. Additionally, the applicant could request the approval of a two-story building to get the office square footage needed for his company and to make the project financially viable, but a single story building is more in character with the historic nature of the professional offices and commercial properties along this corridor.

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.

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Orlando, FL 32804
o: (407) 951-5915
www.commonoakengineering.com

COVER LETTER



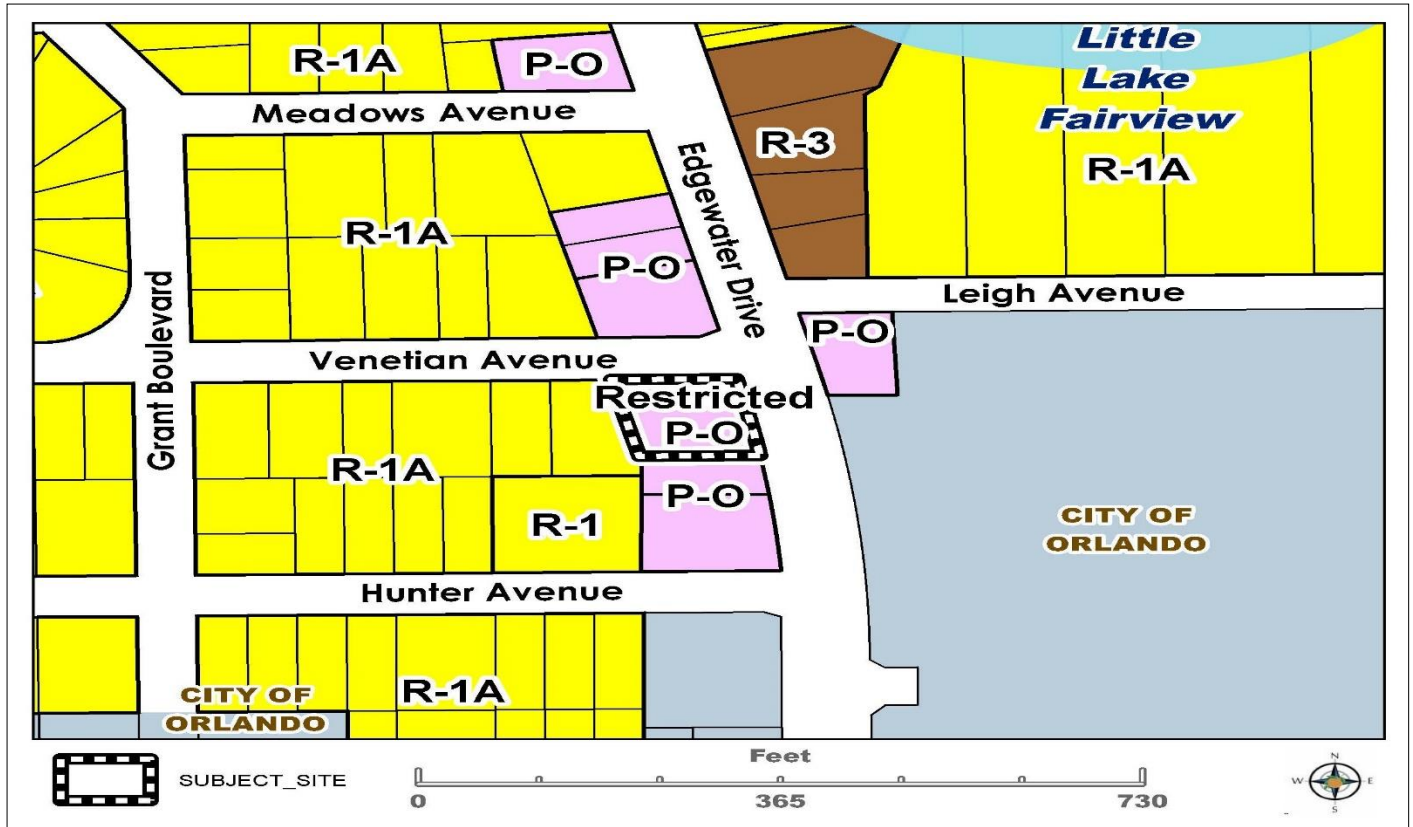
5. Response: The zoning variance will allow the owner to proceed with the construction of his office at the location approved with the Building Permit, and it is the minimum variance necessary to make possible the reasonable use of the land.

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. 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.

6. Response: The contents of this letter demonstrate compliance with this criteria.

Common Oak Engineering, LLC
4016 Edgewater Drive
Orlando, FL 32804
o: (407) 951-5915
www.commonoakengineering.com

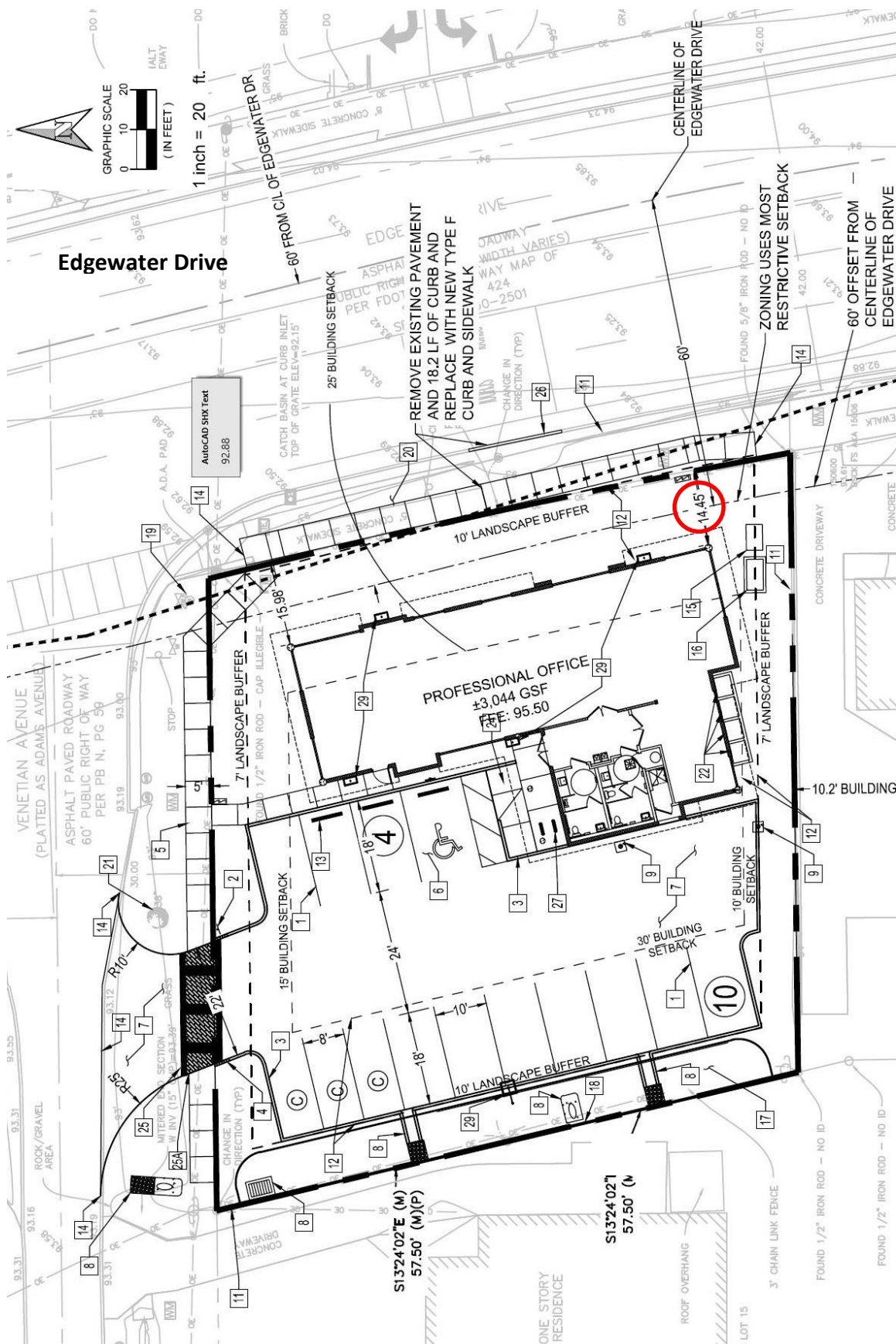
ZONING MAP



AERIAL MAP



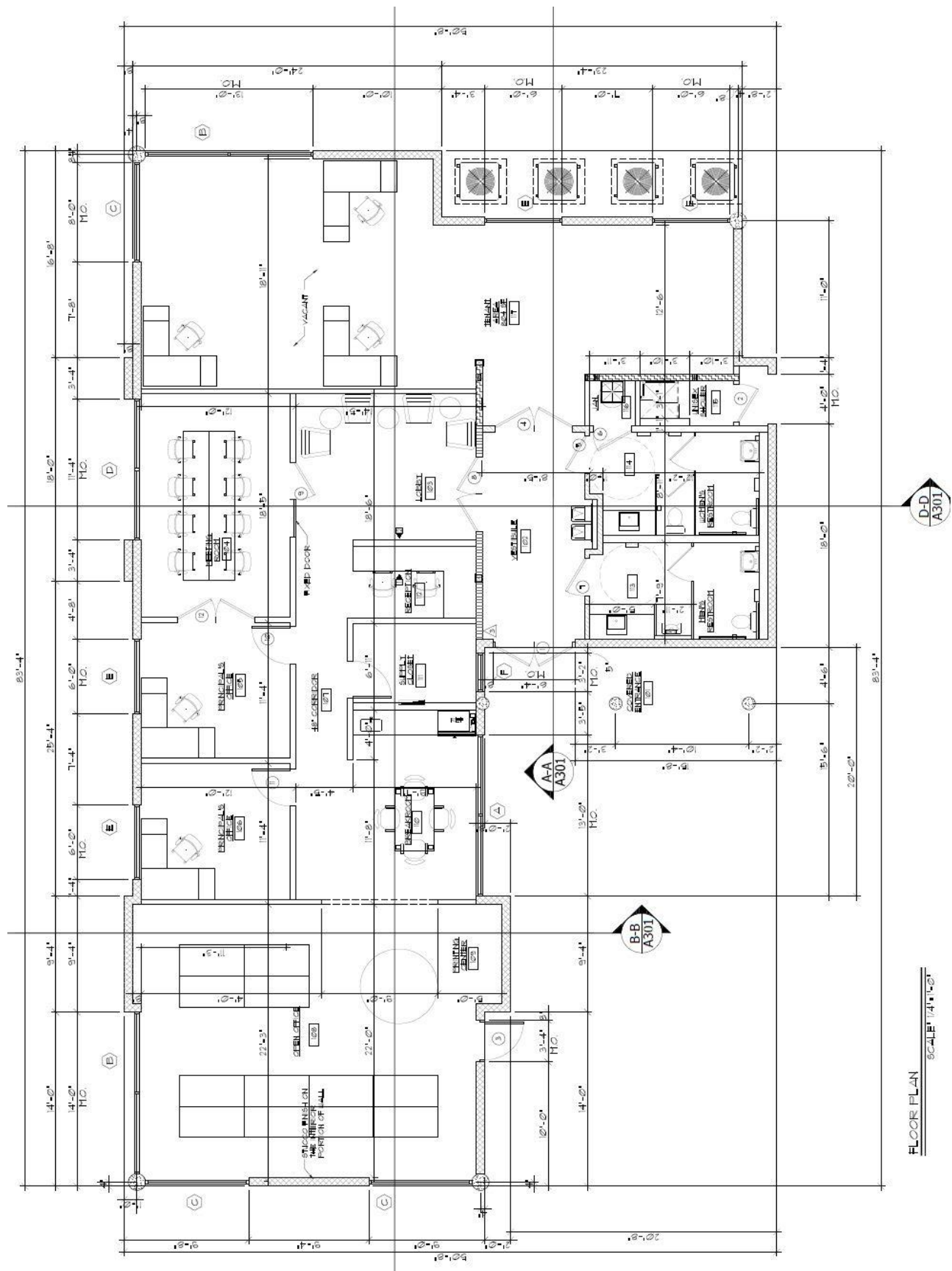
SITE PLAN



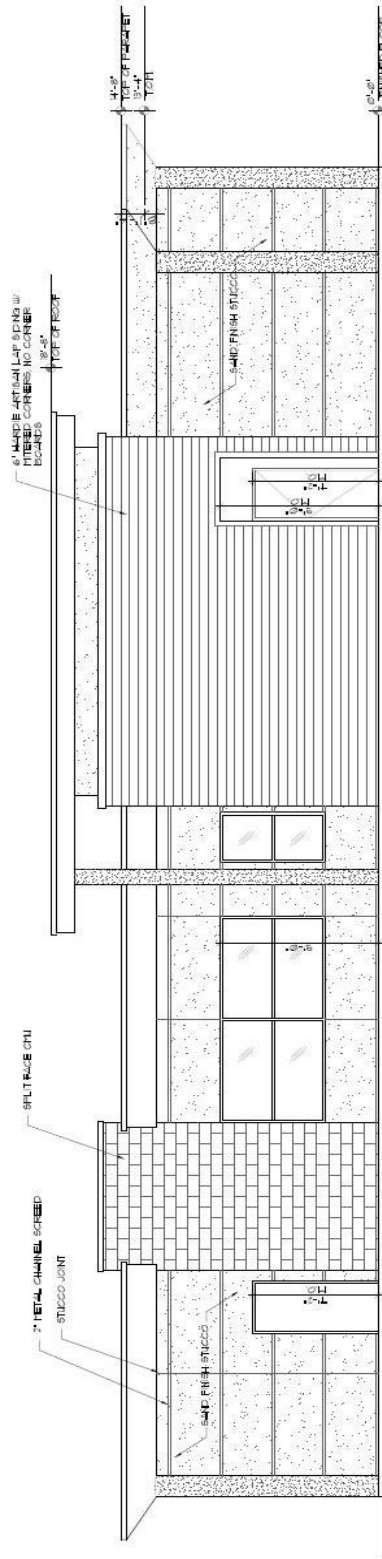
PLANT LIST

Site plan of a Professional Office building. The building is labeled "PROFESSIONAL OFFICE" and has a total area of 13,044 GSF and FFE of 95.50. The plan includes various landscape features such as trees, shrubs, and SOD (Soil Organic Decomposition) areas. Dimensions are provided for the building and surrounding areas. A north arrow is located in the upper right corner. The plan also shows a "LINK FENCE" and a "2\"E (M) (M)(P)" area. The building is situated on a lot with dimensions 130.99' (M) and 140.00' (P). The plan includes a "50' PUBLIC RIGHT OF WAY" and a "STOP" sign. The building is surrounded by a "LINK FENCE" and a "2\"E (M) (M)(P)" area. The plan also shows a "513'24'02\"E (M) 57.50' (M)(P)" area. The building is situated on a lot with dimensions 130.99' (M) and 140.00' (P). The plan includes a "50' PUBLIC RIGHT OF WAY" and a "STOP" sign. The building is surrounded by a "LINK FENCE" and a "2\"E (M) (M)(P)" area. The plan also shows a "513'24'02\"E (M) 57.50' (M)(P)" area.

FLOOR PLAN



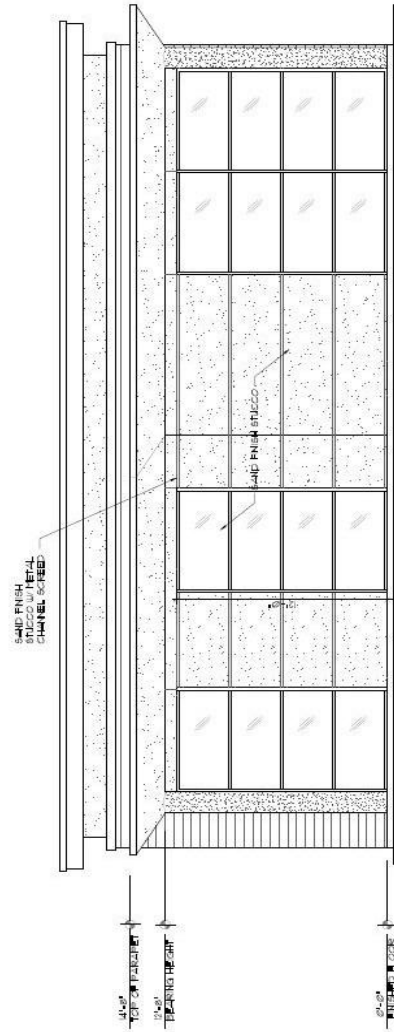
ELEVATIONS



NOTE: MATCH ALL MATERIAL SCHEDULES AND STILLAGO JOINTS ON THE INTERIOR OF BUILDING.

WEST ELEVATION

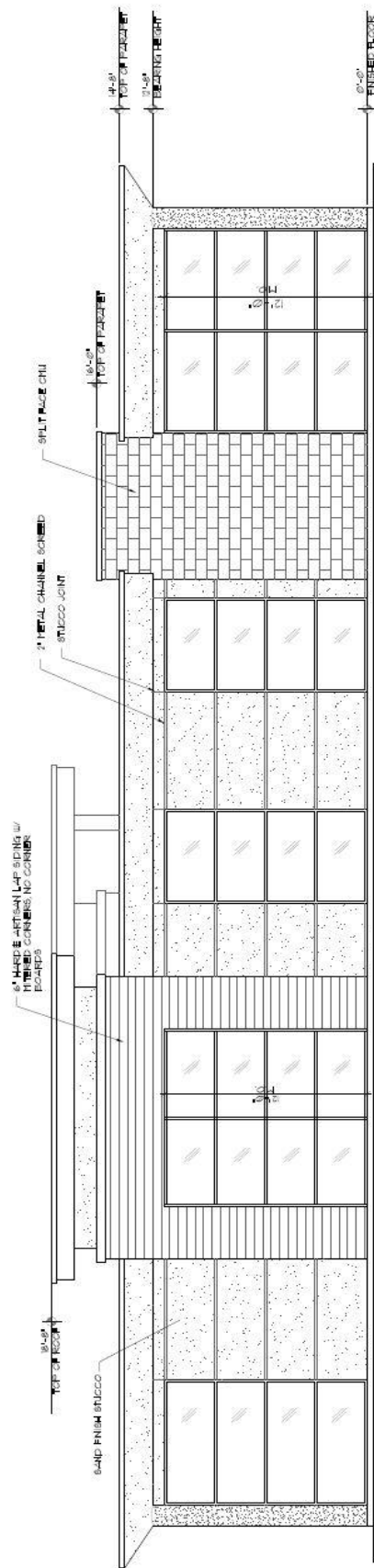
SCALE: 1/4" = 1'-0"



SOUTH SIDE ELEVATION

SCALE: 1/4" = 1'-0"

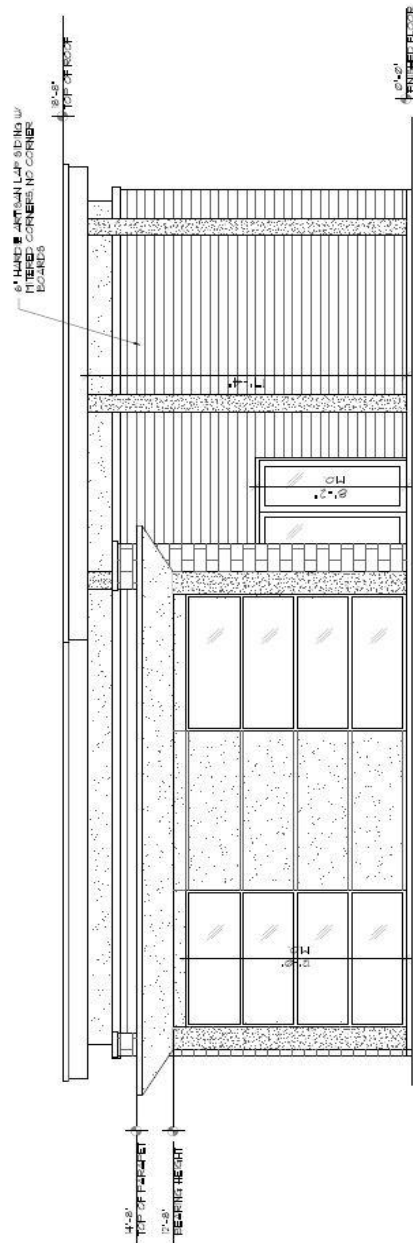
ELEVATIONS



EAST ELEVATION

SCALE: 1/4" = 1'-0"

NOTE: MATCH ALL EXTERIOR SIDINGS AND STUCCO JOINTS ON THE INTERIOR OF THE BUILDING.



NORTH SIDE ELEVATION

SCALE: 1/4" = 1'-0"

SITE PHOTOS



Facing Edgewater Dr. from northwest corner of subject property



Facing south from north side of subject property

SITE PHOTOS



Facing southwest towards subject property



Facing northwest towards subject property

SITE PHOTOS



Facing east towards office directly across Edgewater Dr.



Facing south towards office two properties down Edgewater Dr. from subject property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#1**

Case #: **VA-22-08-072**

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

Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JORDAN STRASBERG

OWNER(s): KING SY OF CENTRAL FLORIDA III INC

REQUEST: Variance in the R-CE zoning district to allow a pool and pool deck with a setback of 27 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

PROPERTY LOCATION: 6490 Winter Garden Vineland Rd., Windermere, FL 34786, southwest side of Winter Garden Vineland Rd., northeast side of Lake Sawyer, north of Chase Rd.

PARCEL ID: 24-23-27-0000-00-046

LOT SIZE: +/- 1.65 acres (upland +/- 1 acre)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 111

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; unanimous; 4 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 3 absent: Joel Morales, Charles Hawkins, Juan Velez):

1. Development shall be in accordance with the site plan received July 18, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages caused by flooding and, which shall inform all interested parties that the pool deck is located no closer than 27 feet from the Normal High Water Elevation (NHWE) of Lake Sawyer.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that one correspondence was received in favor, and that no correspondences were received in opposition.

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

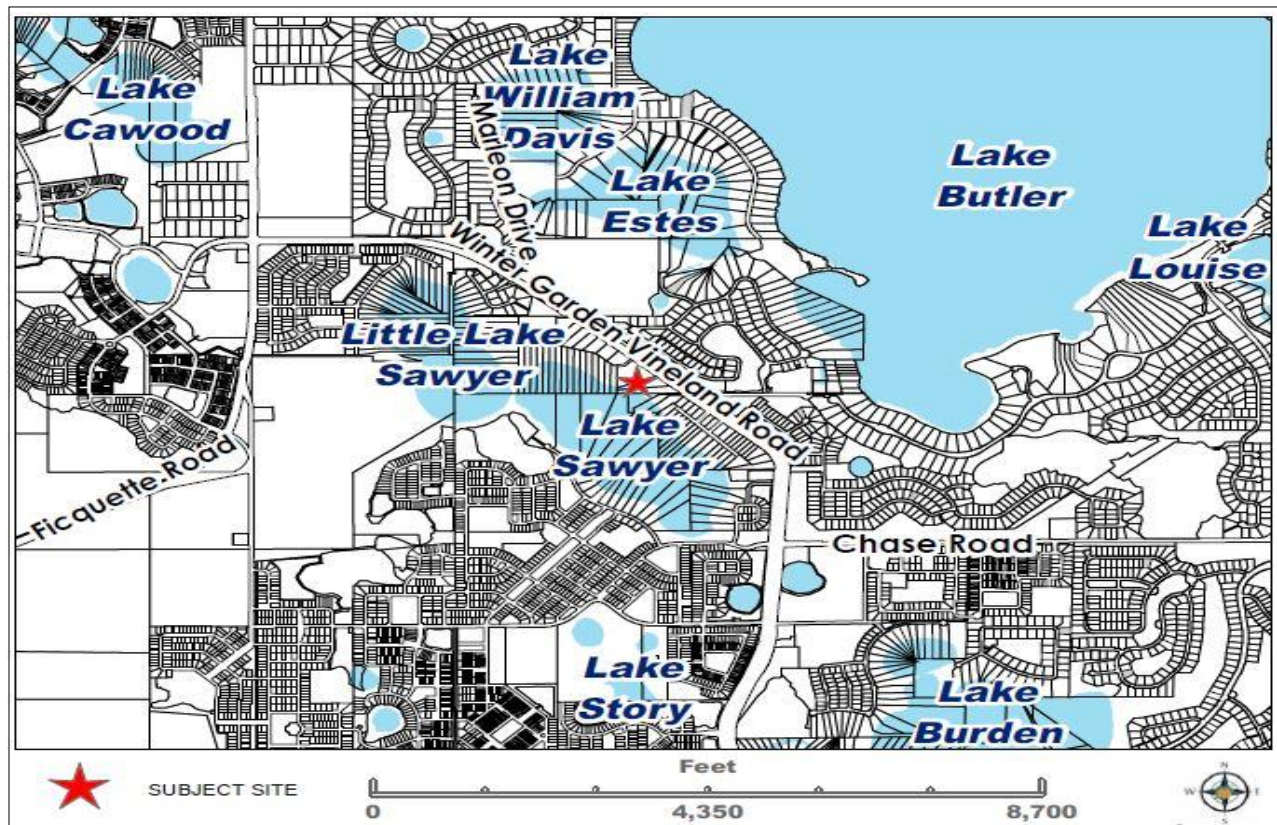
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance with a 4-0 vote, with three absent, subject to the four (4) 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 | R-CE | R-CE | R-CE | PD (Waterstone) | A-1 |
| Future Land Use | RS 1/1 (West Windermere RS) | RS 1/1 (West Windermere RS) | RS 1/1 (West Windermere RS) | RS 1/1 (West Windermere RS) | N/A |
| Current Use | Single-Family Residence (under construction) | Vacant | Single-Family Residence | Single-Family Residence | Lake |

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 is Rural Settlement 1/1 (RS 1/1), which is consistent with the zoning. The property is located in the West Windermere Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as institutional uses, or commercial development, and control densities. However, it does not impact the development of this individual residential property.

The area around the subject site consists of single-family lakefront homes, and a large, vacant residential property directly to the north. The subject property is unplatted, is approximately 1.65 acres in size, with approximately 1 acre of upland area, and is a conforming lot, created via lot split in 2007. A 2-story single-family home with 8,242 sq. ft. of living area (Permit #B19013473) and covered boathouse (Permit #B22002802) are currently under construction on the property. The property abuts Lake Sawyer, with a Normal High Water Elevation (NHWE) line along the west side of the property.

The proposal is for an 18 ft. by 30 ft. pool and a 49 ft. by 72 ft. pool deck, located 27 ft. from the NHWE, requiring a variance from the required 50 ft. NHWE setback. There is currently a permit for the pool in review (Permit #B22008929) which is on hold pending the outcome of this variance request.

The Orange County Environmental Protection Division has reviewed the proposal and has no objection to the request as Florida native plantings have been provided to mitigate for the 25 ft. wetland buffer impact.

The applicant has submitted one comment in favor of the request from the adjacent neighbor to the south. As of the date of this report, no additional comments have 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. | N/A (pool/pool deck) |
| Min. Lot Width: | 130 ft. | 235 ft. (approx.) |
| Min. Lot Size: | 1 ac. | 1.65 ac. (upland +/- 1 acre) |

Building Setbacks (that apply to pool/pool deck in question)

| | Code Requirement | Proposed |
|--------------|------------------|----------------------------------|
| Front: | N/A | N/A |
| Rear (NHWE): | 50 ft. | 27 ft. (West – Variance) |
| Side: | 5 ft. | 43 ft. (North) 21 ft. (South) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstance particular to the subject property are its natural constraints of a normal high water line, which comes relatively high up on the property. The location of the normal high water line, combined with the placement of the existing residence (which is under construction) on the property, makes it nearly impossible to add a pool and pool deck of an appropriate, useable size, in the backyard without encroaching into the NHWE setback.

Not Self-Created

The need for the requested variance is not self-created. Based on where the house is located on the lot, there would be little, if any, room for a pool and pool deck that would have complied with the 50 ft. NHWE setback requirement.

No Special Privilege Conferred

Approval of the variance as requested will not confer special privilege as the County has granted several variances to properties along Lake Sawyer for encroachments, and in some cases more severe encroachments, into the NHWE setback.

Deprivation of Rights

Literal interpretation of the code will deprive this applicant of the right to add a pool and pool deck at the rear of the property.

Minimum Possible Variance

This is the minimum possible variance to allow a pool and pool deck in the proposed location.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. As previously mentioned, there are several other properties along Lake Sawyer which have been granted similar, or even more intense NHWE setback variances. Thus, this proposed pool and pool deck will not have any discernable negative impact. Additionally, the most impacted neighbor, who owns the property directly to the south, has submitted a letter of no objection to the proposal.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received July 18, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages caused by flooding and, which shall inform all interested parties that the pool deck is located no closer than 27 feet from the Normal High Water Elevation (NHWE) of Lake Sawyer.

C: Jordan Strasberg
55 W. Church Street, #3019
Orlando, Florida 32801

C: Tumeshwar Persaud
7714 Country Run Parkway
Orlando, Florida 32818

COVER LETTER

Variance Request

Type: Pool and decking

Address: 6490 Winter Garden Vineland Rd Windermere, FL 34786

Requesting a variance for a swimming pool/deck to encroach the 50ft to normal high water line rear set back. The distance varies as the normal high water line varies, but the closest setback from deck to NWHL is 27ft, so it would be 23ft encroachment.

NOTE: This was shown on the new house build permit and not brought to our attention. (Approved site plan attached). Also, the pool deck stem wall/retaining wall was built AND inspected along with the house build. EPD also has already approved a fence with the following language: "EPD will allow you to have 5ft of secondary impacts to the 25ft buffer in order to build a fence around the pool"

1. Special Conditions and Circumstances

- Lot size and odd shape does not allow practically any room for any size swimming pool given the setback requirements to the NHWL. A neighboring property has much more room to install a pool and meet setback requirements.

