

GROWTH AND RESOURCE MANAGEMENT DEPARTMENT PLANNING AND DEVELOPMENT SERVICES DIVISION CURRENT PLANNING ACTIVITY

123 W. Indiana Avenue, DeLand, FL 32720 (386) 943-7059

PUBLIC HEARING: August 14, 2012–Planning and Land Development Regulation

Commission (PLDRC)

CASE NO: S-12-015

SUBJECT: Special exception for a garage apartment on Urban Single-Family

Residential (R-4) zoned property.

LOCATION: 139 Lucie Avenue, DeLand

APPLICANTS: Ty Harris, Esq.

OWNERS: Sergiy G. & Svitlana M. Bondarets

STAFF: John H. Stockham, ASLA, Planner III

I. SUMMARY OF REQUEST

The applicant requests a special exception for a garage apartment on the second floor of an existing detached accessory structure. This case originated from a complaint in December 2011, about the owner doing construction without the required permits and inspection approvals. The owner installed a replacement porch and stairs accessory structure. This special exception approval is necessary for the applicant to receive after-the-fact building permits and resolve a notice of violation.

Staff recommendation: Forward to county council with a recommendation of approval subject to the staff recommended conditions.

II. SITE INFORMATION

1. Location: West of Spring Garden Avenue on Lucie Avenue,

approximately 180 feet south of the intersection with west

Church Street.

Parcel No(s): 7007-08-00-0100
 Property Size: 27,900 square feet

4. Council District: 15. Zoning: R-4

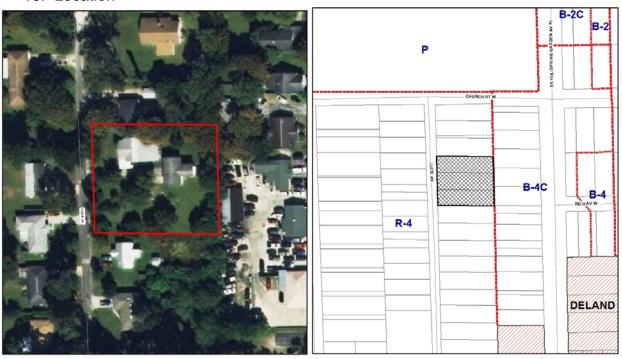
6. Future Land Use: Urban Low Intensity (ULI)

7. ECO Overlay: No 8. NRMA Overlay: No

9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	R-4	Urban Low Intensity	Single-family
			home
East:	B-4C	Urban Low Intensity	Auto sales facility
South:	R-4	Urban Low Intensity	Single-family home
West:	R-4	Urban Low Intensity	Single-family home

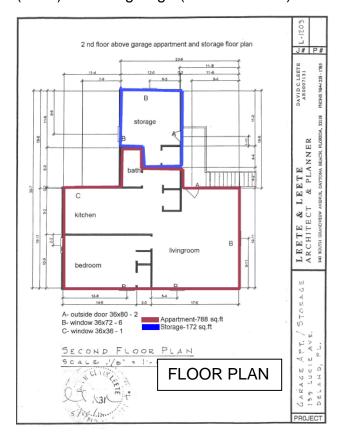
10. Location



AERIAL MAP ZONING MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The homeowner received a notice of violation for constructing a stairway on the rear of the two-story garage last December (2011). When applying for the building permit, staff learned the owner was converting the second floor of the garage into an apartment. Special exception approval by the county council is required for the proposed garage apartment. Presently, there are nonconforming structures on the property, both the home (1946) and the garage (c. 1960's/'70's).



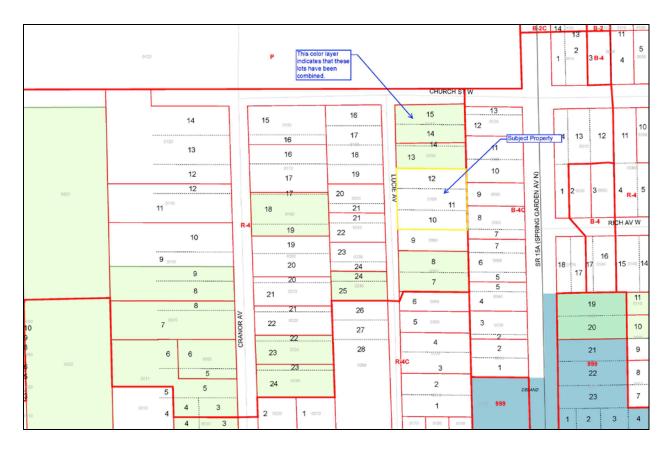
The home is a nonconforming structure (front setback) and the garage is nonconforming based on the 2004 changes to height and square footage restrictions. Staff's research indicates that these are nonconforming structures allowed to remain per section 72-206(3) of the zoning code. Staff considers converting the storage space into a garage apartment as a change of use. Staff found no record of a permit.

The primary residence contains three bedrooms and two baths and a previous homeowner constructed it in 1946. The property appraiser's office noted a detached garage and an accessory storage building, respectively, in 1993 and 1997. Upon a site visit, staff noted that there was no accessory storage building on the property.

The living area of the garage apartment occupies 788 square feet of the 960 total square feet of the second floor. There is space for at least one vehicle on the ground floor of the structure and the driveway has space for at least two vehicles, as required.

The proposed garage apartment is located in an established single-family residential subdivision that a previous developer recorded into the public records in 1925. The lots are all either 50 or 55 feet wide and various homeowners have combined some together over the years. This residential subdivision surrounds the property on the north, south and west. A strip of commercial land runs along the eastern side of the property.

The tax parcel consists of three platted lots, which separately do not meet the R-4 lot standards. The applicant needs to combine the lots by submitting a subdivision lot-combination application to the Land Development office.



GIS MAP

IV. REVIEW CRITERIA AND ANAYLSIS

Section 72-293 *special exceptions* allows some uses or structures as a permitted special exception only when listed as permitted special exceptions in division 7 and meeting all requirements as set forth in division 11.

