

THE TOWN OF
Windermere



Development Review Board

Norma Sutton

Stephen Withers

Frank Chase

Jennifer Roper

Molly Rose

Peter Fleck

Roger Heinz

Council Liaison: Bill Martini

Agenda

Agenda

October 19, 2021

6:30 PM

520 Main St.

Windermere, FL 34786

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceeding should contact the Office of the Town Clerk at least 48 hours beforehand at (407) 876-2563

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Town Council:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversations shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council.
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Town Council meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Town Council meeting by an officer and such other actions as may be appropriate. **PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the testimony and evidence upon which the appeal is to be based.

AGENDA

- THE MEETING IS CALLED TO ORDER BY THE CHAIRMAN

1. **OPEN FORUM/PUBLIC COMMENT (3 Minute Limit):**

2. **NEW BUSINESS**

a. MINUTES

- i. **Development Review Board Meeting Minutes September 21, 2021
(Attachments-Board Option)**

b. GENERAL ITEMS FOR CONSIDERATION

- i. **Z21-04 – 1035 Oakdale Street – Elli R. Atchison Revocable Trust/David and Tiffany Matthews - Variance to allow for a 10-foot setback from the North side property line and a 15-foot setback from the South front property line (E. 11th Ave.) for a non-contiguous corner lot. (Attachments-Board Option)**
- ii. **Z21-05 – 47 Pine Street – Susan Huber/Stacy Huber – Variance to allow for a rear setback of 32 feet. (Attachments-Board Option)**
- iii. **Proposed Comprehensive Plan Amendments – New Private Property Rights Element and Designate Fernwood Park as boat ramp only for Town residents. (Attachments-Board Option)**

3. **ADJOURN:**

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

September 21, 2021

Present were Chair Frank Chase, Board Members; Norma Sutton, Stephen Withers, Molly Rose, Jennifer Roper, and Peter Fleck. Town Planner Amanda Warner and Town Clerk Dorothy Burkhalter were also present. Member Roger Heinz, Town Manager Robert Smith, and Council Liaison Bill Martini were absent.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

Chair Chase opened the floor to the public. There were no public speakers.

2. NEW BUSINESS:

a. MINUTES:

i. February 16, 2021 Meeting Minutes

Member Rose made a motion to approve the minutes. Member Withers seconded the motion. All were in favor.

b. GENERAL ITEMS FOR CONSIDERATION:

i. **Z21-06: Jason and Anita Roland; Variance to allow for a generator to be located in a front yard of a corner lot between the building and W 1st Avenue**

Chair Chase turned the floor over to Ms. Amanda Warner with Wade Trim. Ms. Warner presented variance request Z21-09, to allow a generator to be located in the front yard. She explained that per code, generators are allowed in the side or rear yard. Ms. Warner commented that this is a corner lot. She explained that the original permit was approved for the generator to be located in the North side yard and to be located 6.5 feet from the North property line. Ms. Warner further explained that the generator was installed in the South front yard and the applicants are applying for an after-the-fact variance. She stated that the current location is approximately 20 feet from the South front property line. Ms. Warner commented that the change was made after approval due to the following; the North side yard has a substantially large grade change, which is subject to water runoff and erosion, limited access on the North side for emergency personnel to gain access, the South side is easily accessible to emergency personnel, North side will cause sound issues for neighbors, South allows sounds to disperse. The East yard [side yard under code] is not suitable due to flood zone, high water line, grading to accommodate retention, and no more visible than the existing air conditioning units, blends with the house, and does not block lake views. She then commented on the notices that were sent and received. Member Withers questioned if the immediate neighbor had responded. Ms. Warner stated she was unsure as one response received could not be determined by the signature. Chair Chase opened the floor to the applicant. Mr. Jason Roland of 1 1st Court introduced himself. He explained that the generator was purchased and permitted through Lowes. When the actual install took place, the contractor stated it could not go in the original location due to a large slope and other reason. Mr. Roland stated that it was at that point that the installation location was changed. He further stated that his a/c unit is located in the same area and is screened. After some discussion was made, Member Rose made a motion to recommend approval with the condition that the generator is

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

September 21, 2021

screened. Member Roper seconded the motion. All were in favor. Chair Chase advised that this is a recommending Board and the Town Council will either approve or deny at the October Town Council meeting.

4. ADJOURN:

Member Rose made a motion to adjourn. Member Roper seconded the motion. All were in favor.

The meeting adjourned at 6:44pm.

Dorothy Burkhalter, Town Clerk

Frank Chase, Chair

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor
JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

Development Review Board October 19, 2021

Town Council November 9, 2021

Case No.: Z21-04

Applicant/Representative: David and Tiffany Matthews

Property Owner: Elli R Atchison Revocable Trust

Requested Action: Variance to allow for a 10-foot setback from the North side property line and a 15-foot setback from the South front property line (E. 11th Ave.).

Property Address: 1035 Oakdale St.

Legal Description: PLAT OF WINDERMERE G/36 LOT 50 & THAT PART OF OCCUPIED PLATTED LAKE & THAT PT OF OCCUPIED UNOPENED EAST BLVD LYING BETWEEN LOT 50 & LAKE

Future Land Use/Zoning: Residential/Residential

Existing Use: Residential (Single Family)

Surrounding Future Land Use/Zoning

North: Residential/Residential
South: Residential/Residential
East: Recreation/Lake Bessie
West: Residential/Residential

CASE SUMMARY:

David and Tiffany Matthews, representatives of 1035 Oakdale Street in the Town of Windermere, submitted a request for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a 10-foot setback from the North side property line and a 15-foot setback from the South front property line (E. 11th Ave.). The Town's code requires noncontiguous corner lots to have a side setback of 15 feet and a front setback of 25 feet. The applicant is requesting a 5-foot variance from the required setback from the North side property line and a 10-foot variance from the required setback from the South front property line.