2. Not Self-Created

- This hardship has not been self-created by homeowner. This is a very awkwardly shaped lot. A master site plan for the new house shows the pool and was approved without any mention of the pool not meeting setbacks.

3. No Special Privilege Conferred

- Given the lot is on a public road with only a few other lots remotely close which have enough area to build pools, no special privilege would be given by accepting this setback variance request.

4. Deprivation of Rights

- The owner would be deprived of the rights of having a swimming pool in which the only other few lots within the same area would be allowed due to their more practical land size/placement. Also, as mentioned above, we saw nothing regarding the pool not being within setbacks during the master site plan review and even built the deck stem wall with inspections.

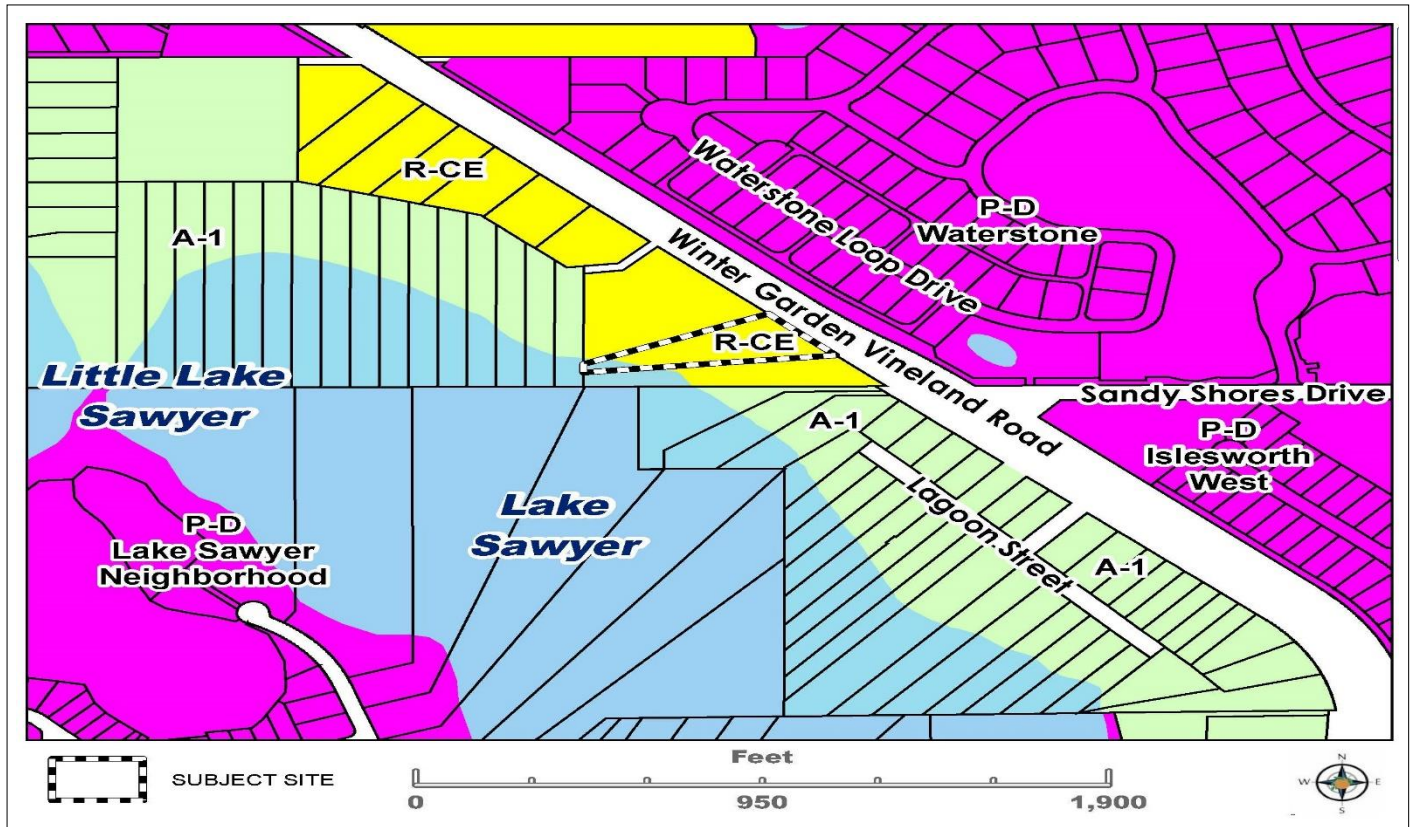
5. Minimum Possible Variance

- The minimum possible variance is needed not only to build any sort of reasonable size pool/deck considering the awkward lot shape, but also because we have already built the deck stem wall for the pool, which also received and passed inspections.

6. Purpose and Intent

- Approval of this variance will be consistent with the zoning regulations on this street and surrounding areas. By placing the pool and deck in this location it will not be injurious to the neighborhood or anyone else.

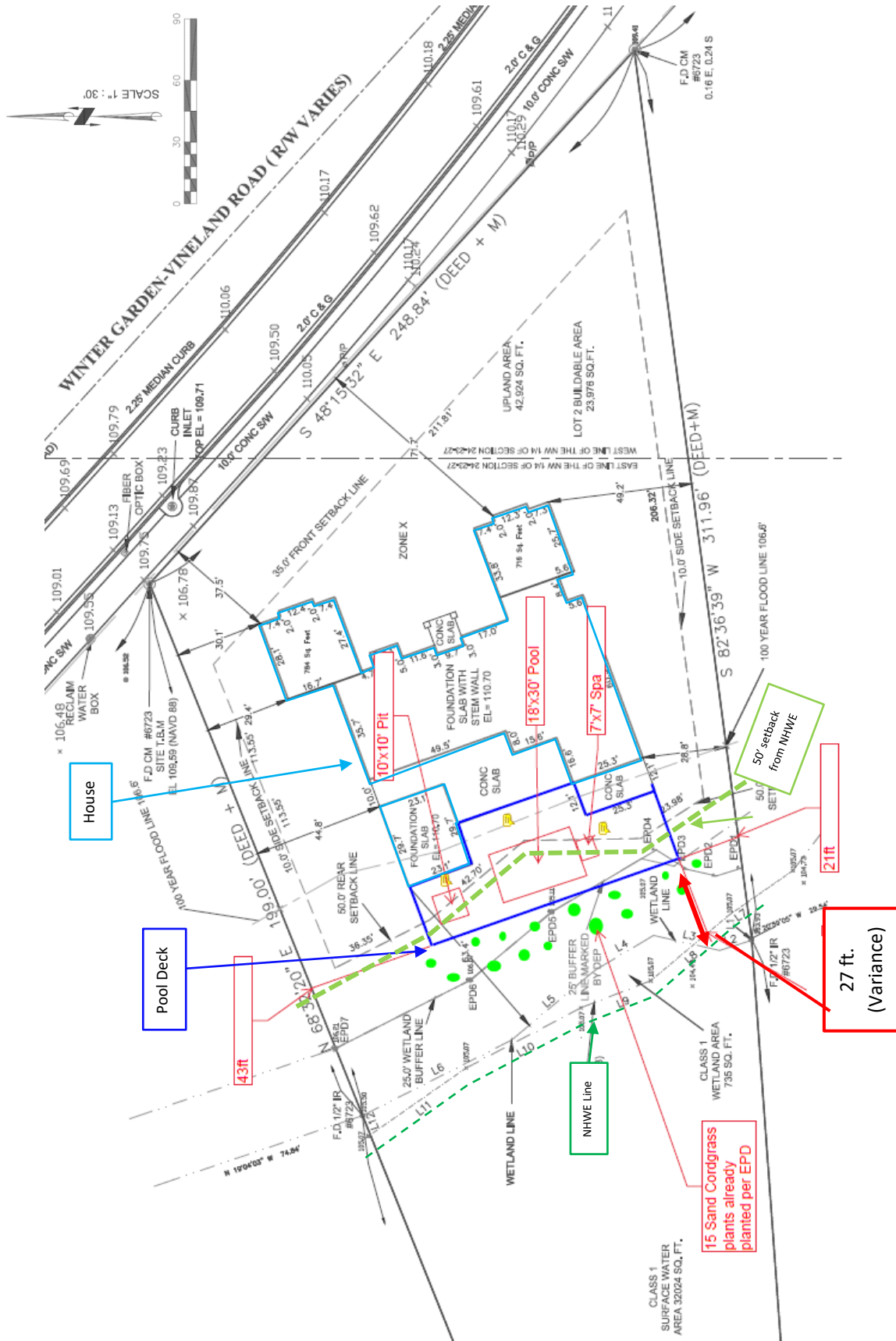
ZONING MAP



AERIAL MAP



SITE PLAN



SITE PHOTOS



Facing west towards front of subject property



Facing west towards south side of subject property

SITE PHOTOS



Facing west towards north side of subject property



Facing east towards proposed location of pool and deck

SITE PHOTOS



Facing south towards proposed location of pool and deck



Facing west towards proposed location of pool and deck

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#4**

Case #: **VA-22-06-030**

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

GENERAL INFORMATION

APPLICANT(s): JEREMY KIBLER

OWNER(s): NOEL MALCOLM, SARAH MALCOLM

REQUEST: Variance in the A-2 zoning district to allow the conversion of an existing residence to an accessory dwelling unit (ADU) with 2,240 sq. ft. of living area in lieu of a maximum of 1,500 sq. ft.

PROPERTY LOCATION: 10528 Kirby Smith Rd., Orlando, FL 32832, south side of Kirby Smith Rd., north side of Lake Whippoorwill, east of Narcoossee Rd., south of SR 417

PARCEL ID: 17-24-31-0000-00-016

LOT SIZE: +/- 7.31 acres (+/- 2.7 acres upland)

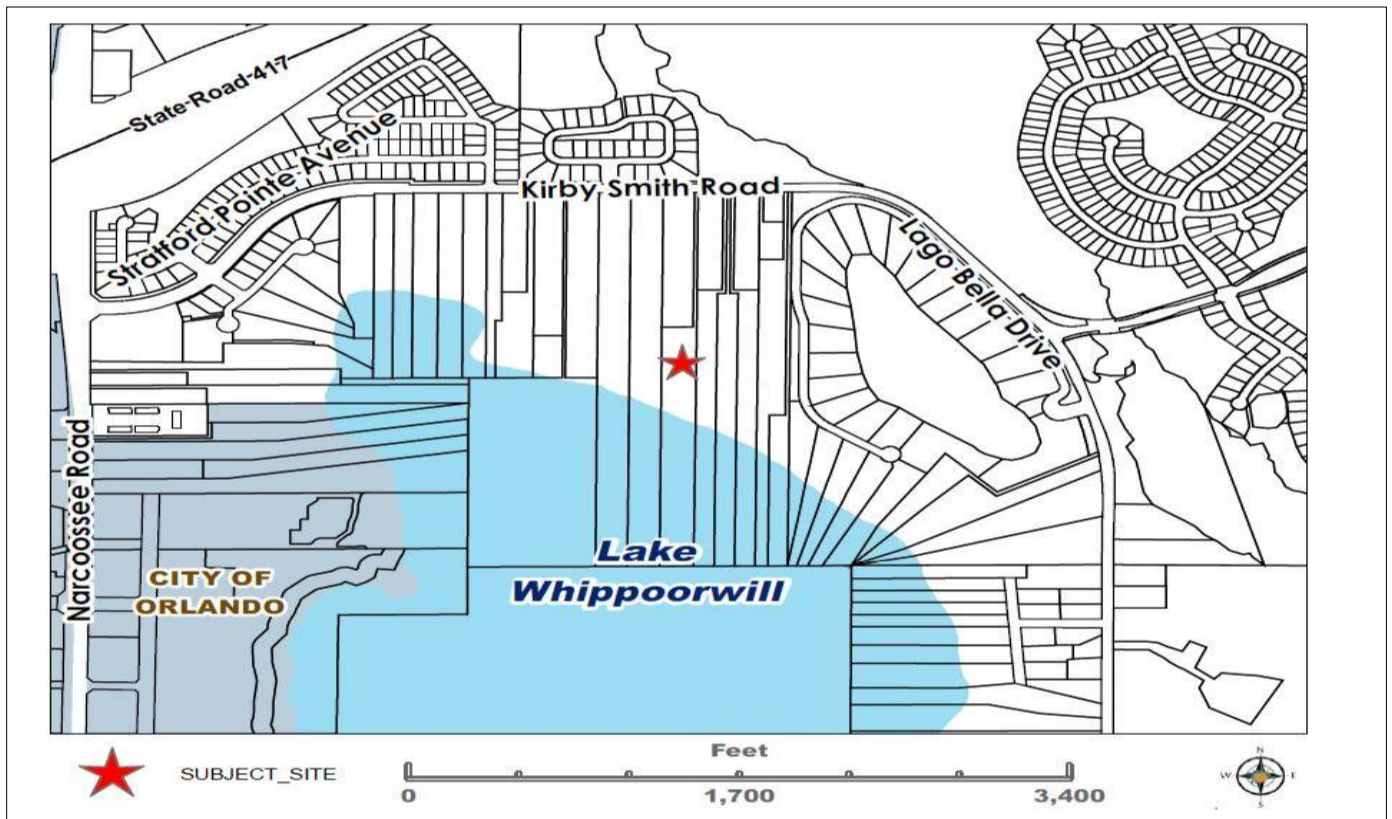
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 39

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#4**

Case #: **VA-22-07-050**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ROBERT MCILWAINE

OWNER(s): ROBERT MCILWAINE, YANIRA MATTEI

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

1) To allow a 6 ft. high fence in the front yard in lieu of 4 ft. high.

2) To allow a detached accessory structure (shed) in front of the primary structure.

PROPERTY LOCATION: 1420 Kearin Lane, Orlando, FL 32825, southwest corner of Kearin Ln. and Nathaniel Dr., south of E. Colonial Dr., west of Oberry Hoover Rd.

PARCEL ID: 21-22-31-0000-00-094

LOT SIZE: +/- 2.22 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 63

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received June 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 for the detached accessory structures shall be obtained within 180 days 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.

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 Variance #1, and denial of Variance #2. Staff noted that fourteen (14) comments were received in favor of the application, and no comments were received in opposition.

The applicant discussed the staff recommendation of denial for Variance #2 and noted that the shed was located in its current location when the property was purchased.

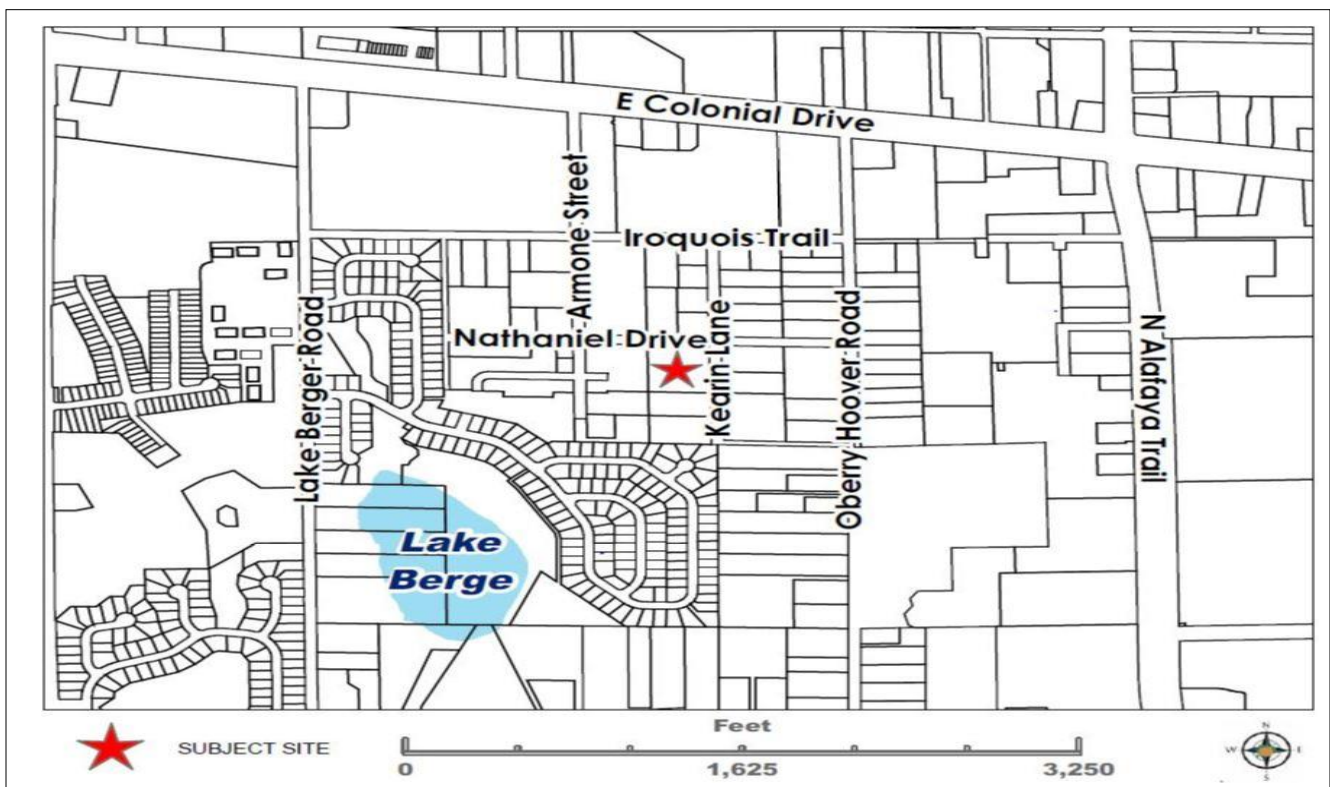
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the shed, the unique frontage situation and the existing improvements, and consistency with the 6 Variance criteria, and unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Current Zoning | R-1 | A-2 | R-1 | A-2 | R-1 |
| Future Land Use | LDR | LDR | LDR | LDR | LDR |
| Current Use | Single-family residential | Single-family residential | Single-family residential | Single-family residential | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 5,000 square ft. The future land use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The area around the subject site consists of single-family homes. The subject property is an unplatted 2.22 acre lot that was created by a lot split in 2001 (LS #2001-127). The property meets the minimum lot standards of the R-1 zoning district. The subject site is a corner lot located on the southwest corner of Kearin Lane and Nathaniel Drive. The frontage is considered Nathaniel Drive since it is the narrowest portion of the lot abutting a street right-of-way, and the side street is Kearin Lane. It is developed with a 1-story 2,340 gross sq. ft. single-family home constructed in 2005 (B05001784). There also is a 229.9 sq. ft. detached accessory structure (Shed #1), and an 80 sq. ft. detached accessory structure (Shed #2), both of which were installed without permits. The property was purchased by the current owners in 2020.

The proposal is to replace a dilapidated existing 4 ft. high chain link fence with a 6 ft. high black aluminum fence generally along the front (Nathaniel Drive) and side street (Kearin Lane) of the property (marked-up on Site Plan in purple by Staff for clarity). A new 4 ft. high black chain link fence is proposed on the south/rear for 122 linear ft., connecting to the existing/ remaining 177.2 linear ft. of 4 ft. high chain link fence on the rear. Per Sec. 38-1408 of Orange County Code, fences in residential districts are limited to maximum height of 4 ft. in the front yard setback, unless abutting a collector or arterial right-of-way, requiring Variance #1, and a maximum height of 8 ft. in the side and rear yards, and generally allows the same in the side street yard. The proposed request meets the other yard requirements.

In addition, Sec. 38-1408 (a) requires a 15 ft. street corner triangle at a street intersection. The proposed request provides a 15 ft. by 15 ft. corner clip at Nathaniel Drive and Kearin Lane. Per Sec. 38-1408 (b), “a fence of any style or material shall maintain a clear view triangle from the right-of-way line for visibility from driveways on the lot or on an adjacent lot. The clear view triangle area for a driveway is formed on each side of a driveway by measuring a distance of fifteen (15) feet along the right-of-way and fifteen (15) feet along the edge of the driveway.” The request meets the clear view triangle for visibility requirements from the fence to the nearest driveway on the adjacent property to the south since it is located over 15 ft. from the approximate area of the neighbor’s unimproved driveway and is located 95 ft. from the paved driveway. Further, the proposed 6 ft. fence located along the side street (Kearin Lane), as identified on the site plan with a 15 ft. by 15 ft. clip around the driveway and a 12 ft. gate, meets the maximum height and the clear view triangle visibility requirements.

Nathaniel Drive is a non-maintained public right-of-way that is lined on both sides with heavy vegetation. There are no access points to the property from Nathaniel Drive due to the heavily landscaped frontage of the subject property. Public Works Development Engineering staff have indicated that there are no current plans to improve the right-of-way to County standards. Furthermore, the proposed aluminum picket fence will still allow for visibility onto the property from the front, which is in line with the intent of the code. Additionally, the A-2 zoning district is located to the north and east of the property, and fences in the front yard of an A-2 zoning district are permitted to be up to 6 ft. in height, which if Variance #1 is approved, would be consistent with the character of the neighborhood. Therefore, a 6 ft. high fence in the front yard will have no impact to the surrounding area. A permit, F22005219, for the installation of the proposed 6 ft. high aluminum fence, is on hold pending the outcome of this request.

The variance requests also include the existing location of an unpermitted 9.1 foot high, 20.9 ft. by 11 ft., 229 sq. ft. detached accessory structure (Shed #1) located in front of the primary structure, requiring Variance #2. Per Section 38-1426 (3) of the Orange County Code, a detached accessory structure shall not be located in front of the principal structure unless the principal structure is located in the rear half of the lot/parcel. In this instance, the principal structure extends beyond midpoint line of the subject property. Staff recommends denial of this Variance since the rear and side of the property provide ample room to relocate the shed to a location that will meet code requirements. Furthermore, the shed could have been located in a compliant location if permits were first obtained prior to installation. The additional 10 ft. by 8 ft., 9 ft. high detached accessory structure (Shed #2), used as water well structure, is located in the rear of the residence and meets setback requirements but will require a permit, which has been added as a condition of approval to this report.

As of the date of this report, thirteen comments have 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: | 4 ft. (Fence) | 6 ft. (Variance #1) |
| Min. Lot Width: | 50 ft. | 298.35 ft. |
| Min. Lot Size: | 5,000 sq. ft. | 2.22 acres |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------------|---|---|
| Front: | Not allowed in front of principal structure | Located in front of principal structure, 27 ft. (North – Variance #2, Shed) |
| Rear: | 5 ft. | 250 ft. (South – Shed) |
| Side: | 5 ft. | 65.5 ft. (West – Shed) |
| Side Street: | 15 ft. | 221.8 ft. (East - Shed) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: The special condition and circumstances is that while Nathaniel Drive is the technical front of the lot per code, the road is currently unimproved with existing heavy vegetation along that frontage that will essentially screen the 6 ft. high fence, and there is no access point to the property from this road.

Variances #2: There are no special conditions and circumstances pertaining to the need for the request since there are other options to relocate the detached accessory structure to a location that will meet code requirements.

Not Self-Created

Variance #1: The request is not self-created as the owners are not responsible for the existing heavy vegetation and undeveloped road in their front yard.

Variances #2: The request is self-created due to the options available to relocate the detached accessory structure to a location that will meet code.

No Special Privilege Conferred

Variance #1: Due to neighboring properties in the A-2 zoning district, which allows a 6 ft. high fence in the front yard, granting the requested variance will not confer any special privilege conferred to others.

Variances #2: Granting this request would confer special privilege since there appears to be no surrounding properties with detached accessory structures in front of the principal structure.

Deprivation of Rights

Variance #1: The owner would be deprived of the right to install a fence that will maintain the existing character of the neighborhood since the property is adjacent to the A-2 zoning district to the north and east.

Variances #2: There is no deprivation of rights since code compliant options are available to relocate the detached accessory structure.

Minimum Possible Variance

Variance #1: The request is the minimum possible to install a fence that would maintain the character of neighboring properties in the A-2 zoning district.

Variance #2: The request is not the minimum possible as the detached accessory structure can be relocated to meet code requirements.

Purpose and Intent

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood. The detached accessory structure and 6 ft. high fence will not be significantly visible from any of the surrounding properties due to the landscape in the front of the property, thereby limiting any quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received June 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 for the detached accessory structures shall be obtained within 180 days 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: Robert Mcilwaine and Yanira Mattei
1420 Kearin Lane
Orlando, FL 32825

COVER LETTER

Variance Request for Board of Zoning Adjustment

2 June 2022


(Amended based on 20 May e-mail from Ms. Garnett)

This Variance request is submitted to allow me to replace a dilapidated existing 4 foot high chain link fence with a new modern 6 foot black aluminum fence (yellow highlight on survey). Code limits fence height to 4 feet. The fence will be in the same location across the front of the property running parallel to Kearin Lane and will be 325 feet in length. Distance from the property line will be as indicated on the attached survey- from .5 feet to 1.1 feet. This permit will include a 4 foot high 122 foot black chain link fence to replace the damaged portion of the existing chain link fence on the south side of the property. This will be approximately .4 feet from the property line and is highlighted on blue on the survey. I am also requesting to keep an existing Accessory Structure in place in front of the principal structure due to Sec. 38-1426 (b) (3) Accessory Structures and Accessory Dwelling Units of the Orange County Code . This structure pre-dates the house (built in 2005) by several years. The shed is 20.9 feet in length, 11 feet in width, and 9.1 feet in height. The west side of the structure is 27 feet from the north property line and the east side of the structure is 28 feet from the north property line- as indicated on the survey. The south side of the structure is 65.5 feet from the west property line and the north side of the structure is 65 feet from the west property line- as indicated on the survey.

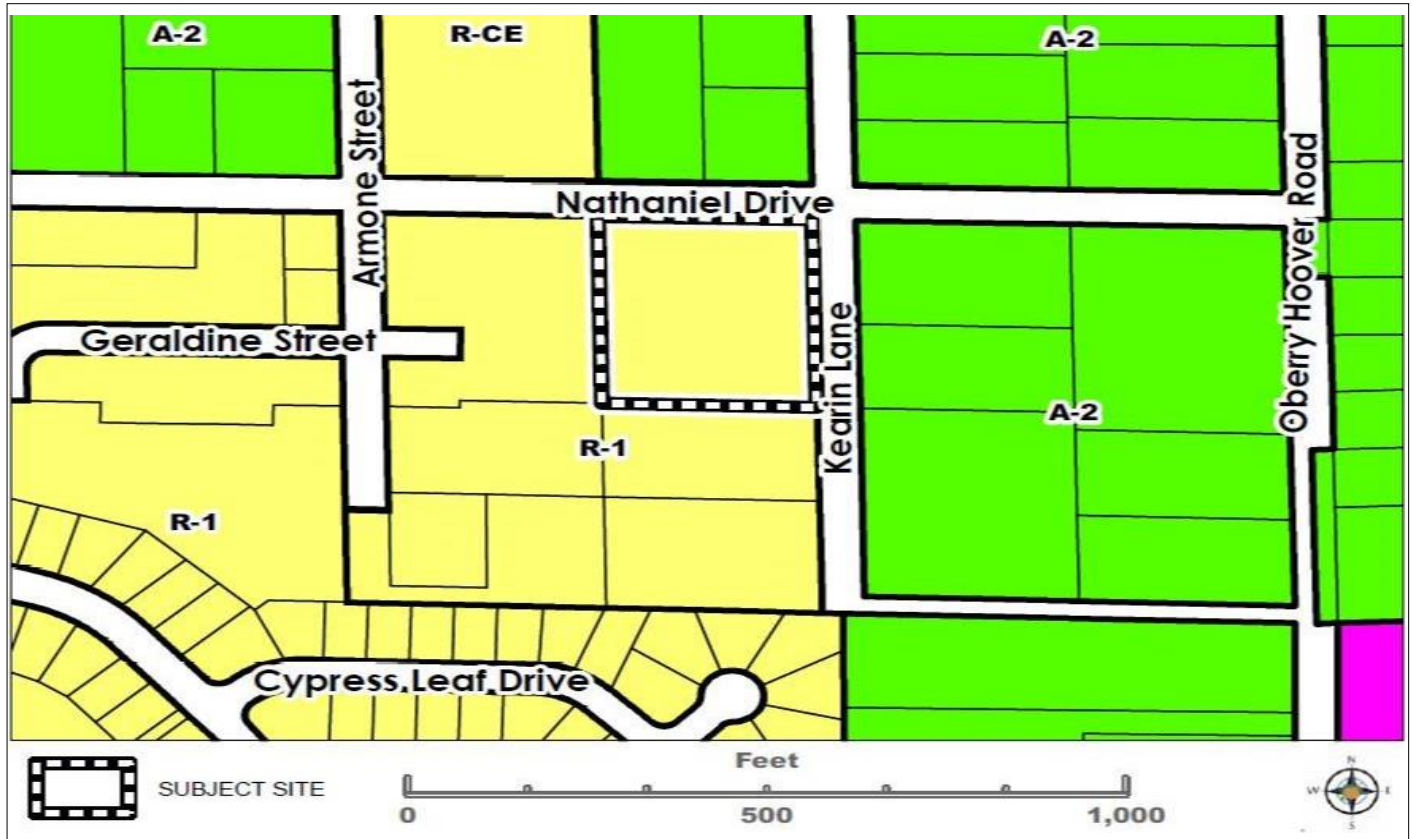
Variance Criteria

1. **Special Conditions and Circumstances** – I am unaware of any special conditions or circumstances regarding this fence.
2. **Not Self-Created** – I chose to apply and request a variance rather than erect the fence without a permit thereby ask forgiveness for #1 and thereby creating #2.
3. **No Special Privilege Conferred** – I am unaware that allowing me to erect a 6 foot aluminum fence will confer a special privilege in this particular zoning district which is surrounded in its entirety by a zone that permits a 6 foot fence.
4. **Deprivation of Rights** – If variance is denied my rights would not be deprived, I am merely asking for an exception.
5. **Minimum Possible Variance** – This is the minimum possible variance – all the fences across the street although in a different zone are 6 feet high and 2 of them are nearly the same black aluminum – one of which was recently installed by the same company.
6. **Purpose and Intent** - I believe granting of this variance will be in harmony with the purpose and intent of Zoning Regulations in that it would do no harm to the neighborhood, improve the aesthetics of this neighborhood and certainly would increase the value of my home and thereby raising tax revenue associated with this property.

