

Variance Application: VAR 24-0682
LUHO Hearing Date: June 24, 2024
Case Reviewer: Colleen Marshall, AICP, CFM



**Hillsborough
 County Florida**

Development Services Department

Applicant: Antonio and Gipsy Ocana **Zoning:** ASC-1
Location: 7720 N. Mobley Road, Odessa; Folio 2183.0625

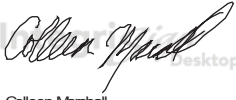
Request Summary:

The applicant is requesting a height variance to accommodate an accessory structure pool cabana and a fence height variance for a proposed fence within the front yard of the property.

Requested Variances:

LDC Section:	LDC Requirement:	Variance:	Result:
6.11.04.B	Accessory Structures shall not exceed 15 feet in height, except under certain circumstances which do not apply to this case.	4 feet	19-foot-tall accessory structure
6.07.02.C.1.a	Fences over four feet in height shall not be allowed within required front yards, except under certain circumstances which do not apply to this case.	2 feet	6-foot-high fence in the front yard

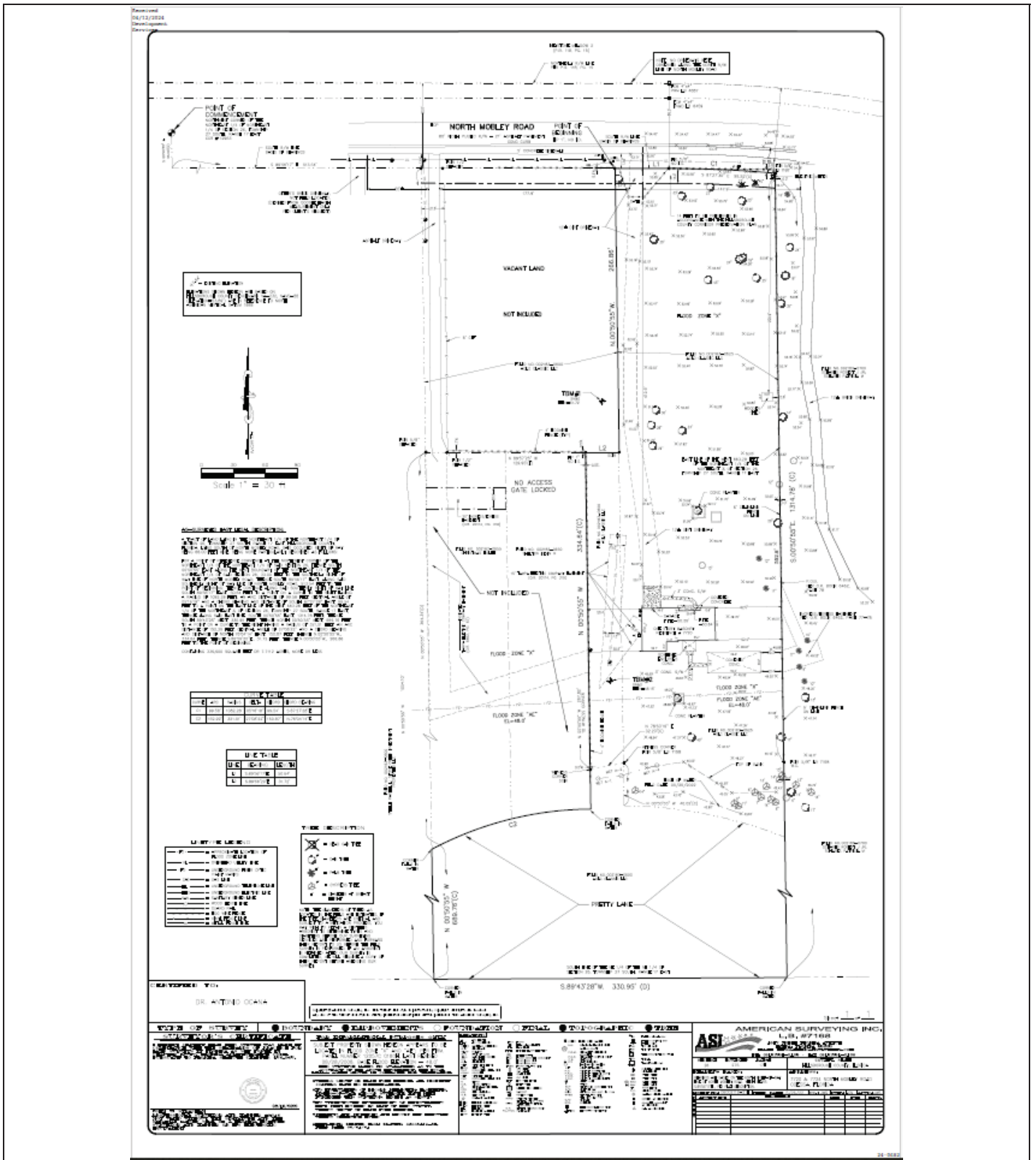
Findings:	<p>Building Permit HC-BLD-21-0020891-REV2 was issued for a revision to the existing permit for a new single-family residence to add a pool cabana and revised masonry wall around the pool. After further review and onsite inspection, the pool cabana structure under construction was determined to exceed the 15-foot height limitation.</p> <p>FW 24-0684 has been submitted related to this variance request.</p>
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Zoning Administrator Sign Off:	 Colleen Marshall Wed May 22 2024 13:38:35
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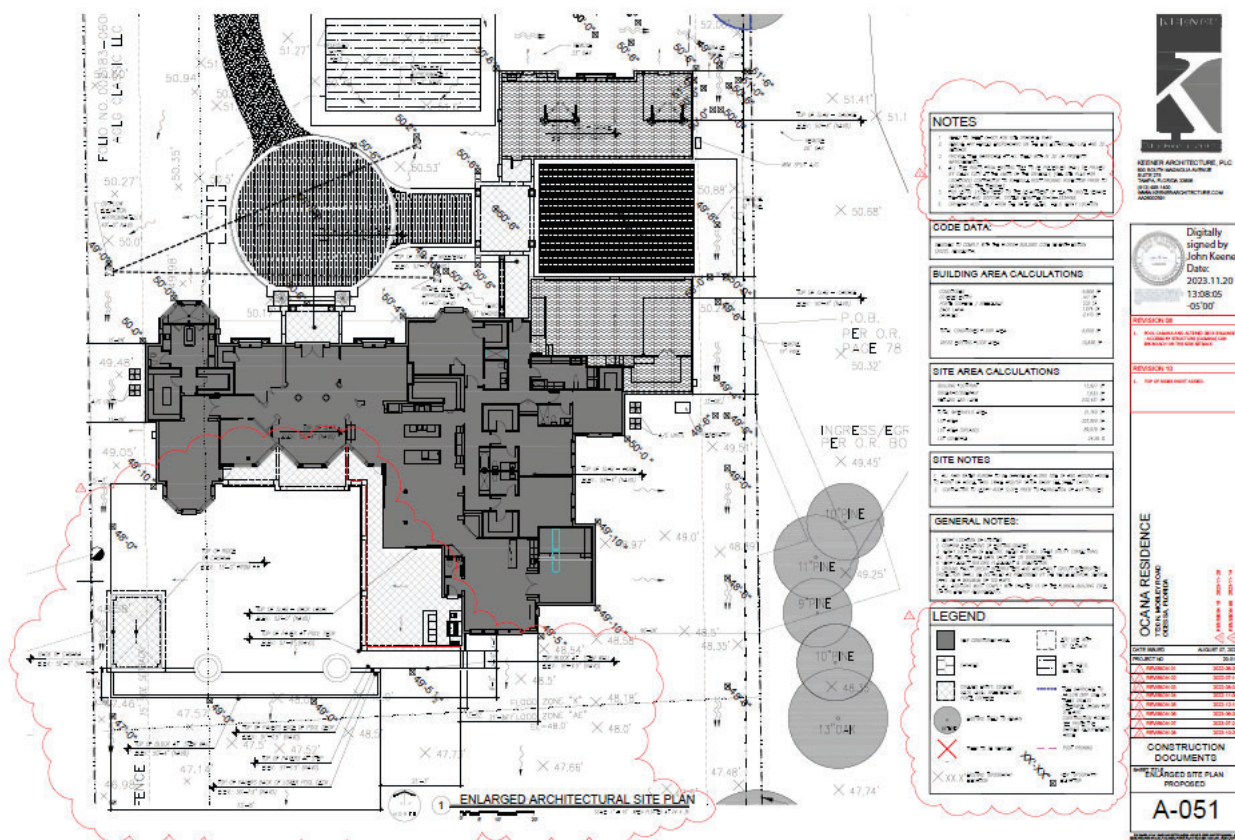
DISCLAIMER:

The variance(s) listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

SURVEY/SITE PLAN



SURVEY/SITE PLAN



NOTES

CODE DATA:

BUILDING AREA CALCULATIONS

FOOTPRINT	11,000.00
PERMITTED	11,000.00
MAX. PERMITTED	11,000.00
PERCENTAGE	100.00%

SITE AREA CALCULATIONS

PERMITTED	11,000.00
MAX. PERMITTED	11,000.00
PERCENTAGE	100.00%

SITE NOTES:

GENERAL NOTES:

LEGEND

- Existing Building
- Proposed Building
- Proposed Driveway
- Proposed Fencing
- Proposed Landscaping
- Proposed Parking
- Proposed Pool
- Proposed Structure
- Proposed Utility
- Proposed Wall
- Proposed Window
- Proposed Door
- Proposed Stair
- Proposed Elevation
- Proposed Finish
- Proposed Material
- Proposed Color
- Proposed Text
- Proposed Symbol
- Proposed Line
- Proposed Arrow
- Proposed Circle
- Proposed Square
- Proposed Triangle
- Proposed Diamond
- Proposed Hexagon
- Proposed Octagon
- Proposed Star
- Proposed Cross
- Proposed X
- Proposed O
- Proposed S
- Proposed N
- Proposed E
- Proposed W
- Proposed NE
- Proposed NW
- Proposed SE
- Proposed SW
- Proposed NNE
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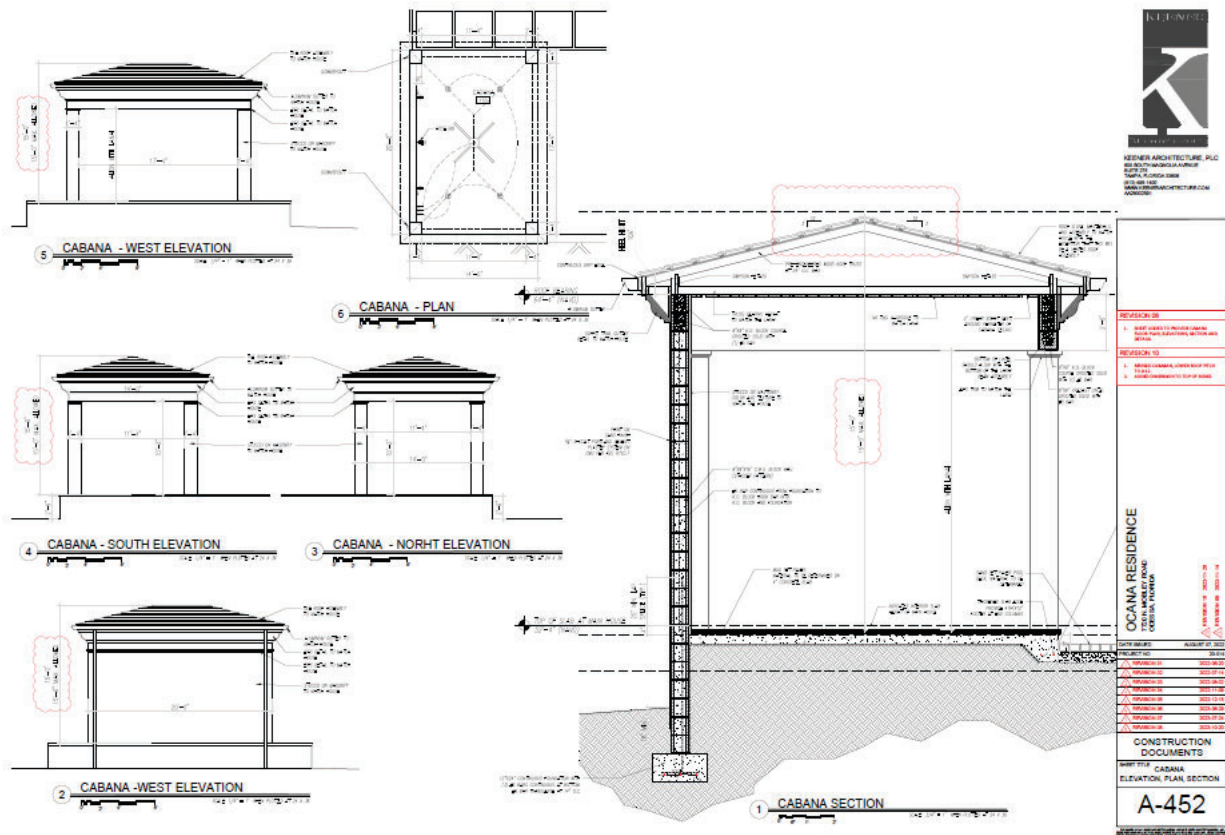
KEENER ARCHITECTURE, P.C.
 1000 N. 10TH AVENUE
 SUITE 1000
 DENVER, CO 80202
 303.733.1000
 WWW.KEENERARCHITECTURE.COM

Digitally signed by John Keener
 Date: 2023.11.20 13:08:05 -05'00'