The subject property is a noncontiguous corner lot with three front yards (i.e., abuts three rights-of-way; Oakdale St., E 11th Ave., and East Blvd.). This lot was previously developed, but the house was demolished in 2016 and the lot is currently vacant. The building envelope for the subject property is contained within platted Lot 50. Based on the Town's Land Development Code, the required setbacks for the subject property are 15 feet from the North property line and 25 feet from the West, South, and East property lines.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

CASE ANALYSIS:

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;

5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicant in support of their variance request:

1. The lot is unique in that it has three front yards that each require a 25-foot setback, which significantly limits the buildable width for development.
2. Two of those front yards abut non-travelable rights-of-way (i.e., terminus of E. 11th Ave. and East Blvd.).

PUBLIC NOTICE:

Public notices were mailed to property owners within 500 feet of the subject property (42 notices sent). As of October 13, 2021, 4 responses were returned: all in support. Updates regarding any responses received after October 13, 2021, will be provided at the Development Review Board and Town Council meetings.

Dave & Tiffany Matthews
9020 Tavolini Ter
Windermere, FL 34786
09/24/2021

Dorothy Burkhalter
Town Clerk
Town of Windermere
Windermere, FL 34786

RE: 1035 Oakdale St Variance

Dear Dorothy:

I am writing to request a setback variance for 1035 Oakdale St, Windermere FL 34786. We currently have this lot under contract for purchase and intend to build a single-family home in keeping with the standards and charm of the town of Windermere. We're requesting a 10ft setback on the north property line and a 15ft setback on the south property line. This request is consistent with the setback standards of the surrounding properties and is consistent with the standards that would apply were the property classified as a contiguous corner lot.

By way of introduction, we are not developers, we are a family of 5 with deep roots in the town. I grew up on 2nd Avenue in the 80's and my brother and his family reside on Butler St. My Brother is married to Bridgette Fay whose family has been established in Windermere for 5 generations now. The home we intend to build will be aprox 4,000 sqft and we intend to occupy it long term.

1035 Oakdale is unique in that it is "technically" bordered by 3 streets and therefore has 25ft "front-yard" setback standards on 3 sides of the property. This is a unique circumstance in that:

- 11th street to the south is actually a non-travelable right-of-way versus an actual street and is posted as such:



- East St to the west of the property is also a non-travelable right-of-way better known as the Bessie trail.

The lot is also classified as a noncontiguous corner lot which further increases the setback requirement on the north property line to 15ft.

The lot is 80ft wide oriented towards Oakdale. With these setback requirements, the buildable width without a variance is 40ft. With only 40ft of buildable space, it would be very challenging to build a house that would support the property values of the surrounding community. It would need to be an awkwardly narrow and long home which would not be oriented towards Oakdale or centered on the lot.

The requested variance setbacks would allow a 55ft wide house oriented toward Oakdale and would be consistent with the neighboring properties which are also on 80ft lots.

- Lot 51, 1027 Oakdale to the North is an 80ft lot with a home that's aprox 53ft wide per sketches available from Orange county public records
- Lot 45, 1103 Oakdale to the south is on an identical twin 80ft noncontiguous corner lot with a 52ft wide home per Orange county public records
- Lot 59, 1036 Oakdale directly across the street is on an 80 ft contiguous corner lot with a 54.5ft wide home
- There was also a recent variance granted for Lot 80, 1221 Oakdale which is also an identical twin noncontiguous corner lot bordering a non-travelable right-of-way



Dorothy Burkhalter

09/24/2021

Page 3



Understanding that existing structures and past variances cannot be the basis for granting future variances, these examples do demonstrate that the request, if granted, would yield a buildable space consistent with the surrounding community and neighboring properties. We intend to be good neighbors and contributing members of the community and are requesting setback standards in-line with the setback standards of the other 80ft wide lots on Oakdale.