Per section 72-415(8) *reasons for denial*, the commission may recommend denial and county council may deny any special exception application for one or more of the following reasons:

a. It is inconsistent with the purpose or intent of this ordinance.

The zoning code provides for protection of property values, compatibility of uses, and the safekeeping of public welfare. Other than obtaining building permits and inspections for the internal remodel and exterior stairway, staff does not have any other concerns.

Staff finds that with the recommended condition(s), this application is consistent with the purpose and intent of the zoning code.

b. It is inconsistent with any element of the Comprehensive Plan.

The proposed special exception is consistent with the ULI future land use. It meets the land-use density range of 0.2 to 4 units per acre. There is also enough room on the property to provide the required off-street parking and a larger septic system, if necessary.

Staff finds that this application is consistent with the purpose and intent of the comprehensive plan.

c. It will adversely affect the public interest.

It will not adversely affect the public interest because the applicant will obtain all applicable building permits and inspections.

Staff finds that with the recommended condition(s), this application should not adversely affect the public interest.

d. It does not meet the expressed requirements of the applicable special exception.

Other than the garage apartment living-area size limitation and vehicular parking requirement of the code, there are no specific use requirements. The structure meets the code requirements.

Staff finds that with the recommended condition(s), approval of the garage apartment shall meet all the requirements of the special exception.

e. The applicant will not be able to meet all requirements imposed by federal, state, or local governments, or by the county council.

The applicant shall meet all agency requirements. The applicant is required to obtain all applicable building permits related to the interior remodel and exterior stairway construction. The County Health Department has outlined some of its concerns and requirements pertaining to the property that the applicant can address during building permit review. In addition, the applicant is required to combine the three underlying platted lots (10-12) that comprise this tax parcel number. This is due to the setback and lot size requirements of the R-4 zoning classification.

Staff finds that with the recommended condition(s), this application shall meet all requirements.

f. Notwithstanding the provisions of article XIV of the land development code [appendix A], it will generate undue traffic congestion.

Staff finds that this application shall not generate any undue traffic congestion.

g. It will create a hazard or a public nuisance, or be dangerous to individuals or to the public.

There are no hazards or public nuisances associated with this request as long as the applicant obtains all required permits and inspections. No one will occupy the garage apartment until all inspections are complete.

Staff finds that with the recommended condition(s), this application shall not be a hazard, public nuisance, and or a danger to individuals or the public.

h. It will materially alter the character of surrounding neighborhoods or adversely affect the value of surrounding land, structures, or buildings.

The garage apartment will not adversely affect the character of the surrounding neighborhood or affect the existing structures and buildings because any impacts have already occurred. In addition, the living space of the garage apartment will be limited to 788 square feet, which is less than the standard allowed for this accessory use. The building meets the setback requirements of the R-4 zoning classification.

Staff finds that with the recommended condition(s), this application shall not alter the character of the surrounding neighborhoods or adversely affect the value of surrounding land, structures, or buildings.

i. It will adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

The property is already developed and any environmental impacts have already occurred. Therefore, approval of the special exception will not adversely affect the environment, natural resources, or scenic beauty.

Staff finds this application shall not adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

V. STAFF RECOMMENDATION

Staff recommends approval of the special exception for a garage apartment on Urban Single-Family Residential (R-4) zoned property, subject to the following conditions:

- The property owners or authorized agent(s) shall combine the underlying lots into one unified parcel, by submission and completion of a subdivision exemption application through the land development office before issuance of a building permit.
- 2. The property owners or authorized agent(s) shall obtain and complete all required building permits and inspections, for the interior remodel of and exterior stairway to the garage apartment, within 90 days of the variance letter of rendition. No one shall reside in the garage apartment until the Building and Zoning Division issues a certificate of occupancy.

3. The floor area of the living space of the garage apartment shall be limited to the 788 square feet on the second floor as shown on the plan dated 5/15/2012 as prepared by Leete & Leete Architect and Planner.

VI. ATTACHMENTS

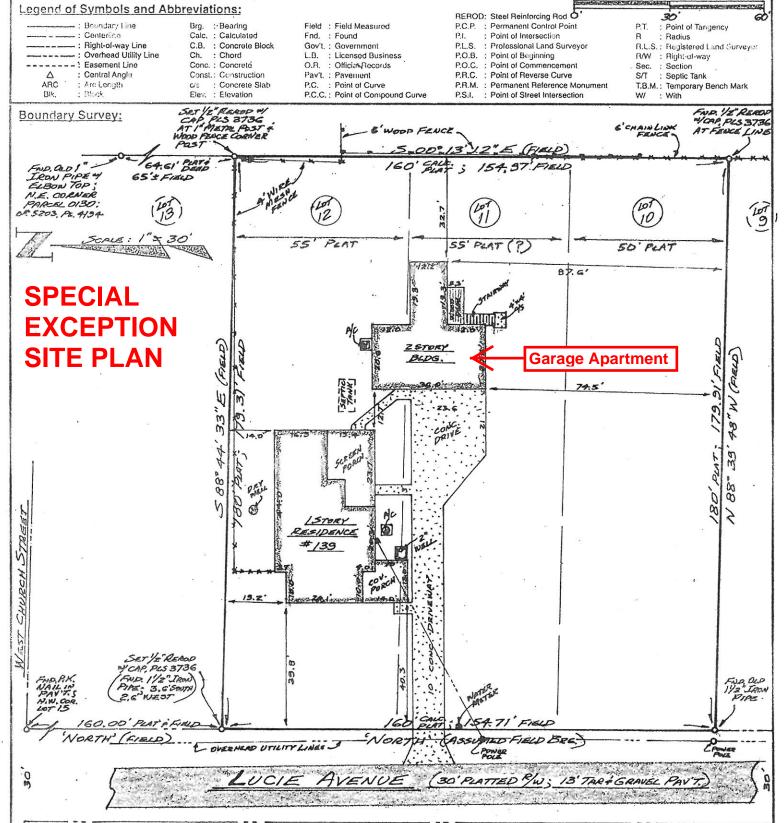
- Special exception site plan
- Staff and agency comments
- Application
- Maps

VII. AUTHORITY AND PROCEDURE

Pursuant to section 72-415 of the zoning ordinance, as amended, the county council shall hold a public hearing after due public notice on all recommendations from the commission. It may accept, reject, modify, return or seek additional information on those recommendations. No approval of a special exception shall be made unless, upon motion, four members of the county council concur. The county council will thereafter forward its decision to the applicant.