OCANA RESIDENCE
 TOTAL IMPROVEMENTS
 GENERAL NOTES

CONSTRUCTION DOCUMENTS
 ENLARGED SITE PLAN
 PROPOSED
A-051

SURVEY/SITE PLAN

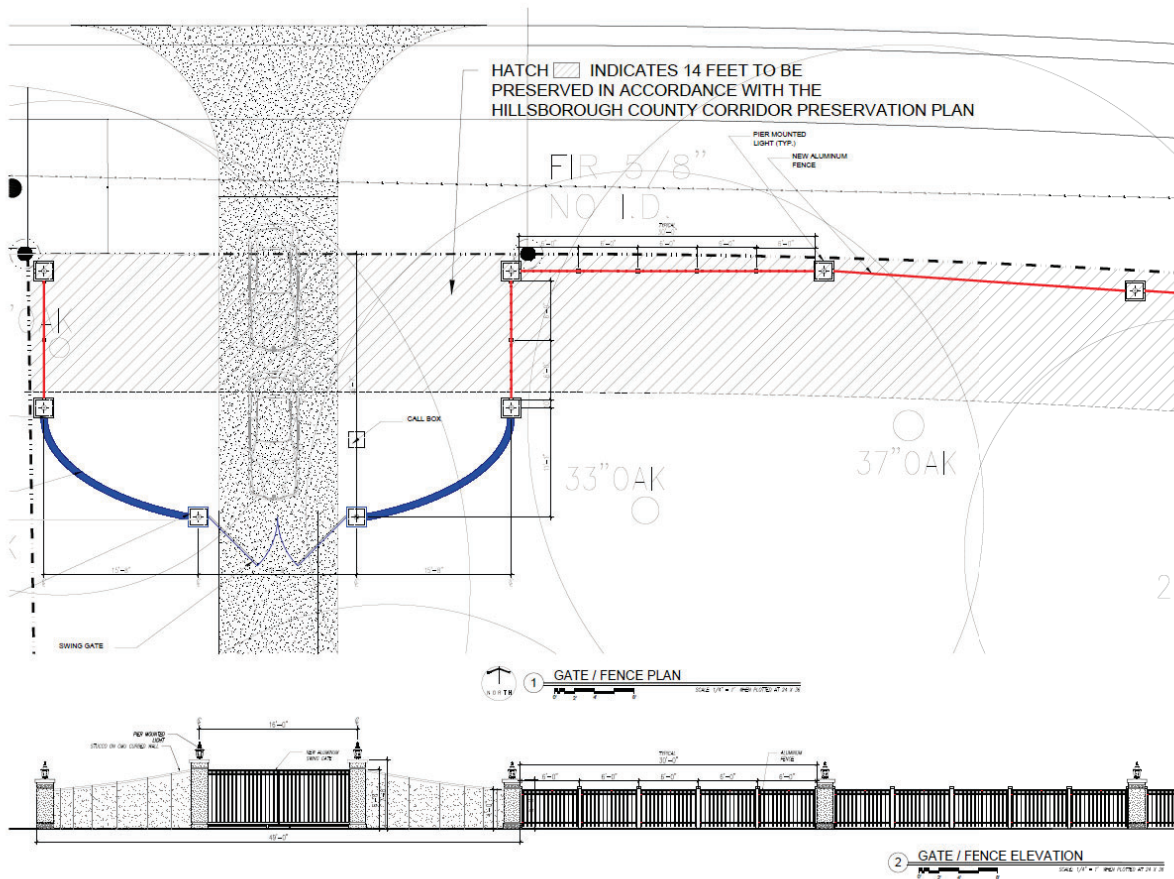


SURVEY/SITE PLAN



BUILDING DESCRIPTION																												
OCANA RESIDENCE																												
DATE ISSUED: AUGUST 07, 2023																												
PROJECT NO: 24001																												
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SHEET TITLE: SITE PLAN																												
VAR 24-0682																												
A-002																												

SURVEY/SITE PLAN



KEENER ARCHITECTURE, P.L.C.
 800 SOUTH MADISON AVENUE
 SUITE 201
 TAMPA, FL 33604-3308
 813-467-1000
 WWW.KEENERARCHITECTURE.COM
 A0000001

REVISION 11

1. REVISED GATE AND FENCE

OCEANA RESIDENCE
 10000 W. GOLF COURSE ROAD
 OCEANA, FL 33454

DATE ISSUED	AUGUST 07, 2023
PROJECT NO.	202304
REVISION 11	2023-07-14
REVISION 10	2023-06-28
REVISION 14	2023-07-18
REVISION 08	2023-07-18
REVISION 09	2023-07-18
REVISION 07	2023-07-18
REVISION 06	2023-07-18

CONSTRUCTION DOCUMENTS
 SHEET NO. FRONT GATE
 VAR 24-0682
A-052



Additional / Revised Information Sheet

Office Use Only		
Application Number: VAR 24-0682	Received Date:	Received By:

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Application Number: VAR 24-0682 Applicant's Name: Keener Architecture

Reviewing Planner's Name: Colleen Marshall Date: 05/16/2024

Application Type:

<input type="checkbox"/> Planned Development (PD)	<input type="checkbox"/> Minor Modification/Personal Appearance (PRS)	<input type="checkbox"/> Standard Rezoning (RZ)
<input checked="" type="checkbox"/> Variance (VAR)	<input type="checkbox"/> Development of Regional Impact (DRI)	<input type="checkbox"/> Major Modification (MM)
<input type="checkbox"/> Special Use (SU)	<input type="checkbox"/> Conditional Use (CU)	<input type="checkbox"/> Other _____

Current Hearing Date (if applicable): 06/24/2024

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Will this revision add land to the project? Yes No
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I certify that changes described above are the only changes that have been made to the submission. Any further changes will require an additional submission and certification.


Signature

5/16/24
Date



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Please indicate below which revised/additional items are being submitted with this form.

Included	Submittal Item
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6 **Property Information Sheet****

7 **Legal Description of the Subject Site****

8 **Close Proximity Property Owners List****

9 **Site Plan**** All changes on the site plan must be listed in detail in the Cover Letter.

10 **Survey**

11 **Wet Zone Survey**

12 **General Development Plan**

13 **Project Description/Written Statement**

14 **Design Exception and Administrative Variance requests/approvals**

15 **Variance Criteria Response**

16 **Copy of Code Enforcement or Building Violation**

17 **Transportation Analysis**

18 **Sign-off form**

19 **Other Documents** (please describe):

Added - Drawings for proposed fence.

*Revised documents required when adding land to the project site. Other revised documents may be requested by the planner reviewing the application.

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**Hillsborough
County Florida**
Development Services

Identification of Sensitive/Protected Information and Acknowledgement of Public Records

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Are you seeking an exemption from public disclosure of selected information submitted with your application pursuant to Chapter 119 FS? Yes No

I hereby confirm that the material submitted with application VAR 24-0682

Includes sensitive and/or protected information.

Type of information included and location _____

Does not include sensitive and/or protected information.

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Signature: _____
(Must be signed by applicant or authorized representative)

Intake Staff Signature: _____ Date: _____



Keener Architecture
John L. Keener
600 S. Magnolia Ave.
Suite 275
Tampa, FL 33602
November 20, 2023

To: Hillsborough County Building Department
601 E Kennedy Blvd.
Tampa, FL 33602

Reason: Ocana Residence
7720 North Mobley Road
Odessa, FL
Zoning: ASC-1
Folio #: 002183-0625
Permit No.: HC-BLD-21-0020891
Variance Application #VAR 24-0682

Cover Letter – Additional/ Revised Information

We are submitting a revision to Variance application VAR 24-0682 to include along with the Accessory structure height increase request, a variance request for an increase in height for the front gate/fence.

The following submittal items have been revised/added:

1. Added - Additional / Revised information sheets.
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If you have any questions, please do not hesitate to call.

Thank You,

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John L. Keener
Architect, LEED AP, AIA



**Hillsborough
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Development Services

Project Description (Variance Request)

1. In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet). If additional space is needed, please attach extra pages to this application.

See attached.