Best,

Dave & Tiffany Matthews

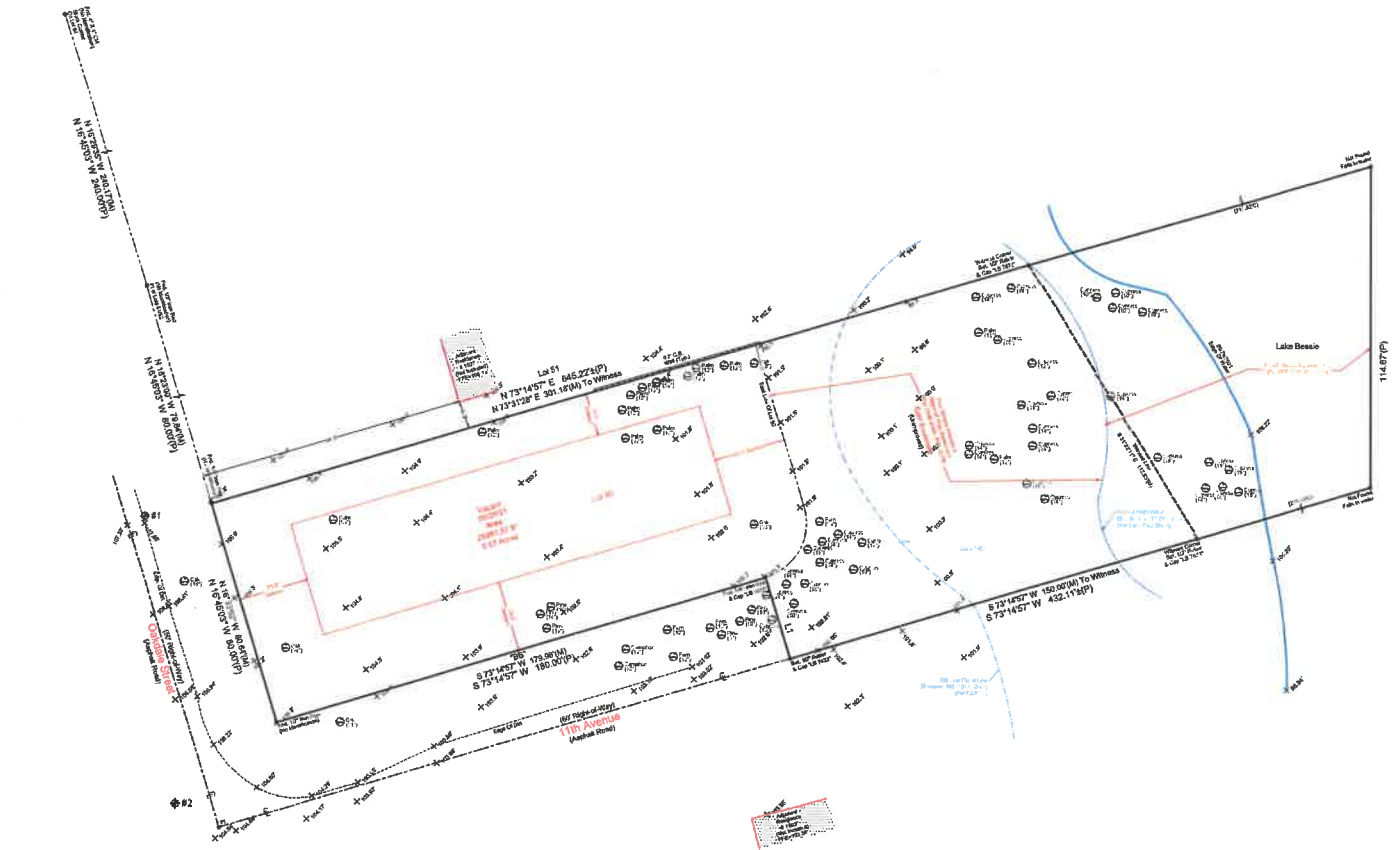
Topographic Survey

Legal Description:

LOT 50 & THAT PART OF OCCUPIED PLATTED LAKE & THAT PART OF OCCUPIED UNOPENED EAST BLVD LYING BETWEEN LOT 50 & LAKE, TOWN OF WINDERMERE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 36, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

Flood Disclaimer:
BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X-AE. THIS PROPERTY WAS FOUND IN TOWN OF WINDERMERE, COMMUNITY NUMBER 120381, DATED 8/25/2006.

CERTIFIED TO:
SHAMCOON DESIGN GROUP, INC.



11
N 16° 45' 03" W 30.00' (P)
N 16° 45' 03" W 30.00' (P)

True North
Pole - Denotes True Type
(N) - Denotes True Measured at Chord Height

Revision: Revised Setbacks - 10/07/21 - JWW

Drawn By	Date	File Number	Revision
JWW	10/07/21	100721-001	1
JWW	10/07/21	100721-001	2
JWW	10/07/21	100721-001	3
JWW	10/07/21	100721-001	4
JWW	10/07/21	100721-001	5
JWW	10/07/21	100721-001	6
JWW	10/07/21	100721-001	7
JWW	10/07/21	100721-001	8
JWW	10/07/21	100721-001	9
JWW	10/07/21	100721-001	10
JWW	10/07/21	100721-001	11
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JWW	10/07/21	100721-001	16
JWW	10/07/21	100721-001	17
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JWW	10/07/21	100721-001	95
JWW	10/07/21	100721-001	96
JWW	10/07/21	100721-001	97
JWW	10/07/21	100721-001	98
JWW	10/07/21	100721-001	99
JWW	10/07/21	100721-001	100



-Benchmark Information-
Orange County Datum
Designation: 1 120-3006
Elevation: 127.28'
(Elevations are based upon North American Vertical Datum 1985)
-Site Benchmark Information-
#1
Set P Rubber & Cap (B.S. 7623)
Elevation: 127.42'
#2
Set P Rubber & Cap (B.S. 7623)
Elevation: 127.42'

1035 Oakdale Street



















Encl.

RECOMMEND - Z21-04 (1035 Oakdale St.)

APPROVAL: X DISAPPROVAL _____

COMMENTS: APPROPRIATE VARIANCE FOR LARGER
HOME.

SIGNATURE: James L. Clark, Trustee DATE: 10-07-2021
JAMES L CLARK TRUST

Encl.

RECOMMEND - Z21-04 (1035 Oakdale St.)

APPROVAL: ✓ DISAPPROVAL _____

COMMENTS: _____

SIGNATURE: [Signature] DATE: 10-8-2021


MARTIN JOSEPH

Encl. im.com

RECOMMEND - Z21-04 (1035 Oakdale St.)

APPROVAL: ☒ DISAPPROVAL ☐

COMMENTS: This seems reasonable assuming all the documented widths of lanes on Oakdale are at the stated widths (53-52-54.5) in the packet for comparison.

