

THE TOWN OF  
**Windermere**



**DEVELOPMENT REVIEW BOARD**

**Chair: Frank Chase**

**Peter Fleck**

**Jennifer Roper**

**Norma Sutton**

**Stephen Withers**

**Roger Heinz**

**Gregg Anderson**

**Council Liaison: Andy Williams**

***Agenda***

***Agenda***

**May 16, 2023**

**6:30 PM**

**TOWN HALL**

**520 MAIN STREET**

**WINDERMERE, FL 34786**

**PLEASE TURN OFF ALL CELL PHONES AND PAGERS**

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceedings should contact the Office of the 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 Development Review Board:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversation 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 Development Review Board 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 Development Review Board 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

## AGENDA

- **THE MEETING IS CALLED TO ORDER BY THE CHAIR**

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

### **2. NEW BUSINESS**

#### **a. Minutes**

i. Development Review Board Meeting Minutes: April 18, 2023 (Attachment - Board Option)

#### **b. General Items for Consideration**

i. Z23-02 - Maika & Courtney Maile - 803 Main Street – Variance for an addition of greater than 10% of a non-conforming home and encroachment into rear setback for a proposed home addition (Attachment - Board Option)

ii. Z23-10 – Marcelino Hoyo – 507 Main Street – Conditional Use for Sale and On-Site Consumption of Beer and Wine at Paloma Coffee (Attachment - Board Option)

iii. Ordinance 2023-01 - Proposed LDC Change to 10% Limitation for Additions to Nonconforming Structures. Town Council at First Reading on May 9, 2023, made one change to keep the existing requirement that structures that are damaged more than 50% of its fair market value from fire or other calamity must be repaired or replaced only in conformance with current zoning requirements (Attachment - Board Option)

### **3. ADJOURN**

# TOWN OF WINDERMERE

## Development Review Board Meeting Minutes

April 18, 2023

Present were Chair Frank Chase, Board Members Norma Sutton, Roger Heinz, Stephen Withers, Gregg Anderson, and Jennifer Roper. Town Council Liaison Andy Williams, Town Planner Brad Cornelius, Town Clerk Dorothy Burkhalter, and Finance Clerk Theresa Syphers were also present. Member Peter Fleck was absent. Town Manager Robert Smith was present via the phone.

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

### 1. OPEN FORUM/PUBLIC COMMENTS:

Mrs. Sheryle McAfee of 407 W 1<sup>st</sup> Avenue deferred to the agenda item.

Chair Chase then commented on the Centennial Committee and turned the floor over to Liaison Andy Williams. Mr. Williams commented on the Centennial 2025 Steering Committee. He then stated that a volunteer from each committee/board would be appreciated. Member Withers volunteered to be on the Centennial 2025 Steering Committee.

### 2. NEW BUSINESS:

#### a. MINUTES:

##### i. February 21, 2023, Meeting Minutes

Member Anderson made a motion to approve the minutes. Member Heinz seconded the motion. All were in favor.

#### b. General Items for Consideration:

##### i. Z23-06: 4414 Down Point Lane – Kevin and Megan Butler/Sheila Cichra – Variance to allow the reconstruction of a previous unpermitted boat dock at 10 feet from the side property line extended

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius introduced the proposed variance request to allow the reconstruction of a previous unpermitted boat dock 10 feet from the side property line. He explained that this dock had not been permitted when it was originally built nor when repairs/renovations were done until now and that it is not considered a grandfathered dock. Mr. Cornelius stated that notices were mailed out with zero returned in opposition; all were in favor. Discussion followed regarding the rebuilding of an existing permitted dock, grandfathering, and renovations. Ms. Shelia Cichra, permitting representative, introduced herself. She then explained that the existing pilings will not be touched. Ms. Cichra further explained that the dock is being repaired from past hurricane damage. After some discussion was made, Member Roper made a motion to recommend approval for this variance request. Member Heinz seconded the motion. All were in favor.

## TOWN OF WINDERMERE

### Development Review Board Meeting Minutes

April 18, 2023

- ii. **Z23-07: 804 Oakdale Street – Lacey Adams – Variance to allow 39.6% gross floor area, new front porch with front setback of 23.6 feet, and 100% increase of gross floor area of existing nonconforming detached accessory garage with a height greater than 18 feet**

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius introduced the variance request of converting a portion of the interior home from open-to-below space to living area, a front porch addition along Oakdale Street with a setback of 23.63 feet, adding a second story bonus room to the detached garage, and removing pavement with open lattice blocks. He stated that the improvements would require the following variances; 1 – Allow the expansion of the existing gross floor area from 33.1% to 39.6%, which exceeds the allowed 38% gross floor area, 2 – Allow the additional of the front porch at 23.63 feet, which is less than the required 25 foot setback, and 3 – Allow the expansion of the existing nonconforming detached garage by 100% - add a second story and a height of more than 18 feet. Mr. Cornelius stated that the impervious area will decrease to 44% with the proposed improvements with the use of open lattice blocks. He then commented on a response that was received from a resident regarding the stormwater which was to be in place in 2002 and is not there. Mr. Cornelius explained that he would recommend the entire property be brought into stormwater compliance. He then stated that notices were mailed out with several in support and one in objection regarding the stormwater impacts. Clerk Burkhalter read into the record (attached) a comment from resident Mr. Tom Fry. Chair Chase commented on comments received from Fiola and Bardoe. Discussion followed regarding previous/current setbacks, contiguous corner lots, non-conforming, stormwater, and septic tank location. Ms. Lacey Adams, owner of 804 Oakdale Street introduced herself. She commented on the proposed project. Member Withers questioned if the roof will be replaced. Ms. Lacey explained that the roof over the porch will be changed from flat to pitched and this will lead to a new roof. Member Anderson questioned if plumbing would be installed in the area over the garage. Ms. Lacey stated that she was thinking of adding a bathroom as the area would be used as a game room. Some discussion followed. Member Withers made a motion to recommend approval for the front porch but not the addition on the garage. Member Roper seconded the motion. Some discussion followed regarding hardship and drainage. Member Withers amended his motion to include the condition of proper stormwater engineering for the entire property. Member Roper was friendly to the amendment. Roll call vote was as follows: Roper – aye, Anderson – aye, Chase – aye, Withers- aye, Heinz – nay, and Sutton – aye. Motion carried 5-1. Some discussion followed regarding the number of variances being requested. Member Heinz stated he would change his nay to an aye (this is only for the record). Chair Chase stated that this a recommending Board only. The Town Council will have the final approval/denial at the May 9<sup>th</sup> Town Council meeting. Ms. Lacey questioned if there would be any variation for the garage that would be considered. Some discussion followed. Mr. Scott (?), architect for Ms. Lacey, stated that the garage height could be reduced and kept to 1 ½ stories. Chair Chase explained that the Board has made its decision and they could discuss their options with the Town Council or reapply.

- iii. **Z23-08: 65 Pine Street – Nick and Susan Capone/Kevin Ball – Variance to allow a sport court in the front of the principal structure**

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius introduced variance request Z23-08 which is to allow a sport court in the front of the principal structure. He then commented on the location and size of the property. Mr. Cornelius explained that according to the code, a sport court is not allowed in front of the principal structure. He then stated that due to the characteristics of the lot and no

## TOWN OF WINDERMERE

### Development Review Board Meeting Minutes

April 18, 2023

frontage on a Town road. Mr. Cornelius stated that the proposed sport court does meet all requirements and setbacks. He then stated that the court will be sunk down into the ground, and will have walls and landscaping. Mr. Cornelius also stated that if lighting is requested in the future, the owners will need to follow the code regarding lighting. He then stated that notices were mailed out with four received in objection, and seven in support. Member Heinz stated he would recuse himself from voting as he did not receive his notice in time, and that he and his wife object to this request. Clerk Burkhalter stated that Member Heinz would need to vote as he does not have a valid conflict of interest. She then stated that the record could reflect that he and his wife objected to the request. Member Withers questioned Mr. Cornelius regarding the code for fences in the front yard. Mr. Cornelius explained that fencing around a sport court does not have limitations. Member Sutton questioned the lighting. Mr. Cornelius explained that lighting is not being requested at this time. He further explained that if lighting is requested in the future, it would need to meet code and be shielded down. Member Heinz questioned if there are time limits for the lights. Mr. Cornelius stated no. Mr. Kevin Ball, contractor for the applicant, introduced himself. He then commented on the unique shape of lot. Mr. Ball explained the sport court design and proposed location. He further explained that the best location for the court was in the front, and the issues with moving the house closer to the front and placing the court in the back. Mr. Withers commented on the noise from a pickleball court. Chair Chase opened the floor for public comments. Mrs. Sheryle McAfee of 407 West 1<sup>st</sup> Avenue introduced herself. She then read her comments for the record (attached). Ms. Christa Dinallo of 2956 Sunbittern Court introduced herself. She then commented on a past pickleball court variance request and the concern with the courts being all over town as the noise and lighting. Member Heinz questioned the hardship. Chair Chase stated that the lot shape is very unusual. Some discussion followed. Member Anderson made a motion to recommend denial of this request. Member Withers seconded the motion. Roll call vote was as follows: Roper – aye, Anderson – aye, Chase -aye, Heinz – aye, and Sutton - nay. motion carried 5-1. Chair Chase confirm Member Sutton’s nay. Member Sutton stated that she would have voted yes for this item as she believes there are property rights, there are other courts in town, and the unusual shape of the lot. Chair Chase stated this is a recommending board and the Town Council will hear this item at their May 9<sup>th</sup> meeting.

#### **iv. Proposed LDC change to 10% limitation for additions to nonconforming structures**

Mr. Cornelius explained that he is bringing forward a potential change to the Land Development Code. He explained in detail that the proposed change would be to remove the 10% expansion limitation of non-conforming development or structure. Member Heinz and Chair Chase agreed to the change. Member Withers commented on “declared emergency declared by the Town.” Mr. Cornelius commented that he could add, “or as designated by the Town Manager.” Further discussion followed. Member Withers made a motion to move forward with the change of declaring National, State, Town Emergency. Member Heinz seconded the motion. All were in favor. Mr. Cornelius explained that this will go before the Town Council in May.

Chair Chase questioned the results of the Wade Trim nominations. Mr. Cornelius explained the yearly recognition that Wade Trim provides. He explained that although he did not win, he was nominated for his work with the Town of Windermere. Mr. Cornelius stated that Ms. Amanda Warner was selected as the employee of the Year.

**TOWN OF WINDERMERE**

**Development Review Board  
Meeting Minutes**

**April 18, 2023**

**4. ADJOURN:**

Member Withers made a motion to adjourn. Member Sutton seconded the motion. All were in favor.