I have also provide letters of support or no objection from every homeowner residing on Kearin Lane and Nathaniel Drive and 1 of 2 homeowners with properties on the corner of Iroquois and Kearin Lane (the other homeowner was unavailable the several times I attempted to request signature).


Robert J. McElwaine
1420 KEARIN LANE
ORLANDO FL 32825

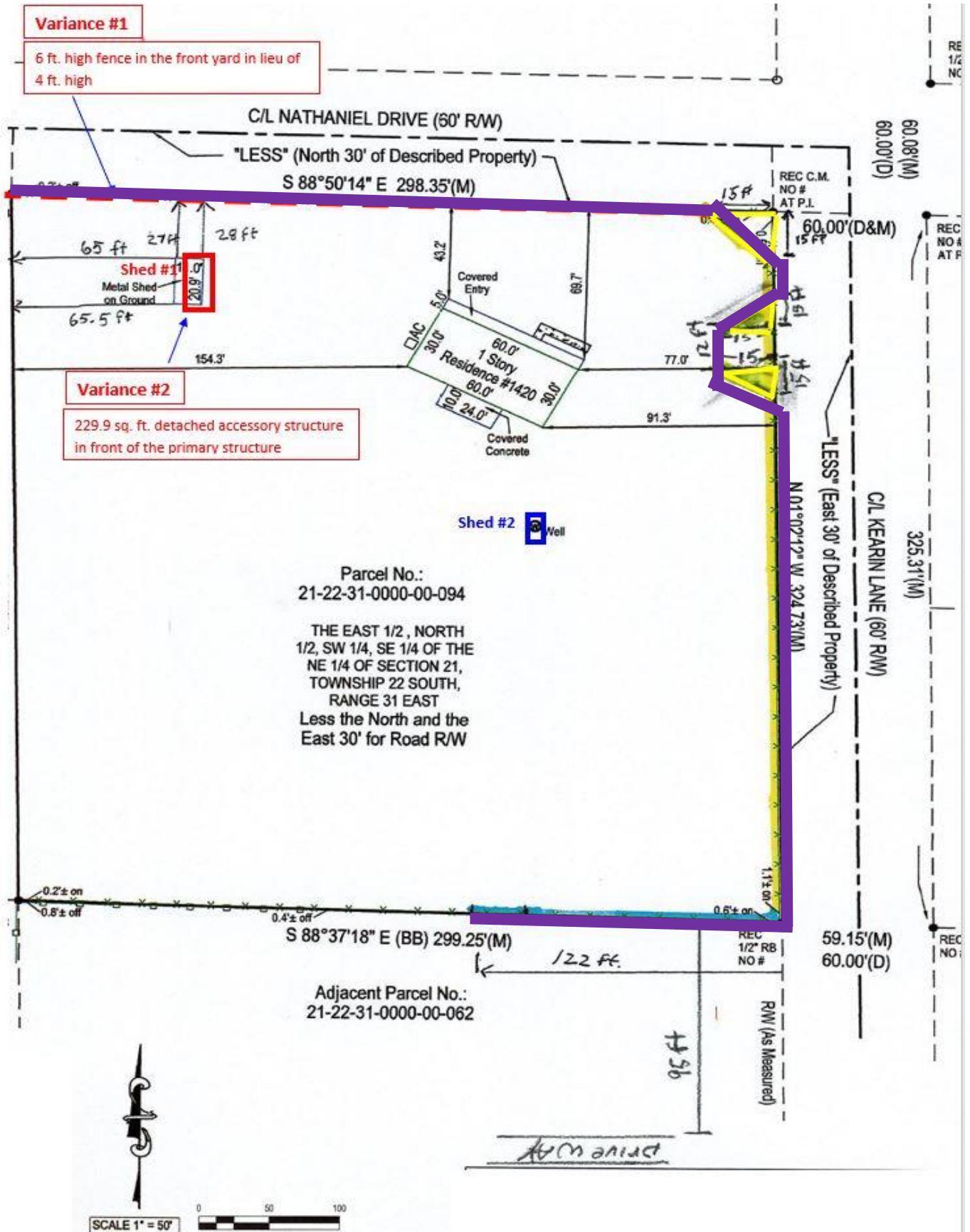
ZONING MAP



AERIAL MAP



SITE PLAN



FENCE TYPE EXAMPLE/ ALUMINUM RAIL

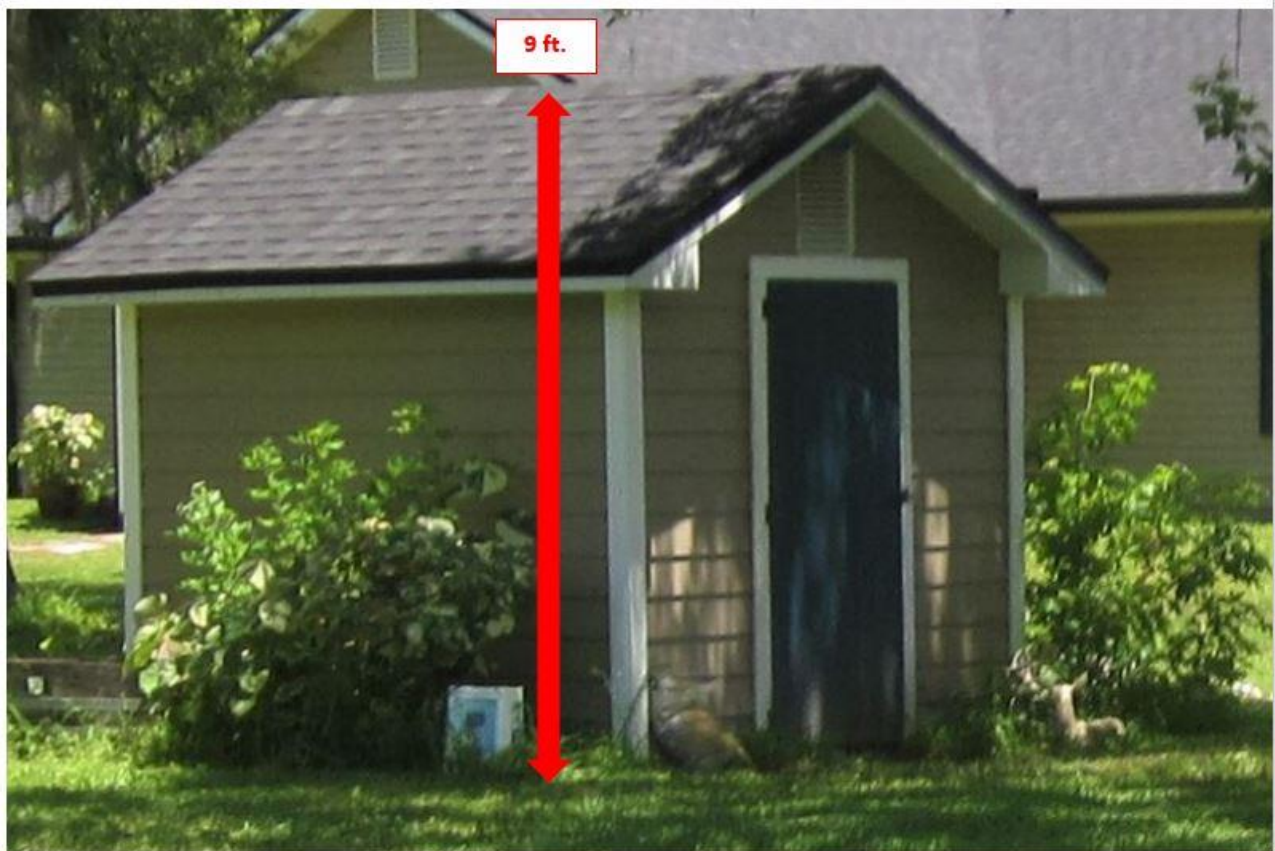


6' high, the pickets are 5/8" x 5/8", and the spacing between the pickets is 4".

EXISTING UNPERMITTED SHEDS



Shed #1



Shed #2

SITE PHOTOS



Front yard, facing southwest towards front of residence (Shed #1 is to the right)



Facing southwest from corner of Kearin Ln. and Nathaniel Dr. towards subject property

SITE PHOTOS



Facing west towards Nathaniel Dr. from Kearin Ln.



Facing south from Nathaniel Dr. towards front of property

SITE PHOTOS



Facing north along west side of Kearin Ln. towards frontage of adjacent property across Nathaniel Dr.



Front yard, facing northwest towards proposed location of 6 ft. high fence, Variance #1

SITE PHOTOS



Facing west from Kearin Ln. towards residence and Shed #1 in front of residence, Variance #2



Rear yard, facing north towards Shed #2 (water well inside)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#3**

Case #: **VA-22-08-058**

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

GENERAL INFORMATION

APPLICANT(s): VICTOR ROMERO

OWNER(s): VICTOR ROMERO, VERONICA ROMERO

REQUEST: Variances in the A-2 zoning district as follows:

- 1) To allow a detached accessory dwelling unit (ADU) with a living area of 846 sq. ft. in lieu of a maximum 644 sq. ft.
- 2) To allow an existing 313 sq. ft. detached accessory structure (shed) with a west rear setback of 4.29 ft. in lieu of 5 ft.
- 3) To allow an existing 313 sq. ft. detached accessory structure (shed) with a north side setback of 3.76 ft. in lieu of 5 ft.
- 4) To allow an existing 282 sq. ft. detached accessory structure (shed) with a north side setback of 3.89 ft. in lieu of 5 ft.

PROPERTY LOCATION: 1708 Renee Ave., Orlando, FL 32825, west side of Renee Ave., south of E. Colonial Dr., east of N. Chickasaw Trl., west of SR. 417

PARCEL ID: 24-22-30-8068-01-020

LOT SIZE: +/- 0.34 acres (15,075 sq. ft.)

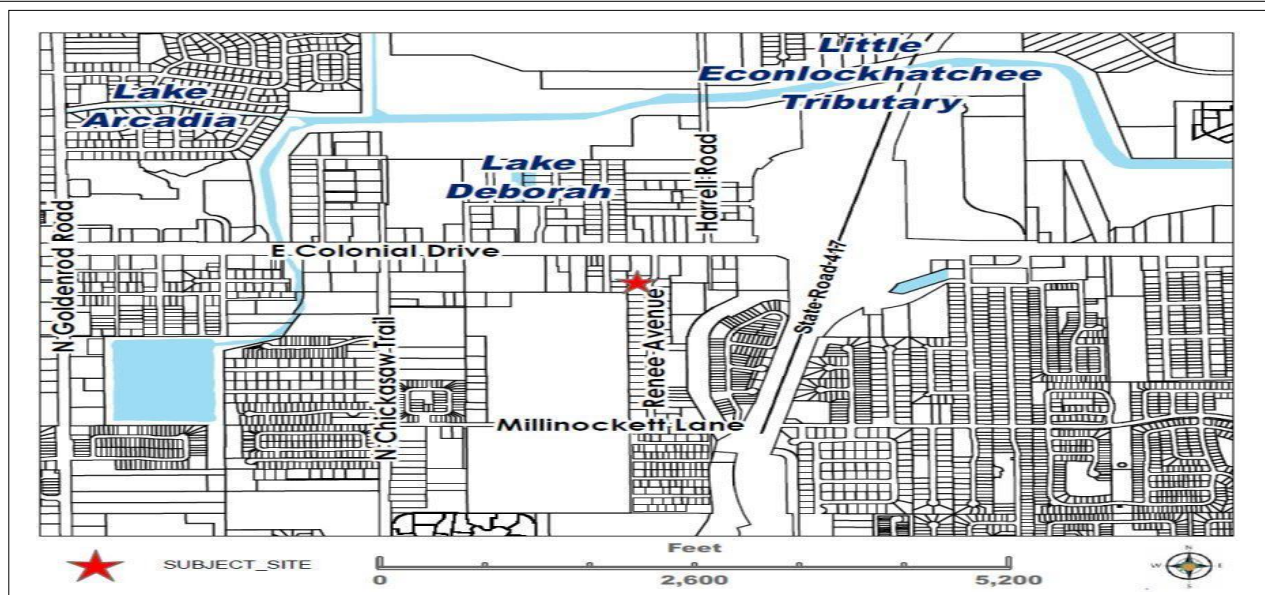
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 47

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#1**

Case #: **VA-22-08-065**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): CHARLES AYERS

OWNER(s): JAMES BRANDT, DEE BRANDT

REQUEST: Variances in the R-CE zoning district as follows:

- 1) To allow a single-family residence with a north side setback of 5.5 ft. in lieu of 10 ft.
- 2) To allow a lot width of 45 ft. in lieu of a minimum of 130 ft.
- 3) To allow a lot size of 11,848 sq. ft. (upland) in lieu of a minimum of 43,560 sq. ft.

PROPERTY LOCATION: 12030 Sandy Shores Dr., Windermere, FL 34786, east side of Sandy Shores Dr., west side of Lake Butler, northeast of Winter Garden Vineland Rd., north of Chase Rd.

PARCEL ID: 24-23-27-7808-00-051

LOT SIZE: +/- 0.27 acres (11,848 sq. ft. upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 49

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Roberta Walton Johnson; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan and elevations received June 28, 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.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of Variance #1, and approval of Variances #2 and #3. Staff noted that two (2) comments were received in favor of the application, and no comments were received in opposition.

The applicant and owner discussed the staff recommendation of denial for Variance #1 and noted that shifting the garage by 5 feet to the south will block the entrance and will cause safety concerns and issues with the location of the existing septic improvements.

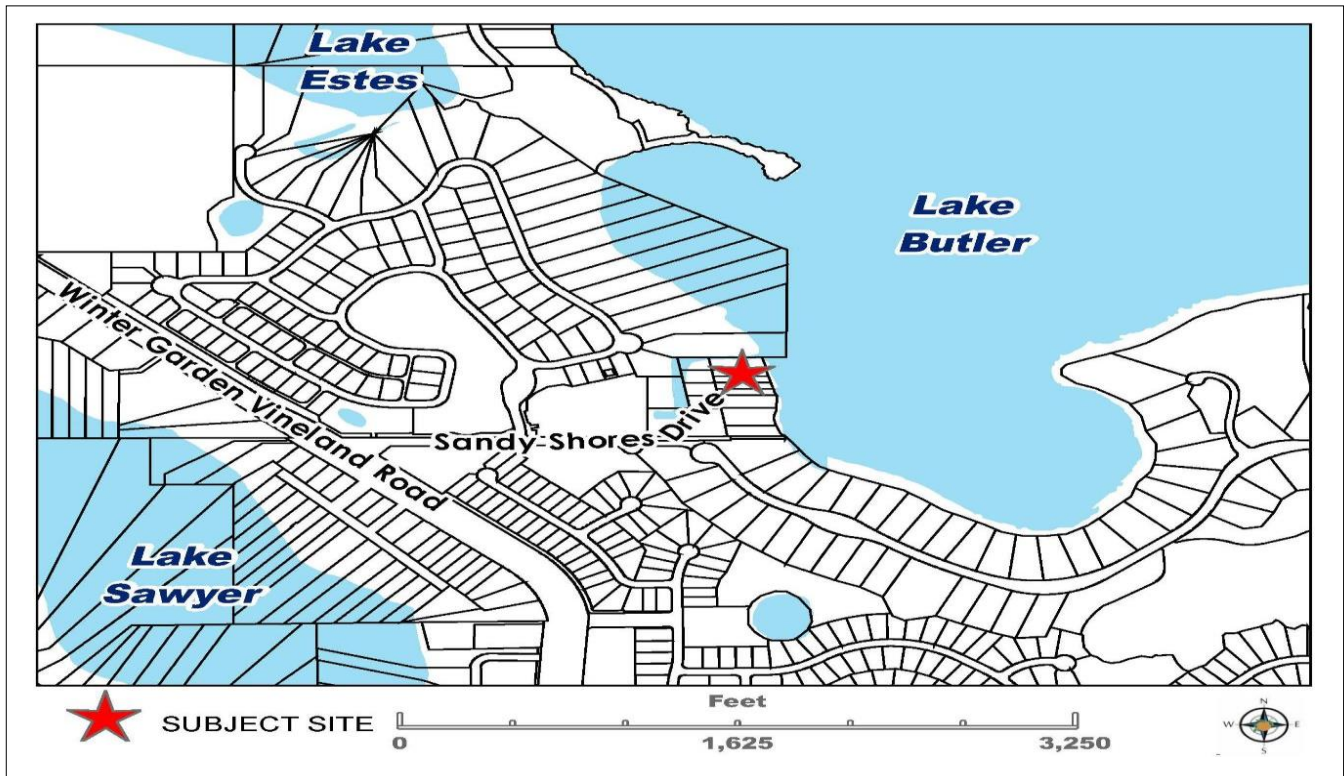
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the staff recommendation to shift the garage location in the proposed design of the residence, determined that it would be in close proximity to the septic improvements, described how the request meets all 6 criteria for the Variances and unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---|---|---|-------------|---|
| Current Zoning | R-CE | R-CE | R-CE | Lake Butler | R-CE |
| Future Land Use | West Windermere Rural Settlement RS 1/1 | West Windermere Rural Settlement RS 1/1 | West Windermere Rural Settlement RS 1/1 | Lake Butler | West Windermere Rural Settlement RS 1/1 |
| Current Use | Single-family residential | Single-family residential | Single-family residential | Lake Butler | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Rural Country Estate District, which allows for single family development on one (1) acre lots and certain rural uses. The Future Land Use is RS-1/1, Rural Settlement 1 du/ac, which is consistent with the R-CE zoning district.

The property is located in the West Windermere Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as institutional uses, or commercial development, and control densities. However, they typically have little impact on the development of

individual residential properties, as is the case for this request, which is not impacted by the West Windermere Rural Settlement.

The area surrounding the subject site consists of single-family homes many of which are lakefront. The subject property is a 0.27 acre (11,848 sq. ft. upland), 45-foot wide lot consisting of the north half of Lot 5 as part of the Sandy Shores Plat, recorded in 1952. The lot contains an existing 925 sq. ft. single-family house built in 1958 that was extended with a rear covered porch addition, permitted in 2001 (B01009300), and an existing 200 sq. ft. shed installed without permits. The current owners acquired the property in 2017.

In 1966, Orange County administratively rezoned the subject property and other properties around Lake Butler from A-1, R-1, and R-1A to R-CE, rendering a number of lots nonconforming, including the subject property. In September 2020, variances (VA-20-09-081) were approved to allow the following:

- 1) To allow an attached accessory structure with a north side setback of 5 ft. in lieu of 10 ft.
- 2) To allow an attached accessory structure with a total of 667 sq. ft. of non-living floor area in lieu of 500 sq. ft. of non-living floor area.
- 3) To allow an existing residence to remain 7.8 ft. from the north side property line in lieu of 10 ft.
- 4) To allow an existing residence to remain 9.7 ft. from the south side property line in lieu of 10 ft.
- 5) To allow a second story addition to be constructed 7.8 ft. from the north side property line in lieu of 10 ft.
- 6) To allow a second story addition to be constructed 9.7 ft. from the south side property line in lieu of 10 ft.
- 7) To allow an existing residence to remain 47 ft. from the Normal High Water Elevation (NHWE) line in lieu of 50 ft.

The project proposed in September of 2020 was never constructed and the proposal now has been revised to demolish everything on the site and to build a new 3,508 gross sq. ft., 26 ft. high two-story single-family home with an attached two-car garage, located 5.5 ft. from the north property line in lieu of 10 ft., requiring Variance #1.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property was under the same ownership with the parcel to the west (Parcel #24-23-27-7808-00-084) from 1986 to 1994, after which they were sold separately. Thus, the parcel cannot be considered to be a substandard lot of record, and variances are required for the lot width and lot size. The parcel is 11,848 sq. ft. upland in size but the R-CE zoning district requires a minimum lot area of 43,560 sq. ft., requiring Variance #2, and is 45 feet wide, but the R-CE zoning district requires a minimum lot width of 130 ft., requiring Variance #3.

The Orange County Environmental Protection Division determined that a Conservation Area Determination (CAD) is not required, and indicated no objection to the variance. Comprehensive Planning reviewed the variance and has no objection.

As of the date of this report, two comments have 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. | 26 ft. |
| Min. Lot Width: | 130 ft. | 45 ft. (Variance #2) |
| Min. Lot Size: | 43,560 sq. ft. | 11,848 sq. ft. upland (Variance #3) |

Building Setbacks

| | Code Requirement | Proposed |
|--------|------------------|---|
| Front: | 35 ft. | 110.4 ft. (West) |
| Rear: | 50 ft. | 56.2 ft. (East) |
| Side: | 10 ft. | 5.5 ft. (North – Variance #1) 10.1 ft. (South) |
| NWHE: | 50 ft. | 56.2 ft. (East) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: There are no special conditions and circumstances pertaining to the need for the request since there are other options to shift the proposed garage 5 ft. to the south without impacting the design or functionality of the new residence.

Variances #2 and #3: The existing lot width and lot size are nonconforming due to the rezoning of properties surrounding Lake Butler in 1966. Furthermore, the lot was platted in this configuration in 1952, prior to the establishment of zoning regulations in 1957.

Not Self-Created

Variance #1: The request is self-created in that it is new construction and the home can be designed to meet Code. There are other options in order to lessen or negate the need for the variance by shifting the attached garage an additional 5 ft. to the south.

Variances #2 and #3: The current owners are not responsible for the size and configuration of the lot, or the orientation of the residence, including the setback from Lake Butler, since they purchased the property in 2017, long after the residence was built in 1958.

No Special Privilege Conferred

Variance #1: The request would confer special privilege since there are other options available in order to meet code requirements.

Variances #2 and #3: There are other platted substandard developed lots in the area with single-family homes containing a similar size and width.

Deprivation of Rights

Variance #1: There are no deprivation of rights since there are other options to meet Code.

Variances #2 and #3: The owners would be deprived of the right to construct a single-family home like other platted substandard developed lots in the area containing a similar size and width.

Minimum Possible Variance

Variance #1: Variance request #1 is not the minimum, since there are alternatives to lessen or remove the request.

Variances #2 and #3: The requested variances are the minimum necessary to construct any improvements on the property, due to the lot width and size. The lot was platted in this configuration in 1952, prior to the establishment of zoning regulations in 1957.

Purpose and Intent

Approval of the proposed requests allow the construction of a single-family residence. The concurrent requests will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received June 28, 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: Charles Ayers
25625 Hawks Run Lane
Sorrento, FL 32776

C: James Brandt and Dee Brandt
12030 Sandy Shores Drive
Windermere, FL 34786

COVER LETTER

To: BOARD OF ZONING ADJUSTMENT (BZA)

From: Jim and Dee Brandt c/o Charles Ayers (Authorized Agent)

**Re: Side Set-back Variance Request
Parcel Number: 24232778080051
12330 Sandy Shores Dr, Windermere, FL 34786**

Date: 6/6/2022

We are requesting a variance for the North Side-Setback from 10'-0" to 5'-6" along the side of the north side of the proposed garage, which is 25'-8" long.

The proposed variance would correct several currently non-conforming issues:

1. Corrects the encroachment of the existing home into the rear setback from the Normal High Water Line
2. Corrects the encroachment on the north side of the existing home into the side set-back (except for the 25'-8" long portion on the north side of the proposed garage)
3. Corrects the encroachment on the south side of the exiting home into the side set-back
4. Corrects the encroachment of the existing shed into north side set-back

In addition, the proposed property improvements would solve the following issues:

1. The new home would be more consistent with other homes in the neighborhood (The existing home was built in 1958)
2. The new home would conform to the 2022 building code thereby improving the safety of the structure
3. The new home was designed as a 2 story so that the impact of any proposed encroachments would be minimized while providing an acceptably sized dwelling unit

COVER LETTER

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

This is a narrow lot and requires some flexibility for an acceptable design

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

The existing home is not in compliance for various reasons described in the Cover Letter

The existing home was constructed in 1958.

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.

The proposed setbacks and design will be similar to that of the newer homes on our street and the new home will better conform to the aesthetic designs of other homes in the neighborhood vs. the existing home which was constructed in 1958

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

Other properties in the neighborhood have similar designs and setbacks as that proposed here.

The proposed home will have an enclosed garage similar to other homes in the area, which the existing home does not have.

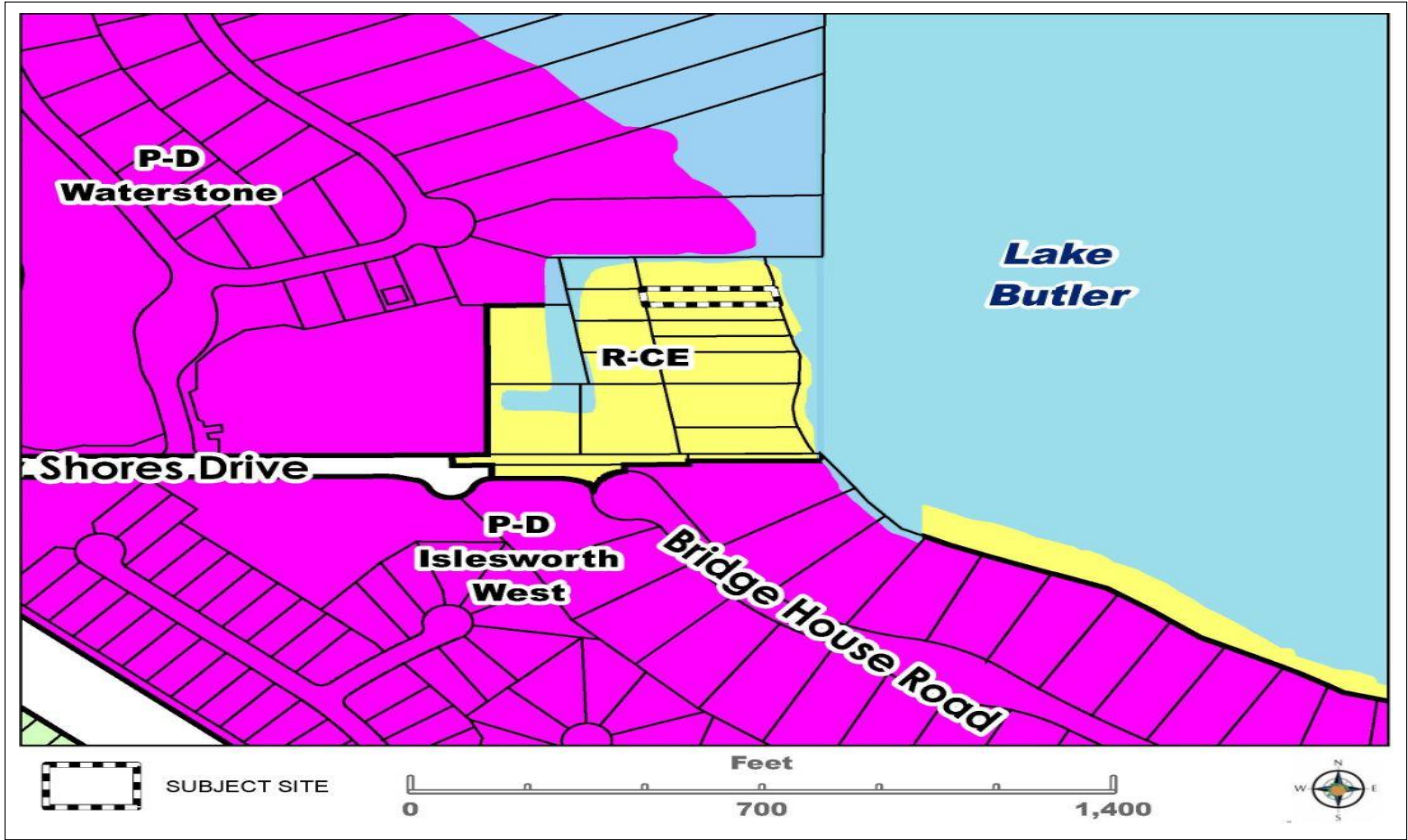
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The proposed home is 24'-8" wide, which we believe to be the minimum acceptable width for a reasonably-sized single family home in this neighborhood.

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.

The proposed home will improve the character of the neighborhood. The existing home is very old and not consistent with other homes on the street.