SIGNATURE:  DATE: 10/8/2021

BOWMAN DOUGLAS 1003 Main Street

tow@wadetrin.com
Encl.

RECOMMEND - Z21-04 (1035 Oakdale St.)

APPROVAL: ☒ DISAPPROVAL ☐

COMMENTS:

SIGNATURE:  DATE: 10-8-21

SHARPE DAVID J

- Florida template
- Interstate 4
- Toll Road
- Major Roads
- Public Roads
- Gated Roads
- Road Under Construction
- Proposed Road
- US Road
- State Road
- County Road
- Toll Ramp
- Interstate Ramp
- One Way
- Brick Road
- Rail Road
- Proposed SunRail
- Block Line
- Lot Line
- Residential
- Agriculture
- Commercial/Institutional
- Governmental/Institutional
- Commercial/Industrial Vacant Land
- Hydro
- Waste Land
- Agricultural Cuirage
- County Boundary
- Parks
- Golf Course
- Lakes and Rivers
- Building
- Power Plant



This map is for reference only and is not a survey

Created: 10/13/2021 15:20

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor
JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

Development Review Board October 19, 2021

Town Council November 9, 2021

Case No.: Z21-05

Applicant/Representative: Stacy Huber

Property Owner: Susan Huber

Requested Action: Variance to allow for a 32-foot rear setback from the East property line. The Town's code requires a rear setback of 35 feet. The applicant is requesting a 3-foot variance from the required rear setback.

Property Address: 47 Pine St.

Legal Description: PLAT OF WINDERMERE G/36 LOT C50 DESC: BEG AT THE NW CORNER LOT C50 TH N71-56-29E 200 FT TH S18-04-01E 80 FT TH S71-56-29W 200 FT TH N18-04-01W 80 FT

Future Land Use/Zoning: Residential/Residential

Existing Use: Residential (Single Family)

Surrounding Future Land Use/Zoning

North: Residential/Residential
South: Residential/Residential
East: Residential/Residential
West: Residential/Residential

CASE SUMMARY:

Susan Huber, owner of 47 Pine Street in the Town of Windermere, submitted a request for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a 32-foot rear setback from the East property line. The Town's code requires a rear setback of 35 feet. The applicant is requesting a 3-foot variance from the required rear setback.

The subject property is currently vacant. Based on the Town's Land Development Code, the required setbacks for this property are 10 feet from the North and South property lines, 25 feet from the West property line, and 35 feet from the East property line.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

CASE ANALYSIS:

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this

Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and

7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicant in support of their variance request:

1. The placement of the house is intended to preserve an existing mature oak tree.

Because the basis of the variance is to protect the existing tree on-site, if the variance is approved, we recommend the applicant provide a certified arborist report that documents the appropriate protection of the tree during construction (ANSI-300 standards) and the appropriateness of the driveway surface material and area around the tree to assure its health.

PUBLIC NOTICE:

Public notices were mailed to property owners within 500 feet of the subject property (42 notices sent). As of October 11, 2021, 8 responses were returned; 8 in support, 1 of which was with the condition that ANSI protections for construction are in place. Updates regarding any responses received after October 11, 2021, will be provided at the Development Review Board and Town Council meetings.

SFH ENTERPRISES, INC.

PO BOX 730
WINDERMERE, FL. 34786
Ph 407-909-0600
dhuber@cfl.rr.com

Attn: Town of Windermere

August 31, 2021

This letter is to request a variance for the rear building setback on 47 Pine Street, Windermere, Florida. In accordance with **Sec. 5.01.03. – Definitions of the Windermere Land Development Code**, the oak tree located toward the front right corner of my property is defined as "Historic."

After meeting with my site planner, it was determined that the home, I intend to build, needs to be pushed back 5 feet in order to ensure the continued life of this beautiful, mature oak tree. Because of this, my home structure (only the Covered Lanai) would be 5 feet into the rear setback.

Preservation of this tree is in complete harmony with current code and guidelines, which are in place to maintain the beauty and character of our town. There is no relevance to the cost of tree removal considering that the preservation of the tree with the construction of my new home is my sole intent. Additionally, removing the tree would diminish the aesthetic of the street and could have a negative impact, not only on my homesite, but also, to my existing neighbors' home values. Trees are a vital part of, not only our town, but to our entire ecosystem. It is our job as stewards to the environment to protect them. With this, I ask that my variance request be considered and accepted.

Regards,



Susan F. Huber
SFH Enterprises, Inc.

AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Susan F. Huber, AS THE OWNER(S) OF THE
REAL PROPERTY DESCRIBED AS FOLLOWS, 47 Pine Street Windermere, FL, DO
HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Stacy D. Huber,
TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED
AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, Variance application, AND TO
APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS
APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 8/18/21

Susan F. Huber
Signature of Property Owner

Susan F. Huber
Print Name Property Owner

Date: _____

Signature of Property Owner

Print Name Property Owner

STATE OF FLORIDA :
COUNTY OF Orange

I certify that the foregoing instrument was acknowledged before me this 18 day of August,
2021 by Susan F. Huber. He/she is personally known to me or has produced
_____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 18 day of
August, in the year 2021.