The meeting adjourned at 8:02pm.

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Dorothy Burkhalter, Town Clerk

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Frank Chase, Chair

DRAFT

Brad Cornelius, AICP, Town Planner

Wade Trim, Inc.

Tampa, FL

Re: Public Notice of Variance Public Hearing for 804 Oakdale Street, Z23-07

Dear Mr. Wade,

After reviewing the proposed construction plans for 804 Oakdale Street, I would like to express my disapproval for the project.

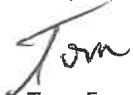
My reluctance to approve this request is based on the continued flooding that has occurred at my property located at 916 Oakdale Street. It is obvious from my experience during multiple rain events in the past that most of the houses north and south of my property on and off Oakdale Street do not have appropriate water retention. It is imperative that all new construction on Oakdale Street include appropriate water retention.

The proposal clearly states, "Existing lot drains towards Oakdale Street – No change to drainage required". This type of strategy leads to more flooding of my property and more water run-off into Lake Bessie.

There clearly is no current water retention on the property. If you look at the 2002 request to construct the 2-Car Garage, you will see that a Proposed Storm Water Pond was included in the Permit. Today there is no Storm Water Pond located where it should be. I wonder who is responsible for the enforcement of this "missing" Proposed Storm Water Pond.

I will continue to disapprove any construction that does not clearly include proper storm water retention on all properties located on Oakdale Street.

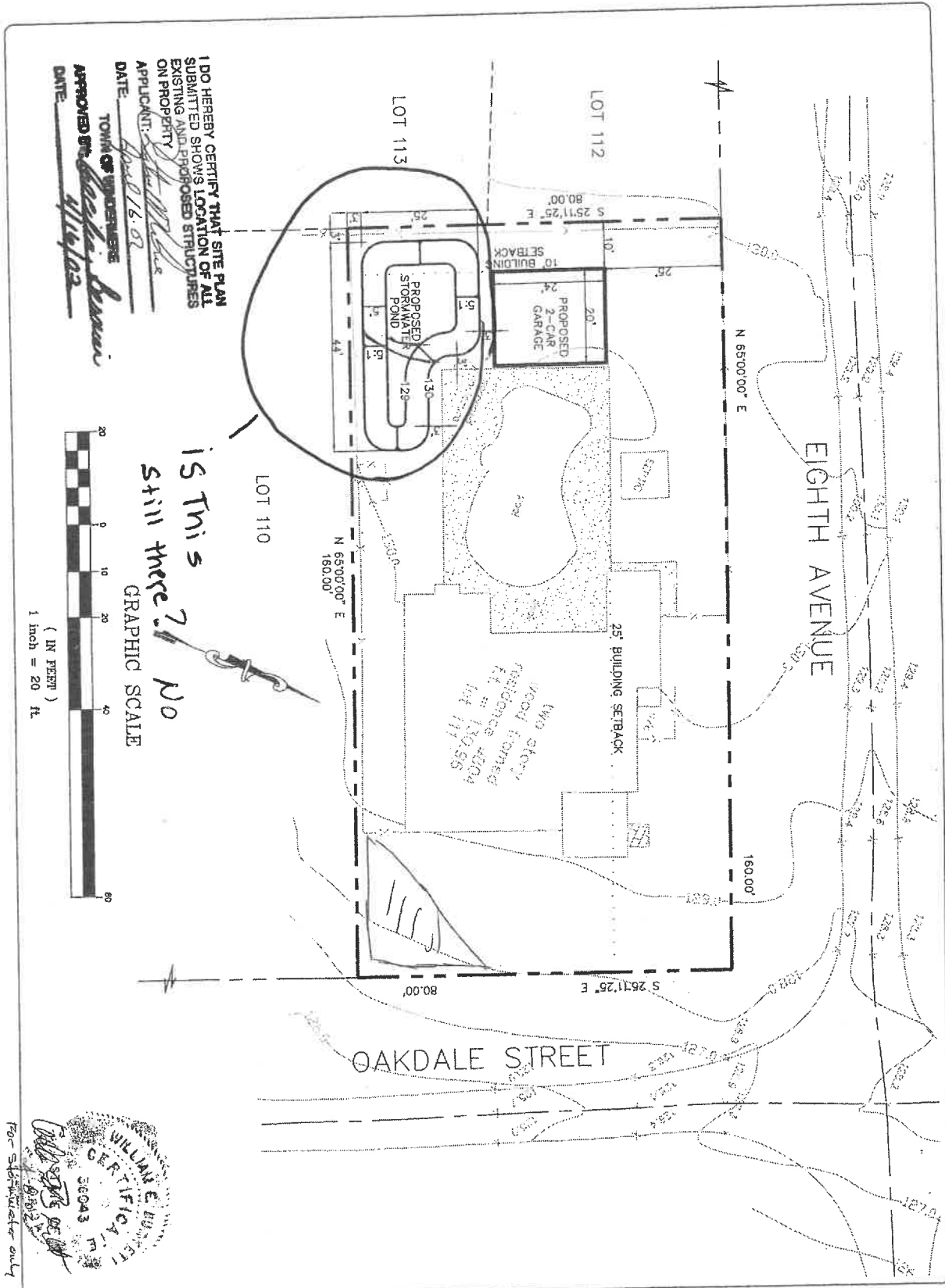
Respectfully,



Tom Fry

1245 Oakdale Street

Windermere, FL



I DO HEREBY CERTIFY THAT SITE PLAN SUBMITTED SHOWS LOCATION OF ALL EXISTING AND PROPOSED STRUCTURES ON PROPERTY

APPLICANT: *Christine McKechnie*

DATE: *April 16, 02*

TOWN OF WINDERMERE

APPROVED BY: *William E. Burnett*

DATE: *April 16, 02*

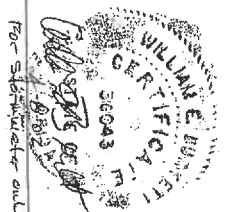
is this still there?

NO

GRAPHIC SCALE

( IN FEET )

1 inch = 20 ft.



FOR SITEWORKER ONLY

DATE	DESCRIPTION	BY

NO. 1 OF 1

SHEET NO. 1

**SITWORK CONSTRUCTION PLANS**

**FOR**

**MS. CHRISTINE MCKECHNIE**

**SITE PLAN**

**Burkett Engineering, Inc.**

Civil Engineering Consultants

250 N. Orange Avenue, Suite 1501  
Orlando, FL 32801  
(407) 244-1260 Fax: (407) 244-0423



**PLEASE DO NOT APPROVE A VARIANCE TO ALLOW A PICKLE BALL COURT TO BE BUILT ON THE LOT AT 65 PINE STREET WHICH WILL ADVERSELY AFFECT AT LEAST 5 ADJACENT PROPERTIES INCLUDING OURS WHICH LIES ALONG THE EAST SIDE OF THE PROPERTY FOR THE FOLLOWING REASONS:**

The noise from playing pickle ball will drive us crazy while we are sleeping or relaxing in the house as well as working in the yard. Our dog is going to go nuts. Can you imagine trying to get your children to bed for naps or at night to the sound of whack, whack, whack along with the sound of barking dogs We have done extensive research on this to find out what some of the problems are as follows:

1. It is the pitch of the noise. Lance Willis an acoustical engineer with Spendiarian & Willis Acoustics & Noise has done extensive testing all over the US and Canada and has registered decibel levels of 85 which is 25 higher than tennis. Whack, Whack, Whack can go on from early morning until late at night.

2. For many people it is the constant whack, whack whack sound that has a Psychological effect that has resulted in people being forced to sell their homes at discounted prices because nobody wants to hear it.

3. The noise is airborne and your concrete wall isn't going to do much. When you put your plants in what type will they be and how tall will they be. Again they will help to buffer the noise but not delete it.

4. There are lawsuits going on all over the country against HOAs that have converted their tennis courts into pickle ball courts which are hundreds of feet away from homes not 50 feet.

5. Basketball and Tennis courts are used for a couple of hours here and there but that is not the case with Pickle Ball which can go on for hours day after day.

MICHAEL AND SHERYLE MCAFEE

407 West 1<sup>st</sup> Avenue

Windermere, FL 34786

# 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 May 16, 2023

## Town Council June 13, 2023

**Case No.:** Z23-02

**Applicant/Representative:** Maika & Courtney Maile

**Property Owner:** Maika & Courtney Maile

**Requested Action:** Variance to allow expansion of a nonconforming home by 30.5% with a 24-foot by 23-foot (552 square foot) addition attached to the rear of the existing home, and to allow the proposed addition to have a setback of less than 35 feet (25.4 feet) to the rear property line.

**Property Address:** 803 Main Street, Windermere, FL 34786

**Legal Description:** PLAT OF WINDERMERE G/36 LOT 112

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

### **Surrounding Future Land Use/Zoning**

**North:** Residential/Residential

**East:** Residential/Residential

**South:** Residential/Residential

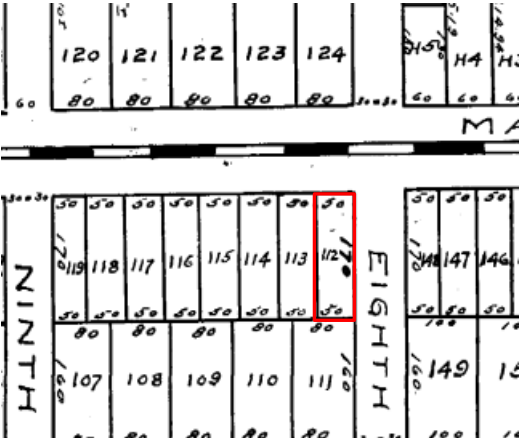
**West:** Residential/Residential

### **CASE SUMMARY:**

The applicant's home at 803 Main Street is nonconforming with its existing setbacks from E 8<sup>th</sup> Street, (14.8 feet – 15 feet required) and the south side property line (8.6 feet – 10 feet required). According to the Orange County Property Appraiser, the existing nonconforming home has a gross floor area of 1,812 square feet. The 10% limitation on the expansion of a nonconforming home limits the expansion to 181 square feet. The applicant is proposing to construct a 552 square foot addition, which is a 30.5% increase, attached to the rear of the existing home. In addition, due to the subject property being a contiguous corner lot, the required setback to the rear (east) property line is 35 feet. The existing home is 45 feet from the rear property line. The addition proposed to be attached to the rear will reduce the existing rear setback to 25.4 feet, which is non-compliant with the required 35-foot setback.

