

SEMINOLE COUNTY GOVERNMENT  
BOARD OF ADJUSTMENT  
AGENDA MEMORANDUM

SUBJECT: REQUEST FOR SPECIAL EXCEPTION TO ESTABLISH A MECHANICAL GARAGE, LIVING QUARTERS FOR SECURITY PURPOSES AND A PAINT AND BODY SHOP IN THE C-2 (RETAIL COMMERCIAL DISTRICT) AT 9176 OVERLAND ROAD; (SUE WALSH, APPLICANT).

DEPARTMENT: Planning & Development DIVISION: Planning

AUTHORIZED BY: Earnest McDonald CONTACT: Francisco Torregrosa EXT. 7387

Agenda Date 07-26-04 Regular  Consent  Public Hearing – 6:00

**MOTION/RECOMMENDATION:**

1. **APPROVE** THE REQUEST FOR SPECIAL EXCEPTION TO ESTABLISH A MECHANICAL GARAGE, LIVING QUARTERS FOR SECURITY PURPOSES AND A PAINT AND BODY SHOP IN THE C-2 (RETAIL COMMERCIAL DISTRICT) AT 9176 OVERLAND ROAD; (SUE WALSH, APPLICANT); OR
2. **DENY** THE REQUEST FOR SPECIAL EXCEPTION TO ESTABLISH A MECHANICAL GARAGE, LIVING QUARTERS FOR SECURITY PURPOSES AND A PAINT AND BODY SHOP IN THE C-2 (RETAIL COMMERCIAL DISTRICT) AT 9176 OVERLAND ROAD; (SUE WALSH, APPLICANT); OR
3. **CONTINUE** THE REQUEST TO A TIME AND DATE CERTAIN.

<b>GENERAL INFORMATION</b>	SUE WALSH, APPLICANT FOR JOHN RUTHEFORD, OWNER 9176 OVERLAND ROAD	C-2 DISTRICT, LDC SECTION 30.763(e), (g) & (h); (LIVING QUARTERS IN CONJUNCTION WITH A COMMERCIAL USE, MECHANICAL GARAGES, & PAINT AND BODY SHOPS)
<b>BACKGROUND / REQUEST</b>	<ul style="list-style-type: none"> <li>• THE APPLICANT REQUESTS A SPECIAL EXCEPTION TO BRING A TOTAL OF SIX (6) SINGLE-STORY STRUCTURES INTO COMPLIANCE WITH THE LAND DEVELOPMENT CODE.</li> <li>• THE EXISTING STRUCTURES ARE CURRENTLY USED FOR MECHANICAL GARAGES, LIVING QUARTERS, OFFICE, RETAIL, AND AUTO BODY REPAIR.</li> <li>• ALTHOUGH THE SAME OR SIMILAR USES HAVE OCCURRED ON THE PROPERTY FOR MORE THAN FIVE (5) YEARS, AVAILABLE RECORDS DO NOT CONFIRM THEIR LEGAL ESTABLISHMENT THROUGH SPECIAL EXCEPTION.</li> </ul>	

- THE OWNER WAS CITED BY CODE ENFORCEMENT ON MARCH 22, 2004 FOR OPERATION SAID USES WITHOUT THE REQUIRED SPECIAL EXCEPTION.

ZONING & FLU	DIRECTION	EXISTING ZONING	EXISTING FLU	USE OF PROPERTY
			C-2	COMMERCIAL
	NORTH	C-2	COMMERCIAL	HOTEL/MOTEL
	SOUTH	C-2	COMMERCIAL	NIGHT CLUB
	EAST	C-2	COMMERCIAL	VACANT / COMMERCIAL
	WEST	ORANGE COUNTY	ORANGE COUNTY	COMMERCIAL

**STANDARDS FOR GRANTING A SPECIAL EXCEPTION; LDC SECTION 30.43(b)(2)**

THE BOARD OF ADJUSTMENT (BOA) SHALL HAVE THE POWER TO HEAR AND DECIDE SPECIAL EXCEPTIONS IT IS SPECIFICALLY AUTHORIZED TO PASS UNDER THE TERMS OF THE LAND DEVELOPMENT CODE UPON DETERMINATION THE USE REQUESTED:

**IS NOT DETRIMENTAL TO THE CHARACTER OF THE AREA OR NEIGHBORHOOD OR INCONSISTENT WITH TRENDS OF DEVELOPMENT IN THE AREA:**

THE REQUESTED SPECIAL EXCEPTION WOULD BRING INTO A COMPLIANCE A SITE HISTORICALLY USED FOR SECURITY LIVING QUARTERS, RETAIL SALES, OFFICE AND AUTO BODY PAINT AND REPAIR.