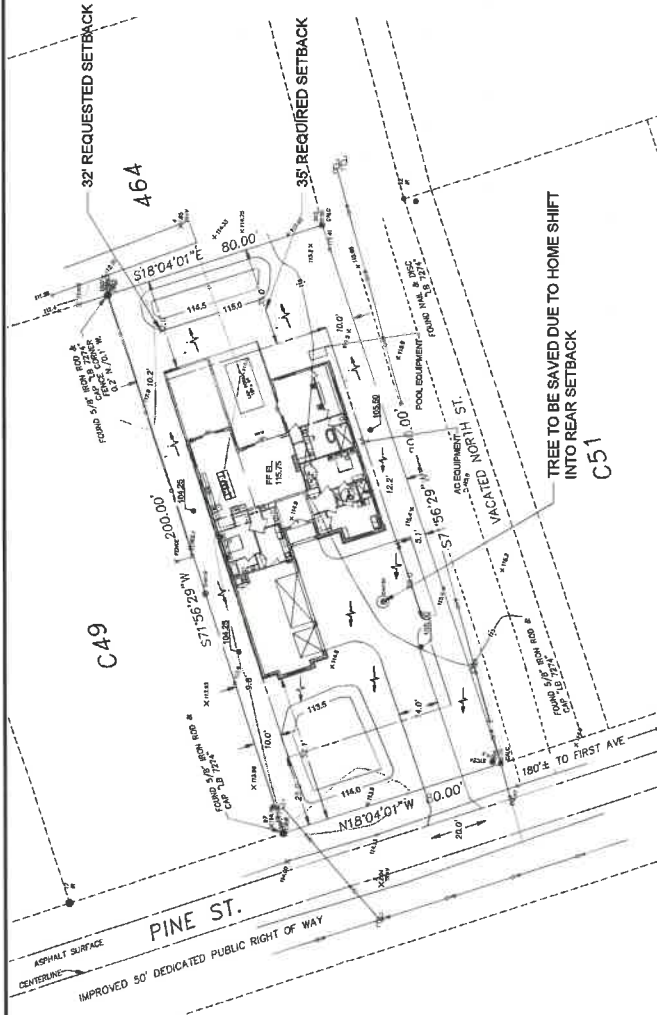
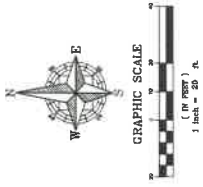
Doris Birkinbine
Signature of Notary Public
Notary Public for the State of Florida

My Commission Expires: 5/20/2024

Legal Description(s) or Parcel Identification Number(s) are required:

PARCEL ID #: 17-23-28-9336-30-500

LEGAL DESCRIPTION: Lot C50, Plat of Windermere, according to the
plat the 700f as recorded in Plat Book G, Pages 36 through
39, inclusive, of the Public Records of Orange County,
Florida.

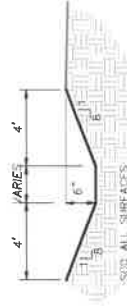
VICINITY MAP
N.T.S.[illegible]

GRADING REQUIREMENTS

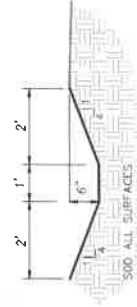
NEW SLAB SHALL BE ABOVE FINISHED GRADE AT FOUNDATION GRADING AROUND SLAB IS TO SLOPE AWAY FROM FOUNDATION EVERY EFFORT SHALL BE MADE TO MEANDER AROUND EXISTING VEGETATION.

SILT FENCE SHALL BE INSTALLED AROUND THE LOT PER DETAIL. A DOUBLE ROW OF SILT FENCE SHALL BE INSTALLED ALONG THE SOUTH SIDE OF THE LOT, UPLAND OF THE EXISTING SWALE.

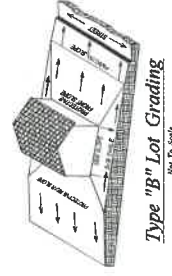
THE SILT FENCE SHALL BE INSTALLED, INSPECTED AND APPROVED PRIOR TO COMMENCEMENT OF CONSTRUCTION.



REAR/FRONT YARD SWALE CROSS SECTION
*DO NOT FILL



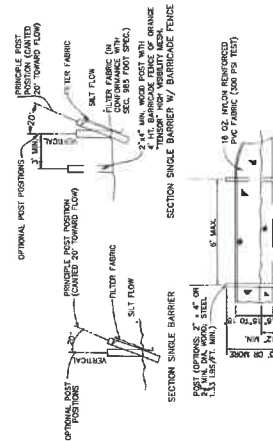
SIDE YARD SWALE CROSS SECTION
***DO NOT FILL**



SITE / F.A.R. DATA	
TOTAL SITE AREA	11,000 S.F. 100%
IMPERVIOUS AREAS:	
PARKING LOT	4,311 S.F.
POOL DECK	810 S.F.
DRIVEWAY/ALLEYWAY	2,110 S.F.
EQUIPMENT PAD	20 S.F.
TOTAL IMPERVIOUS AREA	7,151 S.F. 65%
TOTAL PERVIOUS AREA	3,847 S.F. 35%
F.A.R. (TONE ONLY)	4.11 S.F. 0.27

WATER QUALITY = 1" OVER THE IMPERVIOUS = 7.153 SF/12 = 598 CF

SWALE VOLUME PROVIDED = 683 CF



NOTE: SILT FENCE TO BE PAID FOR UNDER THE CONTRACT UNIT PRICE FOR STAKED SILT FENCE (LF).
FOR ADDITIONAL INFORMATION REFERENCE FOOT INDEX 102

STAKED TURBIDITY BARRIER

527

RECOMMEND - Z21-05 (47 Pine St.)