The proposed addition attached to the rear of the house is compliant with the setbacks from E 8<sup>th</sup> Ave. (15 feet) and from the south property line (10 feet). In addition, the total gross floor area with the proposed addition is compliant with the 38% maximum allowed gross floor area (33.7%). The subject property total impervious surface is also under the 45% maximum allowance with the proposed addition (37.3%). The applicant will have to provide a full property stormwater on-site retention plan with the proposed addition since it is adding more than 125 feet of additional impervious area to the subject property.

The subject property is part of the original plat of Windermere from 1921. The subject property is Lot 112 on the original plat. The platted dimension of the subject property is 170 feet deep and 50 feet wide. At the time of the original plat, the right-of-way width was 105 feet on Main Street, which includes the railroad. Since the original plat in 1921, the right-of-way width on Main Street, including the old railroad in the 40 foot strip between Main Street and Dirt Main Street is 115 feet, which is 10 feet greater than it was platted in 1921. That 10-foot increase in right-of-way width for Main Street results in the actual surveyed depth of the subject property at slightly under 160 feet (159.8 feet), which is 10 feet less than the original plat for the subject property. Below is a picture of the 1921 plat showing the subject property (Lot 112 – red outline) with 170 feet of depth. The aerial provided below is the 2013 image of the subject property (blue outline) showing the current 160 foot dimension.



1921 Windermere Plat



2013 OCPA Aerial

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.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of May 11, 2023, 11 responses were received in support and 0 in opposition.

April 16, 2023

DOROTHY BURKHALTER, TOWN CLERK  
TOWN OF WINDERMERE  
WINDERMERE, FL 34786  
(407) 876-2563

Re: Variance Request for 803 Main St.

We are writing to request a variance for the construction of an additional structure on our property at 803 Main Street. The potential of an addition was in mind when we bought, but as we have learned of the limitations of our current setbacks, we are only allowed 10% of total current square footage 1812 sq. ft. or a 181 sq. ft. addition. A structure of this size would be smaller than what we would need and would carry a less pleasing appearance than a structure that would appear functional and purposeful.

We are requesting a variance to allow for a 24 x 23 one-story attached structure on the backside of our lot, which would be tucked behind the existing structure and barely visible from Main St. The lot when originally plotted was 170 ft X 50 ft. Some time after 1927 the lot was reduced by the town to 159.82 X 49.02 creating a hardship. Set back code indicates that the rear set back must be 35 ft. which would reduce the room addition size by 10 ft on the length which is about the same amount the lot was reduced by. Therefore, we are asking the backyard setback be allowed a variance to 25 feet.

We purchased our home in 2021 as a newly married couple, fully invested in the beautiful soil, community and surroundings of the town of Windermere with dreams of building our family. Now we are expecting our first child, a baby boy, to be born in August of this year. As we plan to continually grow our family with more children in the future, our existing square footage becomes more and more of an issue for housing us for more than a few years.

Considering the limited inventory available in Downtown Windermere, let alone the inventory market conditions and unfavorable direction interest rates have gone, it would be a hardship to try and seek to buy something suitable. Having now lived here for 2 years, we have fallen in love with the Town of Windermere's unique feel, community and family environment.

With my wife's twin sister living on Main Street as well and both of our families living within ten minutes of us, we long to grow the value and potential of our Windermere property in this post pandemic age. Courtney and I both work primarily from home post-covid which has changed our view of how functional the existing square footage is and has caused us to look at options to expand.

With this additional structure, we would carefully construct this reasonably small addition with a professionally uniform appearance and matching aesthetic to the house.

We would still be far off of our property lines as we look to build the attachment to fit perfectly with the quaintness that Downtown Windermere is known for.

The goal of the project, which will be professionally handled by a trusted contractor, is to make the space aesthetically pleasing and consistent with the charm and style of the existing home and the Town of Windermere, improving the overall visual for ourselves and our neighbors.

There are several houses on Oakdale Street and surrounding Downtown Windermere roads that have beautiful additional structures in the back side of their lot of a similar size. This non-obtrusive build would reside right on our entirely unused and empty back yard area, which would still leave 25 ft. of beautiful yard on the back.

We hope this finds you well and thank you for your consideration as we ask that this request be granted.

Sincerely,

Maika and Courtney Maile

# PERRY SURVEYING

370 Waymont Court • Lake Mary, FL 32746 • VOICE: 407.688.9727 • FAX: 407.688.7691 • frontdesk@perrysurveying.com

## Legal Description

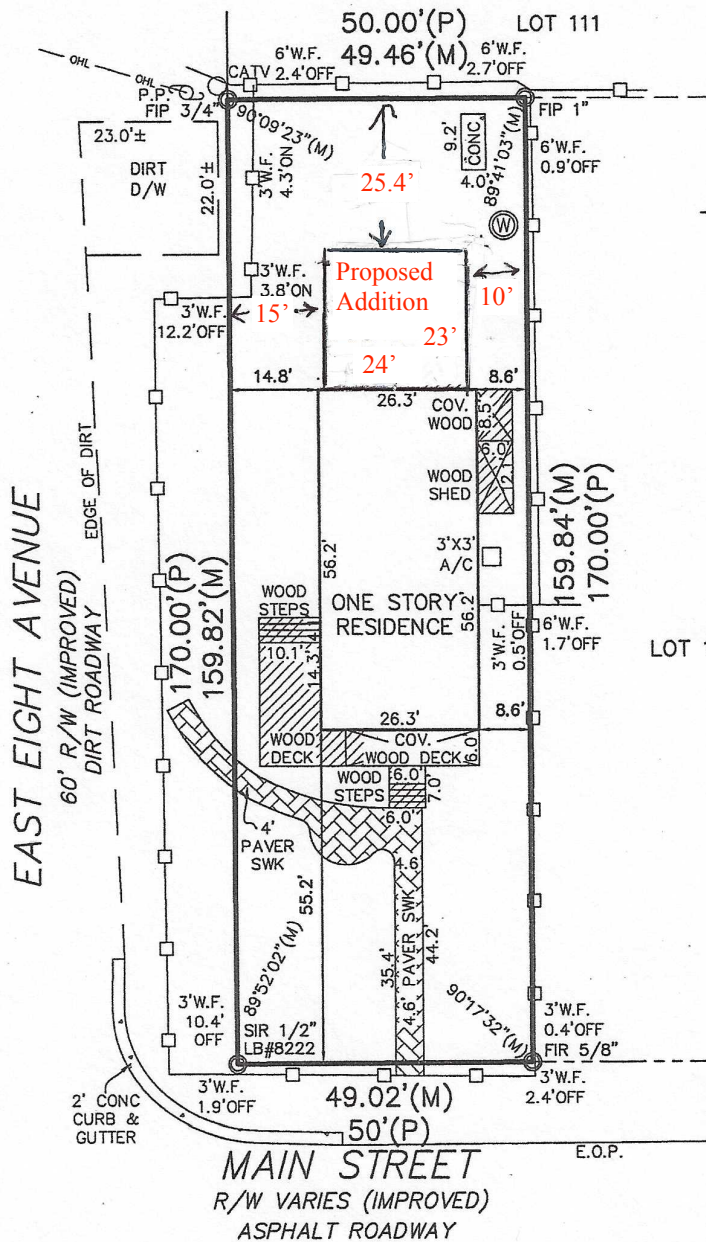
Lot 112, PLAT OF WINDERMERE, according to the plat thereof, as recorded in Plat Book G, Page(s) 36 through 39, inclusive, of the Public Records of Orange County, FL.

Community number: 120381 Panel: 0385  
 Suffix: F.F.I.R.M. Date: 9/25/2009 Flood Zone: X  
 Date of field work: 3/4/2021 Completion Date: 3/4/2021

Certified to:  
 Maika Haini Maile; Courtney Mae Caggiano; Premier Title Insurance Company; First American Title Insurance Company; FBC Mortgage, LLC, its' successors and/or assigns.



LOCATION SKETCH  
 NOT TO SCALE



PER PLAT  
 SCALE: 1"=30'

Property Address:  
 803 Main Street  
 Windermere, FL 34786

Survey number: PS 28215



# 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

April 27, 2023

KEOWN W JAMES JR  
836 MAIN ST  
WINDERMERE FL 34786

**RE: Public Notice of Variance Public Hearing for 803 Main Street - Z23-02**

Maika and Courtney Maile, owners of 803 Main Street, 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 an expansion of more than 10% of an existing non-conforming home and allow an addition of 552 square feet to the rear of the existing home at a setback of less than 35 feet from the east property line.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere use of the enclosed stamped envelope to Wade Trim, Inc. or by email to tow@wadetrim.com by **May 11, 2023**.

This matter will be presented to the Development Review Board on **Tuesday, May 16, 2023, at 6:30 p.m.** Their recommendation will be heard by the Town Council on **Tuesday, June 13, 2023, at 6:00 p.m.** You may attend the meetings at Town Hall, located at 520 Main Street. All meetings are open to the public and you are welcome to participate. Feel free to contact me if you have any questions.

Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
813.882.4373  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

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**RECOMMEND – Z23-02 (803 Main Street)**

APPROVAL:   X   DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE:   W James Keown Jr.   DATE:   5/1/23  

KEOWN W JAMES JR

# 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

April 27, 2023

LINDEN JOHN G  
716 OAKDALE ST  
WINDERMERE FL 34786

**RE: Public Notice of Variance Public Hearing for 803 Main Street - Z23-02**

Maika and Courtney Maile, owners of 803 Main Street, 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 an expansion of more than 10% of an existing non-conforming home and allow an addition of 552 square feet to the rear of the existing home at a setback of less than 35 feet from the east property line.

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
813.882.4373  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

RECOMMEND – Z23-02 (803 Main Street)

APPROVAL: 

DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_

SIGNATURE: 

DATE: \_\_\_\_\_

LINDEN JOHN G

# 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

April 27, 2023

ADAMS LACEY  
804 OAKDALE ST  
WINDERMERE FL 34786

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Encl.

---

### RECOMMEND - Z23-02 (803 Main Street)

APPROVAL:   X   DISAPPROVAL                     

COMMENTS: As the adjacent neighbor on their backyard  
property line towards Oakdale, I fully support this  
project. It will add value and needed space to their home.

SIGNATURE: Lacey Adams DATE: 5/1/2023

ADAMS LACEY

# 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

April 27, 2023

ALENGHAT JOSEPH P  
812 OAKDALE ST  
WINDERMERE FL 34786

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Encl.