Any new information to be presented at the planning and land development regulation commission for any application will be grounds to continue an application to the next planning and land development regulation commission. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission.

Any new information to be presented at the county council meeting that was not previously presented to the planning and land development regulation commission for any application will be grounds to return an application to the planning and land development regulation commission for further review. Applicants shall inform and provide staff with the new information prior to the council meeting.



NOTES: 1) Property Address: 139 Lucie Avenue DeLand, Florida 32720

2) Volusia County Parcel Number: 7007-08-00-0100.

3) Water Meter in Front Yard, as shown.

4) 2" Well near Cov. Porch, as shown.

5) Septic Tank at rear of Residence.
6) Dry Well in Left-Side Yard, as shown.

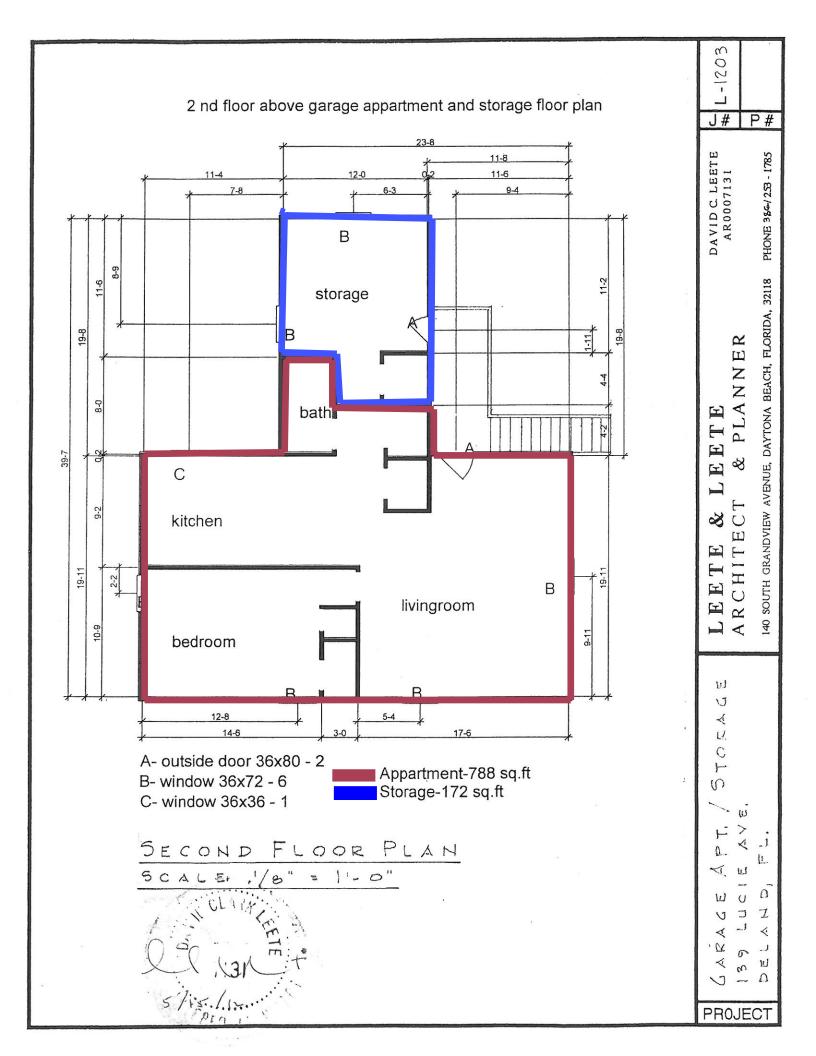
7) Map Book 7, Page 3, was re-recorded as Map Book 22, Page 98, Public Records of Volusia County, Florida.

DESCRIPTION: (Per O.R.Book 5553, Page 3416; Volusia County, Florida.)

Lots 10, 11 and 12, LAKE WINNEMISSETT DEVELOP--MENT COMPANY'S SUBDIVISION, a subdivision according to map in Map Book 7, Page 3, Public Records of Volusia County, Florida.

FLOOD CERTIFICATION:

According to the Federal Emergency Management Agency's 'Flood Insurance Rate Map'; Community Panel Number 125155-0465-G.



Storch & Harris, LLC

112 West New York Avenue, Suite 211 DeLand, Florida, 32720

March 5, 2012

Becky Mendez Senior Planning Manager Volusia County Planning and Development Services 123 West Indiana Avenue DeLand, Florida 32720