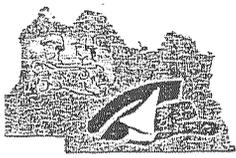
PROPERTIES ALONG THE ABUTTING SEGMENT OF OVERLAND ROAD AND STATE ROAD 441 ARE CHARACTERIZED BY MIXED COMMERCIAL DEVELOPMENT, INCLUDING SIMILAR AUTOMOBILE SERVICE AND REPAIR FACILITIES, GENERAL COMMERCIAL, AND WAREHOUSE USES. FOR THIS REASON, STAFF BELIEVES THE EXISTING USES ON THE SITE ARE CONSISTENT WITH THE CHARACTER OF SURROUNDING DEVELOPMENT.

**DOES NOT HAVE AN UNDULY ADVERSE EFFECT ON EXISTING TRAFFIC PATTERNS, MOVEMENTS AND VOLUMES:**

THE EXISTING USES ARE NOT EXPECTED TO GENERATE MORE PEAK HOUR TRAFFIC THAN THAT WHICH HAS BEEN GENERATED OVER THE LAST FIVE (5) YEARS. STAFF HAS CONFIRMED THAT ADEQUATE CAPACITY EXISTS ALONG THE ABUTTING SEGMENT OF OVERLAND ROAD TO ACCOMMODATE THE EXISTING USES.

	<p><b><u>IS CONSISTENT WITH THE SEMINOLE COUNTY VISION 2020 COMPREHENSIVE PLAN:</u></b></p> <p>THE SEMINOLE COUNTY VISION 2020 COMPREHENSIVE PLAN DESCRIBES COMMERCIAL FUTURE LAND USE AS APPROPRIATE FOR A VARIETY OF COMMERCIAL USES (INCLUDING MECHANICAL GARAGES, LIVING QUARTERS FOR SECURITY PURPOSES AND PAINT AND BODY SHOPS) THAT ARE LOCATED AT THE INTERSECTIONS OF MAJOR ROADWAYS AND ALONG MAJOR ROADWAYS AS INFILL DEVELOPMENT WHERE THE USE IS ALREADY ESTABLISHED.</p> <p>WITH THE IMPOSITION OF STAFF'S RECOMMENDED CONDITIONS, THE EXISTING USES COULD BE MADE TO COMPLY WITH THIS DESCRIPTION OF INFILL DEVELOPMENT, GIVEN THE SUBJECT PROPERTY'S LOCATION ADJACENT TO STATE ROAD 441, WHICH IS DEFINED AS A PRINCIPAL ARTERIAL ROADWAY.</p> <p><b><u>MEETS ANY ADDITIONAL REQUIREMENTS SPECIFIED IN THE CODE SECTION AUTHORIZING THE USE IN A PARTICULAR ZONING DISTRICT OR CLASSIFICATION:</u></b></p> <p>BASED ON THE SUBMITTED SITE PLAN, THE PROPOSED USE WOULD MEET THE MINIMUM AREA AND DIMENSIONAL REQUIREMENTS OF THE C-2 DISTRICT.</p> <p><b><u>WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST:</u></b></p> <p>WITHIN THE C-2 DISTRICT, MECHANICAL GARAGES, LIVING QUARTERS FOR SECURITY PURPOSES AND PAINT AND BODY SHOPS ARE ALLOWED AS SPECIAL EXCEPTION USES. WITH THE IMPOSITION OF STAFF'S RECOMMENDED CONDITIONS, THOSE USES WOULD BE CONSISTENT WITH ABUTTING MIXED COMMERCIAL USES, WHICH ARE SIMILAR IN CHARACTER AND APPEARANCE.</p>
<b>STAFF FINDINGS</b>	<p>IN THE EVALUATION OF THIS APPLICATION, STAFF HAS DETERMINED THE FOLLOWING:</p> <ul style="list-style-type: none"><li>• THE PROPERTY IS CURRENTLY SERVED BY WELL AND SEPTIC SYSTEMS.</li><li>• THERE ARE NO IDENTIFIED AREAS OF ENVIRONMENTAL CONCERN.</li><li>• THE PROPERTY HAS BEEN USED AS A MECHANICAL GARAGE, LIVING QUARTERS FOR SECURITY PURPOSES AND PAINT AND BODY SHOP OVER THE LAST FIVE (5) YEARS; IT IS CONSISTENT WITH THE TREND OF MIXED COMMERCIAL DEVELOPMENT, GENERAL COMMERCIAL, AND WAREHOUSE USES ALONG OVERLAND ROAD AND</li></ul>

	<p>STATE ROAD 441.</p> <ul style="list-style-type: none"><li>• WITH THE IMPOSITION OF STAFF'S RECOMMENDED CONDITIONS, THE PROPOSED USES WOULD NOT HAVE AN ADVERSE IMPACT ON EXISTING TRAFFIC PATTERNS, MOVEMENTS OR VOLUMES.</li><li>• THE EXISTING USES ARE CONSISTENT WITH THE COMPREHENSIVE PLAN'S DESIGNATION OF COMMERCIAL FUTURE LAND USE FOR THE SUBJECT PROPERTY, AND THE PROPOSED USE WOULD NOT ADVERSELY AFFECT THE PUBLIC INTEREST.</li></ul>
<p><b>STAFF RECOMMENDATION</b></p>	<p>BASED ON THE STATED FINDINGS, STAFF RECOMMENDS THE BOARD OF ADJUSTMENT APPROVE THE REQUEST, SUBJECT TO THE FOLLOWING CONDITIONS:</p> <ul style="list-style-type: none"><li>○ AUTOMOTIVE WORK SHALL INCLUDE MECHANICAL REPAIR, SERVICE AND PAINT AND BODY REPAIRS;</li><li>○ ALL AUTOMOTIVE WORK SHALL BE CONDUCTED WITHIN ENCLOSED PRINCIPAL STRUCTURES;</li><li>○ THE OUTDOOR STORAGE OF SERVICE EQUIPMENT OR VEHICLES SHALL BE PROHIBITED; AND</li><li>○ THE EXISTING STRUCTURES SHALL COMPLY WITH THE COMMERCIAL BUILDING CODE.</li></ul>



**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.

APPLICATION TYPE:

- VARIANCE**
- SPECIAL EXCEPTION** Mechanical Garage, living quarters for security purpose, body repair, not for retail. in C-2
- 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	John Rutherford	Sue Walsh
ADDRESS	348 Rinehardt Rd. Mooresville, NC 28115	1339 Black Willow Tr. Altamonte Springs FL 32714
PHONE 1	704-904-4149	407-383-9852 (cell)
PHONE 2		407-445-8144 (ofc)
E-MAIL		

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

SITE ADDRESS: 9176 Overland Rd. Apopka FL 32703

CURRENT USE OF PROPERTY: Mechanical Garage, Body repair, Car lot

LEGAL DESCRIPTION: Leg Beg 418.5 Ft n. of SW cor lot 28 Run N 181.5 ft e 419 ft to rd Sely along rd. 155.25 ft SWly to Beg (Less Rd) McNeil's Orange Villa Pt 2 Pg 99

SIZE OF PROPERTY: 1.9 acre(s) PARCEL I.D. 17-21-29-586-0000-028 F

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

KNOWN CODE ENFORCEMENT VIOLATIONS \_\_\_\_\_

IS PROPERTY ACCESSIBLE FOR INSPECTION  YES  NO

This request will be considered at the Board of Adjustment regular meeting on \_\_\_\_\_ (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.

Sue Walsh 6/4/04  
 SIGNATURE OF OWNER OR AGENT\* DATE

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

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

	PROPERTY OWNER	AUTHORIZED AGENT
NAME		
ADDRESS		
PHONE 1		
PHONE 2		
E-MAIL		

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

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

FOR OFFICE USE ONLY

PROCESSING:

FEE: \$370 COMMISSION DISTRICT 3 FLU/ZONING: COM/C2

LOCATION FURTHER DESCRIBED AS ON THE WESTERN SIDE OF OVERLAND ROAD APPROX 0.1 MI NORTH OF ROCK GARDEN CIR.

PLANNER [initials] DATE VB 6/14 logged

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

April 30, 2004

John Rutherford  
348 Rinehardt Rd  
 Mooresville NC 28115

Attn: Ernest  
Address: Seminole County Planning and Development  
1101 East First Street  
Sanford Florida 32773  
Re: Zoning Variance for Overland Road, Apopka

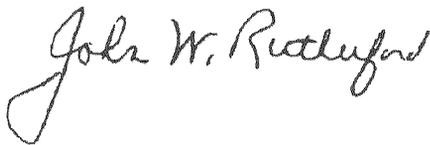
Ernest,

Sue Walsh has my permission to request variance to the zoning on the property in Apopka which is currently being used for automotive business. I would appreciate any assistance you could give her in this matter.

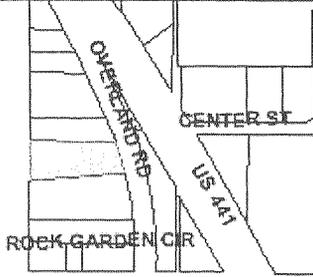
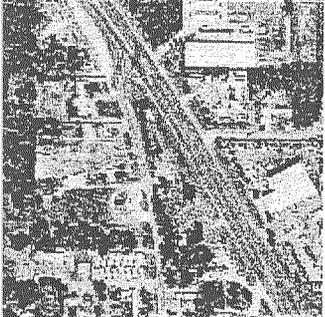
Please feel free to call me for any additional information or assistance you may need.

Thank you in advance for your help,

John Rutherford  
704 904 4149

A handwritten signature in cursive script that reads "John W. Rutherford". The signature is written in dark ink and is positioned below the typed name and phone number.



PARCEL DETAIL	REAL ESTATE	PERSONAL PROP	TAX ROLL	SALES SEARCH	◀ 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: 17-21-29-5BG-0000-028F      Tax District: 01-TX DIST 1 - COUNTY</p> <p>Owner: RUTHERFORD JOHN W      Exemptions:</p> <p>Address: 1117 WALL BRIDGE LP</p> <p>City,State,ZipCode: CLARKESVILLE GA 30523</p> <p>Property Address: 385 OLD US 441</p> <p>Facility Name:</p> <p>Dor: 27-AUTO SALE AND SERVIC</p>			<p align="center"><b>2004 WORKING VALUE SUMMARY</b></p> <p>Value Method: Market</p> <p>Number of Buildings: 2</p> <p>Depreciated Bldg Value: \$34,521</p> <p>Depreciated EXFT Value: \$1,080</p> <p>Land Value (Market): \$138,795</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$174,396</p> <p>Assessed Value (SOH): \$174,396</p> <p>Exempt Value: \$0</p> <p>Taxable Value: \$174,396</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>06/1998</td> <td>03464</td> <td>1630</td> <td>\$170,000</td> <td>Improved</td> </tr> <tr> <td>QUIT CLAIM DEED</td> <td>04/1998</td> <td>03417</td> <td>0376</td> <td>\$100</td> <td>Improved</td> </tr> <tr> <td>CERTIFICATE OF TITLE</td> <td>09/1992</td> <td>02477</td> <td>1301</td> <td>\$100</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>07/1988</td> <td>01977</td> <td>1058</td> <td>\$190,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>04/1982</td> <td>01390</td> <td>1748</td> <td>\$100,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1970</td> <td>00792</td> <td>0062</td> <td>\$13,500</td> <td>Improved</td> </tr> </tbody> </table> <p align="center">Find Comparable Sales within this DOR Code</p>			Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	06/1998	03464	1630	\$170,000	Improved	QUIT CLAIM DEED	04/1998	03417	0376	\$100	Improved	CERTIFICATE OF TITLE	09/1992	02477	1301	\$100	Improved	WARRANTY DEED	07/1988	01977	1058	\$190,000	Improved	WARRANTY DEED	04/1982	01390	1748	\$100,000	Improved	WARRANTY DEED	01/1970	00792	0062	\$13,500	Improved	<p align="center"><b>2003 VALUE SUMMARY</b></p> <p>2003 Tax Bill Amount: \$2,965</p> <p>2003 Taxable Value: \$172,948</p> <p>DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>					
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**SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER**

On July 26, 2004, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG BEG 418.5 FT N OF SW COR LOT 28 RUN N 181.5 FT E 419 FT TO RD SELY ALONG RD 155.25 FT SWLY TO BEG (LESS RD) MC NEILS ORANGE VILLA PB 2 PG 99

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

**FINDINGS OF FACT**

**Property Owner:** JOHN RUTHEFORD  
1117 WALL BRIDGE LP  
CLARKESVILLE, GA 30523

**Project Name:** OVERLAND ROAD (9176)

**Requested Development Approval:**

SPECIAL EXCEPTION TO ESTABLISH A MECHANICAL GARAGE, LIVING QUARTERS FOR SECURITY PURPOSES AND A PAINT AND BODY SHOP IN THE C-2 (RETAIL COMMERCIAL DISTRICT) AT 9176 OVERLAND ROAD, AS DEPICTED ON THE ATTACHED SITE PLAN.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

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

**Order**

**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

1. AUTOMOTIVE WORK SHALL INCLUDE MECHANICAL REPAIR, SERVICE AND PAINT AND BODY REPAIRS;
2. ALL AUTOMOTIVE WORK SHALL BE CONDUCTED WITHIN ENCLOSED PRINCIPAL STRUCTURES;
3. THE OUTDOOR STORAGE OF SERVICE EQUIPMENT OR VEHICLES SHALL BE PROHIBITED; AND
4. THE EXISTING STRUCTURES SHALL COMPLY WITH THE COMMERCIAL BUILDING CODE.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
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 \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