---

**RECOMMEND – Z23-02 (803 Main Street)**

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

SIGNATURE: Joseph P. Alenghat - DATE: 5-1-23

ALENGHAT JOSEPH P

# 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

April 27, 2023

HENNEN BARBARA M LIFE ESTATE  
721 MAIN ST  
WINDERMERE FL 34786

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813.882.4373  
tow@wadetrim.com  
Encl.

**RECOMMEND – Z23-02 (803 Main Street)**

APPROVAL: yes DISAPPROVAL \_\_\_\_\_

COMMENTS: If this addition does not interfere with the front of the house I think it is a nice addition & improvement the couple would like to make

SIGNATURE: Barbara M. Hennen DATE: May 2, 2023

HENNEN BARBARA M LIFE ESTATE

# 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

April 27, 2023

KRENS FRANK JOSEPH LIFE ESTATE  
727 FOREST ST  
WINDERMERE FL 34786

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Encl.

---

**RECOMMEND – Z23-02 (803 Main Street)**

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

SIGNATURE:  DATE: 5/3/2023

KRENS FRANK JOSEPH LIFE ESTATE

# 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

April 27, 2023

SIMAAAN SIMON T  
812 EAST BLVD  
WINDERMERE FL 34786

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Encl.

---

RECOMMEND - Z23-02 (803 Main Street)

APPROVAL:  DISAPPROVAL:

COMMENTS: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: 5/3/23

SIMAAAN SIMON T

# 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

April 27, 2023

RYNN BRENT  
725 OAKDALE ST  
WINDERMERE FL 34786

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Encl.

---

RECOMMEND – Z23-02 (803 Main Street)

APPROVAL:   X   DISAPPROVAL \_\_\_\_\_

COMMENTS:   Make Sense and helps property Value  

---

SIGNATURE:   Rynn Brent   DATE:   5-2-23  

RYNN BRENT



# 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

April 27, 2023

FIOLA ARMAND J  
720 MAIN ST  
WINDERMERE FL 34786

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813.882.4373  
tow@wadetrim.com  
Encl.

---

RECOMMEND – Z23-02 (803 Main Street)

APPROVAL: YES DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_

SIGNATURE:  DATE: 5/2/2023

FIOLA ARMAND J

# 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

April 27, 2023

TURNER WILLIAM C  
736 OAKDALE ST  
WINDERMERE FL 34786

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Encl.

**RECOMMEND -- Z23-02 (803 Main Street)**

APPROVAL:   X   DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE: William C Turner DATE: 5/1/2023

TURNER WILLIAM C

RECOMMEND - Z23-02 (803 Main Street)

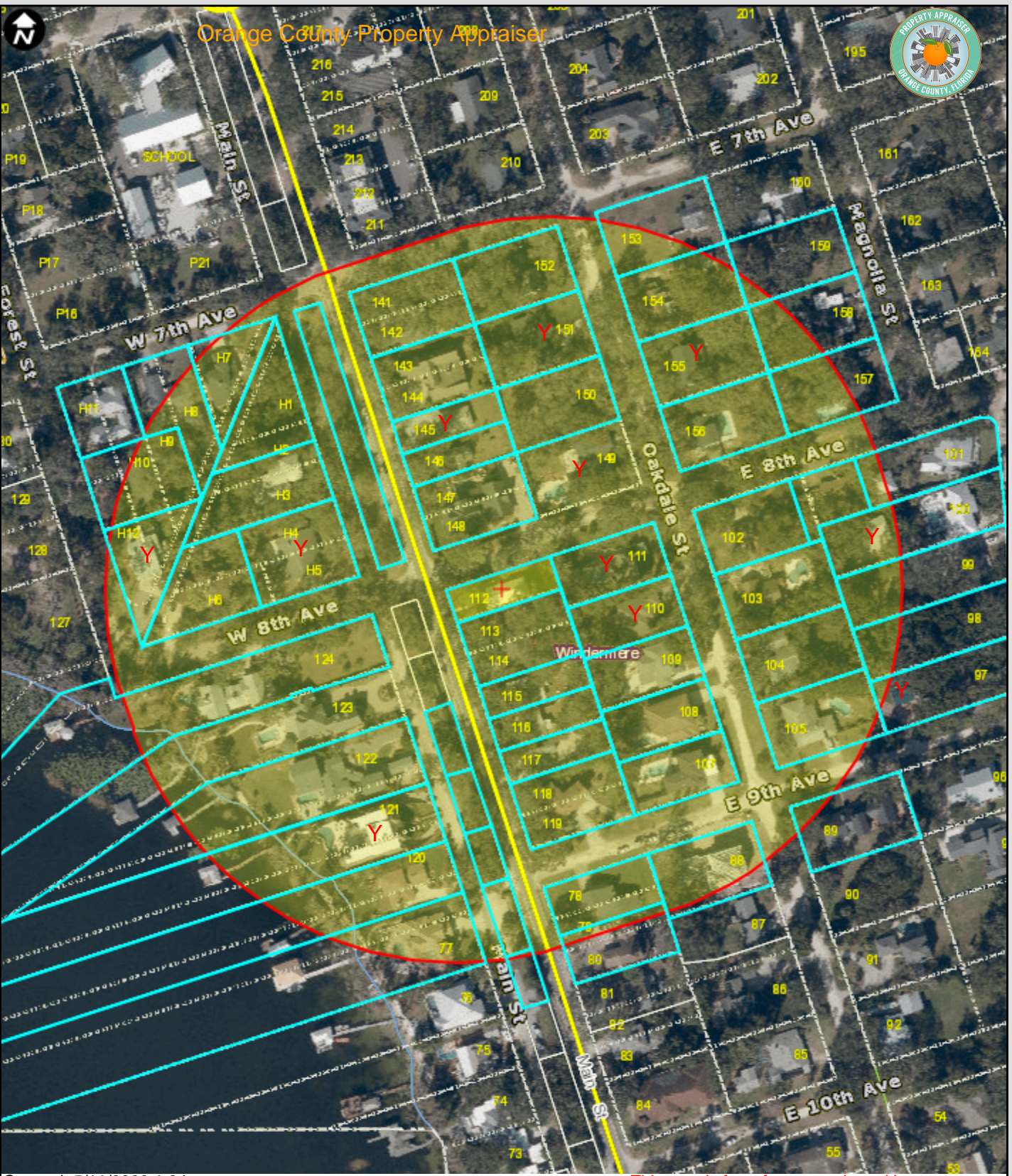
APPROVAL:  DISAPPROVAL

COMMENTS: I hope these neighbors who are requesting this variance will work with their neighbors who are also requesting a variance and become good neighbors

SIGNATURE: Nancy P Bardoe DATE: May 3, 2023

BARDOE WILLIAM G

**OCA Web Map**

Created: 5/11/2023 1:24

This map is for reference only and is not a survey

# Town of Windermere

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Mayor

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ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board May 16, 2023

## Town Council June 13, 2023

**Case No.:** Z23-10

**Applicant/Representative:** Marcelino Hoyo

**Property Owner:** William N Simons Sr. Revocable Trust

**Requested Action:** Conditional Use to allow on-site consumption of beer and wine

**Property Address:** 507 Main Street, Windermere, FL 34786

**Legal Description:** PLAT OF WINDERMERE G/36 THE S 24.76 FT OF W 83 FT OF LOT 242

**Future Land Use/Zoning:** Commercial/Commercial/Town Center Design District

**Existing Use:** Paloma Coffee Shop

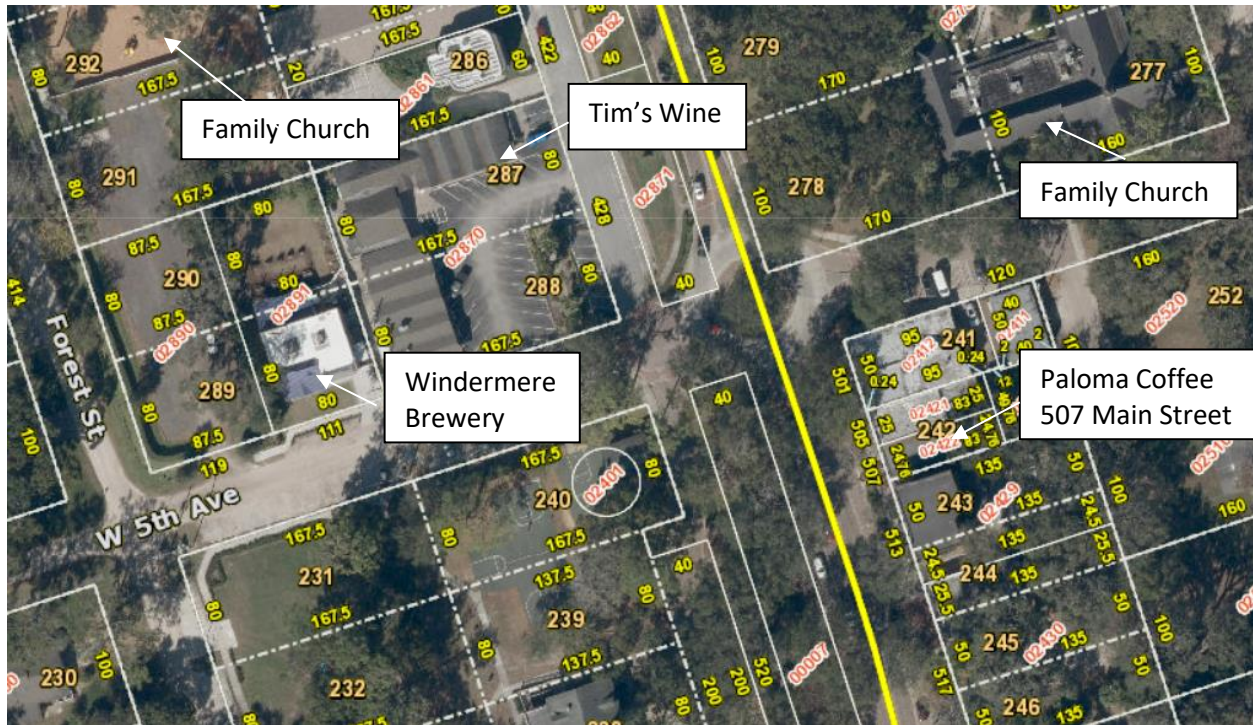
### Surrounding Future Land Use/Zoning

**North:** Commercial/Commercial  
**East:** Commercial/Commercial  
**South:** Commercial/Commercial  
**West:** Public/Public (Town Hall)

**Need for Conditional Use Approval:** The addition of on-site sale and consumption of beer and wine to the existing Paloma Coffee shop requires a Conditional Use approval because it is located less than 1,000 feet from the Family Church and the two other locations with approval for on-site sale and consumption of beer and wine (Tim's Wine and Windermere Brewery)

(Section 8-82, Code of Ordinances). However, Section 8-82, Code of Ordinances, also provides that the Town Council may waive the 1,000 foot separation requirement through the approval of a Conditional Use.