RE: Special exception for 139 Lucie Avenue - Garage Apartment

Dear Becky,

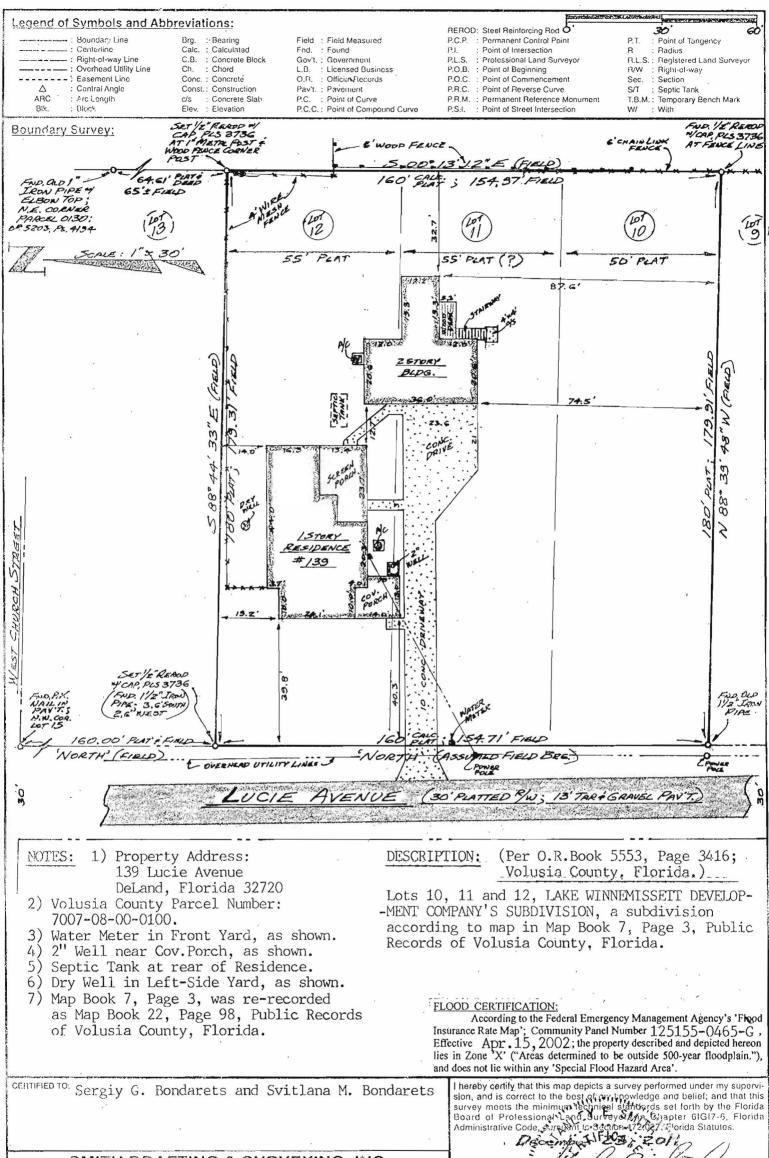
This firm has the pleasure to represent Mr. and Mrs. Bondarets in connection with an application for a Special Exception for their existing single-family home and detached garage. The property is located a block behind North Spring Garden Avenue and south of the intersection of West Church Street and North Spring Garden Avenue. The property abuts the back of the commercial properties fronting 15-A. The Property has residentially zoned property to the north, south, and east. The proposed Special Exception would permit the second floor of the existing detached garage to be used as a garage apartment. The house and accessory structures meet all required County setbacks for R-4 and the proposed Special Exception does not alter those existing requirements since it is the conversion of an existing building. No variances are required.

The R-4 zoning district specifically list garage apartments as a permitted special exception and the application should be granted since converting the second floor of the existing garage will not alter the existing character of the neighborhood – which is the standard applied to requests for garage apartments.

For the foregoing reasons, the Applicant respectfully requests that your Department recommend approval of the subject application. If you have any questions, please do not hesitate to contact me at 386/624-6904.

Kindest Regards,

Ty Harris, Esq.