APPROVAL: ☒ **DISAPPROVAL** ☐

COMMENTS: _____

SIGNATURE: Brian L. Brackney **DATE:** 10/8/21

BRACKNEY BRIAN L

RECOMMEND - Z21-05 (47 Pine St.)

APPROVAL: ☒ **DISAPPROVAL** ☐

COMMENTS: _____

SIGNATURE: [Signature] **DATE:** 10-7-21

STEVENSON HARRY JOHN JR

CHCI.

RECOMMEND - Z21-05 (47 Pine St.)

APPROVAL: ☒ **DISAPPROVAL** ☐

COMMENTS: Very important to save existing trees.

SIGNATURE: MBM McFee **DATE:** 10/7/21

MCAFEЕ MICHAEL B

RECOMMEND - Z21-05 (47 Pine St.)

APPROVAL: ☒ **DISAPPROVAL** ☐

COMMENTS: _____

SIGNATURE: H. D. Woosley **DATE:** 10/7/21

WOOSLEY FAMILY REVOCABLE TRUST

RECOMMEND – Z21-05 (47 Pine St.)

APPROVAL: ✓ DISAPPROVAL _____

COMMENTS: _____

SIGNATURE: [Signature] DATE: 10/7/2021

AZPURUA FERNANDO

Encl.

RECOMMEND – Z21-05 (47 Pine St.)

APPROVAL: ✓ DISAPPROVAL _____

COMMENTS: NO Problem. Approve

SIGNATURE: [Signature] DATE: 10-6-21

SUTTON BYRON K

Mastison, Sarah

From: Susan Carter <scarter@town.windermere.fl.us>
Sent: Friday, October 8, 2021 2:14 PM
To: Cornelius, Brad
Cc: Warner, Amanda; Mastison, Sarah; Tonya Elliott-Moore; John Fitzgibbon
Subject: Re: 47 Pine Street

This message originated from outside of Wade Trim

Brad,

Thank you for your response. As Monday is a holiday, I was concerned about getting a response to you in a timely manner. I appreciate the explanation and will give my approval for the variance as long as the ANSI protections for construction are in place as stated in our Tree Ordinance and the material used for the driveway does not negatively impact the critical root zone of this tree. As we know, working around the tree is admirable, but appropriate efforts made to protect it will determine its future health and survival.

Have a great weekend.

Warm Regards,

Susan Carter

From: Cornelius, Brad <bcornelius@wadetrim.com>
Sent: Friday, October 8, 2021 12:18 PM
To: Susan Carter <scarter@town.windermere.fl.us>
Cc: Warner, Amanda <AWARNER@WadeTrim.com>; Mastison, Sarah <smastison@wadetrim.com>; Tonya Elliott-Moore <tmoore@town.windermere.fl.us>; John Fitzgibbon <jfitzgibbon@town.windermere.fl.us>
Subject: RE: 47 Pine Street

Susan,

I received your voicemail and email below. The applicant has not provided any of the information you requested as part of their variance request. However, I have the following comments:

1. I believe there is enough room to enter and exit the garage. The garage scales approximately 22 feet away from the outside edge of the "tree circle".
2. Regarding your questions 2 & 3, we are including in our staff report that if the variance is approved, then the applicant must submit a report from a certified arborist that documents the appropriate protection of the tree during construction and the appropriateness of the driveway surface material and area around the tree to assure its health.

Have a great weekend!

Brad



Brad Cornelius, AIP, CFM, CPM, Vice President
201 N. Franklin Street, Suite 1350, Tampa, FL 33602
813.882.4373 office
813.415.4952 cell



Our staff will be Making Strides with the American Cancer Society.



From: Susan Carter <scarter@town.windermere.fl.us>
Sent: Friday, October 8, 2021 11:59 AM
To: Cornelius, Brad <bcornelius@wadetrim.com>
Subject: 47 Pine Street

This message originated from outside of Wade Trim

Brad,

I am requesting clarification for the site plan from 47 Pine Street in order to send a response for the Development Review Board meeting in Town of Windermere. As I read the site plan, it the tree the homeowner hopes to protect falls within the footprint of the driveway, somewhat close to where you'd be backing out of the garage. I am attaching my highlighted photo of the site plan for you to better understand the area I am referring to.

If I am reading this correctly, my response focuses on:

1. Is there enough space to maneuver around this tree in the driveway when pulling in and out of the garage
2. Will there be enough space to put the appropriate ANSI-300 standards in place to protect this tree during construction, i.e. a critical root zone, potential root pruning, water to the tree to prevent additional stress
3. The material used for the driveway will impact the longterm health of the tree-is that already determined?

Thank you for answering my questions. I'd like to send in an informed response. Have a great day!

Warm Regards,

Susan Carter

Mastison, Sarah

From: tow
Sent: Monday, October 11, 2021 7:49 AM
To: Cornelius, Brad; Mastison, Sarah
Subject: FW: 47 Pine Street

Follow Up Flag: Follow up
Flag Status: Flagged

Brad and Sarah,

Please see below regarding 47 Pine Street.

Amanda

-----Original Message-----

From: Jason Roland <jay@bigattack.com>
Sent: Sunday, October 10, 2021 11:44 AM
To: tow <tow@wadetrim.com>
Subject: 47 Pine Street

This message originated from outside of Wade Trim

Mailing this today, but in case it doesn't reach in time due to the postal service slowdown, we approve the recommendation.

Thanks

OCPA Web Map

Florida Turnpike	Major Roads	Proposed Roe	Block Line	Commercial/Institutional	Hydro	Golf Course
Interstate 4	Public Roads	Brick Road	Lot Line	Governmental/Institutional/Misc	Waste Land	Lakes and Rivers
Toll Road	Gated Roads	Rail Road	Residential	Commercial/Industrial/Vacant Land	County Boundary	Building
Road Under Construction	Proposed SunRail	Agriculture	Agricultural Curtilage	Parks	Hospital	



Created: 9/30/2021 12:28

This map is for reference only and is not a survey

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor
JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

October 13, 2021

To: Development Review Board
From: Brad Cornelius, AICP, Wade Trim, Inc., Contracted Town Planner
Re: Town of Windermere Comprehensive Plan Amendments – Private Property Rights Element and Fernwood Park Boat Ramp Designation

Town staff is proposing two amendments to the Town's Comprehensive Plan. The two proposed amendments are:

1. Adopt new Private Property Right Element as required by new State law; and
2. In the Recreation and Open Space Element designate Fernwood Park as a boat ramp park only for use by Town residents.

The following provides a brief summary of the background of each of the two proposed comprehensive plan amendments.

New Private Property Rights Element

During the 2021 Florida Legislative Session, the Florida Legislature passed House Bill 59, and the Florida Governor signed House Bill 59 into law. House Bill 59 creates Section 163.3177(6)(i)1, FS, which requires all local governments to adopt a private property rights element as part of its comprehensive plan. Chapter 11, Private Property Rights Element is being added to the comprehensive plan to address the requirements of Section 163.3177(7)(i)1, FS. The new State law allows a local government to simply adopt four statements of private property rights provided in the legislation to serve as the new Private Property Rights Element. The proposed Private Property Rights Element adopts these four statements. These four statements are:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

Recreation and Open Space Element – Fernwood Park as Boat Ramp for Town Residents Only

This amendment stemmed from the Town's desire to provide a safer environment at Fernwood Park and the surrounding area. Fernwood Park currently is used as an access point to the lake by non-residents who want to get to Bird Island. With the crime, noise, and safety issues that occur at Bird Island, the Town wants to limit access to the boat ramp and dock only to residents of the Town. By reclassifying the park as a boat ramp, the Town can limit access to the boat ramp to residents only. Chapter 6 of the Goals, Objectives, and Policies portion of the comprehensive plan is amended to add Policy 1.1.6 which provides language that supports the intent of Fernwood Park only being utilized as a boat ramp for Town residents only.

If Town Council concurs with the proposed amendments, the proposed amendments will be sent to the Florida Department of Economic Opportunity, Orange County, and other review agencies for review and comment. After receipt of any comments from the review agencies, the proposed amendments will then be brought back to the Town Council for final adoption and implementation.

TOWN OF WINDERMERE
COMPREHENSIVE PLAN
GOALS, OBJECTIVES, POLICIES

CHAPTER 11

PROPERTY RIGHTS ELEMENT

PROPERTY RIGHTS GOALS, OBJECTIVES AND POLICIES

GOAL 1 The Town of Windermere will make planning and development decisions respecting private property rights.

OBJECTIVE 1 The Town of Windermere will respect judicially acknowledged and constitutionally protected private property rights.

POLICY 1.1 The Town will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

POLICY 1.2 The Town will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

POLICY 1.3 The Town will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY 1.4 The Town will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

TOWN OF WINDERMERE
COMPREHENSIVE PLAN
GOALS, OBJECTIVES, POLICIES

CHAPTER 6
RECREATION AND OPEN SPACE

RECREATION GOALS, OBJECTIVES AND POLICIES

GOAL 1: Ensure maintenance and improvement of existing public parks, recreation facilities and open space areas to satisfy the health, safety, and welfare needs of the Town's citizens and their guests and enhance the total quality of life within the Town, in an efficient and appropriate manner.

OBJECTIVE 1.1: *Beaches, Parks, and Recreational Facilities.* The Town shall continue to require that all beaches, parks and recreation facilities are available to all residents and their guests with emphasis on accessibility and availability to the handicapped.

POLICY 1.1.1: All parks and recreational facilities shall be maintained at their existing level of access or improved, available and accessible to all residents and their guests.

POLICY 1.1.2: Barrier-free access shall be provided at all existing and new recreational facilities.

POLICY 1.1.3: Accessibility to recreational facilities shall be provided without the destruction of the unique character and quality of these areas.

POLICY 1.1.4: The Town shall clearly identify, designate and provide sign identification of all public recreational facilities.

POLICY 1.1.5: The Future Land Use designation of Recreation does not supersede (i) the Lake Bessie Consent Final Judgment, dated June 15, 2006, and recorded in the Public Records of Orange County, OR BK 08945 PG 3279, or (ii) the Lake Down Consent Final Judgment, dated March 23, 2006, recorded in the Public Records of Orange County, OR BK 08573 PG 1393. To the extent of conflicts or inconsistencies, the Consent Final Judgments prevail.

POLICY 1.1.6 Fernwood Park shall only be utilized as a boat ramp with related activities, for Town residents only.

OBJECTIVE 1.2: *Cooperation with Public Agencies and Private Enterprise.* The Town shall cooperate with public agencies as well as private enterprise to fund quality improvements and enhancements to the existing public park and recreational facilities.

POLICY 1.2.1: The Town shall coordinate public and private efforts to provide and improve and enhance public recreational opportunities for the Town's residents through its Parks and Recreation Committee.

POLICY 1.2.2: The Town shall continue to work with and assist the Windermere Rotary Club and other private individuals and groups to assist in providing adequate funding for new facilities as well as maintenance and improvement of present park and recreational facilities.