Below is a 2013 aerial from the Orange County Property Appraiser that identifies the subject property and the other uses within 1,000 feet that require the approval of the Conditional Use for the on-site sale and consumption of beer and wine at Paloma Coffee.



2013 Aerial OCPA

Section 8-82, Code of Ordinances, includes the following standards that would result in the revocation of the Conditional Use. These standards for revocation are:

1. Violates conditions of approval;
2. Receives more than two code enforcement violations; or
3. Receives more than two registered police incident reports in a calendar year.

In addition to the standard conditions, the Development Review Board may recommend, and the Town Council may approve, additional conditions or restrictions on the operation to assure compatibility with the surrounding area.

Section 15.00.04 of the Land Development Code provides the standards of review for the DRB and Town Council. The standards of review are:

- Whether the conditional use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- Whether the conditional use will preserve any town, state or federally designated historic, scenic, archaeological, or cultural resources.
- Whether the conditional use will be compatible with adjacent residential development, if any, based on characteristics such as size, building style and scale; or whether such incompatibilities are mitigated through such means as screening, landscaping, setbacks, and other design features.
- Whether the conditional use will have significant adverse impacts on the livability and usability of nearby land due to noise, dust, fumes, smoke, glare from lights, late-night operations, odors, truck and other delivery trips, the amount, location, and nature of any outside displays, storage, or activities, potential for increased litter, and privacy and safety issues.
- Whether the transportation system is capable of safely supporting the conditional use in addition to the existing uses in the area.
- Whether the minimum off-street parking area required, and the amount of space needed for the loading and unloading of trucks, if applicable, has been provided and will function properly and safely.
- Whether generally, the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation have been made.

The applicant provided a plan of operation. The following provides a summary of the plan of operation and review comments where additional information is needed or recommended conditions of operation.

**Proposed Hours of Operation:** Section 8-83, Code of Ordinances, prohibits the sale of alcoholic beverages between the hours of 12:00 am and 7:00 am. The applicant’s proposed hours of operation are:

- Monday through Saturday – 7:30 a.m. to 9:00 p.m.
- Sunday – 8:00 a.m. to 8:00 p.m.

Under the Conditional Use, the Town has the ability to regulate the hours of operation and impose other operating hours.

**On-site consumption:** The beer and wine will only be consumed within the existing building or on the existing back patio. No changes are proposed to the existing building or property.

Paloma Coffee, as with all businesses in the town, is subject to the Town's noise ordinance and other ordinances related to potential nuisance impacts.

There are no other changes or proposed impacts with this conditional use request.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of May 8, 2023, no responses have been received. An update to any responses received after May 8, 2023, will be provided at the DRB meeting.



Paloma Coffee Co. located at 507 Main St. would like to apply for a Conditional Use Permit.

Ordinance No. 2014-08 recently approved by the Town Council on September 19, 2014 now allows a 2COP licensee to apply for Conditional use approval that waives the distance separation requirements in Section 8-82 of the Town of Windermere's Code of Ordinances. We would like to apply for a COP license with the State of Florida that would allow us to sell wine and beer "by the glass". This is often referred to as "consumption on premise (COP)".

Paloma Coffee Co is requesting a Conditional Use Permit. Coffee shops similar to ours are trending towards beer and wine to increase their revenues. Obtaining a 2COP license will benefit our family business tremendously. Needless to say these are challenging times for small businesses, but we are very fortunate to have a loyal customer base within the town that supports our coffee shop.

Acquiring a 2COP license will allow us to enrich our town's evening experience; it will allow us to offer our town a place to enjoy evening desserts and wine. A conditional Use permit would allow Paloma Coffee to proceed with the acquisition of a 2COP license - which upon final state approval would allow us to sell beer and wine by the glass or drink. This added flexibility would allow us to offer our customers "by the glass" wine and will also be an opportunity to improve our business.

Paloma Coffee has been serving our town since July 17, 2017, and we have maintained our store and the surroundings areas to the highest levels. Our intention is not to open a wine bar, but to offer a quaint safe place for our community to enjoy. We intend to offer evening deserts, homemade cakes by the slice, chocolates, and maybe cheese platters. Upon approval we do not anticipate that there will be any adverse impacts on our neighbors or usability of nearby business due to any evening operations or activities. Also, we do not anticipate any additional impact to our town's parking; usually there are many spaces available in the evening.

No changes to the appearance of Paloma Coffee.

We are considering the shop's business hours to be Monday through Saturday 7:30 am to 9 pm, Sundays 8:am to 8:am, and of course serve wine in the allotted times governed by the Town's ordinances (Section 1, Section 8-83) and to police customers to stay within private property boundaries (Inside building and backyard patio).

We at Paloma Coffee are always looking for a way to improve our community and our quality of life, by offering a place where neighbors can come together, chat and enjoy each other. This we do already. With the COP2 we will be able to extend the same philosophy for a few more hours into the evening.

Thank you for all your considerations,

Marcelino and Celia Hoyo, 611 Butler St. Windermere.

# 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

To: Development Review Board

From: Brad Cornelius, AICP, Wade Trim, Inc. – Contracted Town Planner

Date: May 11, 2023

Re: Ordinance 2023-01 - Proposed Change to 10% Limitation for Nonconforming Structures

At the April 18, 2023, DRB meeting, the DRB unanimously supported the draft ordinance eliminating the 10% expansion limitation for nonconforming structures and replacing with the following:

- Allow additions that do not expand the nonconformity and are fully compliant with current zoning requirements;
- Establish that nonconformities are not a reason for additions or new development to be built not in compliance with existing zoning requirements;
- Establish that structures damaged or destroyed by fire or other recognized disaster under a declared state of emergency or other natural event with the approval of the Town Manager may be repaired or rebuilt to match the condition the day before the fire or disaster as long as a permit is submitted within 180 days of the event. Any other repair or demolition must be done in compliance with the existing zoning requirements;
- Clarify the FEMA 100-year flood zone nonconforming requirements apply (50% substantial improvement rule);
- Clarify that the Orange County dock ordinance regulates nonconforming docks due to the Town adopting the County's dock requirements; and
- Remove an old provision that required nonconforming structures be registered with the Town by 1993.

On May 9, 2023, at the Town Council first reading of this ordinance (Ordinance 2023-01), the Town Council, after much discussion, directed that Ordinance 2023-01 have one change that removes the proposed ability for a structure that is damaged or destroyed by a fire or other

natural event (declaration of a local state of emergency or at the discretion of the Town Manager) to be repaired or replaced back to its nonconforming condition prior to the fire or natural event and maintains the current LDC requirement that if a fire or other calamity damages a nonconforming structure beyond 50% of the fair market value of the structure, then any repair or replacement of the structure must be compliant with current zoning requirements. If a nonconforming structure is damaged less than 50% of the fair market value of the structure, then it can be repaired back to its nonconforming condition.

The Town Council made no other changes to the version of the draft ordinance that the DRB unanimously approved at the April 18, 2023, DRB meeting.

The DRB is requested to review and provide a recommendation to the Town Council on the revised Ordinance 2023-01.

Attached is Ordinance 2023-01 with markups (strikeout and underline) to show the proposed changes. Also attached is a clean version of Ordinance 2023-01 that does not include the markups and shows the ordinance as it would be adopted.

Please do not hesitate to contact me with any questions prior to the May 16, 2023, DRB meeting. I can be reached at 813-415-4952 or [bcornelius@wadetrim.com](mailto:bcornelius@wadetrim.com).

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA AMENDING THE EXISTING NONCONFORMING DEVELOPMENT EXPANSION LIMITATION; AMENDING ARTICLE X, DIVISION 10.01.00, OF THE TOWN OF WINDMERERE LAND DEVELOPMENT CODE TO ALLOW THE EXPANSION OF AN EXISTING NONCONFORMING STRUCTURE WHEN SUCH EXPANSION DOES NOT INCREASE THE NONCONFORMITY AND SUCH EXPANSION IS IN FULL COMPLIANCE WITH CURRENT LAND DEVELOPMENT CODE REQUIREMENTS; PROVIDING STANDARDS FOR EXISTING NONCONFORMING STRUCTURES RELATED TO RECONSTRUCTION AFTER PARTIAL OR FULL DEMOLITION, RECONSTRUCTION AFTER A FIRE OR OTHER CALAMITY, RECONSTRUCTION WITHIN THE 100-YEAR FLOOD ZONE, RECONSTRUCTION OF BOATHOUSES AND DOCKS, AND OTHER CLARIFICATIONS AND UPDATES AS PROVIDED HEREIN; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:

**Section 1. Legislative Findings.** The Town Council of the Town of Windermere hereby makes and declares the following findings and statements of legislative intent:

1. The Town of Windermere places a high priority on maintaining the special character of the town and encouraging responsible and quality development;
2. Within the town, there are several homes and other structures that are legal nonconforming structures that are limited to a ten percent expansion and are restricted in their ability to be renovated or expanded due to their nonconformity;
3. The Town Council receives and approves many variances requesting the expansion of an existing nonconforming structure by more than the ten percent limitation but in compliance with all other current requirements of the Town’s Land Development Code;
4. The consistent Town Council approval of variances to allow a greater than ten percent expansion of an existing nonconforming structure but in compliance with all other current requirements of the Town’s Land Development Code is a strong indication of a need to amend the Land Development Code to address the issue;
5. The Town Council considered the recommendation by the Town’s Development Review Board, and comments during the public hearing for this proposed ordinance and;
6. The Town Council has determined it is in the best interest of the Town to amend Article X, Division 10.01.00, of the Town’s Land Development Code to allow the expansion of

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47 an existing nonconforming structure that does not increase the nonconformity and is in full  
48 compliance with current land development code requirements; provide standards for existing  
49 nonconforming structures related to reconstruction after partial or full demolition, reconstruction  
50 after a fire or other calamity, reconstruction within the 100-year flood zone, reconstruction of  
51 boathouses and docks, and other clarifications and updates as provided herein  
52

53 **Section 2. Land Development Code Amendment.** Article X, Division 10.01.00, of the Town's  
54 Land Development Code is amended as follows:

55 **Sec. 10.01.01. Definitions.**

56 *Nonconforming development* means development legally constructed in accordance with  
57 regulations in place at the time of such construction or land that does not conform to the land use  
58 regulations ~~in article II,~~ and/or the development design and improvement standards of this Land  
59 Development Code ~~in article VI,~~ and/or the future land use map.