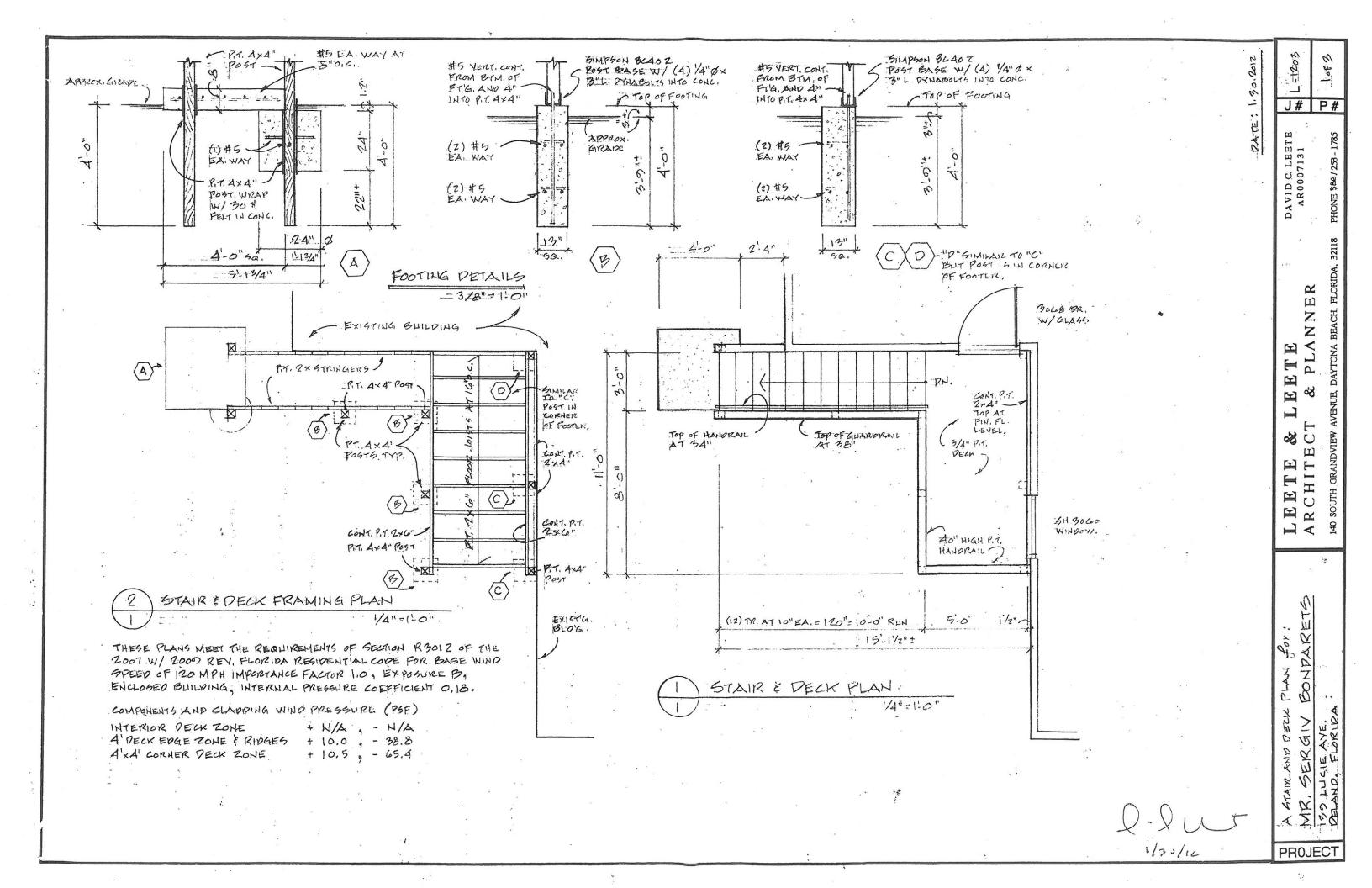


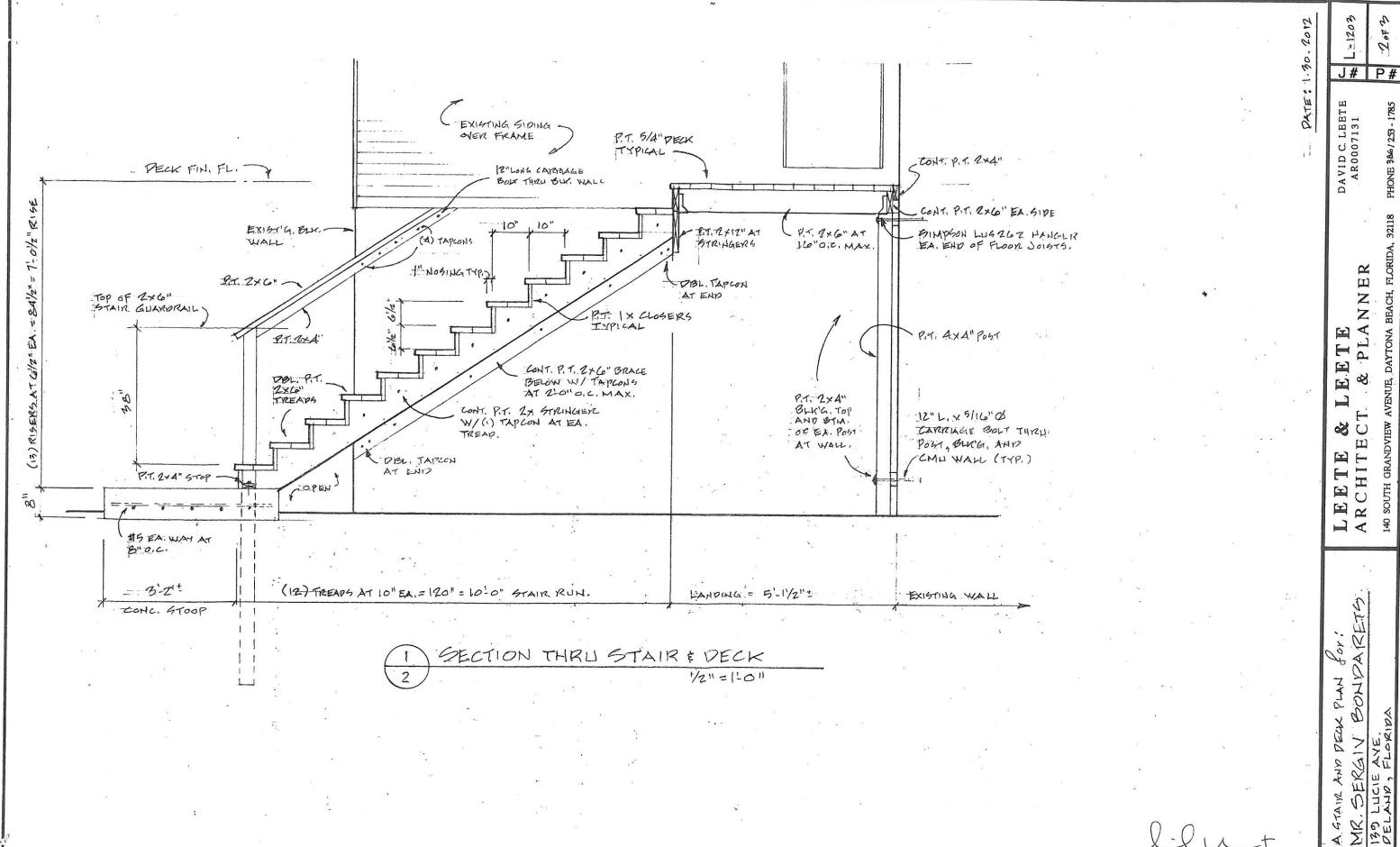
SMITH DRAFTING & SURVEYING, INC. 157. MAGAGLA W. DELAND, FL 32724 (386) 734-7047 DELTONA, FL (386) 789-2855 DRAWN BY **REVISIONS:** S.E. Smith CREW CHIEF: S.E. Smith 1" = 30' SCALE DATE December 23, 2011 WO # 12 - 0155 - 11