2. A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:

Section 6.11.04 - Accessory Structure/ B Height
Section 6.07.02 - Fences and Walls - Regulation /C Regulations for Fences

Additional Information

1. Have you been cited by Hillsborough County Code Enforcement? No Yes
If yes, you must submit a copy of the Citation with this Application.
2. Do you have any other applications filed with Hillsborough County that are related to the subject property?
 No Yes If yes, please indicate the nature of the application and the case numbers assigned to the application (s): Building Permit HC-BLD-21-0020891
3. Is this a request for a wetland setback variance? No Yes
If yes, you must complete the Wetland Setback Memorandum and all required information must be included with this Application Packet.
4. Please indicate the existing or proposed utilities for the subject property:
 Public Water Public Wastewater Private Well Septic Tank
5. Is the variance to allow a third lot on well or non-residential development with an intensity of three ERC's?
 No Yes If yes, you must submit a final determination of the "Water, Wastewater, and/or Re-claimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing

7720 N Mobley Road

Zoning: ASC-1

Folio #: 002183-0625

Project Description (Accessory Structure):

Per Section 6.11.04 We are requesting a variance in the allowable height of an accessory structure from 15' to 19' from finished grade.

In November 2023 the Building Department approved a set of drawings for a pool cabana that the Ocana's wished to add to their new custom home which is currently under construction. During the plan review process, it is customary to receive comments from the plan reviewer. In this instance, one of the comments was related to height. We adjusted the Structure per the plan reviewer's feedback, submitted a letter outlining the changes that were made, clearly showed in the drawings how it was being measured, and then the plans were approved. The Contractor started construction and until recently a Code Enforcement Officer came to the project and said that the structure will be in violation of the height requirement of 15' for an accessory structure.

The definition of height says that you measure from the peak of roof vertically down to the finished grade below. By the definition, the structure should be compliant. The "finished grade" of the cabana is the pool deck which happens to be about 24-30" above what is "existing grade." This is the point that is causing this variance request. When you measure from the peak of roof to the grade vertically beneath the western eave, the height would be closer to 17'-6". On the North, East, and Southern sides the finished grade is 15' below the peak of roof. The definition states how to measure; vertically beneath the peak of the roof.

The Building Department is now saying the structure is not compliant. They are measuring from the grade below the eave and not the peak of roof making the structure too tall. This is a different interpretation than the plan reviewer had in November of 2023.

Since it is more than 50% complete and the pool shell is in, the structure can no longer be moved. To no fault of our own, the structure went from conforming to non-conforming because of a change in the Building Code Interpretation. The code did not change, the design did not change, the construction did not change, only the Building Department interpretation changed. This variance request is to rectify this situation.

Project Description (Front Fence/Gate):

Per Section 6.07.04 We are requesting variance to increase 50' of the 150' front yard fence from 4'-0" to 6'-0", with an additional 1'-0" for columns/posts (Max. height 7'-0")

The intent of the design for the front yard fence is to maintain a 4'-0" high fence with intermediate columns of 5'-0" high, for the majority of the front of the property, but have the entry gate and adjacent walls taper up from 4'-0" to 6'-0" with the final column/piers at 7'-0". This would provide an additional sense of security for the property on the highly trafficked Mobley Road.

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Thank You,

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John L. Keener
Architect, LEED AP, AIA



Variance Criteria Response

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

See Attached for Accessory Structure

2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

See Attached for Accessory Structure

3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

See Attached for Accessory Structure

4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (*refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose*).

See Attached for Accessory Structure

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

See Attached for Accessory Structure

6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

See Attached for Accessory Structure

7720 N Mobley Road

Zoning: ASC-1

Folio #: 002183-0625

Variance Criteria Response (**Accessory Structure**):

1. *Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other similarly located.*

Response:

The hardship arises from an interpretation of the definition of Height in the Land Development Code by the County after plan approval and start of construction. On Wednesday November, 22, 2023, an approval was granted for an accessory structure by the Building Department. This went through two rounds of code review through each of the departments as is typical. During this process the question of height was brought up. We spoke to the plan reviewer, addressed the matter per the Plan reviewer's comments, and resubmitted the plans. The plans were approved and construction commenced.

Toward the end of March 2024, we were notified that a complaint had been filed from a neighbor. A Code Enforcement Officer came out to the site and notified the contractor that the cabana violated the height definition for an accessory structure. Although there is no record of the complaint in the County, the Code Enforcement Officer made a note on the file. This was triggered when the masonry inspection was being completed. As we discussed this issue with the Building Department, they are now saying that the structure is too high and that the structure needs to be altered or a variance obtained. Plan review is now interpreting the definition of height differently than what, in our opinion, is stated in the code and how it was when approved. We are requesting a variance to the height. This allows the structure to meet the new interpretation of the definition and allow my client to continue with construction as intended.

This is unique to our property and this variance, if granted, does not impact anyone. The proper channels were followed to obtain a building permit. The design was reviewed. The height was questioned. It was discussed and looked at with the plan reviewer, and the drawings were approved.

There is ambiguity to the definition of height and how it is interpreted. This issue should be flushed out in the review process and not after construction has started. This interpretation has caused a practical difficulty to the project and is unique and singular to this property and affects no other property owners.

2. *Describe how the literal requirements of the Land Development Code would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.*

Response:

The definition of height from the Hillsborough County Land Development Code:

Height: The vertical distance measured from the lowest proposed finished grade of the structure vertically beneath the highest point of the structure. Elevated structures within the designated Special Flood Hazard Area will have the vertical elevation measured from the Base Flood Elevation to the highest point of the structure. Finished grade shall be determined using all applicable regulations of the County, State and Federal governments. See [Section 6.08.00](#).

In my opinion we are meeting the "literal" definition of The Land Development Code.

Our structure was measured and approved from the peak of the roof to the finished grade vertically below the peak of the roof as the definition reads. The structure is 15' as allowed by the LDC. Code review questioned the height in the review process, we responded clearly, they agreed, and it was approved as such.