60 **Sec. 10.01.02. Continuation.**

61 ~~Subject to the provisions in this division for terminating nonconforming~~ Nonconforming  
62 ~~development, such development may, if otherwise lawful and in existence on the date of~~  
63 ~~enactment of this Land Development Code, may~~ remain in use in its nonconforming state and  
64 may only be expanded or improved consistent with the requirements within this Division of this  
65 Land Development Code. ~~until the year 2000, but shall not be expanded or improved.~~

66 **Sec. 10.01.03. ~~Termination~~ Expansion or improvement of nonconforming development or**  
67 **structure.**

68 (a) *Generally.* Nonconforming development or structures shall only be expanded or improved if  
69 the expansion or improvement is fully compliant with the requirements of this Land  
70 Development Code, and the nonconforming condition is not increased as a result of the new  
71 construction. Nonconforming development is also subject to the following requirements:  
72 ~~must be brought into full compliance with the use regulations in article II of this Land~~  
73 ~~Development Code, and the development design and improvement standards in article VI of~~  
74 ~~this Land Development Code, in conjunction with the following activities:~~

75 (1) If a nonconforming development or structure is voluntarily fully or partially  
76 demolished, any reconstruction must meet all requirements of this Land Development  
77 Code. ~~The gross floor area of the development or structure is expanded by more than~~  
78 ~~ten percent. Repeated expansions of a development, constructed over any period of~~  
79 ~~time commencing with the effective date of this Land Development Code, shall be~~  
80 ~~combined in determining whether this threshold has been reached.~~

81 (2) Reconstruction of ~~the a nonconforming principal~~ structure after the structure has been  
82 substantially destroyed by fire or other calamity must be consistent with all  
83 requirements of this Land Development Code. A structure is substantially destroyed if  
84 the cost of reconstruction is 50 percent or more of the fair market value of the structure  
85 before the fire or other calamity. If there are multiple ~~principal~~ structures on a site, the  
86 cost of reconstruction shall be compared to the combined fair market value of all the  
87 structures.

~~(3) It is the intent of this Land Development Code to permit those nonconformities that existed on June 10, 1975, to continue until they are removed, but not to encourage their survival. Those few structures shall not be enlarged upon, expanded or extended. Owners of such properties must apply in writing to the town by January 1, 1993, for recognition of their status, providing such proof, as is available, of their existence in a nonconforming status as of June 10, 1975.~~

(3) Any nonconforming property that existed on June 10, 1975, but has changed its usage to a single-family residence shall not be permitted to revert back to duplex usage.

(b) *Special provisions for specific nonconformities.*

(1) *Nonconformity with the stormwater management requirements of this Land Development Code.* ~~In addition to the activities listed in subsection (a) of this section,~~ a An existing development that does not comply with the stormwater management requirements of this Land Development Code must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

(2) Nonconformity with floodplain requirements of the Floodplain Management Ordinance of Chapter 16, Code of Ordinances. Any structure or development that does not meet the requirements of the Floodplain Management Ordinance in Chapter 16, Code of Ordinances, shall be subject to requirements of Chapter 16, Code of Ordinances, to come into compliance.

(3) Nonconforming boathouses and docks. Boathouses and docks that do not meet the requirements of Section 7.02.05 of this Land Development Code are subject to the requirements for repairs and reconstruction under Orange County's ordinances regulating, restricting, and otherwise addressing boat dock construction, as such ordinances may be amended from time-to-time.

(24) *Nonconforming with the parking and loading requirements of this Land Development Code.* ~~In addition to the activities listed in subsection (a) of this section,~~ f Full compliance with the requirements of this Land Development Code shall be required where the seating capacity or other factor controlling the number of parking or loading spaces required by this Land Development Code is increased by ten percent or more.

(35) *Nonconforming signs.*

a. *Defined.* Any sign within the town on the effective date of this Land Development Code or a sign existing within any area annexed to the town after the effective date of this Land Development Code, and except for subdivision signs erected prior to 1990, which is prohibited by, or does not conform to the requirements of, this Land Development Code; except that signs that are within ten percent of the height and size limitations of this Land Development Code, and that in all other respects conform to the requirements of this Land Development Code, shall be deemed to be in conformity with this Land Development Code.

b. *Amortization.*

1. *Alternative A.*

- 130 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all
- 131 signs prohibited by division 8.02.00, prohibited signs, of this Land
- 132 Development Code, shall be removed or made to conform within 60 days of
- 133 the enactment of this Land Development Code.
- 134 (ii) All other nonconforming signs shall be removed or altered to be conforming
- 135 within seven years of the effective date of this Land Development Code,
- 136 unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this
- 137 section.

138 2. *Alternative B.*

- 139 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all
- 140 signs prohibited by division 8.02.00, prohibited signs, of this Land
- 141 Development Code, shall be removed or made to conform within 60 days of
- 142 the enactment of this Land Development Code.
- 143 (ii) Unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this
- 144 section, all other nonconforming signs may be maintained for the longer of the
- 145 following periods:
  - 146 A. Two years from the date upon which the sign became illegal
  - 147 under this Land Development Code;
  - 148 B. A period of three to seven years from the installation date or
  - 149 most recent renovation date that preceded the enactment of
  - 150 this Land Development Code according to the amortization
  - 151 table in this subsection. If the date of the more recent
  - 152 renovation is chosen as the starting date of the amortization
  - 153 period, the period of amortization shall be calculated
  - 154 according to the cost of the renovation and not according to
  - 155 the original cost of the sign;

Sign Cost or Permitting Years Renovation from Installation Cost or Renovation Date	
\$101.00 to \$1,000.00	3 years
\$1,001.00 to \$3,000.00	4 years
\$3,001.00 to \$10,000.00	5 years
More than \$10,000.00	7 years

- 156
- 157 C. Any owner of a sign who requests an amortization period
- 158 longer than two years shall, within one year from the date of
- 159 enactment of these regulations, file with the town manager a
- 160 statement setting forth the cost of the sign, the date of
- 161 erection, or the cost and date of most recent renovation and a
- 162 written agreement to remove the sign at or before the
- 163 expiration of the amortization period applicable to the sign; or
- 164 D. The development review board may grant a variance from the
- 165 terms of the foregoing amortization schedule for up to one
- 166 additional year where it finds such additional period of time is
- 167 necessary in order to avoid unnecessary hardship not caused
- 168 by the petitioner, and such variance is not contrary to the

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169 public interest. Multiple one-year extensions may be granted  
170 where warranted, but may only be granted one year at a time.

171 (c) *Continuation of nonconforming signs.* Subject to the limitation imposed by the amortization  
172 schedule above, and subject to the restrictions in subsection (a) or (b)(3)b.2(ii)A and B of  
173 this section, a nonconforming sign may be continued and shall be maintained in good  
174 condition as required by this Land Development Code, but it shall not be:

175 (1) Structurally changed to another nonconforming sign, but its pictorial content may be  
176 changed.

177 (2) Structurally altered to prolong the life of the sign, except to meet safety requirements.

178 (3) Altered in any manner that increases the degree of nonconformity.

179 (4) Expanded.

180 (5) Reestablished after damage or destruction if the estimated cost of reconstruction  
181 exceeds 50 percent of the appraised replacement cost as determined by the town  
182 manager.

183 (6) Continued in use when a conforming sign or sign structure shall be erected on the same  
184 parcel or unit.

185 (7) Continued in use when the structure housing the occupancy is demolished or requires  
186 renovations the cost of which exceeds 50 percent of the assessed value of the structure.

187 (8) Continued in use after the structure housing the occupancy has been vacant for six  
188 months or longer.

189 Should any of the conditions in this subsection (c) be violated, the sign shall be removed within  
190 60 days.

191 (d) *Nonconforming signs along federal highways.* If it is determined that nonconforming signs  
192 along a federal interstate or primary aid highway may not be removed pursuant to the above  
193 provisions, the town council shall develop a plan for their expeditious removal in  
194 accordance with state and federal law.

195 **Section 3. Codification.** Section 2 of this Ordinance shall be codified and made part of the  
196 Town of Windermere Land Development Code.

197 **Section 4. Conflicts.** In the event of a conflict or conflicts between this ordinance and other  
198 ordinances, this ordinance controls to the extent of the conflict.

199 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if  
200 any section, paragraph, sentence or word of this Ordinance or the application thereto any person  
201 or circumstance is held invalid, that invalidity shall not affect other sections or words or  
202 applications of this Ordinance. If any part of this Ordinance is found to be preempted or  
203 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent  
204 permitted by the severance of such preempted or superseded part.

205 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption at its second  
206 reading.



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207           **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2023, at a regular meeting of the Town  
208 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida  
by: Town Council

by: \_\_\_\_\_  
Jim O'Brien, Mayor

Attest:

\_\_\_\_\_  
Dorothy Burkhalter, MMC, FCRM  
Town Clerk

First reading:  
Second reading:  
Advertised:

ORDINANCE NO. 2023-01

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2  
3 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
4 WINDERMERE, FLORIDA AMENDING THE EXISTING  
5 NONCONFORMING DEVELOPMENT EXPANSION LIMITATION;  
6 AMENDING ARTICLE X, DIVISION 10.01.00, OF THE TOWN OF  
7 WINDMERERE LAND DEVELOPMENT CODE TO ALLOW THE  
8 EXPANSION OF AN EXISTING NONCONFORMING STRUCTURE  
9 WHEN SUCH EXPANSION DOES NOT INCREASE THE  
10 NONCONFORMITY AND SUCH EXPANSION IS IN FULL  
11 COMPLIANCE WITH CURRENT LAND DEVELOPMENT CODE  
12 REQUIREMENTS; PROVIDING STANDARDS FOR EXISTING  
13 NONCONFORMING STRUCTURES RELATED TO RECONSTRUCTION  
14 AFTER PARTIAL OR FULL DEMOLITION, RECONSTRUCTION  
15 AFTER A FIRE OR OTHER CALAMITY, RECONSTRUCTION WITHIN  
16 THE 100-YEAR FLOOD ZONE, RECONSTRUCTION OF BOATHOUSES  
17 AND DOCKS, AND OTHER CLARIFICATIONS AND UPDATES AS  
18 PROVIDED HEREIN; PROVIDING FOR SEVERABILITY,  
19 CODIFICATION AND AN EFFECTIVE DATE.  
20

21 BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:  
22

23 **Section 1. Legislative Findings.** The Town Council of the Town of Windermere hereby makes  
24 and declares the following findings and statements of legislative intent:  
25