POLICY 1.2.3: Adequate operating budgets shall be provided for all parks and recreational facilities.

POLICY 1.2.4: The Town shall actively solicit grants from public and private agencies, donations of money, facilities or services for improvement enhancement and maintenance of existing public recreational facilities.

POLICY 1.2.5: Adequate capital expenditures shall be provided for the improvement and expansion of existing public recreational facilities.

POLICY 1.2.6: The Town shall maintain incentives in the Land Development Regulations for developers to provide recreation facilities in their developments and recognize that private parks, open space and recreational areas within a development are an integral part of the recreational facilities provided to Town residents.

POLICY 1.2.7: The Town shall encourage the use of innovative site design and development techniques in order to maximize the provision of

usable recreational facilities and open space areas at a minimum cost.

POLICY 1.2.8: The Town shall review recreational funding needs as part of the Town's annual budgetary process.

POLICY 1.2.9: Should additional parks be needed or acquired, emphasis shall be placed on developing activity-based facilities, but only at a size and scope consistent with surrounding areas.

OBJECTIVE 1.3: *Level of Service.* The Town shall continue to provide adequate recreational opportunities for all residents and their guests to meet the Level of Service Standards.

POLICY 1.3.1: The Town establishes the following peak Level of Service Standards as guidance to meet existing and future demands for parks and recreation facilities.

RECREATION LEVELS OF SERVICE

STANDARDS FACILITY LEVEL OF SERVICE

Neighborhood Park	1 per 5000 population
Park Acreage	2.5 acres per 1000 persons
Tennis Courts	1 per 1000 persons
Boat Ramp	1 per 4300 persons
Bicycle Paths (Miles)	1 per 1000 persons

POLICY 1.3.2: The use of land within the Town's boundaries for a facility described in paragraphs (a) and (b) is declared to be an inappropriate use of land, water, and other resources within the Town, contrary to the public interest and the interests of the Town and its citizens, and contrary to the safety, comfort, good order, convenience, and general welfare of the Town and its citizens. Therefore, development undertaken, and action taken by a governmental agency to approve a development order for development to be undertaken, in connection with a facility described in paragraphs (a) and (b) is inconsistent with this *Comprehensive Plan*:

- a) the acquisition, establishment, construction, and/or operation of a park or recreational facility, whether for usual and customary activity-based park uses (such as picnicking, sports, camping, hiking, fishing, swimming, skiing, canoeing, kayaking, boat-launch facilities, boat-dock facilities, beach and shoreline access and activities, etc.) or other recreational uses, where the park or recreational facility is open to the public (regardless of whether the facility is publicly or privately owned or managed) and the facility is larger in scope and intensity than a neighborhood park;
- b) the conversion of a facility described in paragraph (a) from a private facility, not open to the public (regardless of whether the private facility is publicly or privately owned or managed), to a facility open to the public.

The land uses, land-use intensities, capacity, size, timing, and other aspects of development of a facility described in paragraph (a) or (b) are declared to be (i) incompatible with and contrary to the objectives, policies, land uses, and densities and intensities in this *Comprehensive Plan*, (ii) incompatible with and contrary to other criteria enumerated by the Town in this *Plan* and in its Land Development Regulations, and therefore (iii) inconsistent with this *Comprehensive Plan*.

POLICY 1.3.3: From time to time, the Town shall review and revise its regulations for newly annexed areas so as to address open space definitions, signage, landscaping, buffering, greenspace, and requirements for amounts needed.

POLICY 1.3.4: Conservation areas located within the Town may be so designated and use for active and/or passive recreational uses only where it can be demonstrated that such uses will not have any significant adverse transportation or environmental impact and are compatible with other surrounding land uses.

POLICY 1.3.5: Natural reservations, as well as open spaces, are hereby defined as any land or water surface that affords unobstructed physical movement and is relatively free of manmade structural mass,

shall be provided for their aesthetic, health, environmental and economic benefits in any new development.

POLICY 1.3.6: Bikepaths as required and provided are discussed in the *Transportation Element*, Objective 1.6.

OBJECTIVE 1.4: *Safety of Public Parks and Recreation Facilities.* All public parks and recreation facilities shall be made safe and kept safe so that the number of accidents will be minimized.

POLICY 1.4.1: Strict safety rules and procedures shall be posted at each facility by appropriate signage.

POLICY 1.4.2: Proper lighting shall be provided or the facility shall be closed at sunset.

POLICY 1.4.3: Appropriate rails or fences shall be installed at each existing and/or planned public recreational facility.

POLICY 1.4.4: Children's play areas shall be at least 50 feet from streets, parking areas, and vehicular access points or shall be separated by a fence.

POLICY 1.4.5: Efficient maintenance activities shall be conducted in all recreational facilities so as to maintain them in an accident-free condition and to correct or improve existing deficiencies.

POLICY 1.4.6: Regular monitoring of each facility shall be maintained during open hours.

OBJECTIVE 1.5: *Passive Recreation and Conservation Uses.* Open spaces shall be acquired and maintained by the Town or private entities, so as to provide undeveloped land for passive recreation and/or conservation uses as well as to improve the attractiveness of the Town.

POLICY 1.5.1: Zoning regulations shall be reviewed from time to time to ensure that adequate buffer zones are required around parks, open spaces, recreation areas, and conservation areas so as to protect them from adverse effects of encroaching urbanization.

POLICY 1.5.2: Town regulations shall include specific open space definitions and standards.