By not following the literal interpretation of the code, we have been deprived of the rights to continue with the construction that was approved.

The County is interpreting the definition from peak of roof to a point vertically below the eave of the structure not vertically beneath the highest point of the structure. This is a unique circumstance that to no fault of my client has caused a deprivation of their rights. Had this have been addressed in plan review like it should have been, we would have been able to make adjustments to the plan and meet the criteria. Now that the project is more than 50% constructed, it is no longer viable to make significant changes to the structure.

3. *Explain how a variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.*

Response:

A variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance. No one is affected by the cabana structure. The site is private and backs up to a lake. There is only one neighbor that abuts the property to the West. Lowering the cabana structure by a few feet does not alter the view from their house in any way. The landscape design for the Western portion of the property has bamboo and vegetation going along the length of the property line which will shield the structure from their view.

4. *Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).*

Response: The variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan. The results of this issue have identified a disconnect in the plan review process, the Land Development Code, and the site inspectors. Through the plan review process the interpretation of the code should be consistent. When the plans were approved it clearly showed the height of the structure and how it related to the nearby grade, the grade of the pool deck, and was not ambiguous. By no fault of my client, the circumstances of this have caused an undue

hardship. The purpose of the Board of County Commissioners is to recognize right some of these unique circumstances and we hope that this is recognized as such.

5. *Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.*

Response: The situation is not a self-imposed hardship or an illegal act. If the project was not approved by the Building Department in November of 2023, then the structure would not stand in it's current location and be considered a code violation. We followed the process fully and the construction matches the drawings that were approved. The only change since November of 2023 has been how the County interprets the height definition and it is this interpretation that is causing the hardship.

6. *Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failutre to grant a variance.*

Response:

The variance, if approved, will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance. We followed the proper protocol to obtain a building permit, submitted accurate drawings, and had dialogue with the plan review department through 2 rounds of review with each of the County departments. When we obtained the permit, the contractor commenced with construction per the plans.

When the height violation was brought up, I immediately read the definition of height. When you measure vertically from the peak of the roof to the finished grade vertically beneath the peak of the roof we have a 15' tall structure. When you measure from the peak of roof to a point vertically beneath the eave of $\frac{1}{4}$ of the structure you have closer to 17'-6" to finished grade on that one side. This is how the code is now being interpreted and why this variance is necessary. This variance will have no affect on adjacent property owners and would not be necessary if the plan review process would have worked as designed.



Mariana Caracausa-Espido <mariana@keenerarchitecture.com>

Fwd: (WEB mail) - Building Department Issue

1 message

John Keener <john@keenerarchitecture.com>

Fri, May 10, 2024 at 10:17 AM

To: Mariana Caracausa-Espido <mariana@keenerarchitecture.com>

----- Forwarded message -----

From: **Gormly, Adam** <GormlyA@hcf.gov>

Date: Fri, Apr 12, 2024 at 10:16 AM

Subject: RE: (WEB mail) - Building Department Issue

To: john@keenerarchitecture.com <john@keenerarchitecture.com>

Cc: Burgos, Glorivee <BurgosG@hcf.gov>, Reidy, Richard <ReidyR@hcf.gov>, Barrios, John <BarriosJ@hcf.gov>, Grady, Brian <Gradyb@hcf.gov>

Good morning John.

Let me first acknowledge the error that we made in initially approving the accessory structure at a height that exceeded what the Land Development Code (LDC) allows. I apologize to you and your client for any hardship or inconvenience this has caused.

In terms of a remedy, Brian Grady and his team have been in communication with you regarding the opportunity to seek a variance to either the accessory structure height limitation or the setbacks applicable to the site, either one of which would be an avenue to cure the identified height issue. While there is a fee for a variance application, this would qualify for a fee waiver that would be granted by a County Land Use Hearing Officer based on the County error.

I recognize that you have a disagreement with how we are interpreting the LDC as it relates to the measurement of height for the accessory structure. Please be advised that as an alternative to or in addition to pursuing the variance, you have the opportunity to request a formal zoning interpretation on this issue which you could then appeal to a County Land Use Hearing Officer. If you desire to pursue this route, we would also support a fee waiver request for these actions.

Colleen Marshall on Brian's team is standing by to assist you with whichever route(s) you choose to pursue.

Again, my apologies for any hardship or inconvenience our error in this matter has caused.

Please let me know if you have any questions or if there is additional assistance we can provide.

Thank you. Adam

Adam Gormly

Director

5/10/24, 10:29 AM

Keener Architecture Mail - Fwd: (WEB mail) - Building Department Issue

Received May 17, 2024
Development Services

Development Services Department

P: (813) 276-8422

E: GormlyA@HCFLGov.net

W: HCFLGov.net

Hillsborough County

601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law

From: Reidy, Richard <ReidyR@hcf.gov>
Sent: Thursday, April 11, 2024 2:46 PM
To: john@keenerarchitecture.com
Cc: Burgos, Glorivee <BurgosG@hcf.gov>; Gormly, Adam <GormlyA@hcf.gov>
Subject: RE: (WEB mail) - Building Department Issue

Good day Mr. Keener,

Thank you for sharing your concern with Commissioner Hagan. It most certainly is distressing when you are operating along what you understand are approved plans only to have those plans challenged down the road.

By copy of this message, we are requesting that the Director of Development Services investigate/review the matter to see if any relief is available. If this is a clerical mishap then the County can possibly reach an equitable arrangement. Of course, if the case entails a public safety concern, then compliance will be required.