26 1. The Town of Windermere places a high priority on maintaining the special  
27 character of the town and encouraging responsible and quality development;  
28

29 2. Within the town, there are several homes and other structures that are legal  
30 nonconforming structures that are limited to a ten percent expansion and are restricted in their  
31 ability to be renovated or expanded due to their nonconformity;  
32

33 3. The Town Council receives and approves many variances requesting the  
34 expansion of an existing nonconforming structure by more than the ten percent limitation but in  
35 compliance with all other current requirements of the Town's Land Development Code;  
36

37 4. The consistent Town Council approval of variances to allow a greater than ten  
38 percent expansion of an existing nonconforming structure but in compliance with all other  
39 current requirements of the Town's Land Development Code is a strong indication of a need to  
40 amend the Land Development Code to address the issue;  
41

42 5. The Town Council considered the recommendation by the Town's Development  
43 Review Board, and comments during the public hearing for this proposed ordinance and;  
44

45 6. The Town Council has determined it is in the best interest of the Town to amend  
46 Article X, Division 10.01.00, of the Town's Land Development Code to allow the expansion of

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47 an existing nonconforming structure that does not increase the nonconformity and is in full  
48 compliance with current land development code requirements; provide standards for existing  
49 nonconforming structures related to reconstruction after partial or full demolition, reconstruction  
50 after a fire or other calamity, reconstruction within the 100-year flood zone, reconstruction of  
51 boathouses and docks, and other clarifications and updates as provided herein  
52

53 **Section 2. Land Development Code Amendment.** Article X, Division 10.01.00, of the Town's  
54 Land Development Code is amended as follows:

55 **Sec. 10.01.01. Definitions.**

56 *Nonconforming development* means development legally constructed in accordance with  
57 regulations in place at the time of such construction or land that does not conform to the land use  
58 regulations and/or the development design and improvement standards of this Land  
59 Development Code, and/or the future land use map.

60 **Sec. 10.01.02. Continuation.**

61 Nonconforming development may remain in use in its nonconforming state and may only be  
62 expanded or improved consistent with the requirements within this Division of this Land  
63 Development Code.

64 **Sec. 10.01.03. Expansion or improvement of nonconforming development or structure.**

65 (a) *Generally.* Nonconforming development or structures shall only be expanded or improved if  
66 the expansion or improvement is fully compliant with the requirements of this Land  
67 Development Code, and the nonconforming condition is not increased as a result of the new  
68 construction. Nonconforming development is also subject to the following requirements:

69 (1) If a nonconforming development or structure is voluntarily fully or partially  
70 demolished, any reconstruction must meet all requirements of this Land Development  
71 Code.

72 (2) Reconstruction of a nonconforming structure after the structure has been substantially  
73 destroyed by fire or other calamity must be consistent with all requirements of this  
74 Land Development Code. A structure is substantially destroyed if the cost of  
75 reconstruction is 50 percent or more of the fair market value of the structure before the  
76 fire or other calamity. If there are multiple structures on a site, the cost of  
77 reconstruction shall be compared to the combined fair market value of all the  
78 structures.

79 (3) Any nonconforming property that existed on June 10, 1975, but has changed its usage  
80 to a single-family residence shall not be permitted to revert back to duplex usage.

81 (b) *Special provisions for specific nonconformities.*

82 (1) *Nonconformity with the stormwater management requirements of this Land*  
83 *Development Code.* An existing development that does not comply with the  
84 stormwater management requirements of this Land Development Code must be  
85 brought into full compliance when the use of the development is intensified, resulting  
86 in an increase in stormwater runoff or added concentration of pollution in the runoff.

- 
- 87 (2) *Nonconformity with floodplain requirements of the Floodplain Management*  
88 *Ordinance of Chapter 16, Code of Ordinances.* Any structure or development that does  
89 not meet the requirements of the Floodplain Management Ordinance in Chapter 16,  
90 Code of Ordinances, shall be subject to requirements of Chapter 16, Code of  
91 Ordinances, to come into compliance.
- 92 (3) *Nonconforming boathouses and docks.* Boathouses and docks that do not meet the  
93 requirements of Section 7.02.05 of this Land Development Code are subject to the  
94 requirements for repairs and reconstruction under Orange County's ordinances  
95 regulating, restricting, and otherwise addressing boat dock construction, as such  
96 ordinances may be amended from time-to-time.
- 97 (4) *Nonconforming with the parking and loading requirements of this Land Development*  
98 *Code.*, Full compliance with the requirements of this Land Development Code shall be  
99 required where the seating capacity or other factor controlling the number of parking or  
100 loading spaces required by this Land Development Code is increased by ten percent or  
101 more.
- 102 (5) *Nonconforming signs.*
- 103 a. *Defined.* Any sign within the town on the effective date of this Land Development  
104 Code or a sign existing within any area annexed to the town after the effective  
105 date of this Land Development Code, and except for subdivision signs erected  
106 prior to 1990, which is prohibited by, or does not conform to the requirements of,  
107 this Land Development Code; except that signs that are within ten percent of the  
108 height and size limitations of this Land Development Code, and that in all other  
109 respects conform to the requirements of this Land Development Code, shall be  
110 deemed to be in conformity with this Land Development Code.
- 111 b. *Amortization.*
- 112 1. *Alternative A.*
- 113 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all  
114 signs prohibited by division 8.02.00, prohibited signs, of this Land  
115 Development Code, shall be removed or made to conform within 60 days of  
116 the enactment of this Land Development Code.
- 117 (ii) All other nonconforming signs shall be removed or altered to be conforming  
118 within seven years of the effective date of this Land Development Code,  
119 unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this  
120 section.
- 121 2. *Alternative B.*
- 122 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all  
123 signs prohibited by division 8.02.00, prohibited signs, of this Land  
124 Development Code, shall be removed or made to conform within 60 days of  
125 the enactment of this Land Development Code.
- 126 (ii) Unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this  
127 section, all other nonconforming signs may be maintained for the longer of the  
128 following periods:
- 129 A. Two years from the date upon which the sign became illegal  
130 under this Land Development Code;

131 B. A period of three to seven years from the installation date or  
 132 most recent renovation date that preceded the enactment of  
 133 this Land Development Code according to the amortization  
 134 table in this subsection. If the date of the more recent  
 135 renovation is chosen as the starting date of the amortization  
 136 period, the period of amortization shall be calculated  
 137 according to the cost of the renovation and not according to  
 138 the original cost of the sign;

Sign Cost or Permitting Years Renovation from Installation Cost or Renovation Date	
\$101.00 to \$1,000.00	3 years
\$1,001.00 to \$3,000.00	4 years
\$3,001.00 to \$10,000.00	5 years
More than \$10,000.00	7 years

139  
 140 C. Any owner of a sign who requests an amortization period  
 141 longer than two years shall, within one year from the date of  
 142 enactment of these regulations, file with the town manager a  
 143 statement setting forth the cost of the sign, the date of  
 144 erection, or the cost and date of most recent renovation and a  
 145 written agreement to remove the sign at or before the  
 146 expiration of the amortization period applicable to the sign; or

147 D. The development review board may grant a variance from the  
 148 terms of the foregoing amortization schedule for up to one  
 149 additional year where it finds such additional period of time is  
 150 necessary in order to avoid unnecessary hardship not caused  
 151 by the petitioner, and such variance is not contrary to the  
 152 public interest. Multiple one-year extensions may be granted  
 153 where warranted, but may only be granted one year at a time.

154 (c) *Continuation of nonconforming signs.* Subject to the limitation imposed by the amortization  
 155 schedule above, and subject to the restrictions in subsection (a) or (b)(3)b.2(ii)A and B of  
 156 this section, a nonconforming sign may be continued and shall be maintained in good  
 157 condition as required by this Land Development Code, but it shall not be:

- 158 (1) Structurally changed to another nonconforming sign, but its pictorial content may be  
 159 changed.
- 160 (2) Structurally altered to prolong the life of the sign, except to meet safety requirements.
- 161 (3) Altered in any manner that increases the degree of nonconformity.
- 162 (4) Expanded.
- 163 (5) Reestablished after damage or destruction if the estimated cost of reconstruction  
 164 exceeds 50 percent of the appraised replacement cost as determined by the town  
 165 manager.
- 166 (6) Continued in use when a conforming sign or sign structure shall be erected on the same  
 167 parcel or unit.

168 (7) Continued in use when the structure housing the occupancy is demolished or requires  
169 renovations the cost of which exceeds 50 percent of the assessed value of the structure.

170 (8) Continued in use after the structure housing the occupancy has been vacant for six  
171 months or longer.

172 Should any of the conditions in this subsection (c) be violated, the sign shall be removed within  
173 60 days.

174 (d) *Nonconforming signs along federal highways.* If it is determined that nonconforming signs  
175 along a federal interstate or primary aid highway may not be removed pursuant to the above  
176 provisions, the town council shall develop a plan for their expeditious removal in  
177 accordance with state and federal law.

178 **Section 3. Codification.** Section 2 of this Ordinance shall be codified and made part of the Town  
179 of Windermere Land Development Code.

180 **Section 4. Conflicts.** In the event of a conflict or conflicts between this ordinance and other  
181 ordinances, this ordinance controls to the extent of the conflict.

182 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if any  
183 section, paragraph, sentence or word of this Ordinance or the application thereto any person or  
184 circumstance is held invalid, that invalidity shall not affect other sections or words or  
185 applications of this Ordinance. If any part of this Ordinance is found to be preempted or  
186 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent  
187 permitted by the severance of such preempted or superseded part.

188 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption at its second  
189 reading.