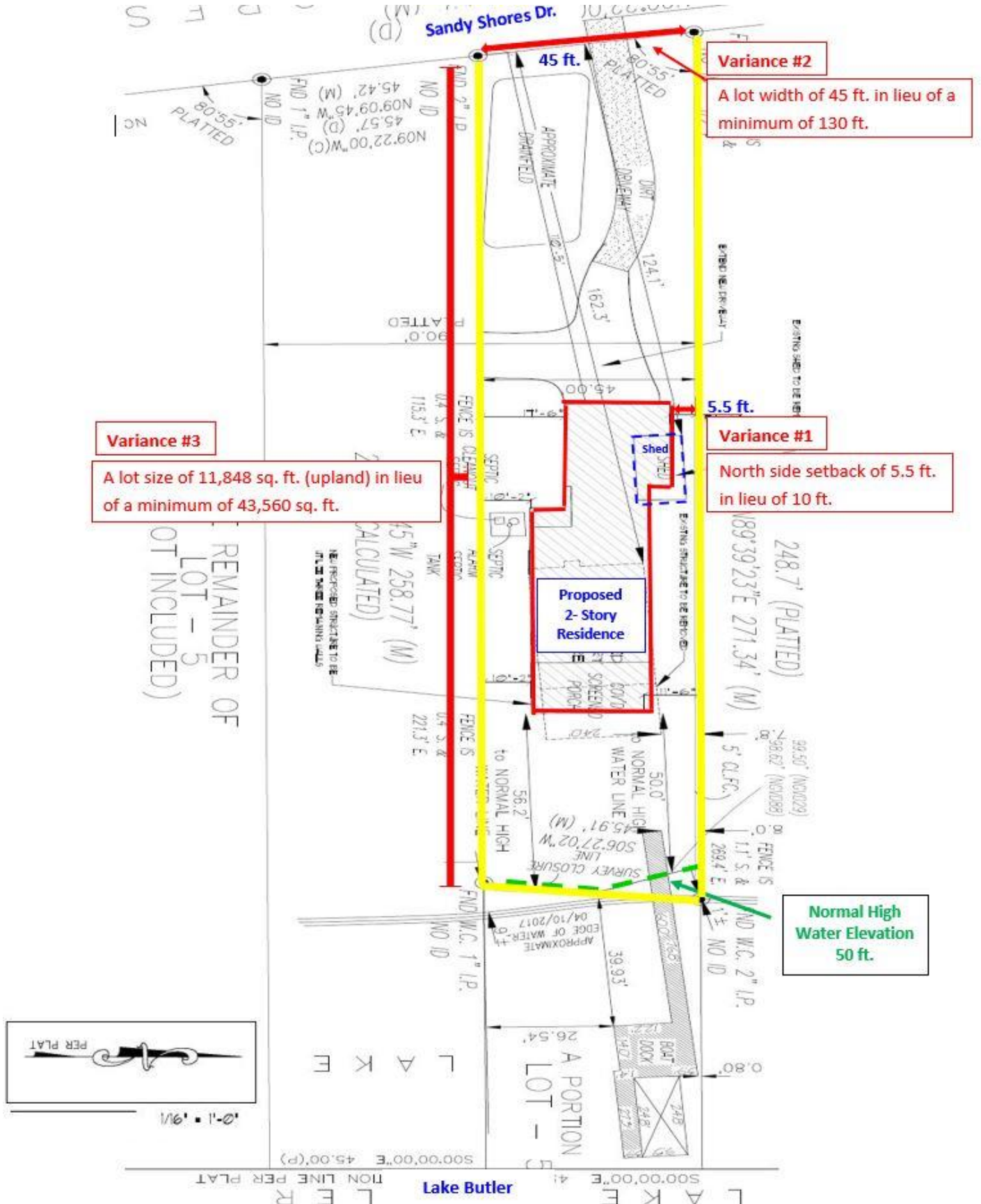
ZONING MAP



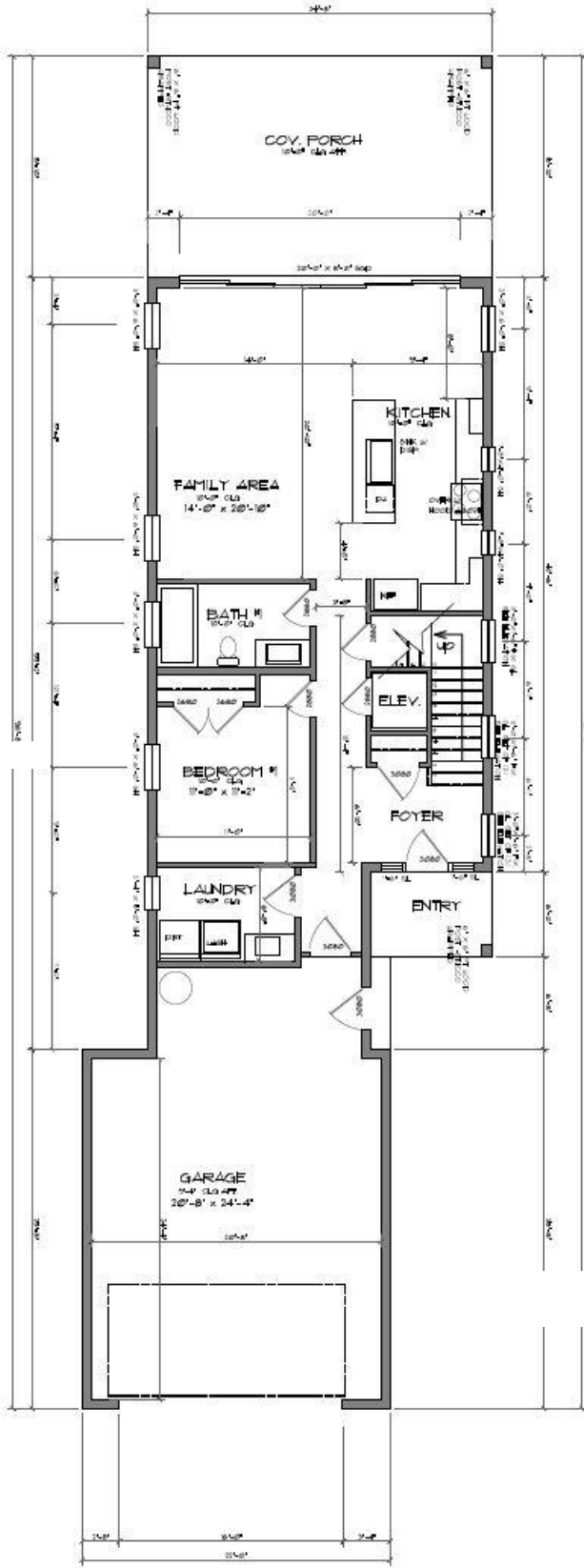
AERIAL MAP



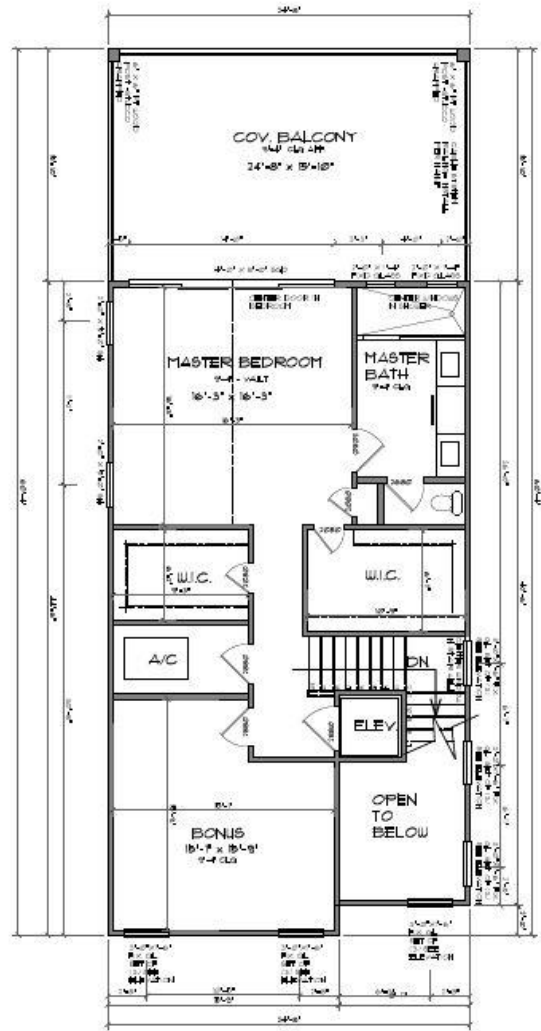
SITE PLAN



FLOOR PLAN

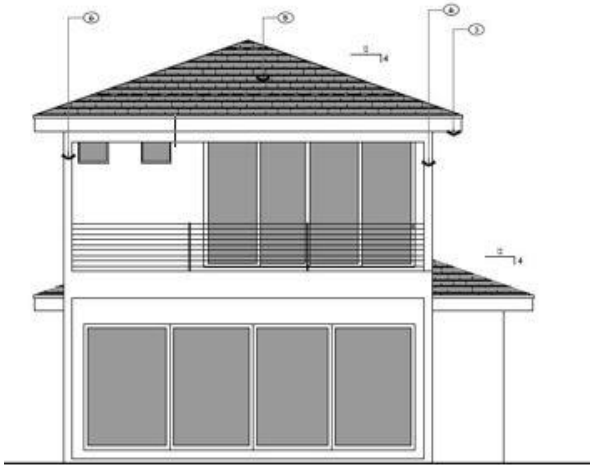


FIRST FLOOR PLAN



SECOND FLOOR

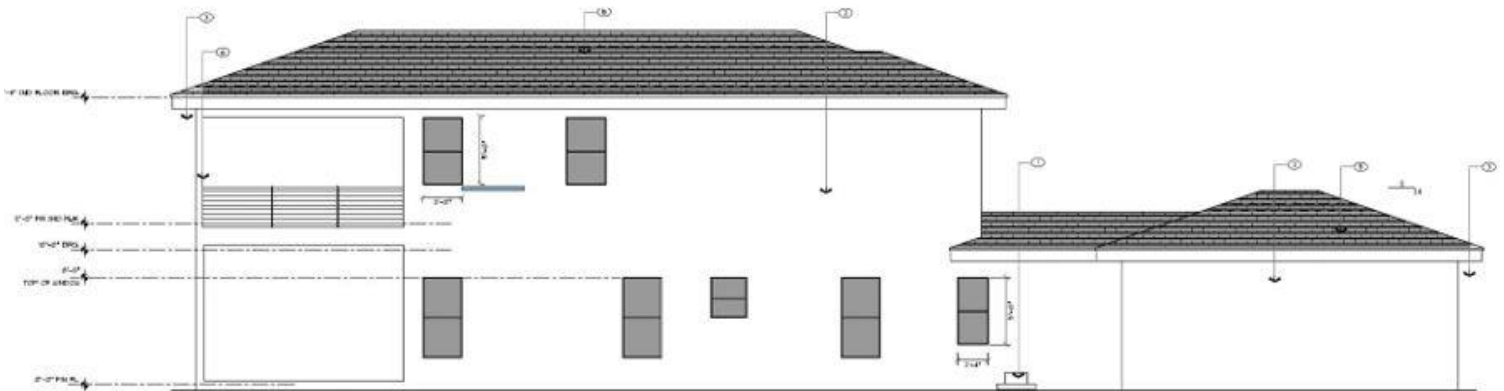
ELEVATIONS



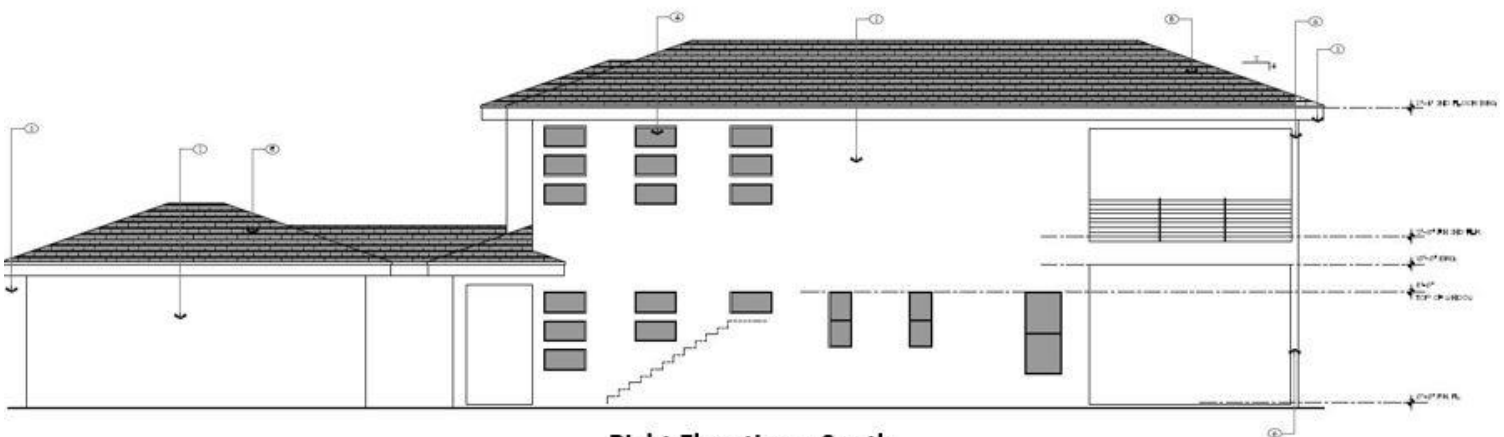
Rear Elevation – East



Front Elevation – West



Left Elevation – North



Right Elevation – South

SITE PHOTOS



Facing east towards front of subject property



Rear yard, facing west towards rear of existing residence

SITE PHOTOS



Rear yard, facing northeast towards Lake Butler



Rear yard, facing west towards side of proposed Variance #1

SITE PHOTOS



Rear yard, facing west towards entrance to existing residence

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#1**

Case #: **VA-22-09-076**

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

GENERAL INFORMATION

APPLICANT(s): DAREN CHENCINSKI

OWNER(s): DAREN CHENCINSKI, TAMMY CHENCINSKI

REQUEST: Variance in the P-D zoning district to allow a pool, deck and screen enclosure with a rear setback of zero in lieu of 5 ft.

PROPERTY LOCATION: 5394 Bowman Dr., Winter Garden, FL 34787, north side of Bowman Dr., south of Lake Hancock, east of Hamlin Grove Trl., south of New Independence Pkwy.

PARCEL ID: 20-23-27-5846-00-260

LOT SIZE: +/- 0.27 acres (12,064 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 35

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received June 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 for the pool, deck, and screen enclosure 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.

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 favor of the application, and no comments were received in opposition.

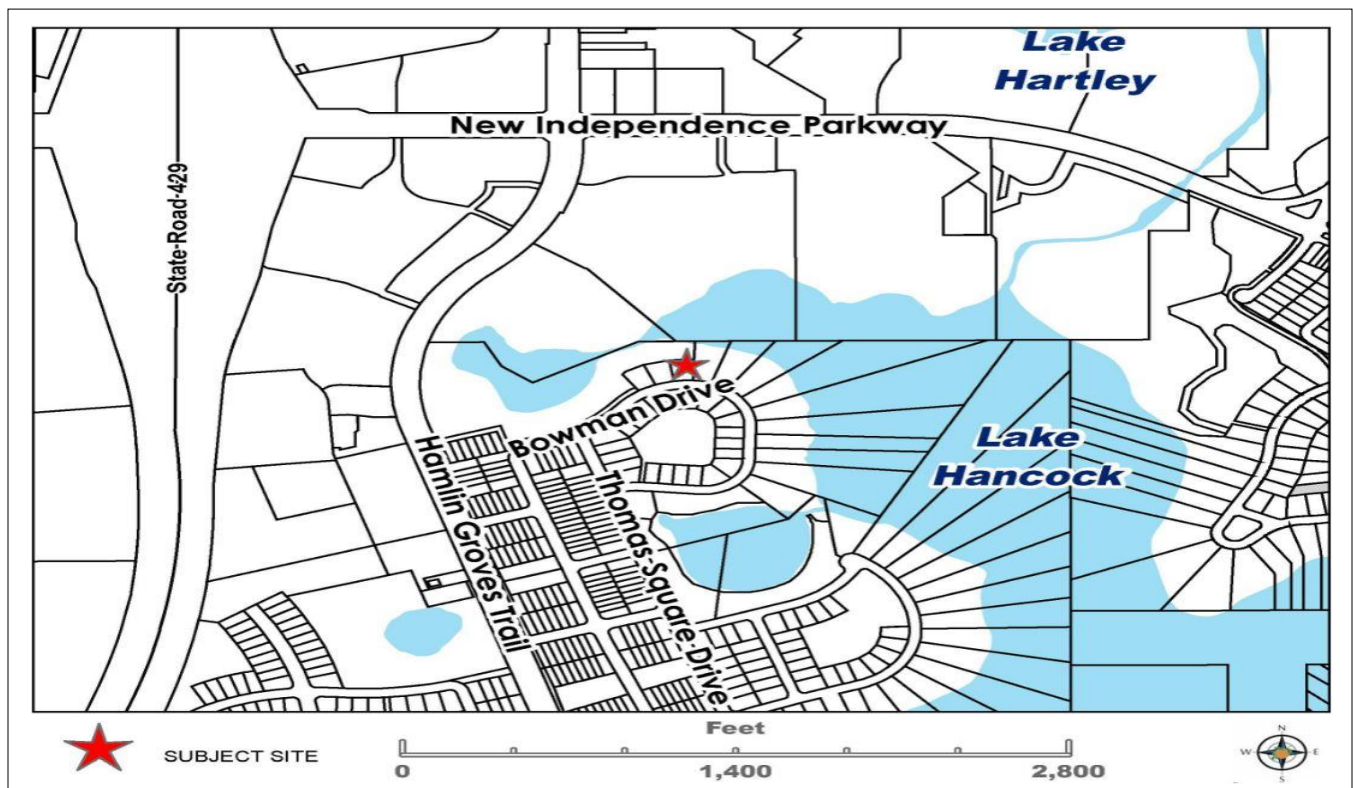
The applicant was present but chose not to speak. There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variance by a 5-0 vote, with two absent, subject to the four (4) 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 | Hamlin Unified Neighborhood District PD | Hamlin Unified Neighborhood District PD | Hamlin Unified Neighborhood District PD | Hamlin Unified Neighborhood District PD | Hamlin Unified Neighborhood District PD |
| Future Land Use | Village | Village | Village | Village | Village |
| Current Use | Single-family residential | Park/ Open Space Tract | Single-family residential | Single-family residential | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Hamlin Planned Development (PD), which is part of the Horizon West Town Center Village. Within the Town Center, this property is located in the Urban Residential District (UR), which is intended reflect the character and quality of a traditional neighborhood, and includes a mix of attached and detached housing, civic uses, neighborhood parks and recreational facilities, and neighborhood scale commercial and office development. The Future Land Use is Village, which is consistent with the zoning district.

The area is comprised of single-family homes. The subject property is a 0.28 acre lot, platted in 2015 as Lot 26 of the Overlook 2 at Hamlin Phase 1 and 6 plat, and is a conforming lot of record. The site is developed with a 2-story, 5,227 gross sq. ft. single-family home, constructed in 2021, with an attached 2-car garage, courtyard, and lanai (B21006043). There is a 13 ft. to 15 ft. private drainage easement to the north of the property. The property was purchased by the current owners in 2022.

Sec. 38-79 (10) (d), Orange County Code, requires that “Pool screen enclosures shall maintain a minimum side and rear yard setback of five (5) feet”. The proposal is to install a 560 sq. ft. pool deck, a 40 ft. by 14 ft. pool, and a 14 ft. high, 1,200 sq. ft. screen enclosure to enclose the proposed pool improvements in the rear of the residence. Proposed is a 0 ft. north side setback for the pool, pool deck, and screen enclosure in lieu 5 ft., requiring a Variance. Directly north of the subject site is a park tract and private drainage easement; therefore, no neighbors will be directly impacted by this request. In comparison, neighboring homes along the north side of Bowman Drive appear to be located in close proximity to the front property line. Whereas the subject property’s home extends further into the rear, making it closer in proximity to the rear property line than the neighboring properties. Furthermore, in the surrounding community there appears to be many residences with similar sized screen enclosures with pools and pool decks.

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 (PD)

| | Code Requirement | Proposed |
|---------------------|----------------------|--------------------------------|
| Max Height: | 3 stories and 45 ft. | 14 ft. (pool screen enclosure) |
| Min. Lot Width: | 32 ft. | 74.7 ft. |
| Min. Avg. Lot Size: | 10,000 sq. ft. | 12,064 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------|------------------|------------------------------------|
| Front: | not allowed | not allowed |
| Rear: | 5 ft. | 0 ft. (North – Variance) |
| Side: | 5 ft. | 20.6 ft. (East) 21.7 ft. (West) |
| NHWE: | 50 ft. | 58 ft. (North) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstance particular to the subject property are its natural constraints and existing location of the home on the lot, which renders any additional site improvements in the rear difficult without a variance.

Not Self-Created

The need for the requested variance is not self-created as it allows for the applicant to be able to install a pool and screen enclosure in the only location possible.

No Special Privilege Conferred

Granting the variance as requested would not confer special privilege as several other properties in the area appear to have similar sized pool and screen enclosures.

Deprivation of Rights

Denial of this variance would deprive the owners of a pool and screen enclosure that is in the only location that would be possible.

Minimum Possible Variance

This is the minimum possible variance to allow a pool and screen enclosure of an appropriate, useable size.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties and within the PD. The proposed screen enclosure will not impact any adjacent neighbors to the rear of the property since it will be adjacent to an open space tract.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received June 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 for the pool, deck, and screen enclosure 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: Daren Chencinski and Tammy Chencinski
5394 Bowman Drive
Winter Garden, FL 34787

COVER LETTER

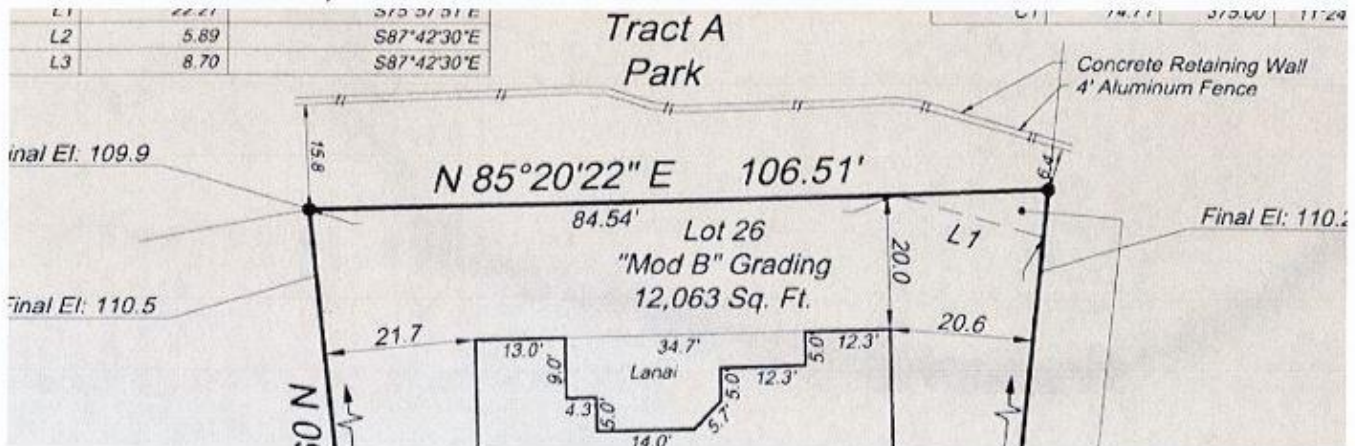
Daren Chencinski Pool Variance
5394 Bowman Dr, Winter Garden, FL 34787
Lot 26, Cove at Hamlin
Parcel / Tax ID: 20-23-27-5846-00260
June 7, 2022

5394 Bowman Dr, Winter Garden, FL 34787 is a new construction built by Taylor Morrison and sold to the Chencinski's March 25th, 2022. We purchased the home with the understanding we could have a 20' x 60' pool deck behind our home (image found later in the 5537 document). Upon contacting various reputable pool builders, we became aware that doing so would not be possible without a variance as code asks pool decks be 5' from each property line.

Lot Fit

- Property has 20' from back of the home to the back property line.
- A ~13-15' Private Drainage Easement is abutting the back property line.
- Beyond the Private Drainage Easement is a Tract A Park, Lake Hancock; i.e. there are no neighbors to the rear of our home.

Partial view of Survey, back of property where variance is being requested (full Survey is at the end of document):



Partial view of the surrounding area (we are Lot 26):

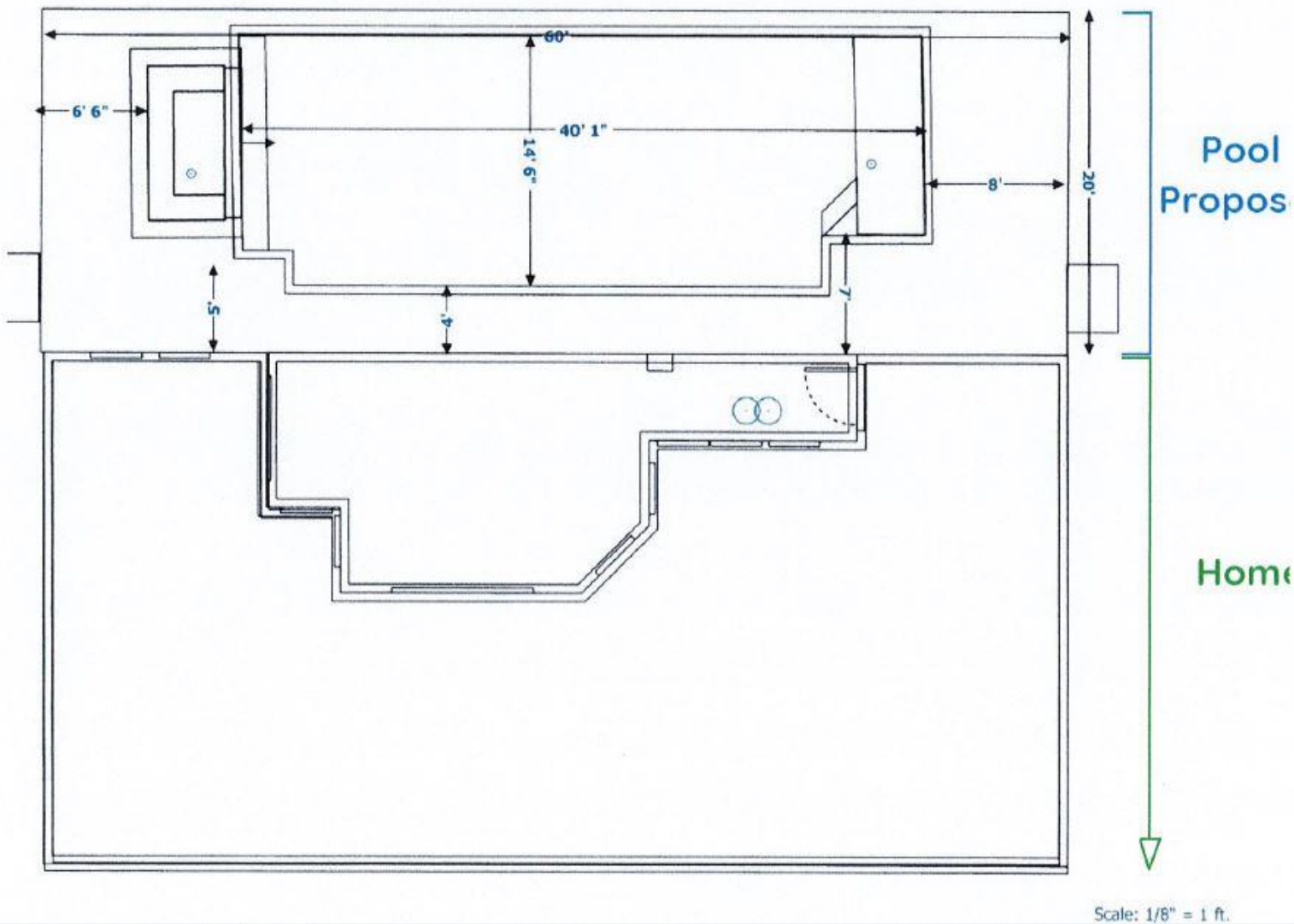


COVER LETTER

Pool proposal:

- 60' x 20' pool/spa deck (1,200 square feet)
- 0' from back property line; >20' from side property lines
 - Code asks pool deck be 5' from property lines
- Genuine Monolithic Guniting Construction
- Deck and Lanai with Pavers, Deck Edge Brick Coping
- Hand Troweled Pebble Finish
- Enclosure: Screen, Mansard, Bronze Frame, 2 Doors
 - 10' high at sides and 14' at center

Pool proposal w/ partial plan of home structure (backyard line needs variance (top of diagram)):

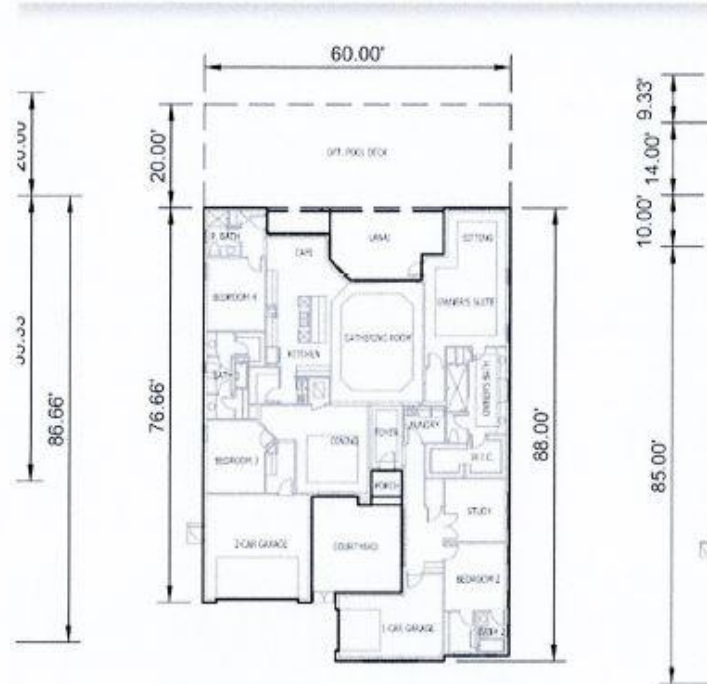


COVER LETTER

Hardship

- 5394 Bowman Dr is Lot 26 and is the Humboldt Model.
- The Humboldt Model on Lot 26 was sold to us by Taylor Morrison showing we would have the ability to add a 20' pool deck with no restrictions (see following image).
- Taylor Morrison should have provided an accurate representation of the pool deck possibilities.