Initial indications are that the deviation is more related to engineering and less a matter of safety.

Please expect to be contacted soon by DSD. They will follow up with our office once a course of action has been determined.

Regards,

Rich Reidy, sdg

Office of Commissioner Hagan, Chairman

Hillsborough BOCC

[601 E Kennedy Blvd](#), 2nd Flr

Tampa, FL 33602

O: 813/272-5452

E: reidyr@hcf.gov

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Thursday, April 11, 2024 2:30 PM
To: Commissioner District 2 <ContactDistrict2@hcfi.gov>
Subject: (WEB mail) - Building Department Issue

The following Commissioner(s) received a direct copy of this email:

2 | Commissioner Ken Hagan (District 2)

Date and Time Submitted: Apr 11, 2024 2:30 PM

Name: John Keener

Address: 7720 N Mobley Rd,
Odessa, FL 33556

Phone Number: (813) 495-1400

Email Address: john@keenerarchitecture.com

*** Zoning Application Comment: :**

Subject: Building Department Issue

Message: Mr. Hagen,

I am writing this on behalf of my clients, Dr. Antonio and Gipsy Ocana. I am the Architect for the project located at 7720 N Mobley Rd. My clients are building there dream home and recently we have come across an issue where the Building Department has changed the interpretation of the code after we have been approved and constructed over half of their Pool building. I would not be writing this if I did not think that an injustice is being done to my client.

The Building Department is now saying we must request a variance which will cost 2 months and \$2500 to process. We have gone through all legal channels for this structure and in my opinion are in compliance with the current height definition The height of the structure was clearly shown in the drawings, was discussed during the plan review process and approved as designed. We have correspondence with the County telling us how to measure the structure. We complied by amending our drawings, submitted a letter explaining our changes, and the plans were approved. We thought everything was ok and the Contractor started construction on this element to the house.

Now it's too late for us to move the structure. The building and pool are now in place. I have exhausted all channels within the department and am now asking for guidance on how to deal with a matter such as this.

We have a literal definition that explains how to measure the height. The Department is telling us that they measure differently and that we have to be in compliance with how the measure today and not how they measured when it was permitted.

1214110314

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/123.0.0.0 Safari/537.36

** if "Yes, my comment is related to an active zoning application and should be added to the hearing record" is indicated, the email was copied to development services. If blank, the comment was not related to a zoning application as was not copied to development services.*

--

John L. Keener | Architect

5/10/24, 10:29 AM

Keener Architecture Mail - Fwd: (WEB mail) - Building Department Issue

Received May 17, 2024
Development Services

AIA, LEED AP

Keener Architecture

600 S. Magnolia Ave., Ste 275

Tampa, FL 33606

813.495.1400



Variance Criteria Response

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

See Attached for Accessory Gate and Fence

2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

See Attached for Accessory Gate and Fence

3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

See Attached for Accessory Gate and Fence

4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (*refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose*).

See Attached for Accessory Gate and Fence

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

See Attached for Accessory Gate and Fence

6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

See Attached for Accessory Gate and Fence

7720 N Mobley Road

Zoning: ASC-1

Folio #: 002183-0625

Variance Criteria Response (**Front Fence and Gate**):

1. *Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other similarly located.*

Response:

Our hardship is due to the very public roadway fronting the property, Mobley Road. It is imperative that the property has a perception of security. This is unique to the properties that abut this road and provides a need for more security than the properties that do not have this condition.

Although the fence is only 4' for most of the front yard, the ability to raise the entry fence/wall and gate provides a more secure passage to the property. In addition to the vehicular traffic, school traffic backs up and people park on the right of way. We intend to use landscape and a 4' fence for the majority of the barrier. The Entry Gate needs a stronger sense of privacy.

2. *Describe how the literal requirements of the Land Development Code would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.*

Response:

The literal requirements of the Land Development Code would deprive our client of the rights enjoyed by other. There is precedent along both Mobley Road and Hutchinson road of 6' front fences, walls, and gates built near to the property line. This is exceeding the Maximum allowed 4'. Some of these may have been allowed by variance and some may have been built illegally. We are requesting the extra height for the same reason that those walls were constructed. We want to provide a sense of privacy and security from a very public road and thoroughfare.

3. *Explain how a variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.*

Response:

A variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance. There is precedent along both Mobley Road and Hutchinson Road of Fences, walls, and Gates being constructed above the 4' allowable maximum height. We are requesting only 50' of the 150' front fence/gate to be increased. This portion of the fence will also be offset starting at 14' from the property line and ending at approximately 28', to comply with transportation guidelines. This design, if granted does not affect anyone.

4. *Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).*

Response: The variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan. A variance allows for flexibility to the code when a hardship has been identified. Our hardship is due to the very public roadway fronting the property. This is unique to the properties that abut this road and provides a need for more security than the properties that do not have this condition.

5. *Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.*

Response: The situation is not a self-imposed hardship or an illegal act, we are requesting this variance to provide a sense of security on the highly trafficked Mobley Road as well as providing an aesthetically pleasing design.

6. *Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.*

Response:

The variance, if approved, will result in substantial justice being done. It will grant the homeowner the same concessions that have been afforded to the neighboring properties. Mobley Road is a high traffic corridor. The increase in height will grant a needed perception of security between public & private areas

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This instrument prepared by
Preston O. Cockey, Jr., Esq.
Preston O. Cockey, Jr., P.A.
110 E. Madison St., Ste 204
Tampa, FL 33602

Folio No. 02183-0625 and a part of
02183-0600

FEE SIMPLE DEED

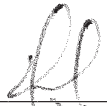


THIS FEE SIMPLE DEED made this 11 day of August, 2022, by **AGLG Classic, LLC**, a Florida limited liability company ("Grantor"), to **ANTONIO L. OCANA and GIPSY OCANA, is wife as tenants-by-the entireties**, whose address is 8605 Dolce Vita Lane, Tampa, Florida 33556 ("Grantee").