190 **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2023, at a regular meeting of the Town  
191 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida  
by: Town Council

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by: \_\_\_\_\_  
Jim O'Brien, Mayor

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201 Attest:

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205

206 \_\_\_\_\_  
207 Dorothy Burkhalter, MMC, FCRM  
Town Clerk

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208	
209	First reading:
210	Second reading:
211	Advertised:





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**ORDINANCE NO. 2023-01**

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3       **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF**  
4       **WINDERMERE, FLORIDA AMENDING THE EXISTING**  
5       **NONCONFORMING DEVELOPMENT EXPANSION LIMITATION;**  
6       **AMENDING ARTICLE X, DIVISION 10.01.00, OF THE TOWN OF**  
7       **WINDMERERE LAND DEVELOPMENT CODE TO ALLOW THE**  
8       **EXPANSION OF AN EXISTING NONCONFORMING STRUCTURE**  
9       **WHEN SUCH EXPANSION DOES NOT INCREASE THE**  
10       **NONCONFORMITY AND SUCH EXPANSION IS IN FULL**  
11       **COMPLIANCE WITH CURRENT LAND DEVELOPMENT CODE**  
12       **REQUIREMENTS; PROVIDING STANDARDS FOR EXISTING**  
13       **NONCONFORMING STRUCTURES RELATED TO RECONSTRUCTION**  
14       **AFTER PARTIAL OR FULL DEMOLITION, RECONSTRUCTION**  
15       **AFTER A FIRE OR OTHER CALAMITY, RECONSTRUCTION WITHIN**  
16       **THE 100-YEAR FLOOD ZONE, RECONSTRUCTION OF BOATHOUSES**  
17       **AND DOCKS, AND OTHER CLARIFICATIONS AND UPDATES AS**  
18       **PROVIDED HEREIN; PROVIDING FOR SEVERABILITY,**  
19       **CODIFICATION AND AN EFFECTIVE DATE.**

20  
21       **BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:**

22  
23       **Section 1. Legislative Findings.** The Town Council of the Town of Windermere hereby makes  
24       and declares the following findings and statements of legislative intent:

- 25  
26           1.       The Town of Windermere places a high priority on maintaining the special  
27       character of the town and encouraging responsible and quality development;
- 28  
29           2.       Within the town, there are several homes and other structures that are legal  
30       nonconforming structures that are limited to a ten percent expansion and are restricted in their  
31       ability to be renovated or expanded due to their nonconformity;
- 32  
33           3.       The Town Council receives and approves many variances requesting the  
34       expansion of an existing nonconforming structure by more than the ten percent limitation but in  
35       compliance with all other current requirements of the Town’s Land Development Code;
- 36  
37           4.       The consistent Town Council approval of variances to allow a greater than ten  
38       percent expansion of an existing nonconforming structure but in compliance with all other  
39       current requirements of the Town’s Land Development Code is a strong indication of a need to  
40       amend the Land Development Code to address the issue;
- 41  
42           5.       The Town Council considered the recommendation by the Town’s Development  
43       Review Board, and comments during the public hearing for this proposed ordinance and;
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45           6.       The Town Council has determined it is in the best interest of the Town to amend  
46       Article X, Division 10.01.00, of the Town’s Land Development Code to allow the expansion of

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47 an existing nonconforming structure that does not increase the nonconformity and is in full  
48 compliance with current land development code requirements; provide standards for existing  
49 nonconforming structures related to reconstruction after partial or full demolition, reconstruction  
50 after a fire or other calamity, reconstruction within the 100-year flood zone, reconstruction of  
51 boathouses and docks, and other clarifications and updates as provided herein  
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53 **Section 2. Land Development Code Amendment.** Article X, Division 10.01.00, of the Town's  
54 Land Development Code is amended as follows:

55 **Sec. 10.01.01. Definitions.**

56 The following words, terms and phrases, when used in this division, shall have the meanings ascribed to  
57 them in this section, except where the context clearly indicates a different meaning:

58 *Nonconforming development* means development legally constructed in accordance with  
59 regulations in place at the time of such construction or land that does not conform to the land use  
60 regulations and/or the development design and improvement standards of this Land  
61 Development Code, and/or the future land use map.

62 **Sec. 10.01.02. Continuation.**

63 Nonconforming development may remain in use in its nonconforming state and may only be  
64 expanded or improved consistent with the requirements within this Division of this Land  
65 Development Code.

66 **Sec. 10.01.03. Expansion or improvement of nonconforming development or structure.**

67 (a) *Generally.* Nonconforming development or structures shall only be expanded or improved if  
68 the expansion or improvement is fully compliant with the requirements of this Land  
69 Development Code, and the nonconforming condition is not increased as a result of the new  
70 construction. Nonconforming development is also subject to the following requirements:

71 (1) If a nonconforming development or structure is voluntarily fully or partially  
72 demolished, any reconstruction must meet all requirements of this Land Development  
73 Code.

74 (2) Reconstruction of a nonconforming structure after the structure has been substantially  
75 destroyed by fire or other calamity must be consistent with all requirements of this  
76 Land Development Code. A structure is substantially destroyed if the cost of  
77 reconstruction is 50 percent or more of the fair market value of the structure before the  
78 fire or other calamity. If there are multiple structures on a site, the cost of  
79 reconstruction shall be compared to the combined fair market value of all the  
80 structures.

81 (3) Any nonconforming property that existed on June 10, 1975, but has changed its usage  
82 to a single-family residence shall not be permitted to revert back to duplex usage.

83 (b) *Special provisions for specific nonconformities.*

84 (1) *Nonconformity with the stormwater management requirements of this Land*  
85 *Development Code.* An existing development that does not comply with the  
86 stormwater management requirements of this Land Development Code must be

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87 brought into full compliance when the use of the development is intensified, resulting  
88 in an increase in stormwater runoff or added concentration of pollution in the runoff.

89 (2) *Nonconformity with floodplain requirements of the Floodplain Management*  
90 *Ordinance of Chapter 16, Code of Ordinances.* Any structure or development that does  
91 not meet the requirements of the Floodplain Management Ordinance in Chapter 16,  
92 Code of Ordinances, shall be subject to requirements of Chapter 16, Code of  
93 Ordinances, to come into compliance.

94 (3) *Nonconforming boathouses and docks.* Boathouses and docks that do not meet the  
95 requirements of Section 7.02.05 of this Land Development Code are subject to the  
96 requirements for repairs and reconstruction under Orange County's ordinances  
97 regulating, restricting, and otherwise addressing boat dock construction, as such  
98 ordinances may be amended from time-to-time. (4) *Nonconforming with the*  
99 *parking and loading requirements of this Land Development Code.*, Full compliance  
100 with the requirements of this Land Development Code shall be required where the  
101 seating capacity or other factor controlling the number of parking or loading spaces  
102 required by this Land Development Code is increased by ten percent or more.

103 (5) *Nonconforming signs.*

104 a. *Defined.* Any sign within the town on the effective date of this Land Development  
105 Code or a sign existing within any area annexed to the town after the effective  
106 date of this Land Development Code, and except for subdivision signs erected  
107 prior to 1990, which is prohibited by, or does not conform to the requirements of,  
108 this Land Development Code; except that signs that are within ten percent of the  
109 height and size limitations of this Land Development Code, and that in all other  
110 respects conform to the requirements of this Land Development Code, shall be  
111 deemed to be in conformity with this Land Development Code.

112 b. *Amortization.*

113 1. *Alternative A.*

114 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all  
115 signs prohibited by division 8.02.00, prohibited signs, of this Land  
116 Development Code, shall be removed or made to conform within 60 days of  
117 the enactment of this Land Development Code.

118 (ii) All other nonconforming signs shall be removed or altered to be conforming  
119 within seven years of the effective date of this Land Development Code,  
120 unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this  
121 section.

122 2. *Alternative B.*

123 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all  
124 signs prohibited by division 8.02.00, prohibited signs, of this Land  
125 Development Code, shall be removed or made to conform within 60 days of  
126 the enactment of this Land Development Code.

127 (ii) Unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this  
128 section, all other nonconforming signs may be maintained for the longer of the  
129 following periods:

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- A. Two years from the date upon which the sign became illegal under this Land Development Code;
- B. A period of three to seven years from the installation date or most recent renovation date that preceded the enactment of this Land Development Code according to the amortization table in this subsection. If the date of the more recent renovation is chosen as the starting date of the amortization period, the period of amortization shall be calculated according to the cost of the renovation and not according to the original cost of the sign;

Sign Cost or Permitting Years Renovation from Installation Cost or Renovation Date	
\$101.00 to \$1,000.00	3 years
\$1,001.00 to \$3,000.00	4 years
\$3,001.00 to \$10,000.00	5 years
More than \$10,000.00	7 years

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- C. Any owner of a sign who requests an amortization period longer than two years shall, within one year from the date of enactment of these regulations, file with the town manager a statement setting forth the cost of the sign, the date of erection, or the cost and date of most recent renovation and a written agreement to remove the sign at or before the expiration of the amortization period applicable to the sign; or
- D. The development review board may grant a variance from the terms of the foregoing amortization schedule for up to one additional year where it finds such additional period of time is necessary in order to avoid unnecessary hardship not caused by the petitioner, and such variance is not contrary to the public interest. Multiple one-year extensions may be granted where warranted, but may only be granted one year at a time.

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- (c) *Continuation of nonconforming signs.* Subject to the limitation imposed by the amortization schedule above, and subject to the restrictions in subsection (a) or (b)(3)b.2(ii)A and B of this section, a nonconforming sign may be continued and shall be maintained in good condition as required by this Land Development Code, but it shall not be:
  - (1) Structurally changed to another nonconforming sign, but its pictorial content may be changed.
  - (2) Structurally altered to prolong the life of the sign, except to meet safety requirements.
  - (3) Altered in any manner that increases the degree of nonconformity.
  - (4) Expanded.
  - (5) Reestablished after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the town manager.

167 (6) Continued in use when a conforming sign or sign structure shall be erected on the same  
168 parcel or unit.

169 (7) Continued in use when the structure housing the occupancy is demolished or requires  
170 renovations the cost of which exceeds 50 percent of the assessed value of the structure.

171 (8) Continued in use after the structure housing the occupancy has been vacant for six  
172 months or longer.

173 Should any of the conditions in this subsection (c) be violated, the sign shall be removed within  
174 60 days.

175 (d) *Nonconforming signs along federal highways.* If it is determined that nonconforming signs  
176 along a federal interstate or primary aid highway may not be removed pursuant to the above  
177 provisions, the town council shall develop a plan for their expeditious removal in  
178 accordance with state and federal law.

179 **Section 3. Codification.** Section 2 of this Ordinance shall be codified and made part of the  
180 Town of Windermere Land Development Code.

181 **Section 4. Conflicts.** In the event of a conflict or conflicts between this ordinance and other  
182 ordinances, this ordinance controls to the extent of the conflict.

183 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if  
184 any section, paragraph, sentence or word of this Ordinance or the application thereto any person  
185 or circumstance is held invalid, that invalidity shall not affect other sections or words or  
186 applications of this Ordinance. If any part of this Ordinance is found to be preempted or  
187 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent  
188 permitted by the severance of such preempted or superseded part.

189 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption at its second  
190 reading.

191 **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2023, at a regular meeting of the Town  
192 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida

by: Town Council

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by: \_\_\_\_\_

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Jim O'Brien, Mayor

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203 Attest:

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207 Dorothy Burkhalter, MMC, FCRM  
208 Town Clerk  
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210 First reading:  
211 Second reading:  
212 Advertised:

