

SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

**SUBJECT:** Appeal of the Board of Adjustment's decision to deny a request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed located at 185 Jay Drive; (Hector & Nancy Mendez, applicants).

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Francisco Torregrosa **EXT.** 7387

Agenda Date 9/14/04 . Regular  Consent  Work Session  Briefing   
Public Hearing – 1:30  Public Hearing – 7:00

**MOTION/RECOMMENDATION:**

1. **UPHOLD** the Board of Adjustment's decision to deny a request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed located at 185 Jay Drive; (Hector & Nancy Mendez, applicants); or
2. **REVERSE** the Board of Adjustment's decision to deny a request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed located at 185 Jay Drive; (Hector & Nancy Mendez, applicants); or
3. **CONTINUE** the request to a time and date certain.

District 3 – Van Der Weide Francisco Torregrosa, Planner

**BOARD OF ADJUSTMENT DECISION:**

At its December 16, 2003 regular meeting, the Board of Adjustment denied a request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed at 185 Jay Drive, Altamonte Springs, Florida, in the R-1 (Single-Family Dwelling District), as depicted on the attached site plan. The Board of Adjustment based its denial on the applicants' failure to demonstrate a hardship consistent with the variance criteria of the Land Development Code. Staff had recommended denial of the request citing the shed could have been built to comply with minimum setback requirements had the applicants submitted for a building permit prior to construction. The applicants submitted an application to

Reviewed by:  
Co Atty: [Signature]  
DFS: \_\_\_\_\_  
Other: [Signature]  
DCM: [Signature]  
CM: [Signature]  
File No. **PH130PDP02**

appeal the decision on December 22, 2003. The applicant filed an appeal in a timely manner. Staff, however, did not schedule the appeal until now. The scheduling delay was an oversight by Planning staff and is not the fault of the applicant.

**STAFF RECOMMENDATION:**

Based upon the stated findings, staff recommends the Board of County Commissioners uphold the decision of the Board of Adjustment and deny the request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed at 185 Jay Drive in the R-1 (Single-Family Dwelling District).

**STAFF REPORT**

<b>General Information</b>	Hector and Nancy Mendez, applicants 185 Jay Drive Alt. Spgs., FL 32714	R-1 (Single-Family Dwelling District)
<b>Background / Request</b>	<ul style="list-style-type: none"> <li>• The applicants constructed a 12 x 24 foot shed without a building permit. Because the shed is larger than 200 square feet, it must meet the same side and rear yard setbacks as the principal structure.</li> <li>• At its current location, the shed encroaches 17 feet into the minimum 30 foot rear yard setback and 4.5 feet into the minimum 7.5 foot side yard setback.</li> <li>• The applicants are requesting the aforementioned variances to make the shed compliant in order to obtain a building permit.</li> <li>• No notice of violation has been issued for this property.</li> <li>• At its December 16, 2003 regular meeting, the Board of Adjustment denied a request for (1) rear yard setback variance from 30 feet to 13 feet; and (2) north side yard setback variance from 7.5 feet to 3 feet for an existing shed.</li> </ul>	
<b>Staff Findings</b>	<p>The Board of County Commissioners shall have the power to hear and decide appeals from Board of Adjustment decisions, including variances the Board of Adjustment is specifically authorized to pass under the terms of the Land Development Code upon determination that the following provisions of Section 30.43(b)(3) are satisfied:</p> <p><b>a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved</b></p>	

**and which are not applicable to other lands, structures, or buildings in the same zoning classification.**

The R-1 District establishes a minimum rear yard setback of 30 feet and a minimum side yard setback of 7.5 feet. No special circumstances have been identified or presented by the applicants to support the requested variances. The submitted site plan of the current home depicts a lot of adequate size to accommodate placement of the existing accessory structure without encroaching into the minimum district setbacks.

**b) That the special conditions and circumstances do not result from the actions of the applicant.**

Apart from the current yard encroachments, which are the result of the applicants' actions, no special conditions or circumstances have been demonstrated.

**c) That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning classification.**

Because there are no identified special circumstances that support the requested variances, staff believes the granting of the same would confer special privileges denied to others in the R-1 District by allowing encroachment into the rear and side yards without the demonstration of a hardship.

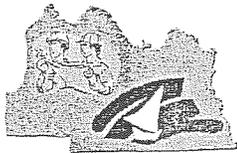
**d) That literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would work unnecessary and undue hardship on the applicant.**

Staff does not believe the literal interpretation of the provisions of Chapter 30 would deprive the applicants of rights commonly enjoyed by other properties since the shed could be relocated on the property to comply with the required district setbacks.

**e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

	<p>The requested variances are not the minimum since the shed could be relocated on the to comply with the required district setbacks.</p> <p><b>f) That the grant of the variance will be in harmony with the general intent and purpose of Chapter 30, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.</b></p> <p>The requested variances would not be compliant with the Land Development Code and would potentially begin a trend of encroachment into the minimum rear and side yard setback requirements of the R-1 District.</p>
<p><b>Staff Recommendation</b></p>	<p>Based on the stated findings, staff thereby recommends the Board of County Commissioners uphold the decision of the Board of Adjustment and deny the requested variances and make the appropriate findings of fact, unless the applicants can satisfy the criteria for the grant of a variance. If the Board should decide to reverse the Board of Adjustment’s decision, staff recommends the imposition of the following conditions:</p> <ul style="list-style-type: none"> <li>• Any variance granted should apply only to the existing shed as depicted on the attached site plan; and</li> <li>• Any additional condition(s) deemed appropriate by the Board, following information presented at the public hearing.</li> </ul>

- Attachments:
- Application for variances and appeal correspondence
  - Proposed site plan
  - Location map
  - Property appraiser report
  - Recorded development order
  - Board of Adjustment meeting minutes
  - Decision on appeal



BA 2004-001

APPL. NO. BV2003170

**APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT**

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division.

REAR APPLICATION TYPE:

**VARIANCE**

AS STRAIGHT VARIANCE FROM 30' TO 13' FOR AN EXISTING SHED

**SPECIAL EXCEPTION**

**MOBILE HOME SPECIAL EXCEPTION**

EXISTING  PROPOSED  REPLACEMENT

MOBILE HOME IS FOR

YEAR OF MOBILE HOME \_\_\_\_\_ SIZE OF MOBILE HOME \_\_\_\_\_

ANTICIPATED TIME MOBILE HOME IS NEEDED \_\_\_\_\_

PLAN TO BUILD  YES  NO IF SO, WHEN \_\_\_\_\_

MEDICAL HARDSHIP  YES (LETTER FROM DOCTOR REQUIRED)  NO

**APPEAL FROM DECISION OF THE PLANNING MANAGER**

	PROPERTY OWNER	AUTHORIZED AGENT*
NAME	Hector + Nancy Mendez	
ADDRESS	195 Jay DR	
	Altamonte Spgs. FL 32714	
PHONE 1	407-788-0759	
PHONE 2		
E-MAIL	NMendez928@msol.com	

PROJECT NAME: \_\_\_\_\_

SITE ADDRESS: 195 Jay DR, Altamonte Spgs FL 32714

CURRENT USE OF PROPERTY: HOME

LEGAL DESCRIPTION: See Property Appraiser

SIZE OF PROPERTY: 9,000 sq. acre(s) PARCEL I.D. 15-21-29-501-0000-0970

UTILITIES:  WATER  WELL  SEWER  SEPTIC TANK  OTHER \_\_\_\_\_

KNOWN CODE ENFORCEMENT VIOLATIONS NONE

IS PROPERTY ACCESSIBLE FOR INSPECTION  YES  NO

This request will be considered at the Board of Adjustment regular meeting on Dec. 15 (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

Nancy Mendez

SIGNATURE OF OWNER OR AGENT\*

10-17-03

DATE

\* Proof of owner's authorization is required with submittal if signed by agent.

**ADDITIONAL VARIANCES**

VARIANCE 2: NORTH  
 A<sup>1</sup> SIDE SETBACK VARIANCE FROM 7.5'  
 TO 3' FOR AN EXISTING SHED

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

**APPEAL FROM BOA DECISION TO BCC**

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	Heaton & Nancy Mendez	
ADDRESS	195 Jay DR Alt. 5433 FL 32714	
PHONE 1	407-788-0759	
PHONE 2	321-354-8551	
E-MAIL		

NATURE OF THE APPEAL From BOA Decision to BCC

BCC PUBLIC HEARING DATE \_\_\_\_\_

**FOR OFFICE USE ONLY**

PROCESSING:  
 FEE: 850 COMMISSION DISTRICT 3 FLU/ZONING LDR/R1

LOCATION FURTHER DESCRIBED AS \_\_\_\_\_  
250' FROM THE CORNER OF JAY DR & MAK DR.

PLANNER VB DATE 10/17/2023

SUFFICIENCY COMMENTS \_\_\_\_\_

12-22-03

I Nancy + Hector Mendez, resides at 185 Jay Dr., Alt. Spgs, Fl. 32714, want to Appeal BOA decision, due to my next door neighbor was granted his shed closed to easement & as far as my neighbors who resides in back of my house they are not complaining about how close the shed is but how high it is, & worry about the metal rusting. They just don't know that we use galvalie material that don't rust. Also we already have a cement slab & shed is very heavy to be moved. To move this shed it would be very costly! I would appreciate if you would consider your decision on the shed!

Thank you  
Nancy Mendez



SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
1101 EAST FIRST STREET  
SANFORD, FL 32771  
(407) 665-7444 PHONE (407) 665-7385 FAX APPL. NO. BV2003-170

**APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT**

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division.

**COPY**

REAR APPLICATION TYPE:

**VARIANCE** AS SETBACK VARIANCE FROM 30' TO 13' FOR AN EXISTING SHED

**SPECIAL EXCEPTION**

**MOBILE HOME SPECIAL EXCEPTION**

EXISTING  PROPOSED  REPLACEMENT

MOBILE HOME IS FOR YEAR OF MOBILE HOME \_\_\_\_\_ SIZE OF MOBILE HOME \_\_\_\_\_

ANTICIPATED TIME MOBILE HOME IS NEEDED \_\_\_\_\_

PLAN TO BUILD  YES  NO IF SO, WHEN \_\_\_\_\_

MEDICAL HARDSHIP  YES (LETTER FROM DOCTOR REQUIRED)  NO

**APPEAL FROM DECISION OF THE PLANNING MANAGER**

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	<u>Hector &amp; Nancy Mendez</u>	
ADDRESS	<u>185 Jay DR</u>	
	<u>Altamonte Spgs. FL 32714</u>	
PHONE 1	<u>407-788-0259</u>	
PHONE 2		
E-MAIL	<u>N.Mendez.928@MSD.com</u>	

PROJECT NAME: \_\_\_\_\_

SITE ADDRESS: 185 Jay DR, Altamonte Spgs FL 32714

CURRENT USE OF PROPERTY: HOME

LEGAL DESCRIPTION: See Property Appraiser

SIZE OF PROPERTY: 9,000 sq' acre(s) PARCEL I.D. 15-21-29-501-0000-0970

UTILITIES:  WATER  WELL  SEWER  SEPTIC TANK  OTHER \_\_\_\_\_

KNOWN CODE ENFORCEMENT VIOLATIONS NONE

IS PROPERTY ACCESSIBLE FOR INSPECTION  YES  NO

This request will be considered at the Board of Adjustment regular meeting on Dec. 15 (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

Nancy Mendez SIGNATURE OF OWNER OR AGENT\* DATE 12-17-03

\* Proof of owner's authorization is required with submittal if signed by agent.

ADDITIONAL VARIANCES

VARIANCE 2: NORTH  
A<sup>1</sup> SIDE SETBACK VARIANCE FROM 7.5'  
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VARIANCE 3:

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VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

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NAME		
ADDRESS		
PHONE 1		
PHONE 2		
E-MAIL		

NATURE OF THE APPEAL \_\_\_\_\_

BCC PUBLIC HEARING DATE \_\_\_\_\_

FOR OFFICE USE ONLY

PROCESSING:

FEE: 750 COMMISSION DISTRICT 3 FLU/ZONING LDR/R1

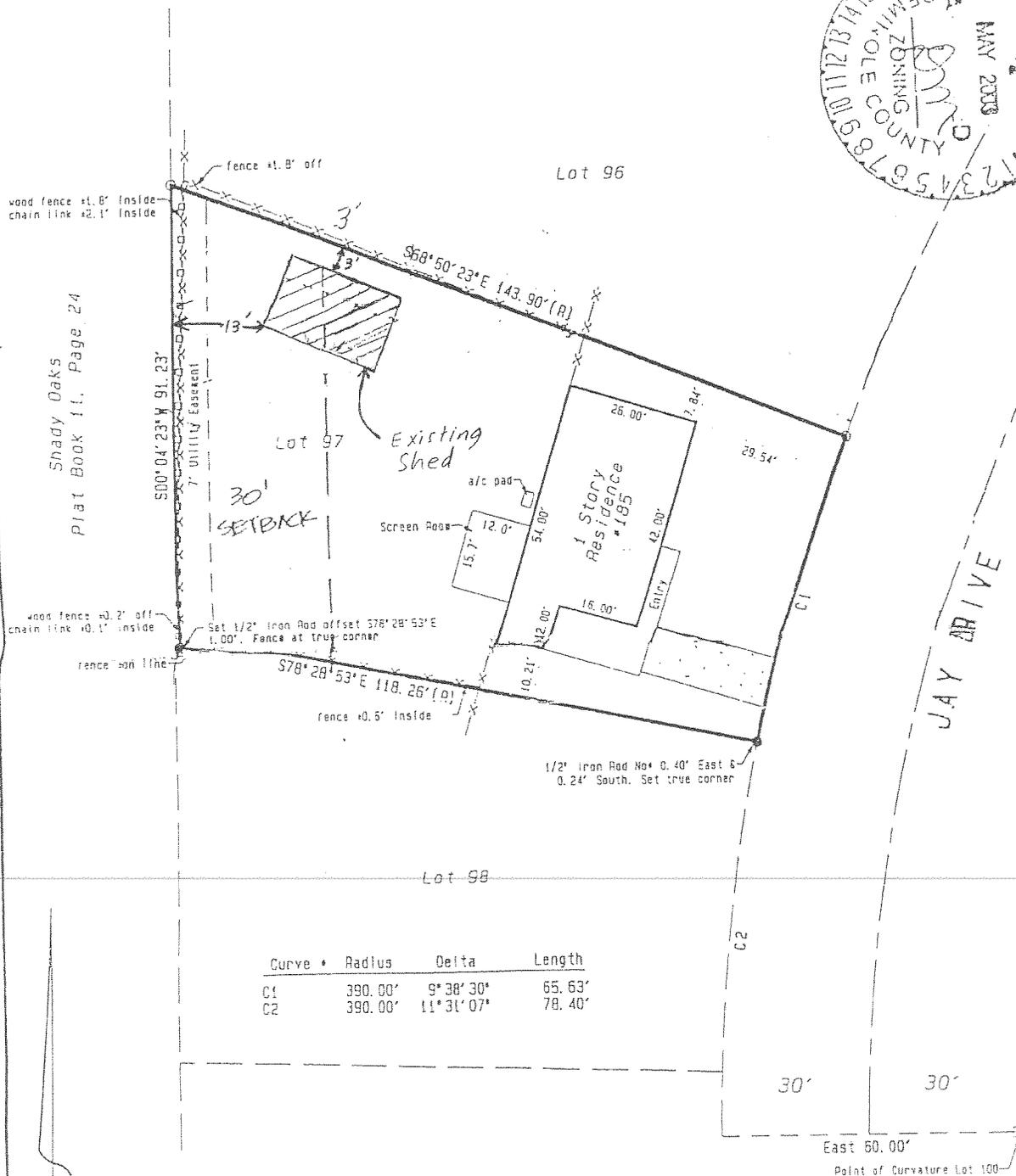
LOCATION FURTHER DESCRIBED AS \_\_\_\_\_  
250' FROM THE CORNER OF JAY DR & OAK DR.

PLANNER VR DATE 10/17/2003

SUFFICIENCY COMMENTS \_\_\_\_\_

# Boundary Survey for Hector & Nancy Mendez

Lot 97,  
GOLDIE MANOR 2ND ADDITION  
Plat Book 14, Page 10,  
Seminole County, Florida



Shady Oaks  
Plat Book 11, Page 24

JAY DRIVE

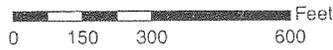
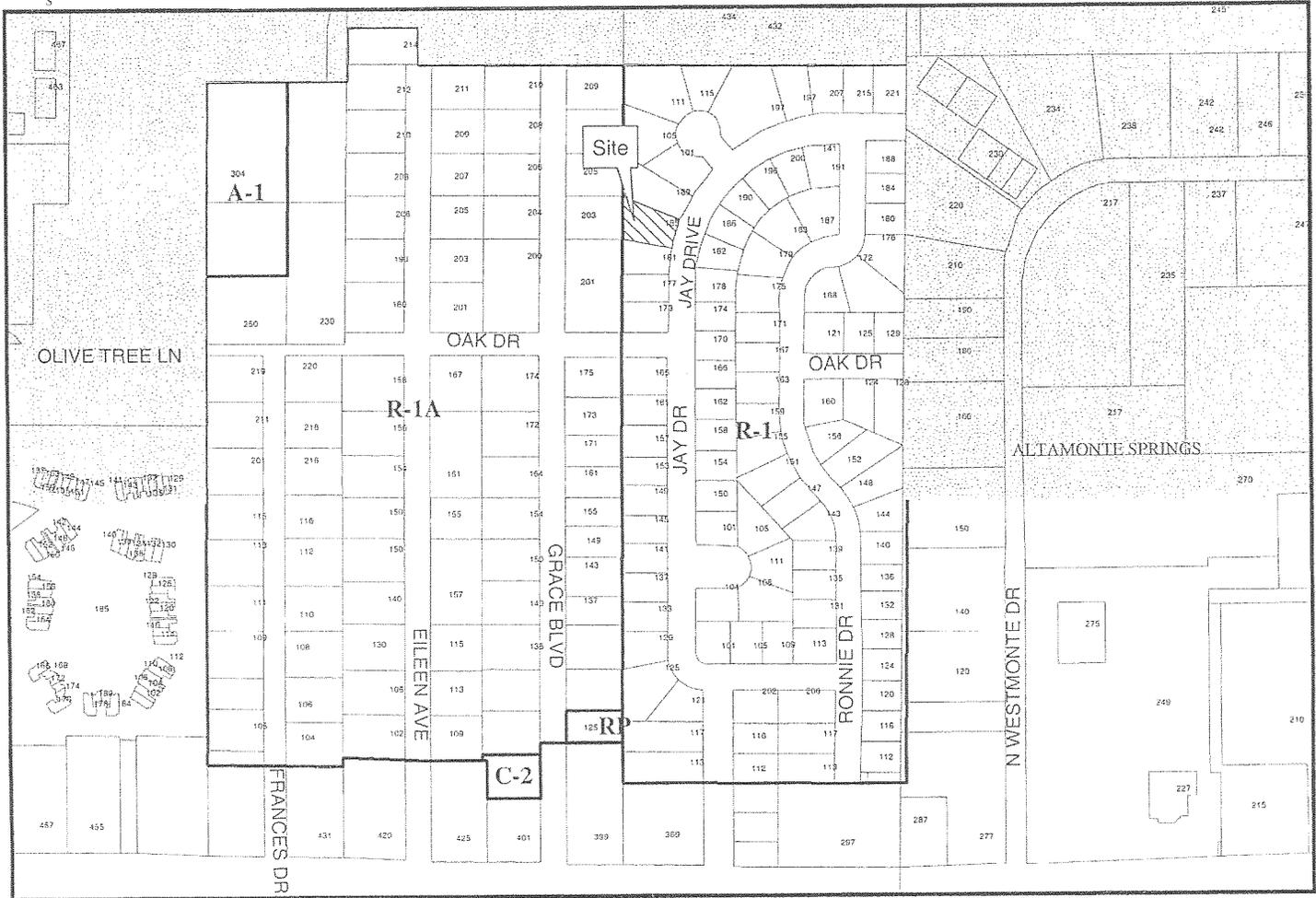
Curve	Radius	Delta	Length
C1	390.00'	9° 38' 30"	65.63'
C2	390.00'	11° 31' 07"	78.40'

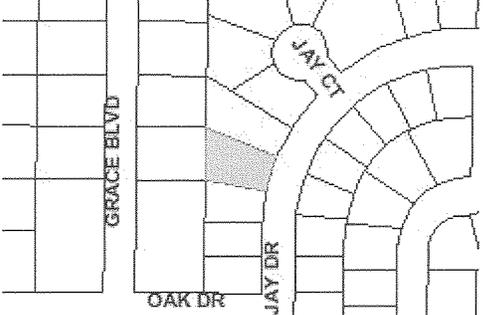
- Legend**
- = Recovered 4' x 4' Concrete Monument No.
  - = Set 4' x 4' Concrete Monument #LB6300
  - △ = Recovered Nail & Disk as shown
  - x = Recovered X Cut in concrete
  - = Recovered 1/2" Iron Rod No.

This Survey Certified To:  
Volusia Title Services, Inc.  
American Pioneer Title Insurance Company  
Bank of Central Florida



# Hector & Nancy Mendez 185 Jay Drive



<b>PARCEL DETAIL</b>	<a href="#">REAL ESTATE</a>	<a href="#">PERSONAL PROP.</a>	<a href="#">TAX ROLL</a>	<a href="#">SALES SEARCH</a>	◀ ◁ Back ▷ ▶																																																												
 <p><b>Seminole County</b> Property Appraiser Services 1101 E. First St. Sanford FL 32771 407-665-7506</p>																																																																	
<p align="center"><b>GENERAL</b></p> <p>Parcel Id: 15-21-29-501-0000-0970      Tax District: 01-TX DIST 1 - COUNTY</p> <p>Owner: MENDEZ HECTOR &amp; NANCY      Exemptions: 00-HOMESTEAD</p> <p>Address: 185 JAY DR</p> <p>City,State,ZipCode: ALTAMONTE SPRINGS FL 32714</p> <p>Property Address: 185 JAY DR ALTAMONTE SPRINGS 32714</p> <p>Subdivision Name: GOLDIE MANOR 2ND ADD</p> <p>Dor: 01-SINGLE FAMILY</p>			<p align="center"><b>2004 WORKING VALUE SUMMARY</b></p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$67,832</p> <p>Depreciated EXFT Value: \$0</p> <p>Land Value (Market): \$18,068</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$85,900</p> <p>Assessed Value (SOH): \$65,417</p> <p>Exempt Value: \$25,000</p> <p>Taxable Value: \$40,417</p>																																																														
<p align="center"><b>SALES</b></p> <table border="1"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>10/1995</td> <td>02976</td> <td>1652</td> <td>\$50,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1986</td> <td>01851</td> <td>1062</td> <td>\$11,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>06/1980</td> <td>01282</td> <td>1462</td> <td>\$34,000</td> <td>Improved</td> </tr> </tbody> </table> <p align="center">Find Comparable Sales within this Subdivision</p>			Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	10/1995	02976	1652	\$50,000	Improved	WARRANTY DEED	01/1986	01851	1062	\$11,000	Improved	WARRANTY DEED	06/1980	01282	1462	\$34,000	Improved	<p align="center"><b>2003 VALUE SUMMARY</b></p> <p>Tax Value(without SOH): \$703</p> <p>2003 Tax Bill Amount: \$672</p> <p>Savings Due To SOH: \$31</p> <p><b>2003 Taxable Value: \$39,197</b></p> <p align="center">DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>																																						
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<p><b>NOTE:</b> Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.        *** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.</p>																																																																	

[BACK](#)     
 [PROPERTY APPRAISER HOME PAGE](#)     
 [CONTACT](#)

**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On December 16, 2003, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 97 GOLDIE MANOR 2<sup>ND</sup> ADD PB 14 PG 10

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

**Property Owner:** HECTOR AND NANCY MENDEZ  
185 JAY DRIVE  
ALTAMONTE SPRINGS, FL 32714

**Project Name:** JAY DRIVE (185)

**Requested Development Approval:**

1. REAR YARD SETBACK VARIANCE FROM 30 FEET TO 13 FEET FOR AN EXISTING ACCESSORY SHED; AND
2. SIDE YARD SETBACK VARIANCE FROM 7.5 FEET TO 3 FEET FOR AN EXISTING ACCESSORY SHED.

The Variance Application is not inconsistent with the Seminole County Comprehensive Plan and would adversely impact neighborhood character by allowing the continuance of an accessory structure that is inconsistent with the applicable standards of the Land Development Code. The requested development approval is hereby denied.

Prepared by: Francisco Torregrosa  
1101 East First Street  
Sanford, Florida 32771

MARYANNE MORSE, CLERK OF CIRCUIT COURT  
CLERK OF SEMINOLE COUNTY  
BK 05147 PGS 1698-1700  
FILE NUM 2003227764  
RECORDED 12/24/2003 02:29:12 PM  
RECORDING FEES 15.00  
RECORDED BY J Eckenroth

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY, FLORIDA  
BY Eva Beach  
DEPUTY CLERK

RETURN TO SANDY MCCANN



Done and Ordered on the date first written above.

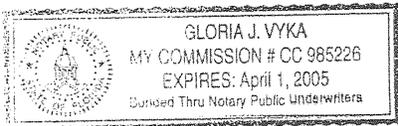
By: Matthew West  
Matthew West  
Planning Manager

STATE OF FLORIDA )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this 18 day of December, 2003.

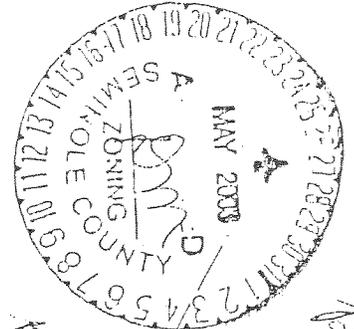
Gloria J. Vyka  
Notary Public, in and for the County and State  
Aforementioned



My Commission Expires:

# Boundary Survey for Hector & Nancy Mendez

Lot 97,  
GOLDIE MANOR 2ND ADDITION  
Plat Book 14, Page 10,  
Seminole County, Florida



For personal use only. No commercial use. Shed 12' x 24'



Curve	Radius	Delta	Length
C1	390.00'	9° 38' 30"	65.63'
C2	390.00'	11° 31' 07"	78.40'

East 60.00'  
Point of Curvature Lot 100

N

- Legend
- = Recovered 4'x4' Concrete Monument No.
  - = Set 4'x4' Concrete Monument #LB6300
  - △ = Recovered Nail & Disk as shown

This Survey Certified To:  
Volusia Title Services, Inc.