X Partial Product Fit_O...  



MINIMUM PRINCIPAL DEPTH: 88.0'
 MAXIMUM PRINCIPAL DEPTH: 88.0'
 MAXIMUM OVERALL DEPTH: 108.0'

HUMBOLDT MODEL (ALL OPTIONS)

THE LOTS WILL ACCOMMODATE THE FOLLOWING PRODUCT OPTIONS

| LOT | RESTRICTIONS |
|---------|---------------|
| 24-26 | NONE |
| 27 | NOT AVAILABLE |
| 28 | NONE |
| 35 | NONE |
| 237 | NOT AVAILABLE |
| 311 | NOT AVAILABLE |
| 316-317 | NO POOL |
| 327-330 | NO POOL |
| 331 | NONE |
| 333 | NO POOL |
| 334 | NONE |

THE LOTS WILL ACCOMMODATE THE FOLLOWING PRODUCT OPTIONS

| LOT |
|---------|
| 24-27 |
| 28 |
| 35 |
| 237 |
| 311 |
| 316-317 |
| 327-330 |
| 331 |
| 333 |
| 334 |

COVER LETTER

Variance Criteria

Special Conditions and Circumstances

We were sold this property by Taylor Morrison showing us we could have a 20' pool deck on the property. However, the yard is 20' deep and we found out after purchasing the home this would only allow for a 15' pool deck without a variance.

There are no neighbors behind our home. The area behind the home is a Private Drainage Easement which is 13-15' wide which is plenty large. Beyond the Private Drainage Easement is a Tract A Park which is Lake Hancock.

The neighboring homes have the ability to put a 20' or larger pool deck on their property as is expected along the lakefront.

Not Self-Created

Taylor Morrison's diagrams showed we could have a 20' pool deck on our property. We bought the property with this understanding, hence the situation is not self-imposed.

No Special Privilege Conferred

We are not impeding on our neighbors as there is no rear neighbor. Other lakefront homes, including our neighbors, have the ability to build 20' pool decks if not larger. Pool decks along the lakefront are at least 20' or larger. We will not be interfering with the PDE behind our property.

Deprivation of Rights

Other homes along the lakefront have large pool decks in general. A 20' pool deck is minimal and modest in comparison.

Minimum Possible Variance

The request is the minimum possible variance in order to build a 20' pool deck.

Purpose and Intent

The zoning variance is in harmony with the purpose and intent of the Zoning Regulations. We will not obstruct the large PDE. There is no rear neighbor to interfere with. We will not obstruct anyone's view. We are not building outside of our property or impeding on current or future adjacent neighbors.

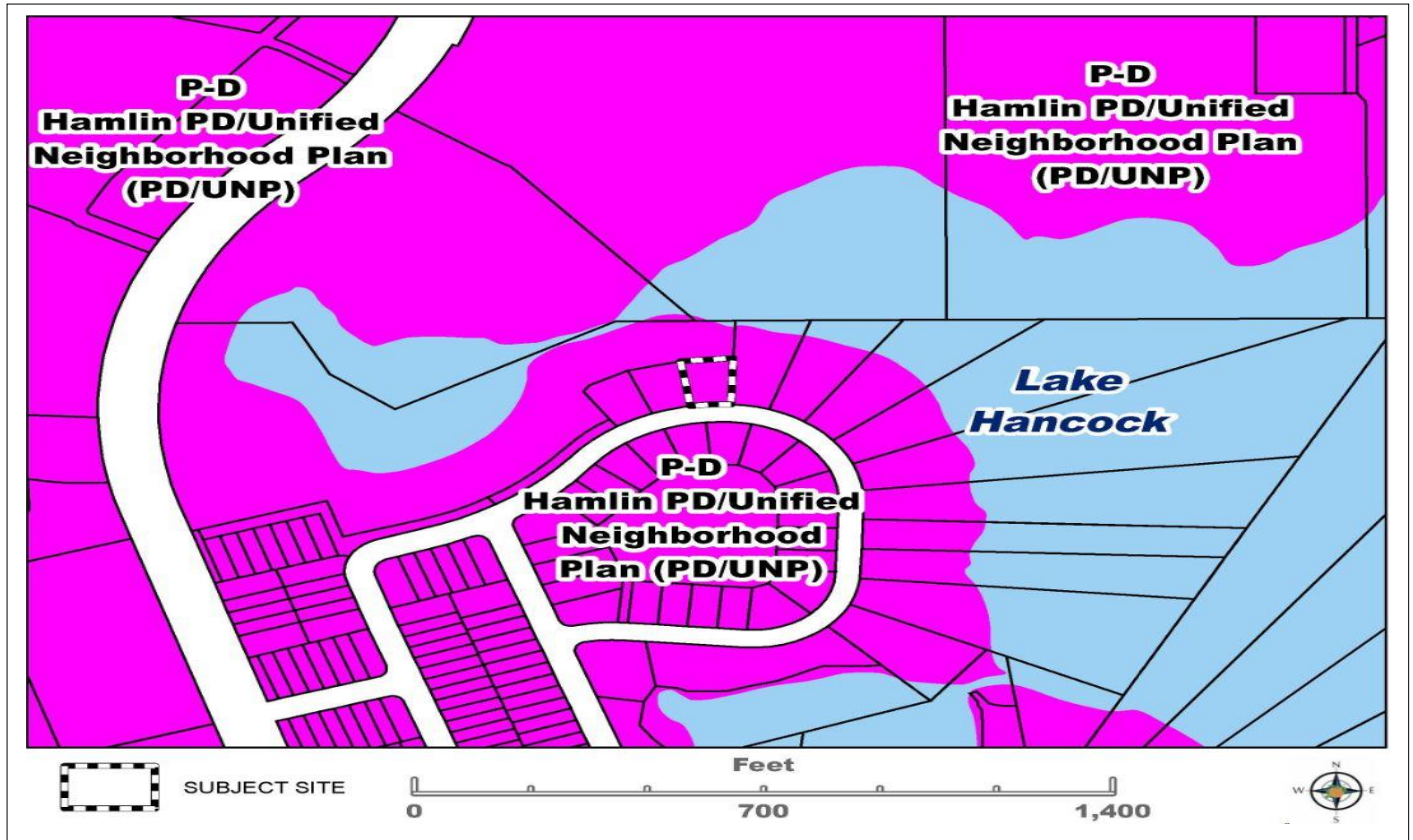
Letters of No Objection

Separately a letter of no objection has been signed by our adjacent neighbors from Lot 25.

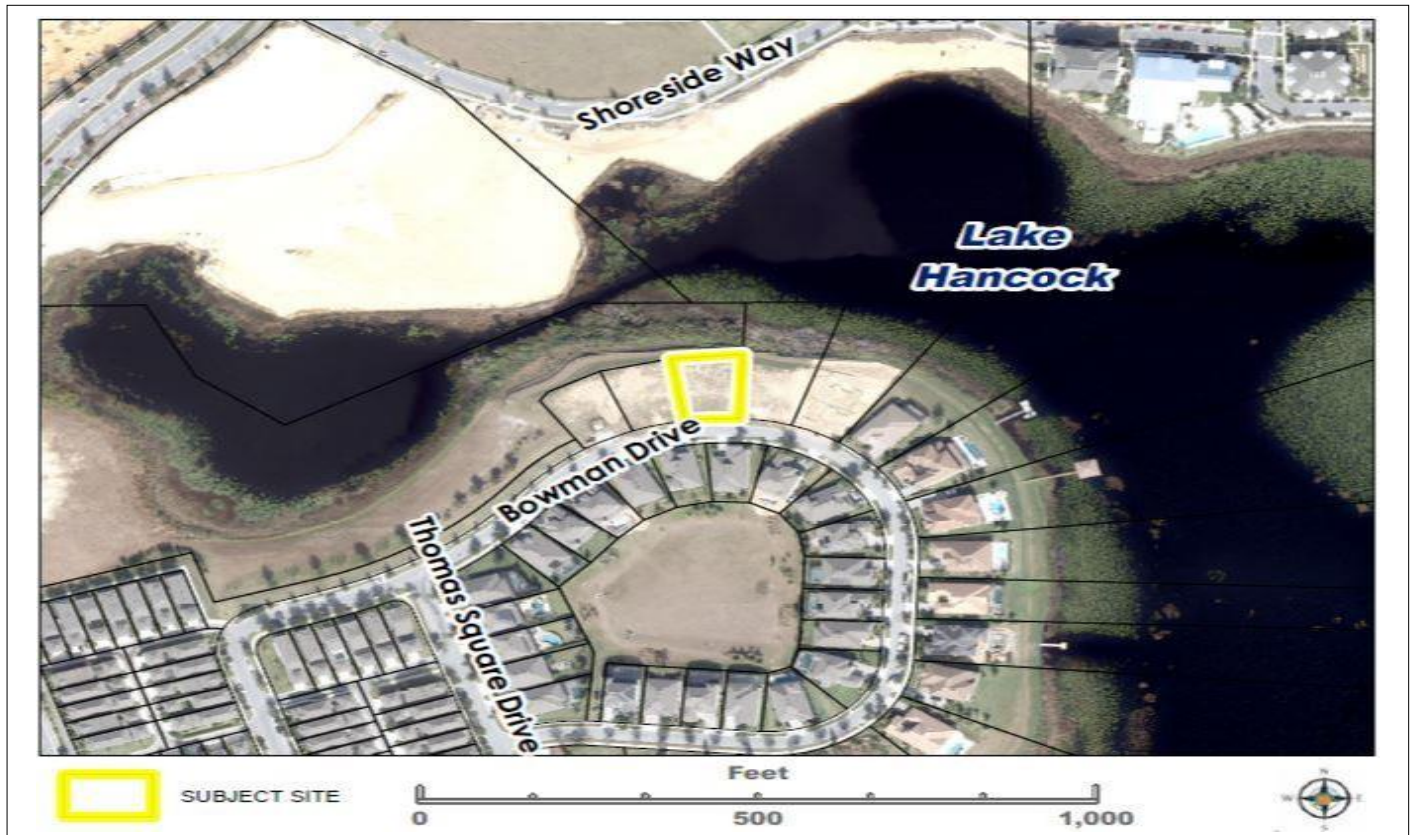
Please note there are no neighbors occupying Lot 27 as of this date.

Also, our HOA will not review our case until we get approval from the County.

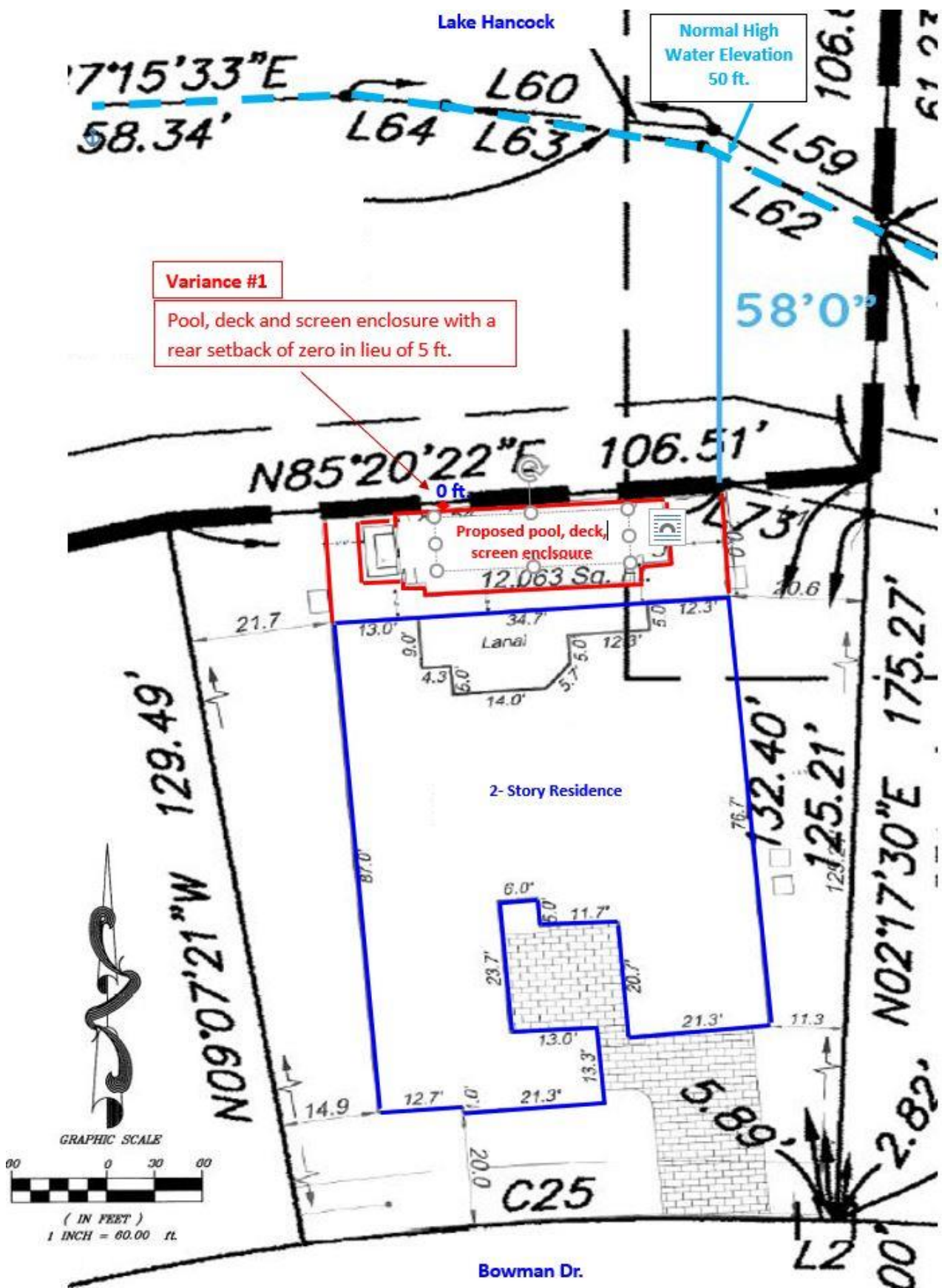
ZONING MAP



AERIAL MAP



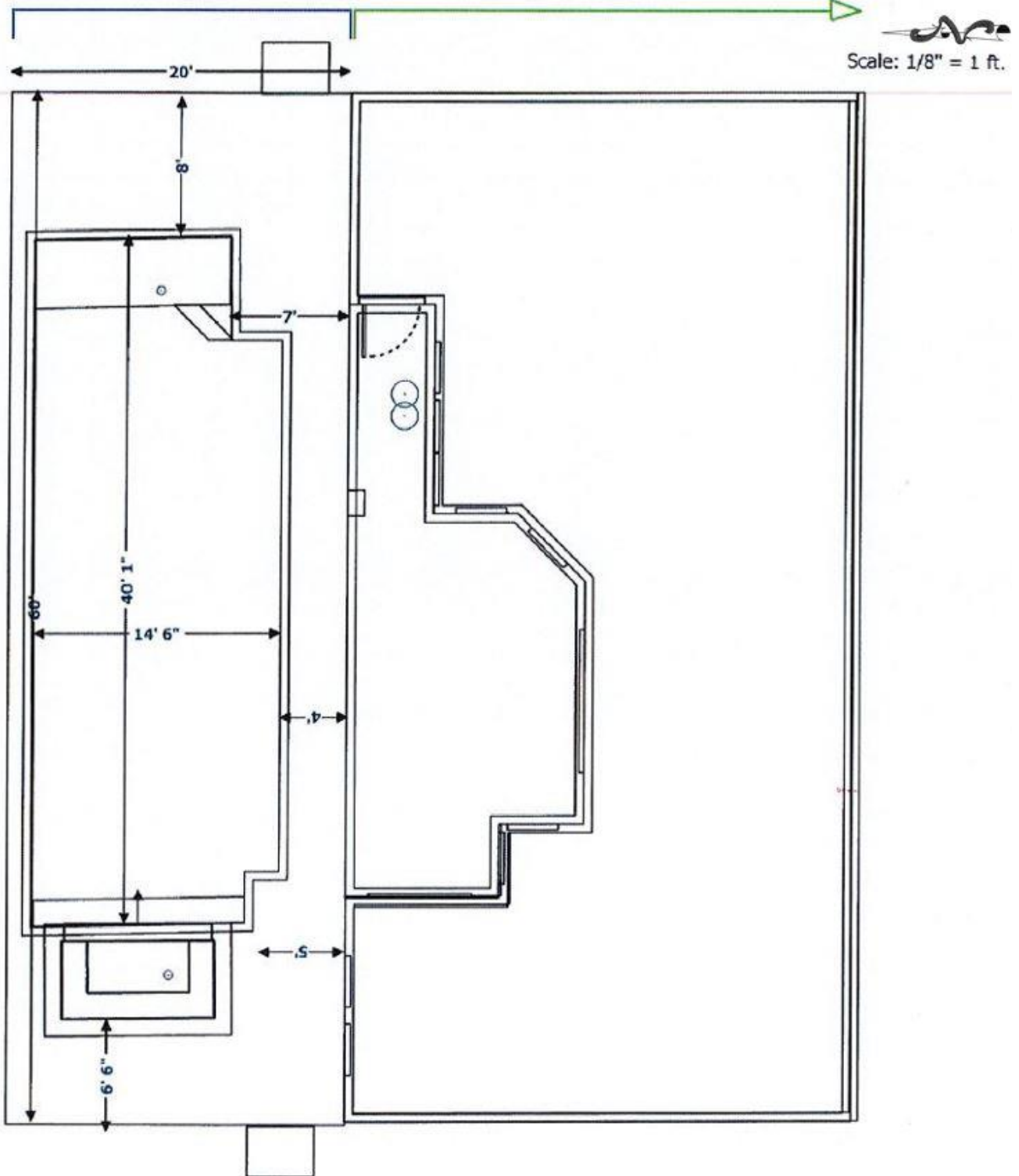
SITE PLAN



PROPOSED POOL, DECK, SCREEN ENCLOSURE PLAN

Pool
Proposal

Home



SITE PHOTOS



Facing north from Bowman Dr. towards front of subject property



Rear yard, facing west towards private drainage easment

SITE PHOTOS



Rear yard, facing southwest towards proposed variance



Rear yard, facing southeast towards rear of residence

SITE PHOTOS



Facing north from lanai towards Park Tract and Lake Hancock

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#5**

Case #: **SE-22-08-066**

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

Nick. Balevich @ocfl.net

GENERAL INFORMATION

APPLICANT(s): MONIQUE TOGERSON FOR ABLE ACADEMICS

OWNER(s): UNIVERSITY UNITARIAN UNIVERSALIST SOCIETY INC

REQUEST: Special Exception in the R-1A zoning district to allow a private school with 24 children ages 2-8.

PROPERTY LOCATION: 11648 Mcculloch Road, Orlando, Florida, 32817, south side of Mcculloch Rd., east of Rouse Rd., west of N. Alafaya Trl.

PARCEL ID: 04-22-31-0000-00-046

LOT SIZE: 4.33 Acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 101

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received July 15, 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. Hours of operation for the school shall be limited to 7:30 a.m., to 4:30 p.m., Monday through Friday.
5. The maximum number of students shall be 24, ages 2-8.

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 no comments were received in support or in opposition.

The applicant indicated agreement with the staff presentation and discussed the proposed request, stating that they are classified as a private school to obtain state funding, and that they already have a waiting list for new students.

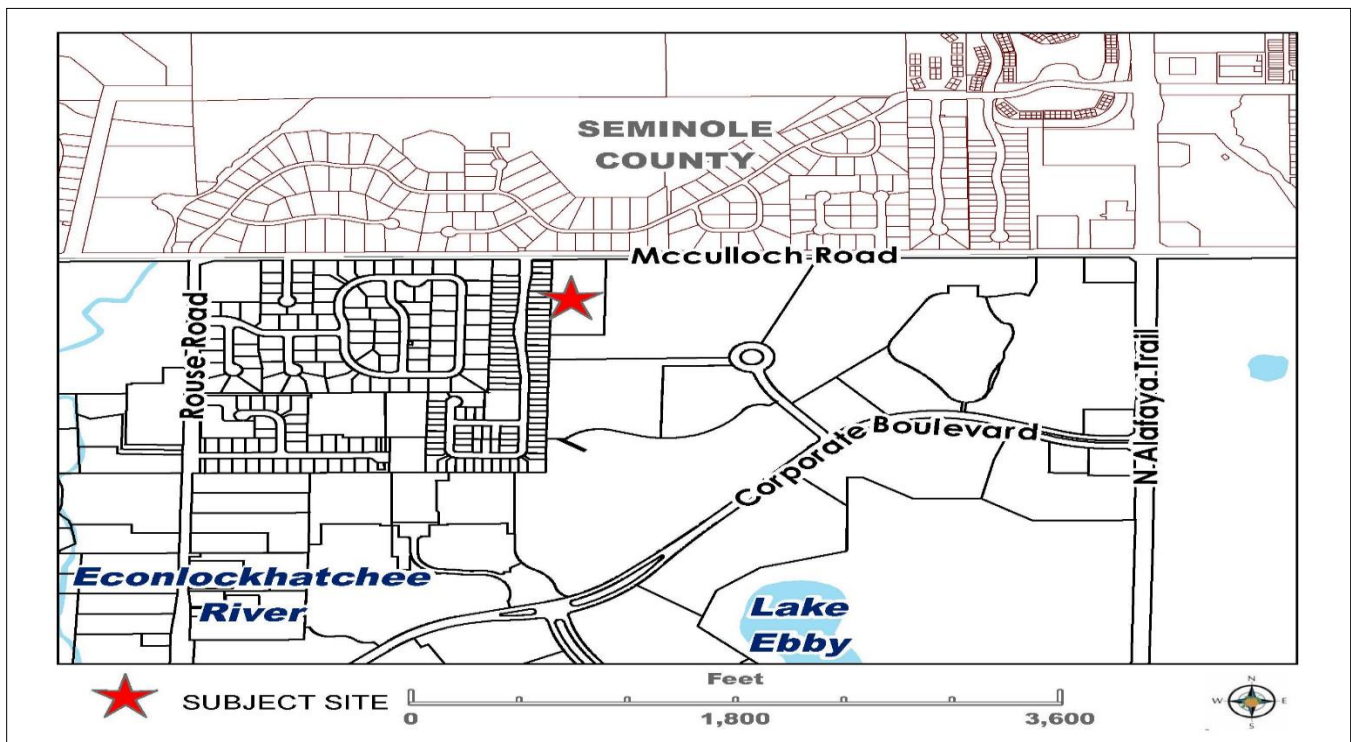
A member of the Unitarian Church spoke in favor of the request. There was no one in attendance to speak in opposition to the request.

The BZA discussed the Special Exception and stated justification for the six (6) criteria and unanimously recommended approval of the Special Exception by a 5-0 vote, with two absent, subject to the five (5) 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 | R-1A | Seminole County | Quadrangle PD | Quadrangle PD | University Pines PD |
| Future Land Use | LDR | Seminole County | O | O | O |
| Current Use | Religious facility | Single-family residences | Apartments-student housing | Apartments-student housing | Single-family residences |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 square feet. Certain uses, such as private schools, are permitted through the Special Exception process. The future land use is LDR, which is consistent with the R-1A zoning district.

The subject property is a 4.33 acre unplatted parcel that conforms with zoning regulations. The site is currently being used as a church, and it is developed with a 4,000 sq. ft. sanctuary building that was constructed in 1999, and a 2,013 sq. ft. building that was constructed in 2010, containing offices and classrooms, and a 120 sq. ft. shed that was constructed in 2016. Ingress/ Egress is from Mcculloch Rd.

The religious use was established in 1999, as a permitted use when the property was zoned A-2. In 2008 the property was rezoned to R-1A (RZ-08-04-024) to be consist with the Low Density Residential (LDR) Future Land Use, and thus allow the applicant to apply for a Special Exception to expand the religious use.

Previous approvals include:

- August, 2008: Special Exception approval (SE-08-08-004) to expand the religious use to include construction of a 2,010 sq. ft. classroom and administrative space building.
- December, 2015: Special Exception approval (SE-15-12-123) to allow additional uses (meditation, home schooling, group meetings, and childcare for up to 40 children).
- November, 2020: Special Exception approval (SE-20-11-101) to allow to allow a day camp program for up to 18 children.

The applicant is proposing to use the existing 2,013 sq. ft. building currently used for the church for a school with 3 classrooms for 24 children with autism, ages 2-8 years old. A Special Exception is required to establish this school use, although no new construction is proposed. The school operating hours are proposed to be from 7:30 a.m. to 4:30 p.m., Monday to Friday, while the church operates on weekends only with occasional evening activities after 5:30 p.m. The existing day camp program operating hours are from 8:00 a.m. to 2:00 p.m., Monday through Saturday.

Parking requirements for the subject property are as follows:

- Church assembly (main building) 126 seats @ 1 parking space per 3 seats, requiring 42 spaces.
- Church employees: 2 employees @ 1 parking space per employee, requiring 2 spaces.
- Day camp: 18 children @1 parking space per 3 children plus extra 1 parking per 5 children in lieu of providing a drop off lane, requiring 10 spaces.
- Proposed school: 3 classrooms, at 4 parking spaces per classroom, requiring 12 spaces
- The site currently has a total of 74 parking spaces, including 8 paved parking spaces, 62 grass parking spaces, and 4 accessible parking spaces. The available 74 parking spaces exceeds the required 66 parking spaces, meeting the requirement.

The Orange County Transportation Planning Division has reviewed the request and has determined that a traffic study is not required. The Orange County Environmental Protection Division has reviewed the proposal and has no objection to the request.

At the time of writing of the Staff Report, no comments have been received in favor or in opposition to the request.

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of educational facilities as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The school use will be in an existing structure located on the religious campus, which contains existing landscaping and buffers, and as such will be similar and compatible with the surrounding area.

Shall not act as a detrimental intrusion into a surrounding area

The proposed school use in an existing building will function at different times than the existing religious use, and will not negatively impact the surrounding area since it will be over 80 feet from the closest single-family residence to the north property line, and as such will not be a detrimental intrusion to the surrounding area.

Meet the performance standards of the district

The proposed building usage for the private school meets the performance standards of the district.

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

There are no proposed activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing religious institution on the site.

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

The proposed new educational use will be located entirely within an existing building on an existing campus on a developed site and therefore no additional buffer yards are required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received July 15, 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. Hours of operation for the school shall be limited to 7:30 a.m., to 4:30 p.m., Monday through Friday.
 5. The maximum number of students shall be 24, ages 2-8.
- C: Monique Togerson Perez
4033 Indian River Drive
Cocoa, Florida, 32927



Our mission... To help children grow and thrive by supporting their individual curiosity, humanity, and childhood experience with kindness and innovation.

Request:

Sec 38-303, Orange County Code, governs R-1-A zoning districts and states that "Certain structures and uses required to serve educational, religious, utilities and noncommercial recreational needs of such areas are permitted within the districts as special exceptions."

We are requesting that the Special Zoning Exception that is already in place for educational use on the property be applied to Able Academics, who will use the property part of the day during the weekdays.

Proposed Use: Our proposed program focuses on children ages 2-8. Able Academics' staff work with clients impacted by Autism. Using the principles of Applied Behavioral Analysis, students are supported in their efforts to attend to educational goals as well as social and behavioral treatment plans for success in the classroom and beyond. Our program teachers are state approved as private school teachers and meet all requirements set by the FDOE. Our clinical staff are all Board Approved clinicians with the state of Florida held to the standards of the BACB.

Able Academics currently operated sites in Brevard and Volusia Counties. We have been in business since 2009.

School Enrollment: maximum 24 students

Staffing: Maximum 17 staff members including teachers, aide, and behavior staff

Hours of Operation: 7:30-4:30 Monday through Friday

The Request Meets All Special Exception Criteria Required by Sec. 38-78, Orange County Code:

1. All applicable permits are in place for the educational use of the property.

COVER LETTER

2. No changes are being made to the site plan.
3. No changes are being made to the interior or exterior of the building.
4. No changes are being made to the landscaping.
5. The educational use is consistent with the comprehensive plan.
6. The educational use is similar and compatible with the surrounding area and consistent with the pattern of surrounding development.
7. The educational use is not a detrimental intrusion into the surrounding area.
8. The educational use meets the performance standards of the district.
9. The educational use provides additional services for special needs children in the community.
10. The educational use is 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.
11. Landscape buffer yards are in accordance with section 24-5 of the Orange County Code, and Buffer yard types track the district.

Community Needs Assessment: (Source: CDC)

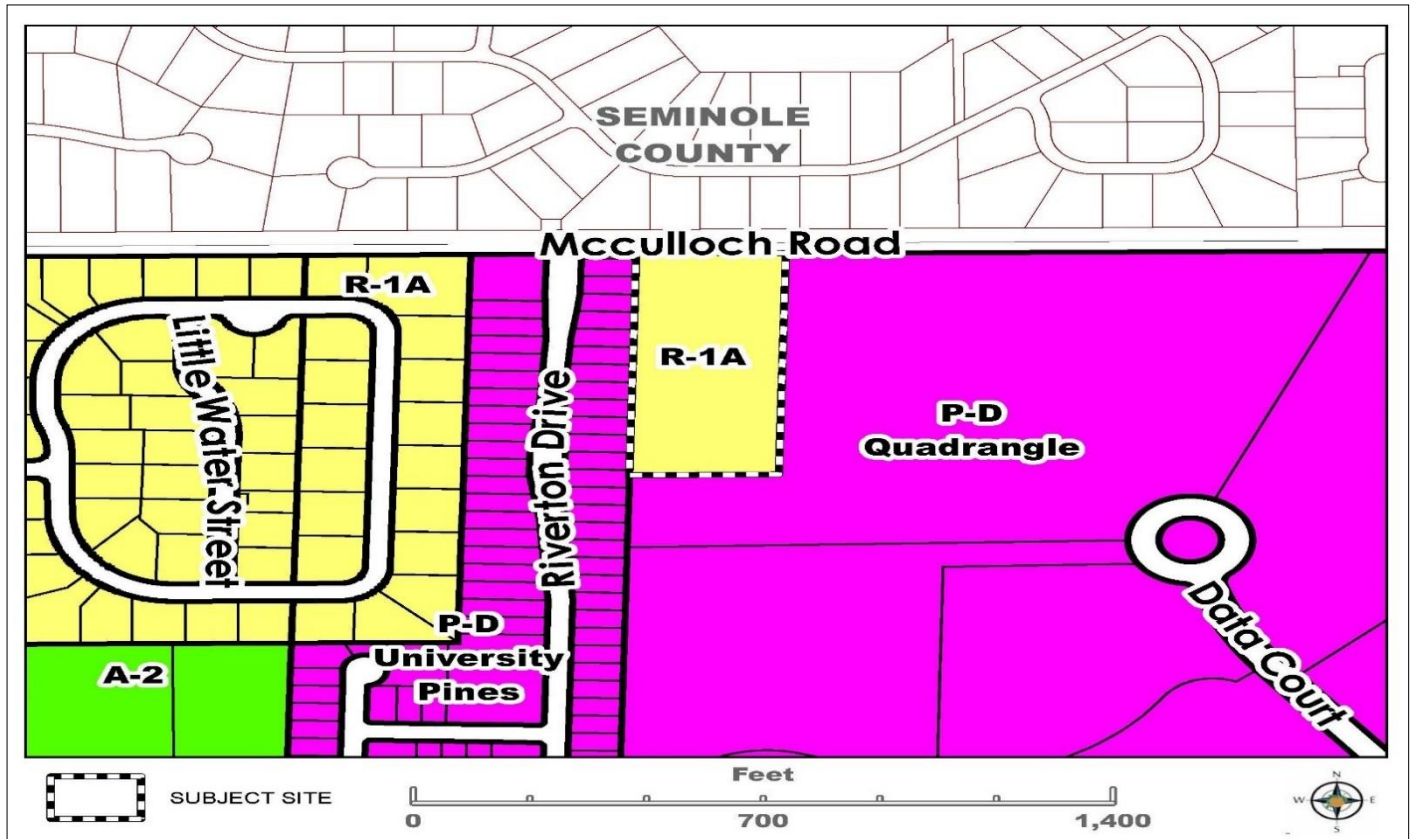
- 1) Incidence: 1/59 8-year-olds affected. While the child is the victim, the family is severely affected as well, often preventing family members from working, often creating stress, poverty, and despair.
- 2) 70% of adults impacted by Autism are unemployed and with no chance of employment
- 3) 50% of children impacted by Autism do not graduate high school
- 3) The incidence is growing by some estimates of 15% per year.
- 4) There are scant facilities to effectively integrate autistic individuals into productive, non-dependent, students and citizens.

Solution: Able Academics

Every child impacted by Autism can benefit from Applied Behavioral Analysis. ABA is a set of principles that form the basis for many behavioral treatments. ABA is based on the science of learning and behavior. ABA is considered an evidence-based "best" practice treatment by the US Surgeon General and by the American Psychological Association. This treatment often takes

significant amounts of time per week, therefore combining this treatment with a year-round school model, ample program hours are available for both therapy and proper education.

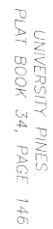
ZONING MAP



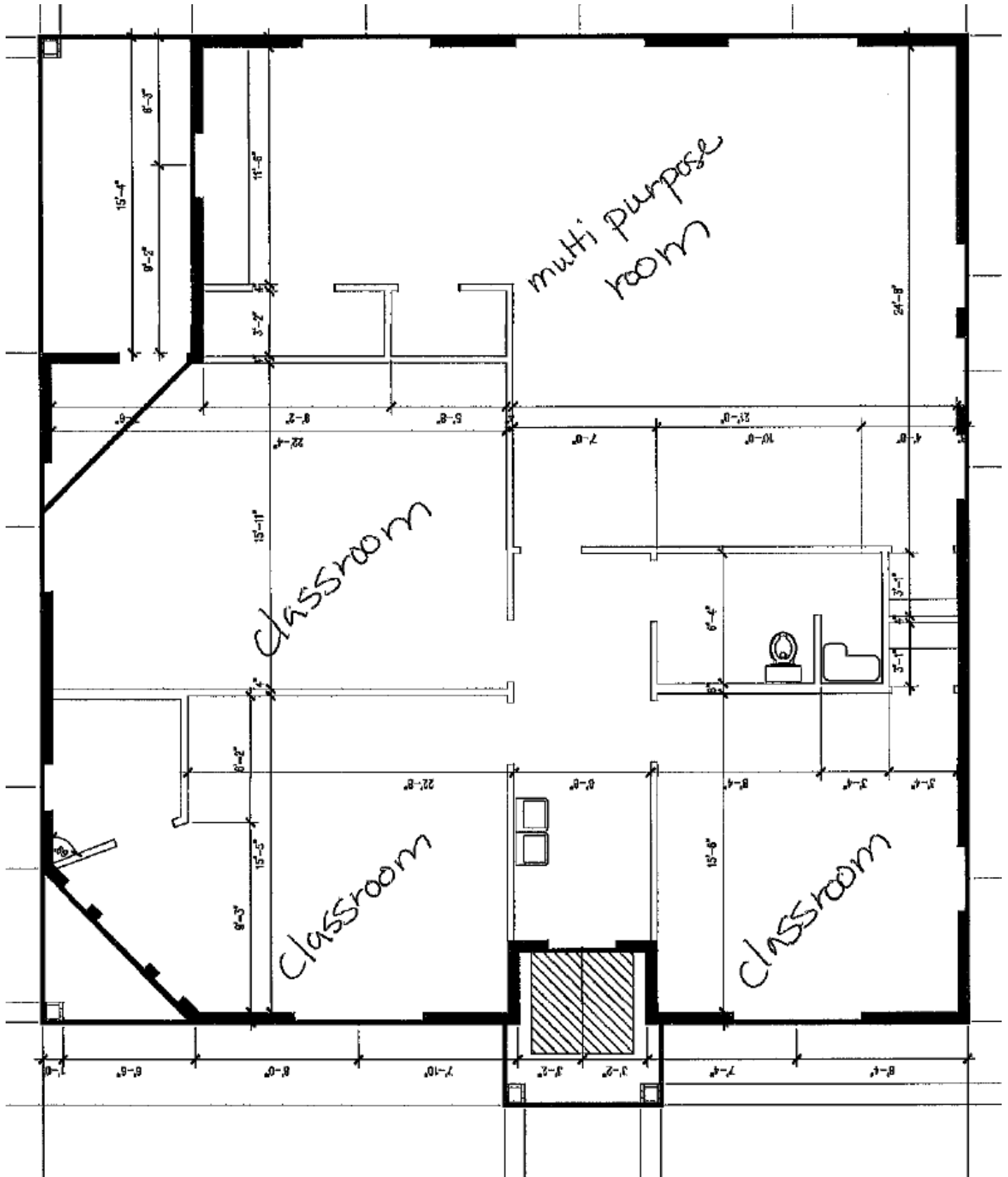
AERIAL MAP



WEST 300.00' DESC
S 89°58'30" W 299.91' MEAS



FLOOR PLAN



SITE PHOTOS



Site from McCulloch Rd. facing south



Main sanctuary facing south

SITE PHOTOS



Proposed school building facing east



Proposed school building facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#6**

Case #: **VA-22-08-060**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MICHAEL MILES FOR ORLANDO COMMERCE CENTER

OWNER(s): GREATER ORLANDO COMMERCE CENTER LLC

REQUEST: Variances in the Restricted I-1/ I-5 zoning district to allow the construction of warehouses as follows:

1) To allow a maximum building height of 49 ft. in lieu of 35 ft. within 100 feet of any residential use or district.

2) To allow an east setback bufferyard of 25 ft. in lieu of 50 ft. abutting any residential zoning district.

PROPERTY LOCATION: 5410 Old Winter Garden Rd., Orlando, FL 32811, south side of Old Winter Garden Rd., east of S. Kirkman Rd., north of Raleigh St.

PARCEL ID: 30-22-29-0000-00-053

LOT SIZE: +/- 13.96 acres

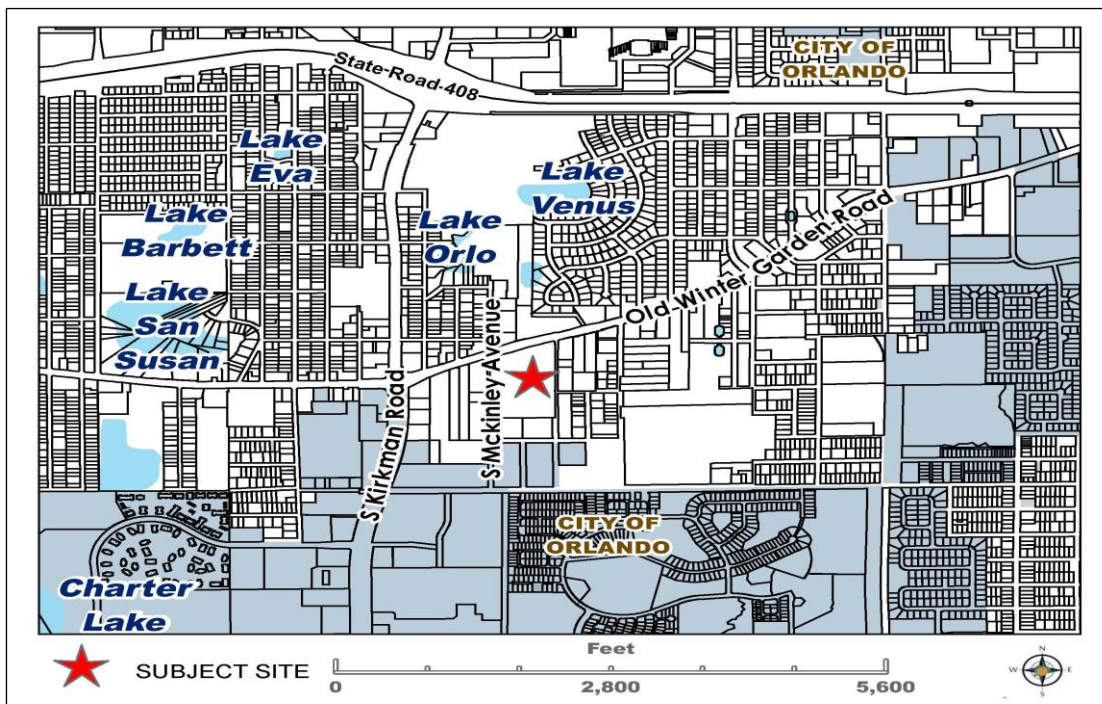
NOTICE AREA: 1,000

NUMBER OF NOTICES: 209

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#5**

Case #: **VA-22-08-061**

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

Nick. Balevich @ocfl.net

GENERAL INFORMATION

APPLICANT(s): MIN CHO

OWNER(s): MIN CHO, SHANNON CHO

REQUEST: Variances in the R-1A zoning district to allow a 96 sq. ft. detached accessory structure (shed) as follows:

1) To allow an east rear setback of 1.08 ft. in lieu of 5 ft.

2) To allow a south side setback of 1.65 ft. in lieu of 5 ft.

PROPERTY LOCATION: 4013 Timber Ln., Orlando, FL 32804, generally the northeast corner of Timber Ln. and Leigh Ave., east of Edgewater Dr., south of W. Fairbanks Ave.

PARCEL ID: 10-22-29-2632-11-051

LOT SIZE: +/- 0.21 acres (9,350 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 29

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 0 opposed and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan and elevations received June 22, 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 denial since there are other options to locate the proposed shed in a conforming location. Staff noted that one (1) comment was received in support, and no comments were received in opposition.

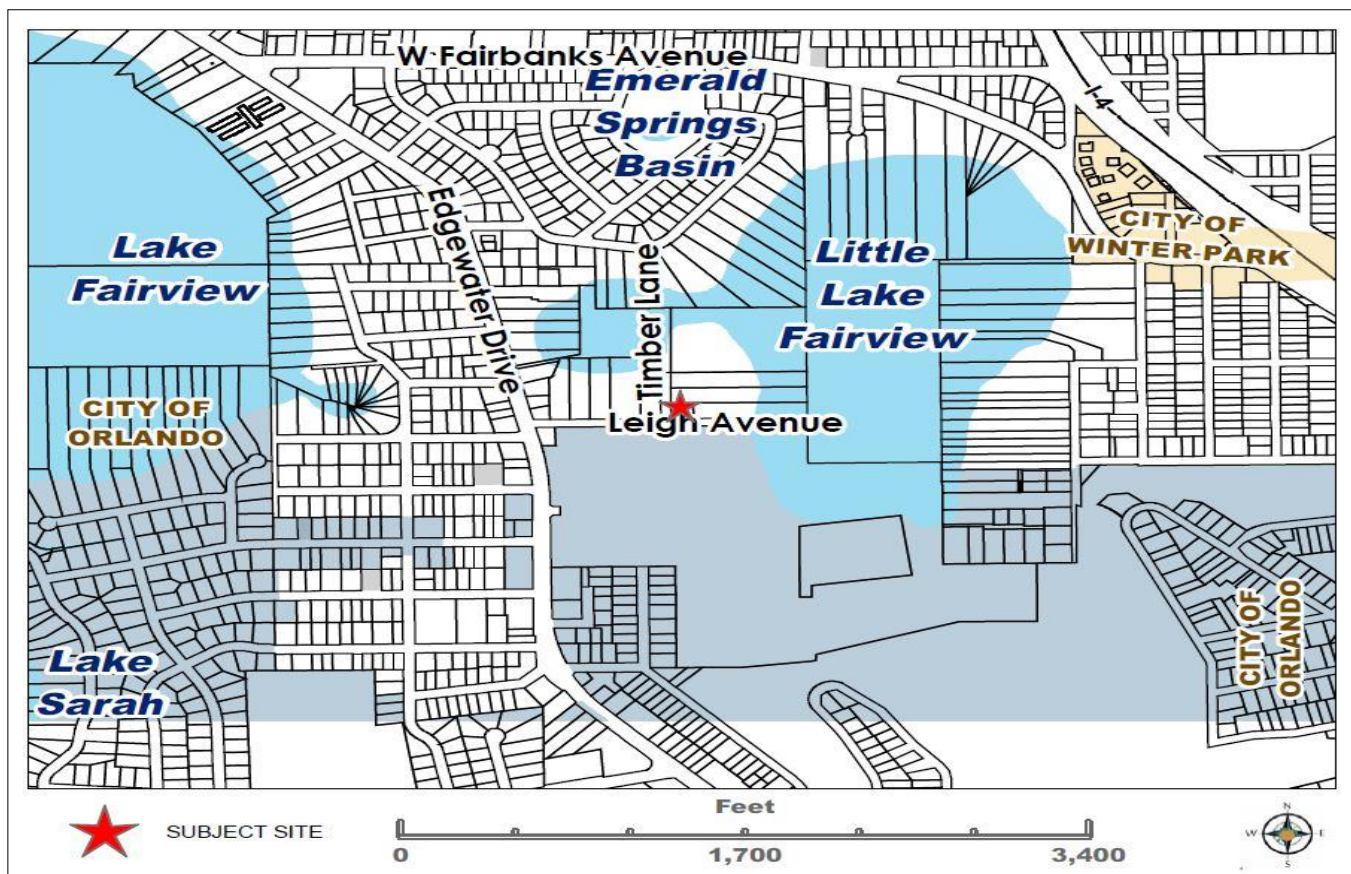
The applicant discussed alternate locations for the shed and the issues with each of the them. There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the proposed shed, the lack of other options to locate it in a conforming location, discussed the need for the variances, stated justification for the six (6) criteria and unanimously recommended approval of the variances by a 5-0 vote, with two absent, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---------------------------|---------------------------|--------------------------|---------------------------|---------------------------|
| Current Zoning | R-1A | R-1A | City of Orlando | R-1A | R-1A |
| Future Land Use | LDR | LDR | City of Orlando | LDR | LDR |
| Current Use | Single-family residential | Single-family residential | Bishop Moore High School | Single-family residential | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 square feet. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The subject property is a 9,350 sq. ft. lot, platted in 1924 as a portion of Lot 5, Block B, of the Fairway Springs Plat, and is a conforming lot of record. The property is developed with a 1-story, 2,643 gross sq. ft. single-family home, constructed in 1983, and a pool, deck and screen enclosure (B16002310) constructed in 2016. The property was purchased by the current owner in 2007.

The proposal is to install a 12 x 98 ft., 96 sq. ft. shed at the rear of the property, with an east rear setback of 1.08 ft. in lieu of 5 ft. requiring Variance #1, and a south side setback of 1.65 ft. requiring Variance #2.

The request does not meet the standards for variance criteria, since there are other options to install the shed in a location in the rear yard which meets setback requirements, such as moving or rotating the shed to a conforming location. The cover letter and justification for the Variances is based upon need for storage; however, there is the ability to relocate the shed elsewhere on the property and still be able to meet the stated need. Further, the cover letter indicated that other Variances have been approved within the area as justification for no special privilege conferred, but no other similar Variances have been approved within a half mile or more of the property. Therefore, staff is recommending denial of the Variances.

The applicant has submitted one comment in favor of the request from the adjacent neighbor to the rear/east. As of the date of this report, no additional comments have been received in favor and no comments have been received in opposition to this request.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|------------------------------|
| Max Height: | 25 ft. | 10 ft. (accessory structure) |
| Min. Lot Width: | 75 ft. | 85 ft. |
| Min. Lot Size: | 7,500 sq. ft. | 9,350 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------|-----------------------------------|---|
| Front: | Not Allowed (accessory structure) | N/A |
| Rear: | 5 ft. (accessory structure) | 1.08 ft. (accessory structure) (East -Variance #1) |
| Side: | 5 ft. (accessory structure) | 1.65 ft. (accessory structure) (South - Variance #2) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions and circumstances, as there are other options, such as rotating the shed and utilizing a conforming location that will comply with setbacks.

Not Self-Created

The need for the variance is self-created, as proposing a different sized shed or the relocation to a different location could be utilized that complies with setbacks.

No Special Privilege Conferred

The requested variances would grant special privilege, as a different design could be utilized that would meet required setbacks.

Deprivation of Rights

The owner is not being deprived of the ability to construct a shed on the property that complies with setbacks by utilizing a different design or location.

Minimum Possible Variance

The requested variances are not the minimum necessary, as a modified design or location could be proposed in order to comply with setbacks.

Purpose and Intent

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood as the proposed shed will not be visible from the road and the abutting property is a much larger lot with greater separation and significant vegetative screening.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received June 22, 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: Min Cho
4013 Timber Ln.
Orlando, FL 32804

COVER LETTER

Min Cho
4013 Timber Ln
Orlando FL 32804

May 13, 2022

Dear Board of Zoning Adjustment Members,

We are requesting a setback variance to install a detached accessory (shed). We would like to use the shed for storage. The shed is a premade "Tuff Shed" branded shed that is made out of wood, metal, aluminum, and plastic. The shed is 96 square feet, with dimensions of 12' by 8'. The shed would be less than 15' tall. Our current setbacks require that the shed sit at least 5' from the property lines. Our proposed shed would, however, would sit 1.08' from the east side (rear) of our property line, 1.65' from the south side of our property line, and 1.65' from the north side of our existing pool screen. As such, we are requesting a setback variance.

We believe that we meet at least one of the six variance criteria. Specifically:

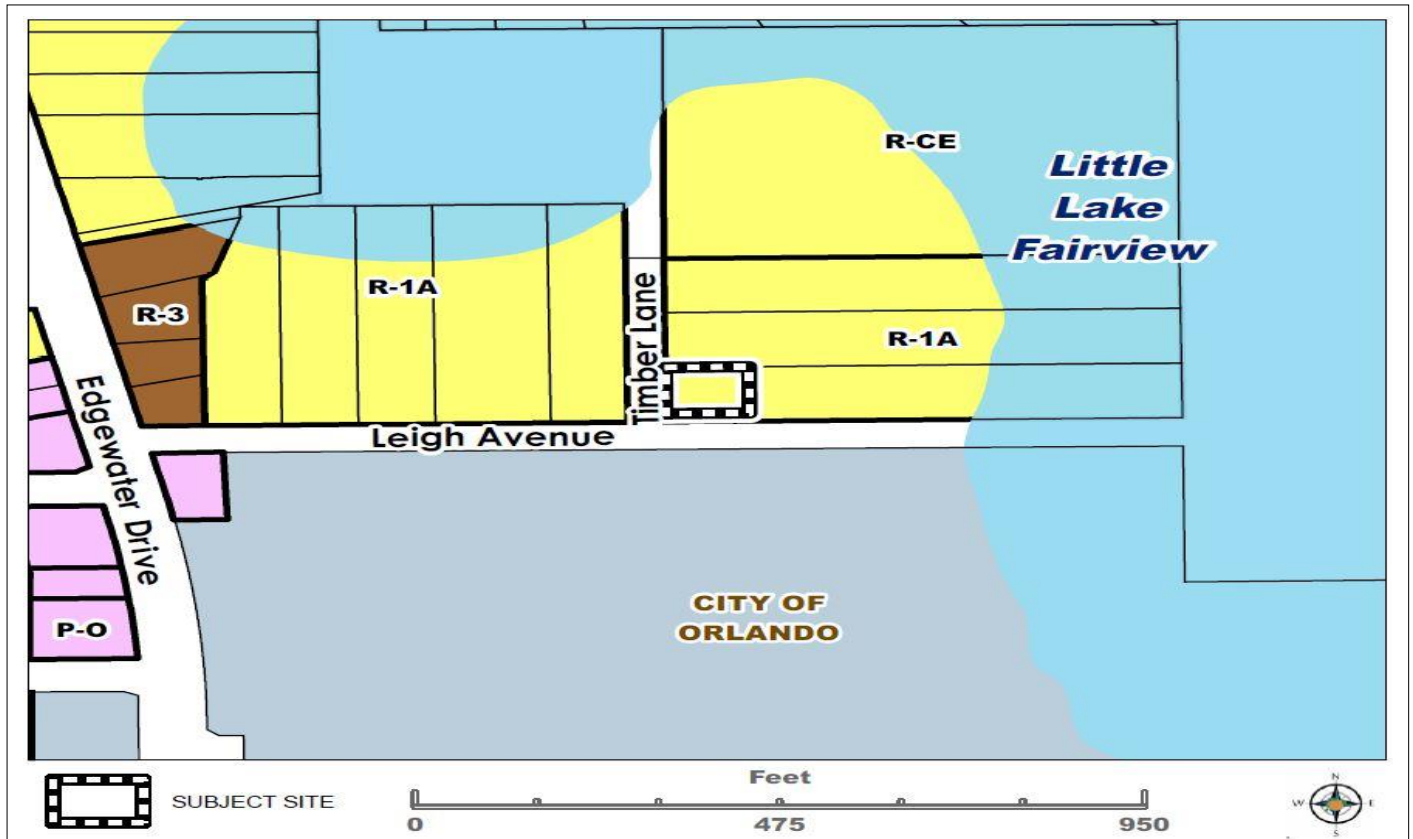
1. **Special Conditions and Circumstances.** We are in a very small community in unincorporated Orange County with 6 homes on our street. Our adjacent neighbor next to where the shed would sit, does not oppose us obtaining this variance to install the shed (letter is attached). Because we have large pine trees in our community, we need to park our cars in the garage to avoid tree limbs falling on them. As such, the shed will add extra storage for our personal property to make room in our garage for our cars.
2. **Not Self-Created.** As stated in number 1 above, we need to park our cars in our garage to avoid tree limbs falling on them. The shed will provide extra storage for our personal property to allow us to fit our cars in the garage, comfortably. Our trees are probably over 100 years old. We did not create the condition and circumstances where tree limbs would fall on our cars.
3. **No Special Privilege Conferred.** This variance would not grant us any special privileges. The County has approved of other zoning variances/exceptions that have granted special privileges to one of our neighbors down the street, who obtained a variance to designate his property as an airport. Ours is simply a variance to install a shed—which is extremely reasonable.
4. **Deprivation of Rights.** The denial of our requested setback variance would deprive us of our rights to enjoy the property and would create unnecessary hardship, including financial loss. The shed would allow us to store personal property in our shed, and thus allow us to park our cars in our garage which will avoid potential damage to our cars.
5. **Minimum Possible Variance.** The variance still allows for reasonable setbacks from our property lines, and thus is a minimum variance that will make possible the reasonable use of our land.
6. **Purpose and Intent.** Approval of the variance will not be injurious to the neighborhood, and in fact, our adjacent neighbor does not object to the variance. The approval of the variance will be in harmony with purpose and intent of the zoning regulations of Orange County.

Sincerely,

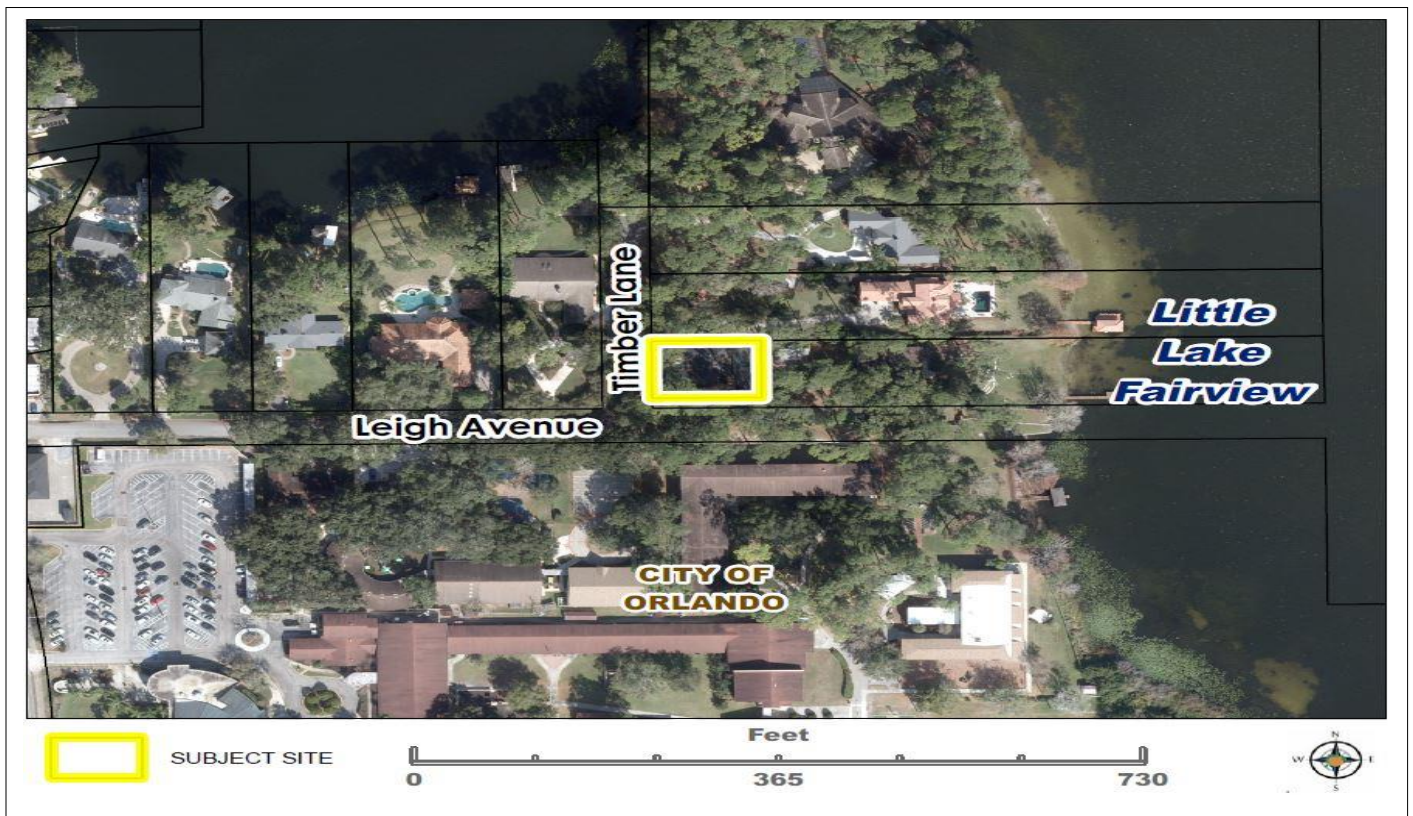


Min Cho

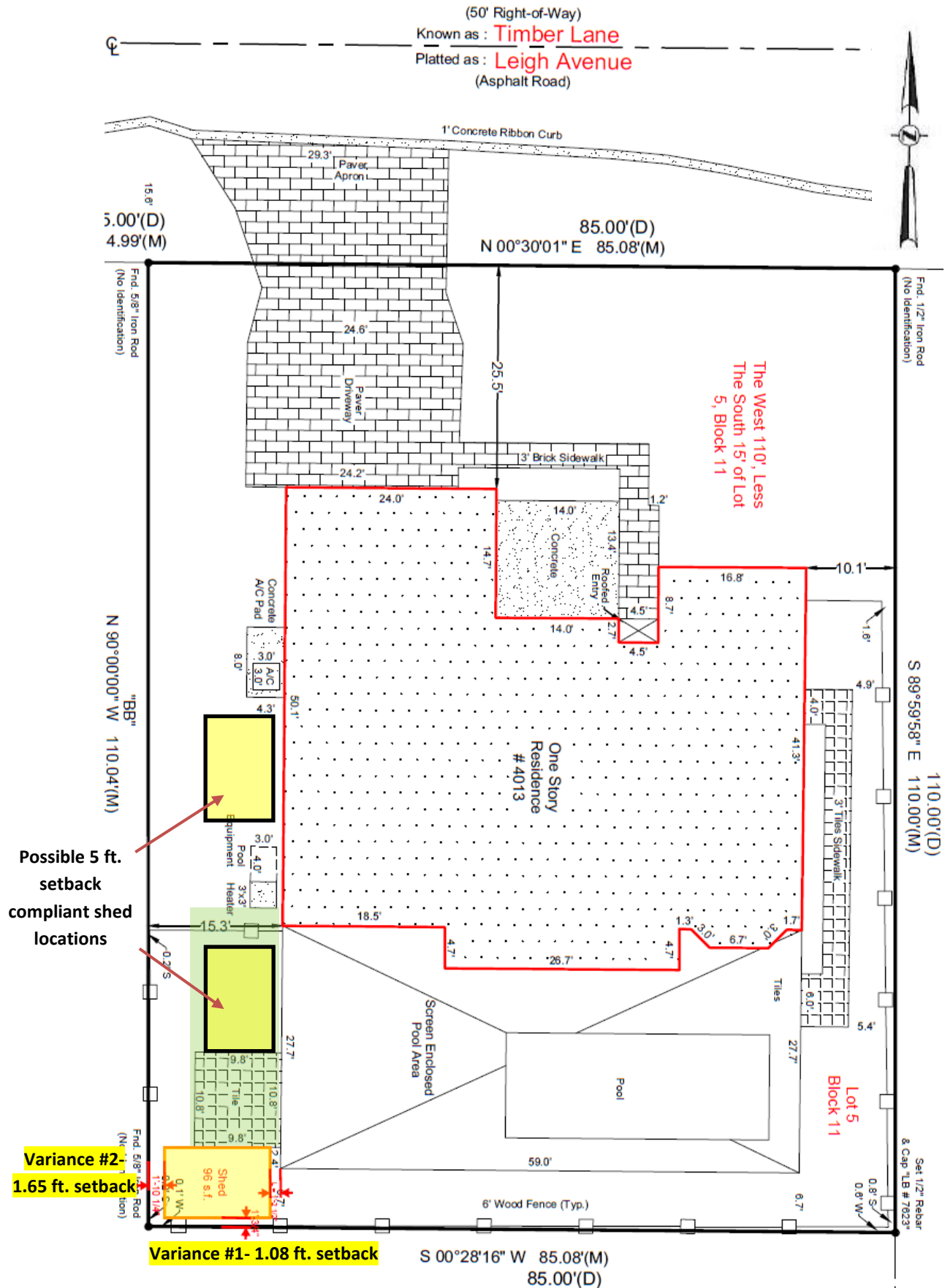
ZONING MAP



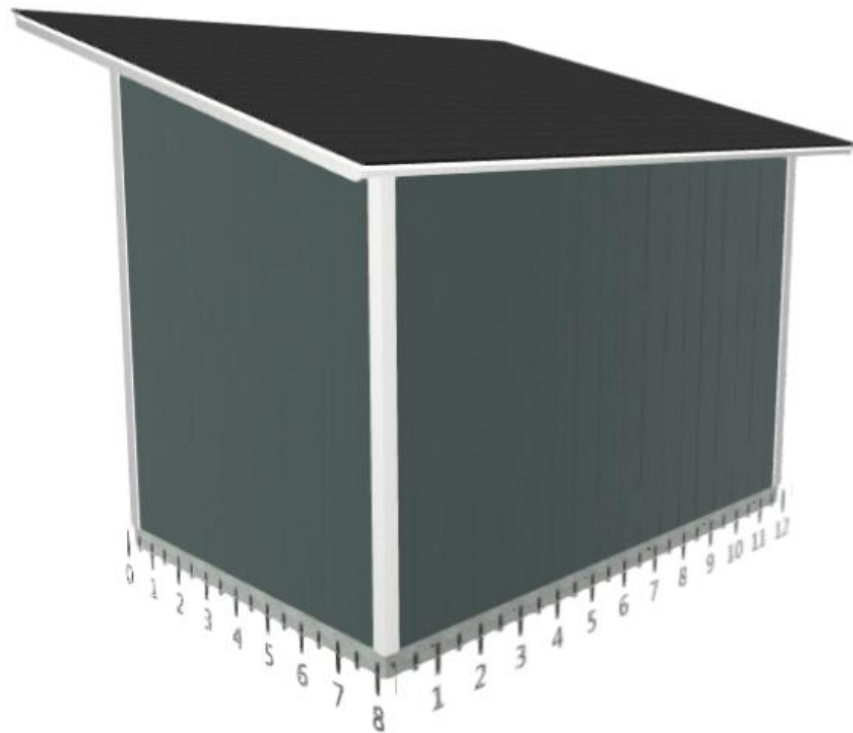
AERIAL MAP



SITE PLAN



ELEVATIONS



SITE PHOTOS



Front from Timber Lane facing east



Proposed shed location facing east

SITE PHOTOS



Proposed shed location facing south



Possible alternate shed location that would not require variance facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#3**

Case #: **VA-22-09-075**

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

Nick. Balevich @ocfl.net

GENERAL INFORMATION

APPLICANT(s): SEBASTIAN MELE FOR RIO CLARO INVESTMENTS LLC

OWNER(s): RIO CLARO INVESTMENTS LLC

REQUEST: Variance in the I-2/ I-3 zoning district to allow a 2COP license for consumption of beer and wine on premises as follows:

- 1) Located 303 ft. from a religious institution in lieu of 1,000 ft.
- 2) Located 399 ft. from a religious institution in lieu of 1,000 ft.
- 3) Located 929 ft. from a religious institution in lieu of 1,000 ft.
- 4) Located 973 ft. from a religious institution in lieu of 1,000 ft.

PROPERTY LOCATION: 9521 S. Orange Blossom Trl., Unit 104, Orlando, FL 32837, southeast corner of S. Orange Blossom Trl. and Taft Vineland Rd., south of SR 528., west of Florida's Turnpike.

PARCEL ID: 10-24-29-0000-00-005

LOT SIZE: +/- 3.6 acres

NOTICE AREA: 1 mile

NUMBER OF NOTICES: 1,013

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by Roberta Walton Johnson; 4 in favor: Thomas Moses, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson, 1 opposed: John Drago and 2 absent: Joel Morales, Charles Hawkins):

1. Development shall be in accordance with the site plan received July 15, 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

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 three (3) comments were received in support, and no comments were received in opposition.

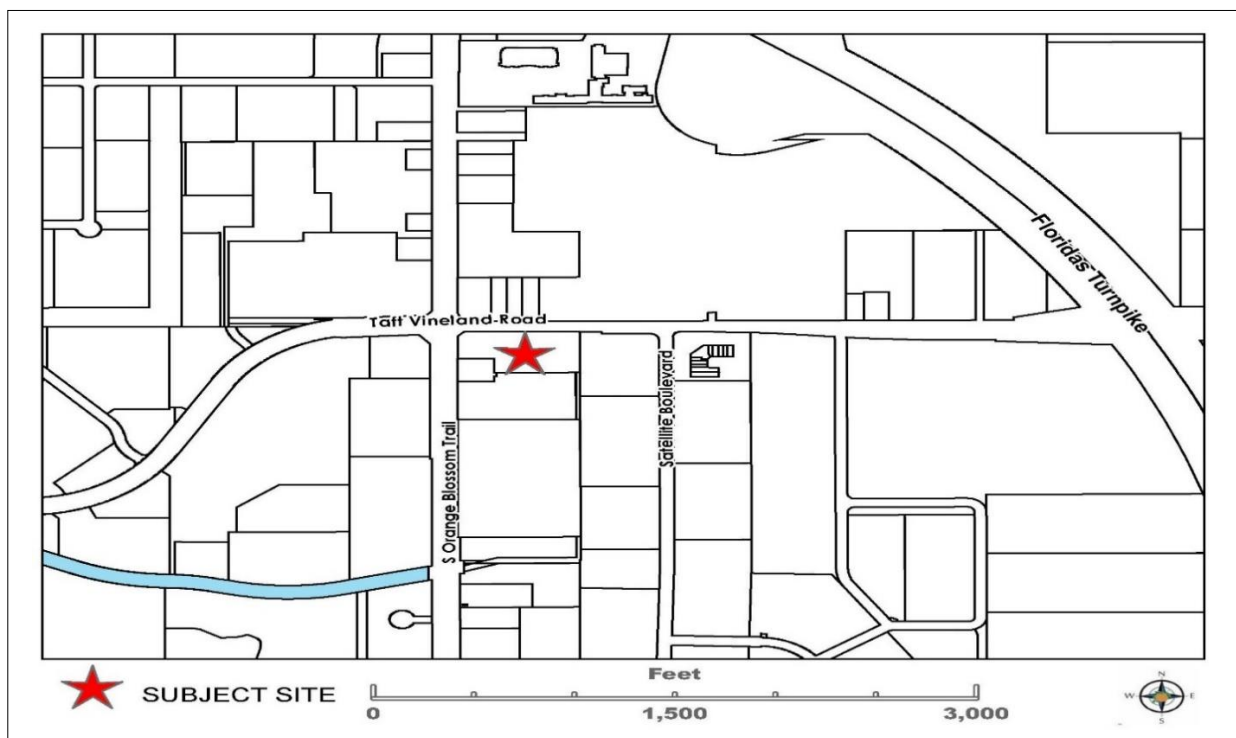
The applicant briefly discussed the request, stating that as a small business they need the license to serve their customers. There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed prior similar requests, pointed out the difference in this instance and stated that letters in favor were received for this particular request by the two closest and most affected religious institutions. The BZA stated justification for the six (6) criteria and recommended approval of the Variances by a 4-1 vote, with two absent, subject to the four (4) 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 | I-2/ I-3 | C-3 | C-3 | I-4 | C-3, P-D |
| Future Land Use | IND | IND, C | IND | IND | IND |
| Current Use | Commercial | Vacant, warehouse/industrial | Commercial | Industrial | Commercial, industrial |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the I-2/ I-3, Industrial district, which allows general industrial and related activities such as warehousing, manufacturing, and accessory retail uses including restaurants and lounges. The future land use is Industrial (IND), which is consistent with the zoning district.

The subject property is 3.6 acres in size, and conforms with the I-2/ I-3 zoning requirements. The property is developed with a 49,181 square foot commercial strip center that was constructed in 1987. The subject property contains a variety of commercial businesses as well as 2 existing churches and abuts commercial and industrial uses in all directions.

The request is to allow for a 2COP license to allow consumption of beer and wine on premises for Mele's Lounge, a 1,600 square foot restaurant and lounge in Suite 104, located in the western end of the commercial building on the property. Sec. 38-1415 requires any business serving alcohol on site to be located at least one thousand (1,000) feet away from any established religious institution or school. The distance is measured by following the ordinary route of pedestrian travel along the public thoroughfare from the main entrance of the place of business to the main entrance door of the church. While this is a Commercial/Industrial area, religious institutions are allowed in any zoning district. As such, there are 4 religious institutions within 1,000 ft. of Mele's Lounge: 303 feet from Kingdom Dominion Abundant Life Center, requiring Variance #1; 399 feet from JCR Iglesia, requiring Variance #2; 929 feet from Iglesia Universal, requiring Variance #3; and, 973 feet from Vine Ministries, requiring Variance #4. Kingdom Dominion Abundant Life Center, and JCR Iglesia are both located to the east in the same commercial building as the applicant. Iglesia Universal, and Vine Ministries are located to the north, across Taft Vineland Road. There are other restaurants on S. Orange Blossom Trl. with licenses to serve alcohol in the area.

The applicant has submitted letters of no objection from Kingdom Dominion Abundant Life Center and JCR Iglesia, and from another business in the same center. As of the date of this report, no additional comments have been received in favor or in opposition to this request.

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The location of a religious institution in an industrial zoning district is a special condition as the area is intended primarily for commercial and industrial uses. The applicant is requesting a 2COP license to allow consumption of beer and wine on premises for an existing restaurant, and will not have any noticeable impacts on adjacent

commercial and industrial properties. There are other restaurants with licenses to serve alcohol in the area, and the addition of a 2COP license to this property will not have any negative effects on the area which contains industrial and commercial uses.

Not Self-Created

The need for the variances is not self-created, as many restaurants request licenses to allow consumption of alcohol on premises. Furthermore, this property is located in a commercial plaza containing other restaurants serving beer and wine along with 2 of the churches requiring the variance request.

No Special Privilege Conferred

Granting the variances as requested will not confer special privilege, as many other similar businesses in the area offer on premise consumption in conjunction with their restaurant.

Deprivation of Rights

Not allowing this applicant to serve beer and wine on premises would deprive them of the rights commonly enjoyed by neighboring properties and similar restaurants.

Minimum Possible Variance

The variances requested are the minimum possible to allow the consumption of beer and wine at an existing building within a commercial plaza in an industrial area within 1,000 ft. of existing churches.

Purpose and Intent

Approval of this variance will be in harmony with the zoning code as the commercial and industrial zoning districts in the area allows restaurants and bars, including the property containing the churches. Allowing on-site consumption at this location would not be detrimental or injurious to the adjacent industrial properties, and the churches.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received July 15, 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

C: Sebastian Mele
6198 Sandcrest Circle
Orlando FL 32819

COVER LETTER

(Cover Letter)

America United Network inc.

@ Mele's Lounge

(Cover Letter)

Variance for 2COP License. We are applying for the variance as a result of 4 places of worship within 1000 feet. Previous to signing the lease agreement, we submitted the form for zoning approval for this type of business and was approved and paid for already. The hours of the church do not overlap with ours. When they are open we are not and when we are open they are not. In the same plaza there is already a restaurant that serves alcoholic beverages, a retail store selling beer and wine. If we cannot obtain approval for the variance we are not able to compete and are at a disadvantage since our business was built around a 2COP license. The places of worship do not present any opposition and have spoken to all 4 of them per the letters shown below.

Kingdom dominion is 303ft from our café. JCR Iglesia is 399ft from our café. Iglesia Universal 929ft from café. Vine Ministries is 973 ft from our café.



X 

Sebastian Mele

Owner

COVER LETTER

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

No special conditions and circumstances are applicable to this
variance. There are churches near by but do not oppose.

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

This variance is not self created it is a result of A Church
near by. Which is creating hardship for us, Since we are still
unable to establish our business as zoning approved prior to
signing the lease.

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.

I have no special privilege with this variance request.

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

Prior to signing the lease our proposed business was approved by zoning
for this type of business. Not getting this variance will result in
disadvantages with our competitors and deem us unable to conduct our business.
There is already a restaurant in the same plaza serving beer and wine, as well
as an alcohol retailer in the same shopping plaza.

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.

The minimum possible variance that will work for us is a RCOP
license. Shows no opposition by churches within 1,000 feet.

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.

From what we gathered no one neighboring to us shows any
sort of opposition, nor the churches within 1,000 feet as the
letters they sent us dictate.

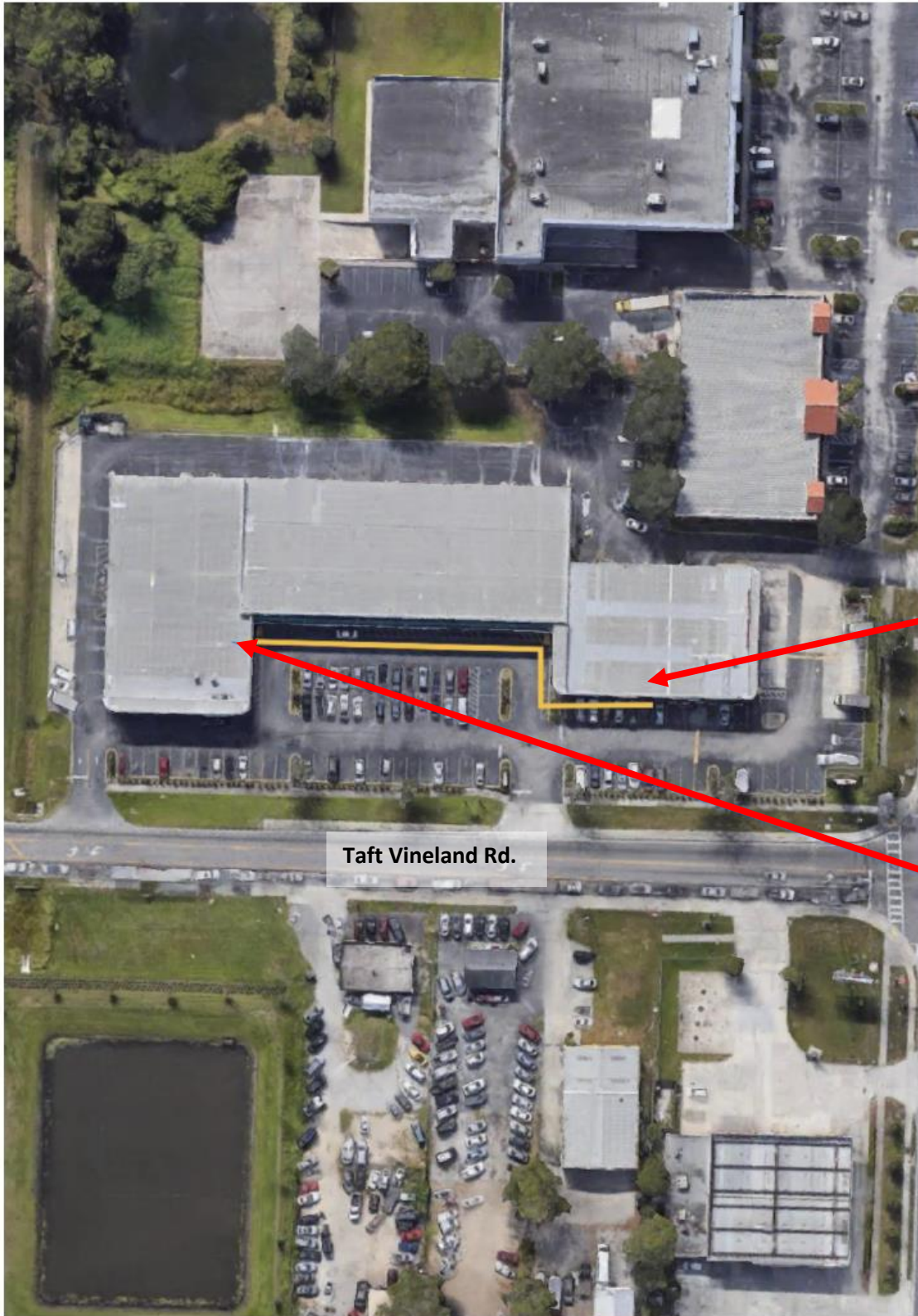
ZONING MAP



AERIAL MAP



DISTANCE SEPARATION TO ADJACENT KINGDOM CHURCH



@ Mele's
Lounge
CAFE

Kingdom
Dominion
abundant
life center
303ft



DISTANCE SEPARATION TO ADJACENT JCR CHURCH



@ Mele's
Lounge
CAFÉ

JCR Iglesias
399ft

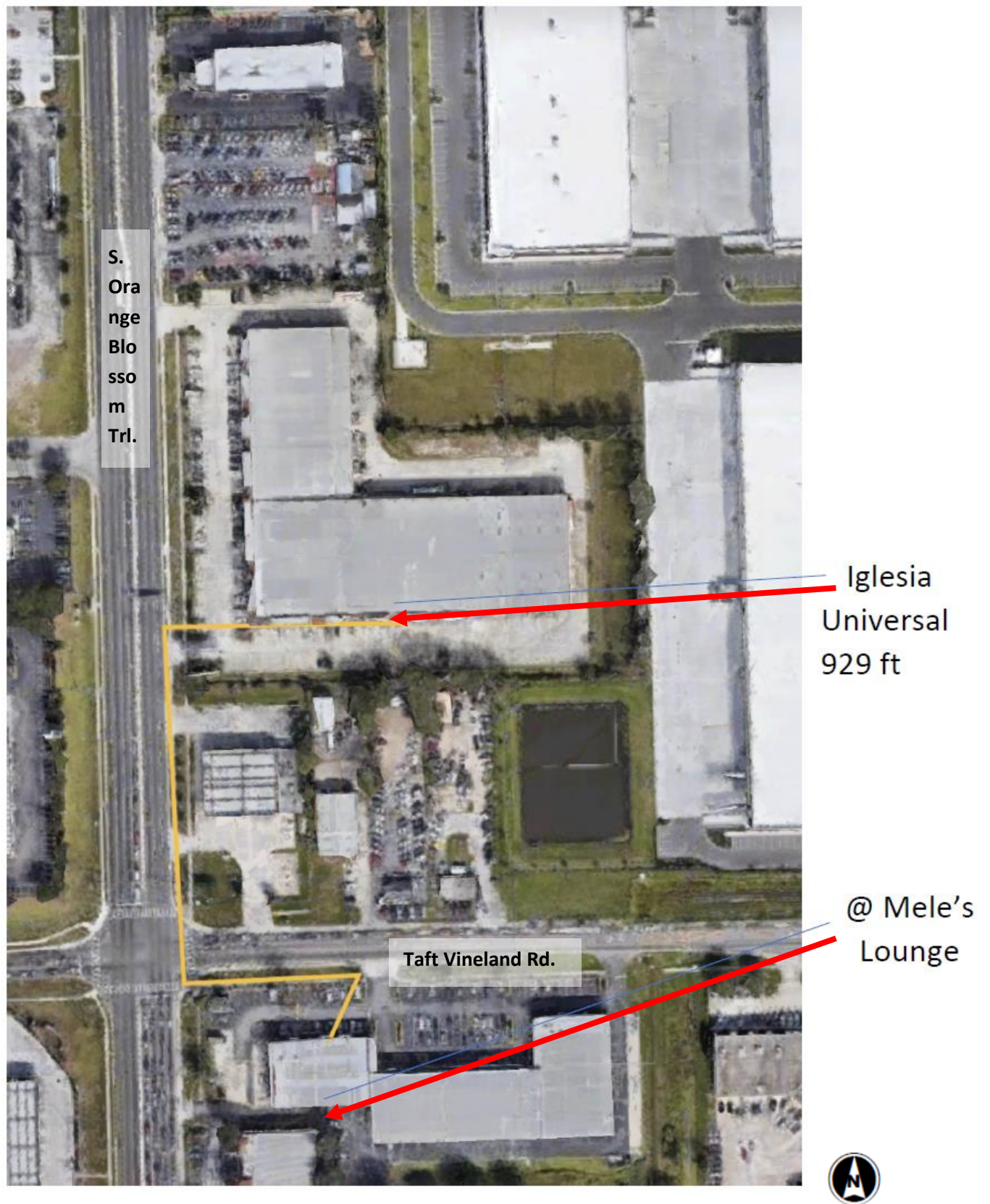
Taft Vineland Rd.



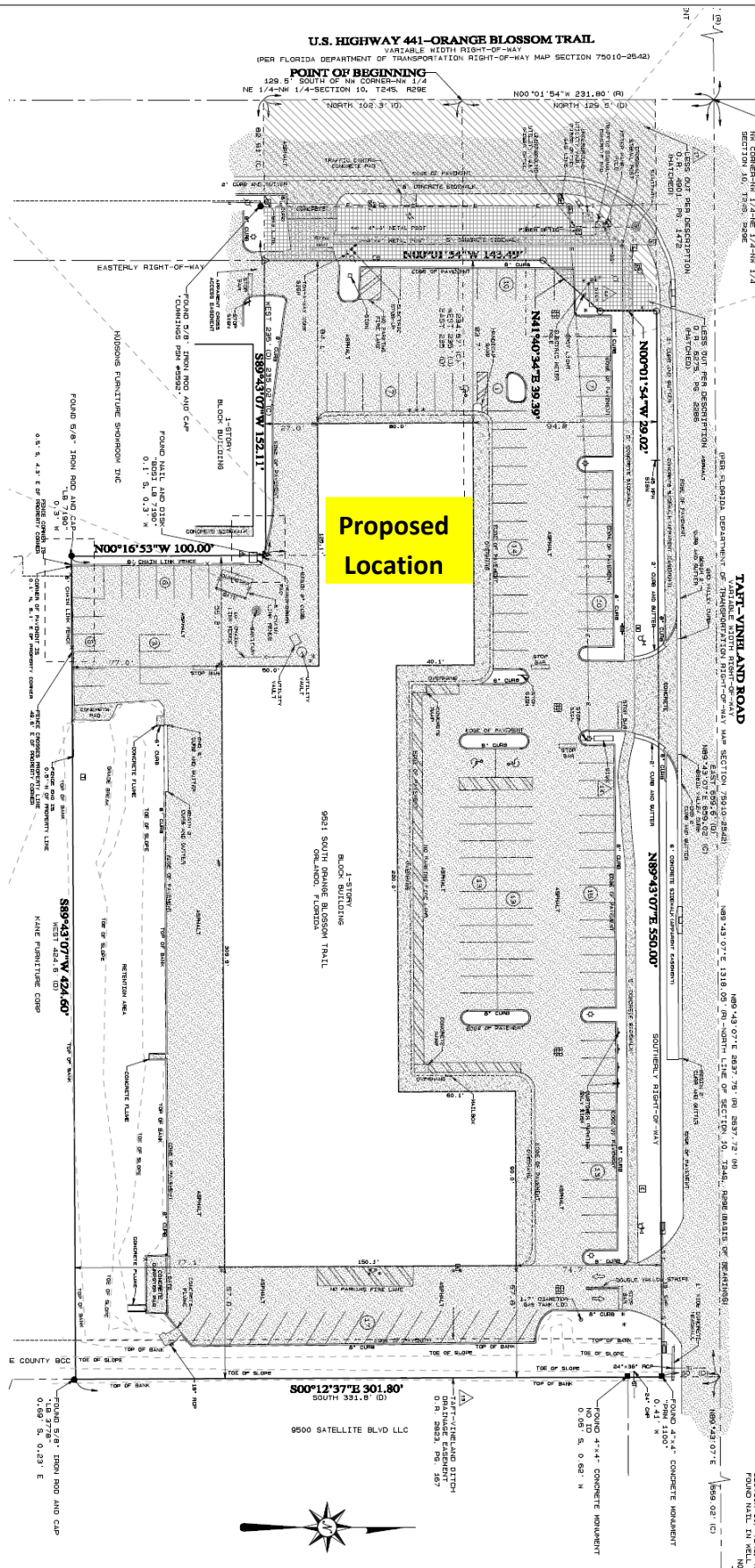
DISTANCE SEPARATION TO ADJACENT VINE CHURCH



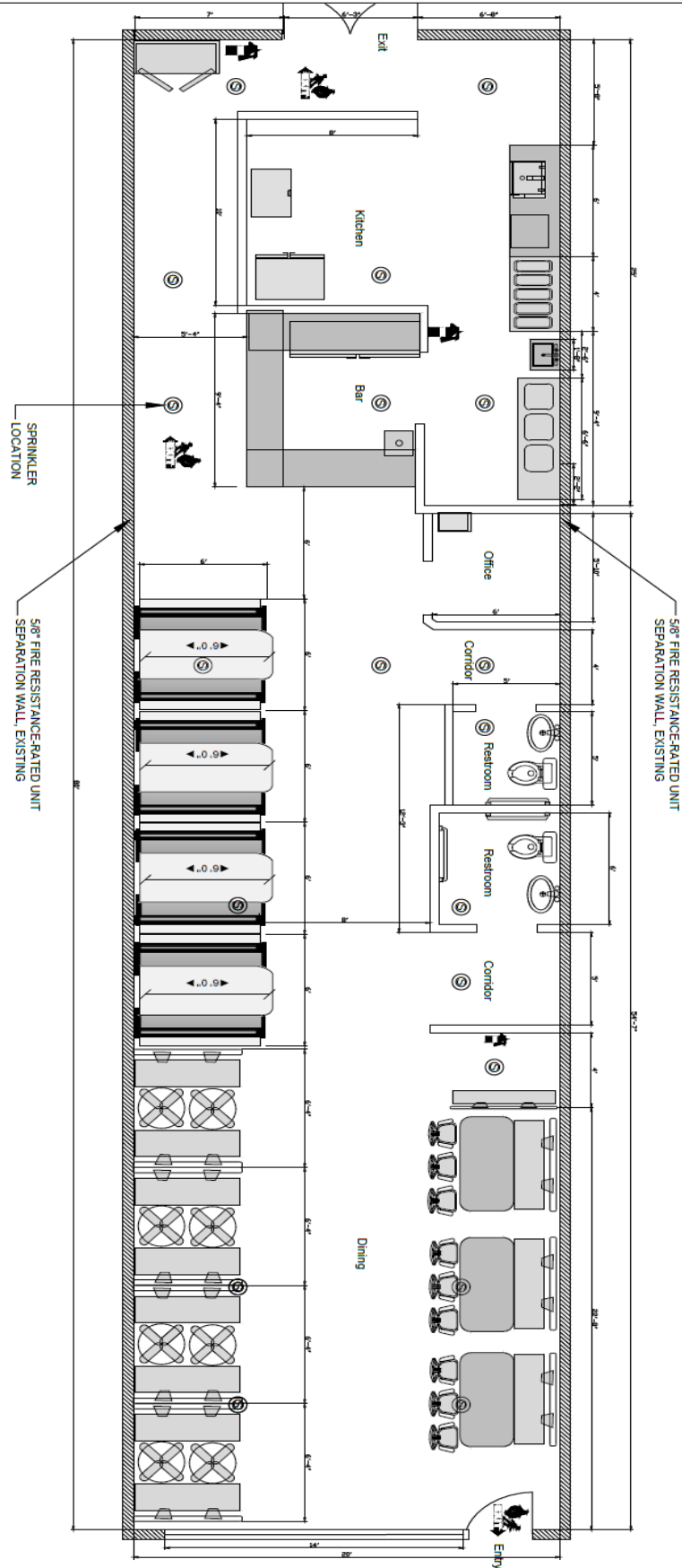
DISTANCE SEPARATION TO ADJACENT UNIVERSAL CHURCH



SITE PLAN



FLOOR PLAN



SITE PHOTOS



Proposed Mele's Lounge location facing south from Taft Vineland Rd.



Facing east towards Kingdom Dominion and JCR Iglesia, located 303 ft. and 399 ft. from proposed Mele's

SITE PHOTOS



Facing Kingdom Dominion, located 303 ft. from proposed Mele's Lounge



Facing JCR Iglesia, located 399 ft. from proposed Mele's Lounge

SITE PHOTOS



North towards Iglesia Universal & Vine Ministries, at the NEC of S. Orange Blossom Trl. & Taft Vineland Rd.



Facing Iglesia Universal, located 929 ft. from proposed Mele's Lounge

SITE PHOTOS



Facing Vine Ministries, located 973 ft. from proposed Mele's Lounge

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 04, 2022**

Commission District: **#6**

Case #: **VA-22-08-067**

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

Nick. Balevich @ocfl.net

GENERAL INFORMATION

APPLICANT(s): ANGELA HAMLETT FOR SEBI SOCIAL SERVICES INC.

OWNER(s): TANISHA RENEE SWABY

REQUEST: Variance in the R-1A zoning district to allow a separation distance of 528 ft. between a residence that meets the definition of a community residential home and another such home, in lieu of 1,000 ft.

PROPERTY LOCATION: 4527 San Sebastian Cir., Orlando, FL 32808, west side of San Sebastian Cir., south of Silver Star Rd., east of N. Pine Hills Rd.

PARCEL ID: 17-22-29-7802-01-070

LOT SIZE: +/- 0.17 acres (7,555 sq. ft.)

NOTICE AREA: 700 ft.

NUMBER OF NOTICES: 258

DECISION: Recommended **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (Motion by: Roberta Walton Johnson, Second by John Drago; 4 in favor: Roberta Walton Johnson, John Drago, Thomas Moses, Deborah Moskowitz; 1 opposed: Juan Velez, and 2 absent: Joel Morales and Charles Hawkins).

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that three (3) comments were received in support, and no comments were received in opposition.

The applicant made a presentation on the request and the need for a location in Pine Hills. The applicant expressed the great need for this service in the area and stated that only a small percentage of those who need a bed can find one available. She also stated that people with developmental disabilities do not create a danger to the neighborhood and do not negatively affect property values or safety. The applicant also discussed in detail the timeline of zoning letter and business tax receipts for the requested operation and the nearest operation subject to the distance separation Variance and noted that the other home is in a different subdivision and is 2,640 feet away by road.

Three spoke in favor of the request, stating that the proposal would be an asset to the community and will not bring crime or violence to the area. A representative of the Pine Hills Community Council spoke against the request, stating that they want to preserve the character of the area, they feel that approval could result in many more such uses moving into the area.

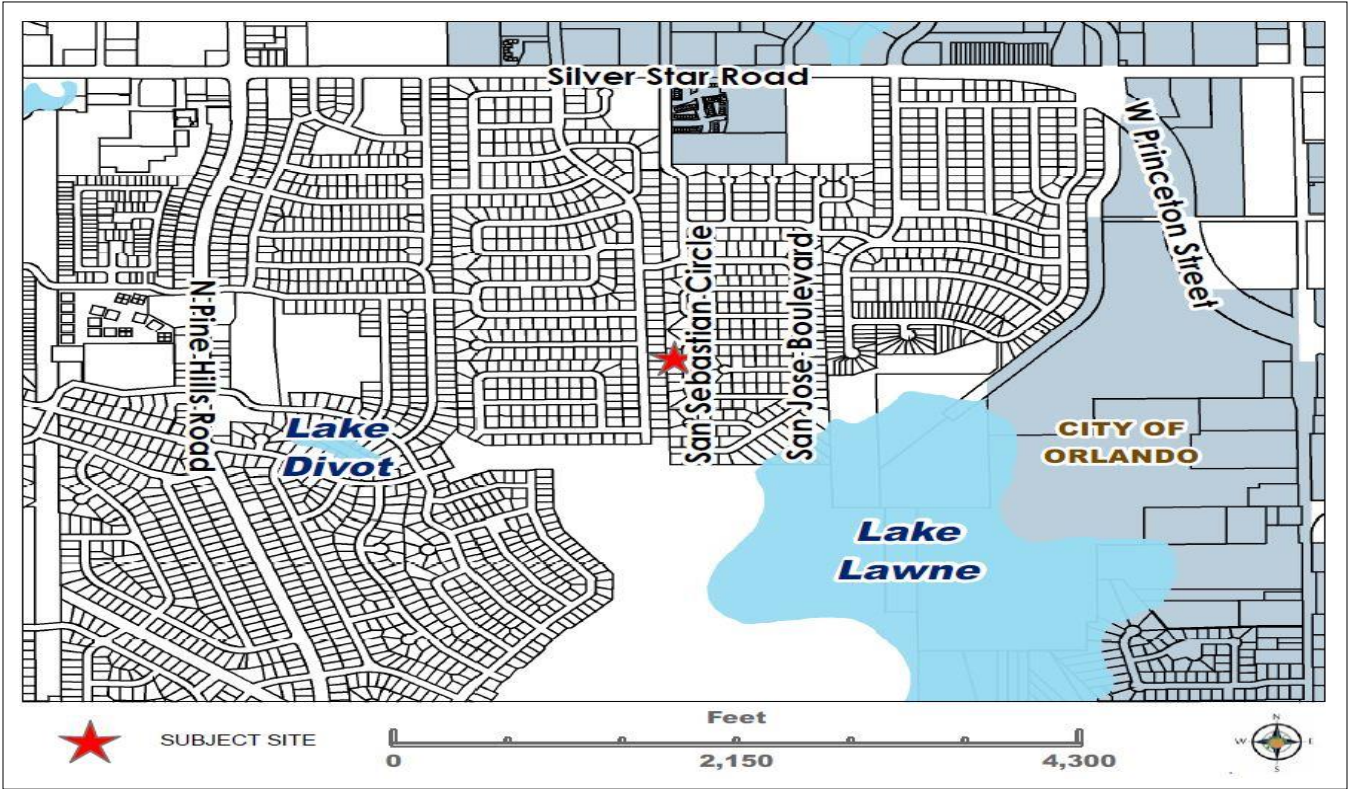
The BZA discussed previous verification letters, compared the current request with previous other such requests, and noted concerns about the operation proposed to be located in a home not owned by the operator since the licensed home could be relocated in the future. The BZA also stated concerns with the number of

group homes in the area, stated that each of the six (6) criteria has not been met and recommended denial of the Variance by a 4-1 vote, with two absent.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Current Zoning | R-1A | R-1A | R-1A | R-1A | R-1A |
| Future Land Use | LDR | LDR | LDR | LDR | LDR |
| Current Use | Single-family residential | Single-family residential | Single-family residential | Single-family residential | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum of 7,500 square foot lots. The future land use is LDR, which is consistent with the R-1A zoning district.

The subject property is a 7,555 sq. ft. lot located in the San Jose Shores Plat, which was platted in 1972, and is considered to be a conforming lot of record. There is an existing 2,545 gross sq. ft. single-family home on the lot, constructed in 1979. The current owner purchased the property in 2020.

The applicant is proposing to establish a residence that meets the definition of community residential home, but contains six (6) or fewer residents. Section 38-1 defines a Community Residential Home as follows:

Community residential home shall mean a dwelling unit licensed to serve clients of the State of Florida pursuant to F.S. Ch. 419, which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the "residents." The term "resident" as used in relation to community residential homes shall have the same meaning as stated in F.S. § 419.001(1)(e), as may be amended or replaced.

Further, Section 38-79(12) of the Orange County Code states that: A home of six (6) or fewer residents which otherwise meets the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use. Such a home shall be allowed in single-family or multifamily zoning without approval by the county, provided that such a home shall not be located within a radius of one thousand (1,000) feet of another existing such home.

These homes provide supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents. They are licensed and regulated by the State of Florida, which permits local governments to enforce zoning regulations, and typically requires approval by local governments, before issuing a State license. The type of home proposed by the applicant is considered by the State as equivalent to a single-family home.

In June 2022, the applicant submitted a request for a Business Tax Receipt (BTR) to use the residence as an equivalent use to a community residential home, but containing six (6) or fewer residents. The applicant was advised that due to the presence of a similar operation at 2204 Ashland Blvd., located approximately 528 ft. away, the subject property does not meet the 1,000 ft. separation distance, prompting the request for the variance. A summary outlining the history of actions indicating the intent for the subject site to become a community residential home are as follows:

- **July 2020:** A zoning verification letter was requested/sent to the applicant verifying that the location criteria of the Orange County Code appeared to be met (at that time) for a Community Residential Home.
- **November 2020:** A Business Tax Receipt (BTR) was for a residential group home at the subject site.
- **October 2021:** A use permit for Group Home/Foster Home Five or fewer persons only was issued and obtained a Certificate of Occupancy was obtained in November 2021.
- **November 2021:** Request for a BTR for a group home submitted; deficiency required a new zoning verification letter as more than 6 months had passed.
- **November/December 2021:** A zoning verification letter was requested to verify that a residential group home was permitted. The letter indicated that the location criteria of the Orange County Code was no longer being met as there was a facility at 2204 Ashland Boulevard which was closer than the 1,000 ft. required.

Since the 2204 Ashland Blvd. operation received State approval first, prior to the applicant submitting for a new/renewed BTR, the subject request could not be approved, which is why the variance is being requested.

The applicant has submitted 2 letters of no objection from property owners in the area, including the owner of the Community Residential Home at 2204 Ashland Blvd. As of the date of this report, no comments have been received in opposition to this request.

On July 25, 2022, a community meeting was held at Evans High School to allow for input. The meeting was attended by the applicant, the District Commissioner and her Aide, County staff and approximately 9 residents. The residents in attendance spoke against the case, with concerns about overconcentration of such homes in Pine Hills and increased crime.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The purpose of the separation distance is to avoid an over-concentration of this type of use in neighborhoods. There is a similar such home at 2204 Ashland Blvd., located to the northwest. There are no special conditions and circumstances peculiar to the land, structure or building.

Not Self-Created

The need for the variance is self-created and does result from the applicant's request. The applicant could have completed the permitting process in a timely manner and ensured that the required BTR and other licenses had been obtained and renewed as required. The applicant can acquire a residence for this use that meets the 1,000 ft. separation distance.

No Special Privilege Conferred

Approval of the variance will confer special privilege that is denied to other properties in the same area and zoning district, since the owner has the ability to purchase a residence that meets the requirements of the County Code.

Deprivation of Rights

The owner is not being deprived of rights since the property can be used as a single-family residence.

Minimum Possible Variance

The request is not the minimum possible variance, as the applicant could use the residence as a single-family home, or find a property outside the 1,000 ft. separation, and negate the need for a variance.

Purpose and Intent

As previously stated, the purpose of the code required separation distance is to avoid an over concentration of this type of such residences. The proposed location violates the distance separation requirement.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the plan received June 21, 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. The variance shall become null and void with any change of ownership.

C: Angela Hamlett
8027 Beechdale Drive
Orlando, Florida, 32818

C: Tanisha Renee Swaby
8027 Beechdale Drive
Orlando, Florida, 32808

COVER LETTER

To: Orange County Zoning Division / Board of Zoning Adjustment

I am submitting this application to ask for a variance to the code that states an APD licensed home should not be within 1,000 feet of another such licensed home. I am requesting this variance because after completing everything up to fire inspection and approval, I was informed, while attempting to get my business tax receipt, that another home was established exactly 528.10 ft away from my proposed home.

From my knowledge we were able to build out our businesses unbeknownst to each other because of a gap in time where the second renewal of my zoning permit had lapsed. I began my project with an approved zoning permit in July, 2020. I contracted with ADT to install the required fire alarm and fire sprinkler, which was the final phase for me to complete the setup of the group home before APD approval. I renewed with zoning twice while waiting for ADT to complete the project. Unfortunately, the project took an exorbitant amount of time (until November 2021) giving the other group home owner time to obtain approval from zoning before I could renew for a third time.

The unfortunate zoning mistakes notwithstanding, it is still my assertion that a variance would be appropriate for the reasons I outline in this application. The special circumstance is that we are in two different subdivisions, with access from one home to the other being 2,870 feet (see survey map). Again, when building out my home, I was given an estimated completion time for installation of fire sprinkler and fire alarm of December 2020 to January 2021. The challenges that occurred with ADT completing their work in a timely manner was not a self-imposed hardship on my part and possible was not under the control of ADT as well.

As to my knowledge, there has been no other such request / denial in this area and therefore, no special privilege would be conferred by approving this application. Literal interpretation of the provisions in this chapter would create undue hardship as I have fully completed the project (all but this zoning road block) and would have to sell and begin from scratch. That would not be a financial loss, just an unnecessary hardship to redo everything a second time. I did not purchase with the intent to develop in violation of the restrictions of this chapter. I was in fact building out my business in the area since July 2020 with approved permits (I successfully renewed my permit twice) that shows I was not in competition with anyone else.

I implore you to consider approving this variance request as it is the only step needed for me to begin my business. Your approval is the minimum possible variance I need to move forward with my purpose and intent of running an APD residential group home for developmentally disabled adults ages eighteen and above.

This zoning would absolutely not be injurious to the neighborhood or otherwise be detrimental to the public welfare. In fact, it would be a well needed service to the community. There are no other homes within a mile of my group home and the other home in question here. Both my proposed home and the other home in question are, or will be, APD (Agency for Persons with Disabilities) approved Community Residential Group Homes to serve five or fewer developmentally disabled persons aged eighteen and above. According to the APD website, the services we will provide are critical needs in the APD community.

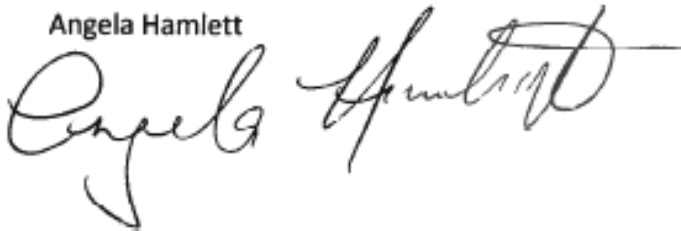
COVER LETTER

I have spoken to the provider at the Ashland Blvd. address and she has signed a letter in support of my efforts to get a variance. I also have spoken to other neighbors who are also in support of my establishing a home in the community (see attached letters of support).

This project has been a labor of love for me. I began the process of developing such a home almost seven years ago. My goal has been since then to know that my own son would have a place to live when I can no longer care for him. To better ensure the quality of care, I decided to establish that place myself. The same quality of care I want for him is what I think other families would want for their loved ones and I know they could get that with Sebi Social Services. The house was carefully selected and setup to be a place where anyone would want to place their family member. It is in a quiet neighborhood, spacious, warm, comfortable. The staff are and will be just as meticulously selected. Our moto is 'Where your family members are healthy, happy and loved'. Our sole intent in this business is to make this a reality for mine and other families. I urge you to approve this petition so we can do just that.

Thank You,

Angela Hamlett

A handwritten signature in cursive script, appearing to read 'Angela Hamlett', written in dark ink.

6/21/2022

COVER LETTER

BZA application for Variance 4527 San Sebastian Circle Orland Fl. 32808

1. Special Conditions and Circumstances-

The special circumstance in this situation is that my property, 4527 San Sebastian Circle is in a separate subdivision where the houses in question happen to be situated in such a way that they are within the zoning limit of 1,000 feet because of where the two subdivisions are situated. The other home at 2204 Ashland Blvd. is directly through my rear neighbors' house, across the street and a block and a half up the street. However, to get from one property to the other by foot or car, the distance is about .5 miles or 2,640 feet if we measure in commuting distance and not straight line. My house 4527 San Sebastian is within a community where there is only one way in and no other outlet that would lead to Ashland Blvd.

2. Not Self-Created-

I began setting up my house for my group home business in June of 2020 with an approved zoning letter, when I contracted with ADT to install the fire alarm and fire sprinkler system. The completion was expected by December of 2020 or latest January 2021. Due to many delays on the part of ADT the systems were not completed and approved by fire marshal's office until November 2021. At that point I proceeded to the final step to request a Business Tax Receipt. At which point I learned that I had to renew my zoning request. At that point zoning could not renew my zoning letter or give me a Business Tax Receipt because there is now a licensed home within the 1000 feet requirement. So due to the exorbitant amount of time it took the contractors to complete the project, another person was able to come into the space and set up a home unbeknownst to each other.

3. No Special Privileges Conferred-

Approval of this application will not confer to me any special privileges. To my knowledge there has not been any application for variance denied in this area within 1000 feet or 1200 feet of 2204 Ashland Blvd.

4. Deprivation of Rights-

Considering the circumstances in this situation, where I commenced setting up my group home in good faith and with no intention to obstruct another person from doing the same, I believe literal interpretation of the law would deprive me of the right to complete the project for the purpose intended. I could purchase another house and set up my business in another location. However, I chose this house because it is the perfect layout, in a perfect neighborhood, and is perfectly suited for the type of services I envision my home being able to deliver to special needs clients. The hardship here would be finding a house just like this one.

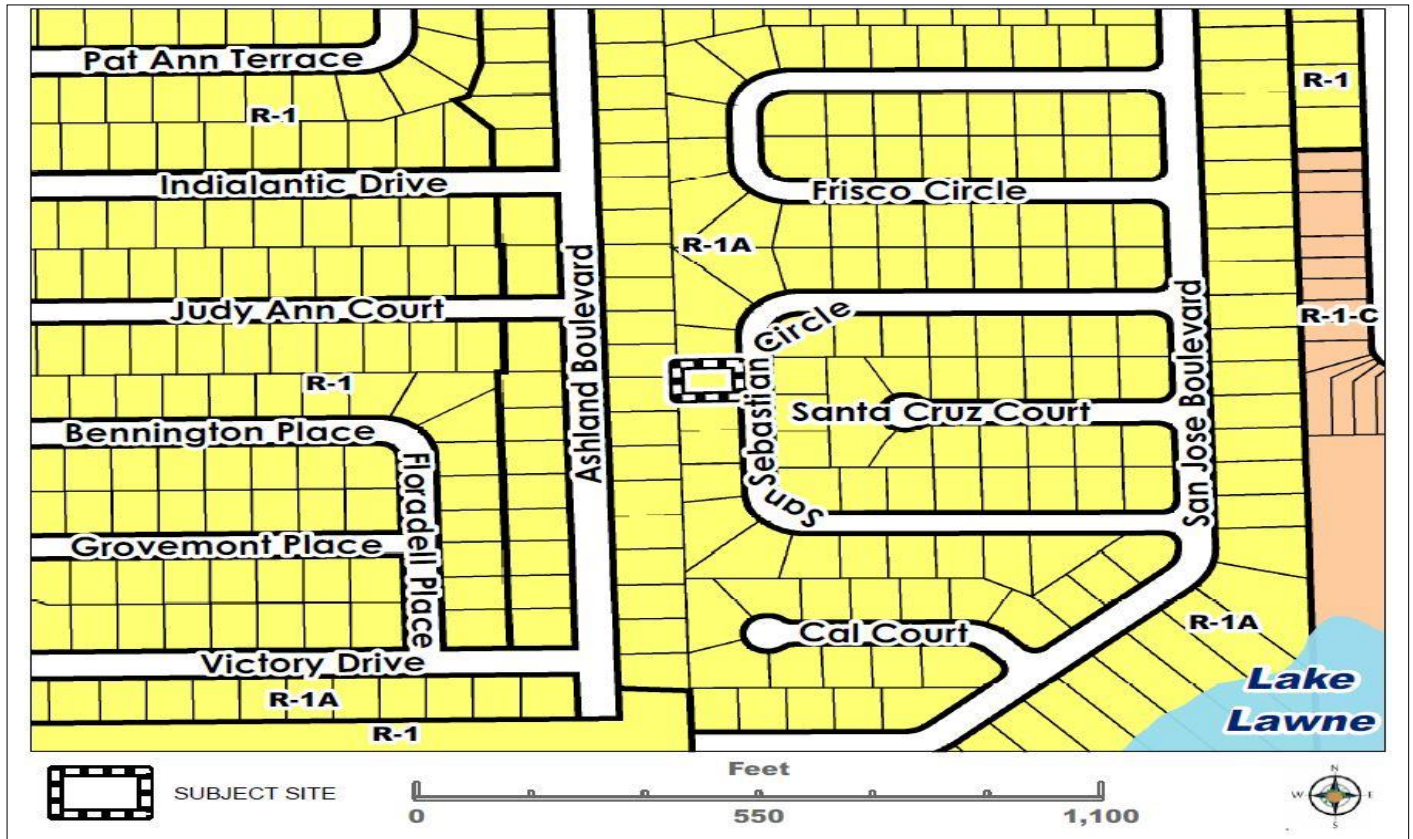
5. Minimum Possible Variance-

Approval of this variance is the minimum and only variance needed to proceed to set up my group home.

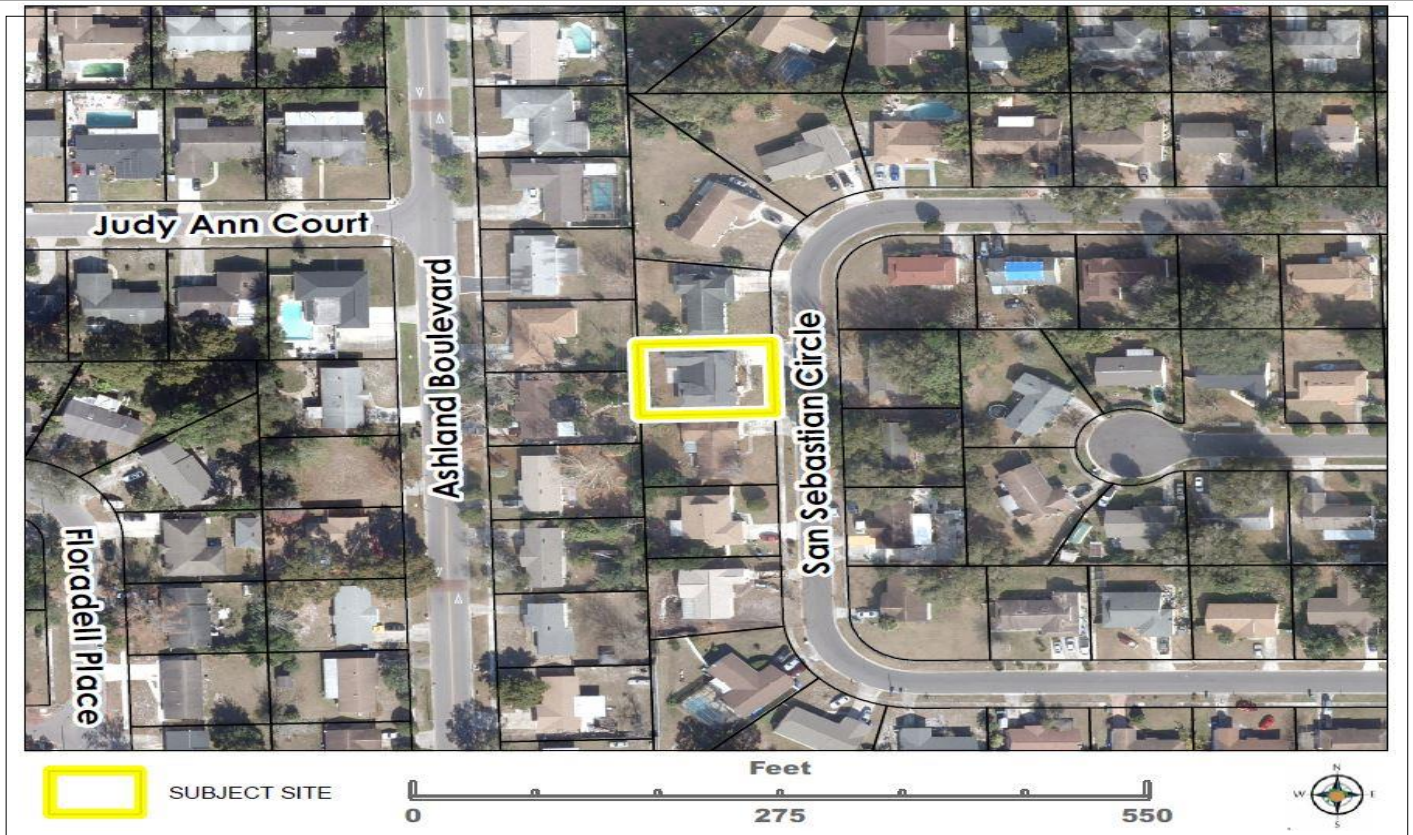
6. Purpose and Intent-

Approval of this variance will allow me to operate an APD approved Residential Group Home, serving developmentally disabled persons aged eighteen and above. This is in harmony with the zoning regulations. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Aside from the distance requirements (the purpose of this variance request), this property is fully within regulations for the purpose of operating such a group home.

ZONING MAP



AERIAL MAP



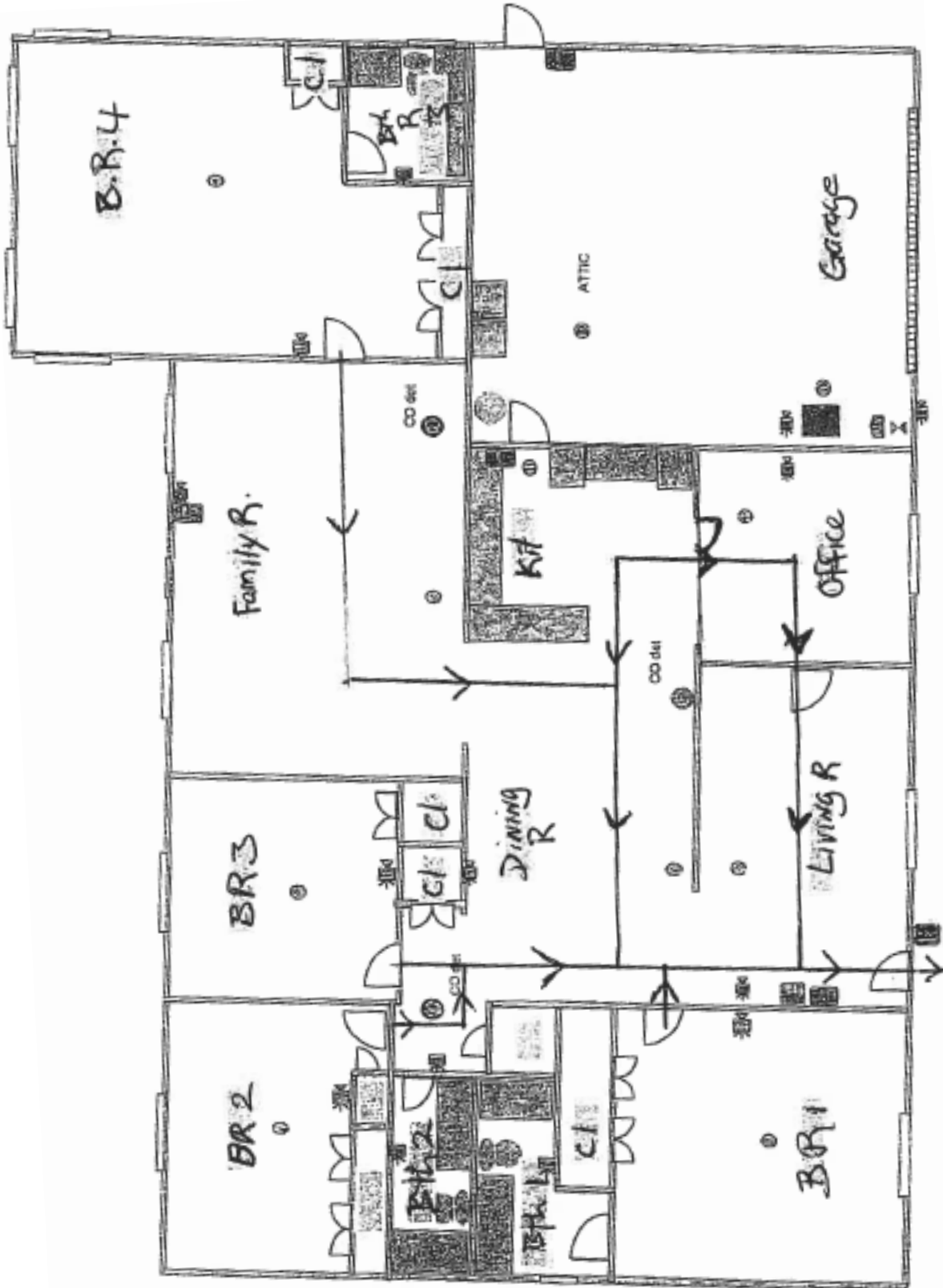
REQUESTED 528 FOOT DISTANCE SEPARATION



SURVEY



FLOOR PLAN



SITE PHOTOS



Subject Property from San Sebastian Cir. facing west



Nearest Residential Home at 2204 Ashland Blvd., 528 ft. separation to the northwest



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