36 Stapley E. Milh Certificate Nursper 373%

NOT VALID UNKESS SEAL IS EMBOSSED

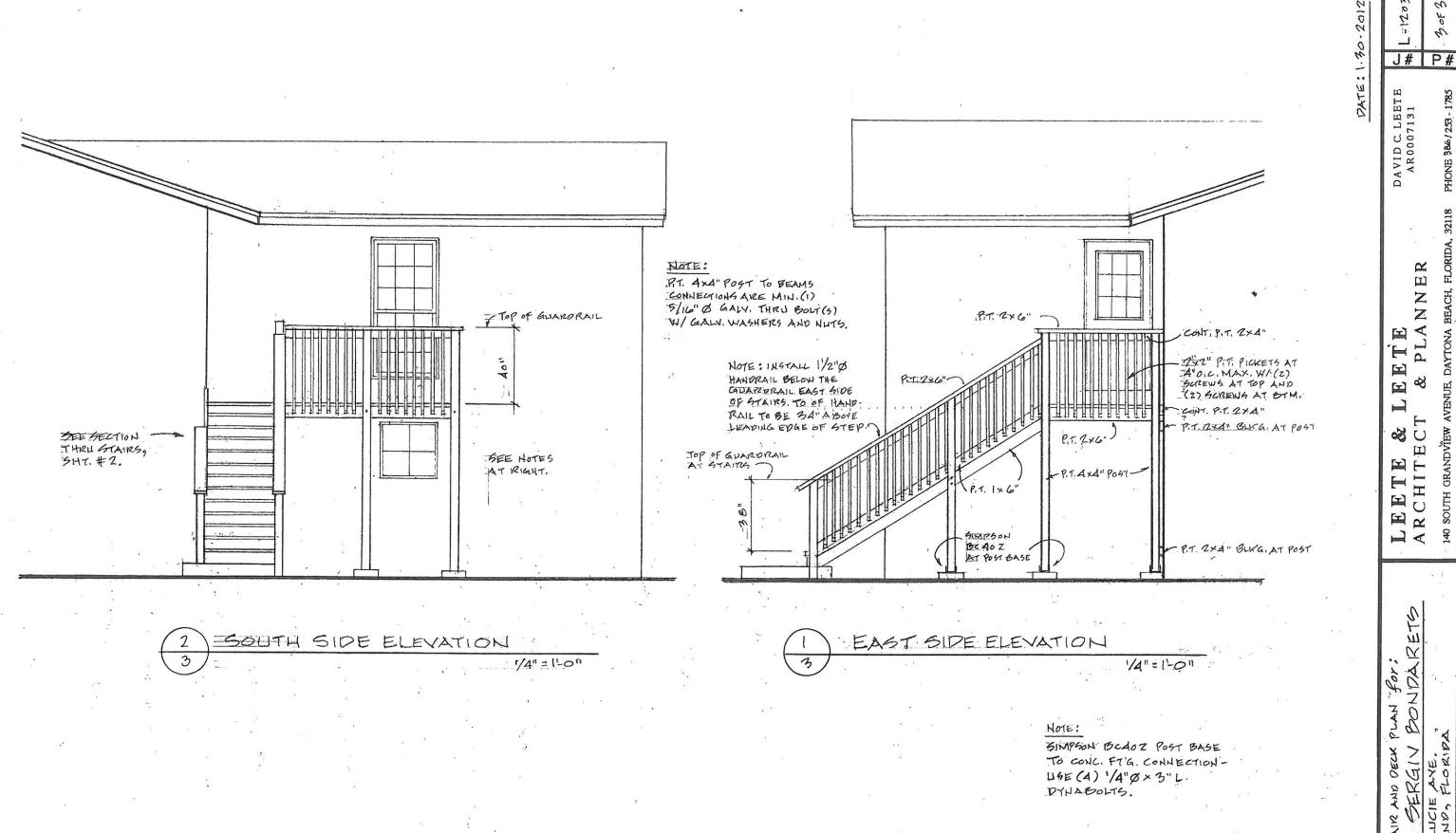
Note: No instruments of sector relations casements, limitations, ownerships, reservations, restrictions and/or right-of-ways, if any, have been provided to this surveyor, except as shown. No underground installations or utilities have been located, except as shown.





1/30/14

PROJECT



PROJECT

LEETE & LEETE

ARCHITECT & PLANNER

140 SOUTH GRANDVIEW AVENUE, DAYTONA BEACH, FLORIDA 32118, PHONE (386) 258-1785

May 15, 2012 139 Lucie Ave. Deland, FL

To Whom It May Concern:

I have inspected the garage apartment/ storage at 139 Lucie Ave. The second floor, with minor additions, can be made to conform with the present (2012) building code.

To create the required 1 hour fire separation between the floors, a layer of 5/8" Type X drywall has to be installed on the ceiling of the first floor. The flooring above is built to conform to code.

The first floor is in acceptable structural condition and can be upgraded in certain areas, but due to the configuration of the old existing materials (differing block core patterns, buried foundations, etc.) bringing that area to 100 percent compliance would not be possible.

David C. Leete

AR0007131

Sincere:

CURRENT PLANNING ACTIVITY

MAY 2 4 2012

11:130 RECEIVED

REVIEW STAFF COMMENTS

HARRIS - BONDARETS S-12-015

HEALTH DEPARTMENT

DeLand Environmental Health

April 17, 2012

Comments:

The existing dry well on the property will need to be properly abandoned, the wastewater that flowed into it will need to be diverted into the septic tank system for the existing home.

The existing 2 inch well does not appear to meet setback requirements to the existing septic system for the home (50 ft setback for homes built before 1972). It may need to be properly abandoned and the city water line connected to the home and the apartment.

A new septic system for the apartment may be required if the existing septic system is not large enough for the anticipated flow from the apartment.

* * * * * *

From: John Stockham
To: Somers, Yolanda
Date: 7/27/2012 10:03 AM

Subject: Fwd: RE: Proposed Garage Apt: Parcel No(s): 7007-08-00-0100

>>> "Keith Riger" <Rigerk@deland.org> 7/27/2012 9:57 AM >>>

We have a 12" water main on the west side of Lucie Ave. A service will need to be directional drilled across Lucie Ave. if you require them to connect.

Keith D. Riger, P.E. City Engineer/Public Services Director City of DeLand 1102 S. Garfield Ave. , DeLand Fl. 32724 386-626-7197



SPECIAL EXCEPTION APPLICATION THE ZONING ORDINANCE OF VOLUSIA COUNTY, FLORIDA

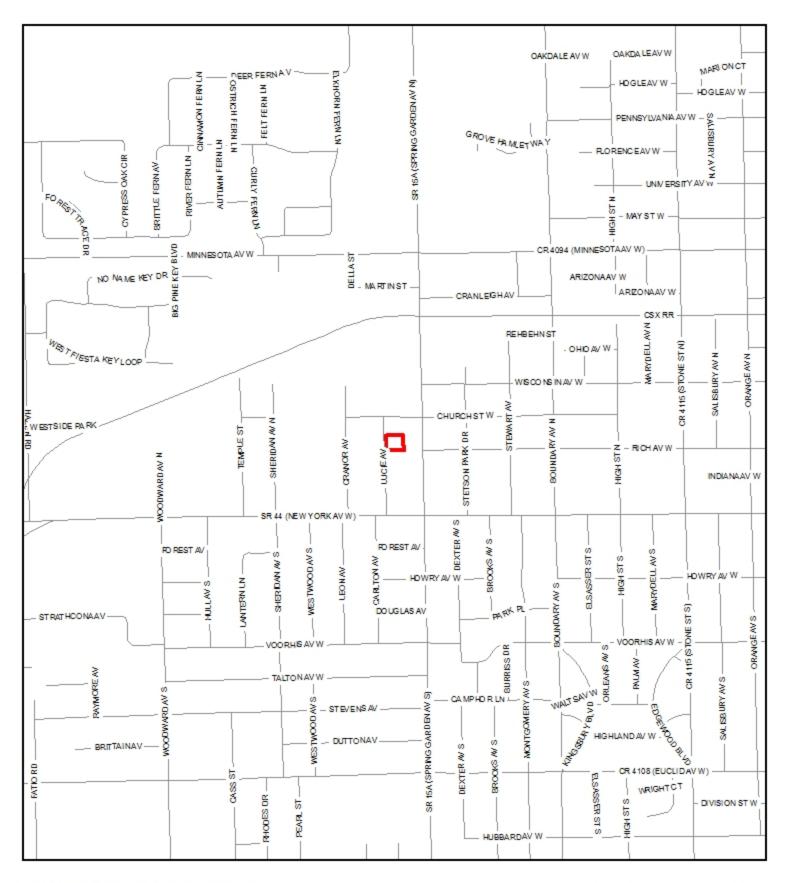
PLEASE PRINT OR TYPE

	Pre-Application Meeting Date:				
APPLIC	ANT: Theras Stood Haras tyhoras pad comil. com Name E-Mail Address				
	112 Wat New York Ave #211 386-629-6404				
	Street Address Phone 32720				
	City State Zip				
STATUS					
OWNER	Name Sarety Bondowsts				
	159 / 12cie Diene				
	Street Address Phone 32720 City State Zip				
	City State Zip				
This is a	request for a Special Exception for a constant in an existing				
	a- Stan datasked building				
on Zon	zoned property. The Comprehensive Plan Land Use Designation is Residual I				
Size of F	Parcel ks the 10c Tax Parcel#: 7007-08-00-0100				
	of Property: 139 Lucie Grene				
Sq. ft. of	f building, if applicable: 🔫 🕫 🌳 🖟 😭 If Group Home, Private School, or Daycare Center, # o				
propose	d clients/members:				
This pro	operty is located on the side of Rd./St./Ave.				
-	mately ft./mi. N-S-E-W from its intersection with Rd./St./Ave.				
	operty is near in the				
	nity of, and/or adjacent to the City of				
Circle ap	pplicable Utility: Private Septic/Well Central Sewer/Water by: Other:				
APPLIC	ATION WILL <u>NOT</u> BE ACCEPTED UNLESS <u>ALL</u> OF THE FOLLOWING ARE ATTACHED:				
	Two (2) signed and sealed surveys of the property (no more than 2 years old).				
 Two (2) copies of the legal description (furnished electronically in MS Word format). Notarized Authorization of Owner (if applicant is other than the owner or attorney for the owner). 					
□ 5 Copies of site plan (to scale) complying with section 72-415(1)d of the zoning code and 1 reduced to 8 ½"					
	x 11". □ Nonconforming lot letter, if applicable.				
□ Written explanation.					
	STORY OF STATE OF THE STATE OF				
Case #					
JUSC #					

ALL SUBMITTALS MUST BE <u>MADE IN PERSON</u> BY 12:00 NOON ON DEADLINE DATE AND <u>FEES MUST BE PAID</u> BEFORE APPLICATION WILL BE ACCEPTED.

IF THIS APPLICATION IS APPROVED, ALL OTHER COUNTY ORDINANCES SHALL BE COMPLIED WITH AND FEES PAID.

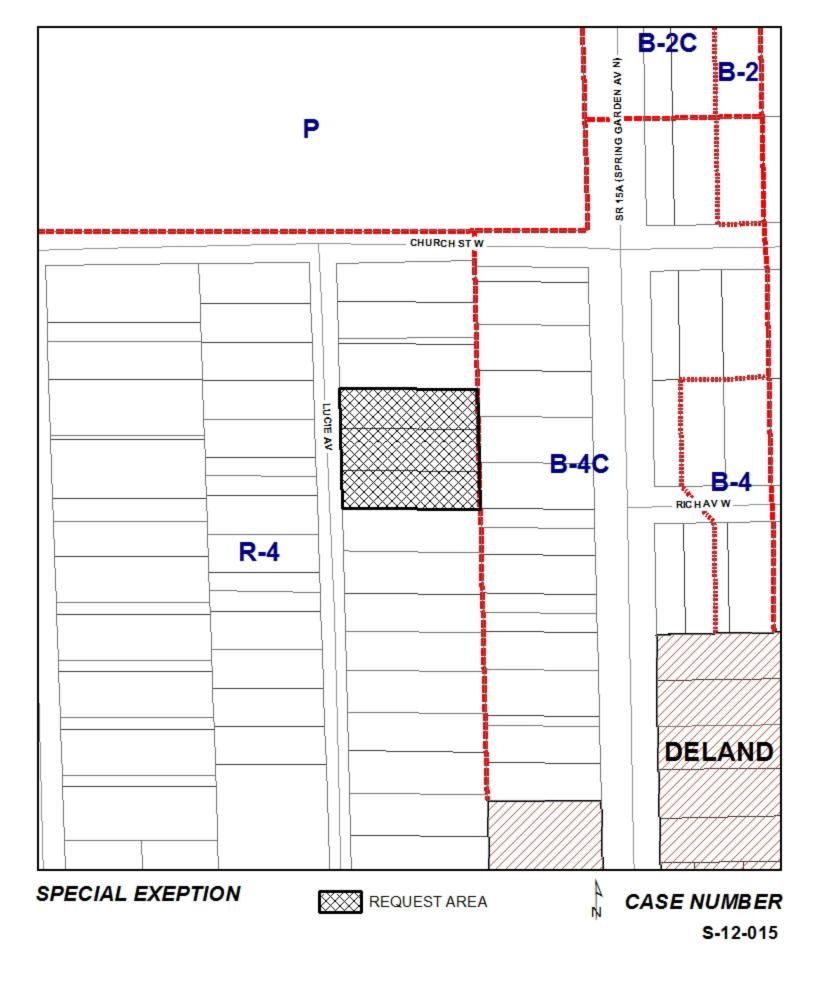
		Development Regulation Commission (PLDRC) ay/yr), in the County Council Chambers of the
Thomas C. Kelly Administrati 9:00 a.m.	on Center, 123 West Inc	diana Avenue, DeLand, Florida, beginning a
Hearing held on	(mo/da	considered at the Volusia County Council Public y/yr), in the County Council Chambers of the na Avenue, DeLand, Florida beginning at 10:30
it was granted within 12 consecutive months fro enforcement official may	months from the date of months date of rendition extend the Special Exception demonstrate that a	oes not begin to serve the purpose for which f rendition, or if its use is abandoned for 12 on, it shall expire.) However, the zoning option for up to an additional 12 month period good-faith reliance has been on-going to
NOT PREVIOUSLY PRESEN' COMMISSION FOR ANY APPI PLANNING AND LAND DEV	TED TO THE PLANNING LICATION WILL BE GROU ELOPMENT REGULATION	HE COUNTY COUNCIL MEETING THAT WAS AND LAND DEVELOPMENT REGULATION UNDS TO RETURN AN APPLICATION TO THE ON COMMISSION FOR FURTHER REVIEW WITH THE NEW INFORMATION PRIOR TO
APPLICANT'S RIGHTS FOR SECTIONS 72-378 AND 72-4		ING AND RES JUDICATA ARE STATED IN DE, AS AMENDED.
	CT PROPERTY FOR T	UNTY STAFF PERMISSION TO VIEW AND HE PURPOSES OF INVESTIGATING AND
Circusture of Applicants 7	- M	Tu 14
Signature of Applicant:		PRINT NAME
Signature of Applicant:		
	DO NOT WRITE BEL	PRINT NAME OW THIS LINE
Date Submitted:	_ Accepted/Reviewed B	y.:
FILING FEE PAID:	RECEIPT#:	OFFICE:
AMANDA ROW ID:		
CITY NO	TIFICATION REQUIRED	(1,320 ft.) YES NO
NAME OF CITY		



SPECIAL EXEPTION

ECO NRM A REQUEST AREA

CASE NUMBER S-12-015



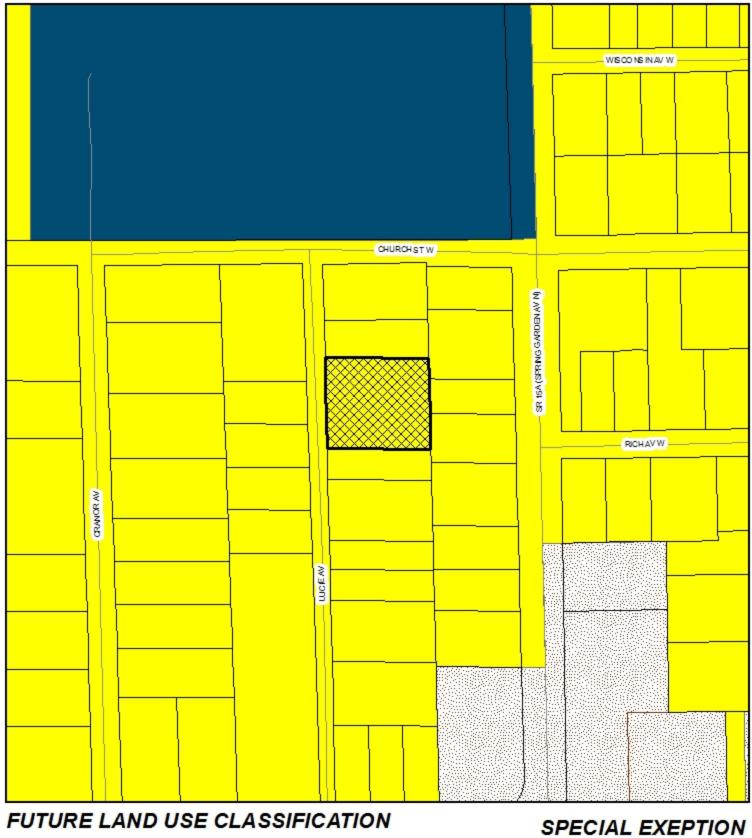


SPECIAL EXEPTION

IMAGE YEAR: 2009

REQUESTAREA

CASE NUMBER S-12-015



INCORPORATED MIXED USE URBAN LOW INTENSITY

REQUEST AREA

CASE NUMBER S-12-015