WITNESSETH: That Grantor for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby remises, conveys and confirms unto Grantee all that certain land in Hillsborough County, Florida, more particularly described on Exhibit A attached hereto (the "Land").

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

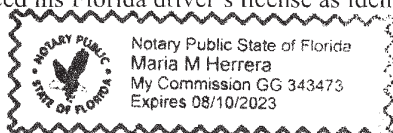
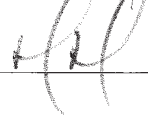
TO HAVE AND TO HOLD, the same in fee simple forever.

IN WITNESS WHEREOF, Grantor has executed this instrument effective as of the date set forth above.

Witness:  Print Name: <u>SONIA Carrera</u>  Print Name: <u>SONIA CARRERA</u>	AGLG Classic, LLC , a Florida limited liability company By:  Antonio L. Ocana, Manager Address: 6553 Gunn Highway Tampa, FL 33625
--	--

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 11 day of August, 2022, by Antonio L. Ocana as Manager of AGLG Classic, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced his Florida driver's license as identification.

(Affix Seal) 	 Notary Public Print Name: _____
--	---

This is a deed of unencumbered property to related parties for nominal consideration in connection with an approved Certified Parcel Subdivision pursuant to the attached approval letter. Nominal documentary stamps have been affixed.

DESCRIPTION SKETCH (NOT A BOUNDARY SURVEY)

EAST PROPERTY LEGAL DESCRIPTION:

A TRACT OF LAND LYING IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 27 SOUTH, RANGE 17 EAST, HILLSBOROUGH COUNTY, FLORIDA, LYING SOUTH OF NORTH MOBLEY ROAD, SAID OCCUPIED RIGHT OF WAY BEING 66.00 FEET WIDE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 26, THENCE SOUTH 00°50'55" EAST ALONG THE WEST BOUNDARY OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 26, 33.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF NORTH MOBLEY ROAD; THENCE SOUTH 89°56'17" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF NORTH MOBLEY ROAD, 513.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTHERLY RIGHT OF WAY LINE SOUTH 89°56'17" EAST, 50.64 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 1082.28 FEET, AN ARC DISTANCE OF 99.58 FEET, CENTRAL ANGLE OF 05°16'18" AND A CHORD BEARING AND DISTANCE OF SOUTH 87°27'28" EAST, 99.54 FEET TO A POINT ON THE EAST LINE OF THE WEST 663.28 FEET OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 27 SOUTH, RANGE 17 EAST; THENCE ALONG SAID EAST LINE, SOUTH 00°50'55" EAST, 1314.78 FEET; THENCE SOUTH 89°43'28" WEST, 330.95 FEET; THENCE NORTH 00°39'34" WEST, 683.22 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 321.51 FEET, AN ARC DISTANCE OF 152.29 FEET, CENTRAL ANGLE OF 27°08'22" AND A CHORD BEARING AND DISTANCE OF NORTH 76°04'14" EAST, 150.87 FEET; THENCE N.00°50'55"W., 334.64 FEET; THENCE S.89°56'20"E., 31.72 FEET; THENCE N.00°50'55"W., 266.86 FEET TO THE POINT OF BEGINNING.

CONTAINING 335,900 SQUARE FEET OR 7.7112 ACRES, MORE OR LESS

CURVE TABLE					
CURVE	ARC	RADIUS	DELTA	CHORD	CHORD BEARING
C1	99.58'	1082.28'	05°16'18"	99.54'	S.87°27'28"E.
C2	152.29'	321.51'	27°08'22"	150.87'	N.76°04'14"E.

LINE TABLE		
LINE	BEARING	LENGTH
L1	S.00°50'55"E.	33.00'
L2	S.89°56'17"E.	513.54'
L3	S.89°56'17"E.	50.64'
L4	S.00°50'55"E.	1314.78'
L5	S.89°43'28"W.	330.95'
L6	N.00°39'34"W.	683.22'
L7	N.00°50'55"W.	334.64'
L8	S.89°56'20"E.	31.72'
L9	N.00°50'55"W.	266.86'

**SHEET 1 OF 2
SEE SHEET 2 OF 2
FOR SKETCH**

SECTION	TOWNSHIP	RANGE	COUNTY, STATE
26	27S	17E	HILLSBOROUGH COUNTY, FLORIDA

AMERICAN SURVEYING INC.
L.B. #7168
4847 NORTH FLORIDA AVENUE
TAMPA, FLORIDA 33603
EMAIL: INFO@AMERICANSURVEYING.COM
PH. (813)234-0103 • FAX (813)234-0108

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SKETCH WAS MADE IN COMPLIANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYS IN FLORIDA AS SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO FLORIDA STATUTE CHAPTER 472. 027



PREPARED FOR:

DR. ANTONIO OCANA

JOHN W. STRACHAN - PROFESSIONAL SURVEYOR AND MAPPER #6312 12/19/2021
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER OR ITS ELECTRONIC EQUIVALENT

PROJECT NO.:	DESCRIPTION	DWN.:	LCN	APRVD.:	JWS
06002119-21B SKL-EAST	CHANGED PREPARED FOR	S/11/22	LCN	JWS	

DESCRIPTION SKETCH (NOT A BOUNDARY SURVEY)

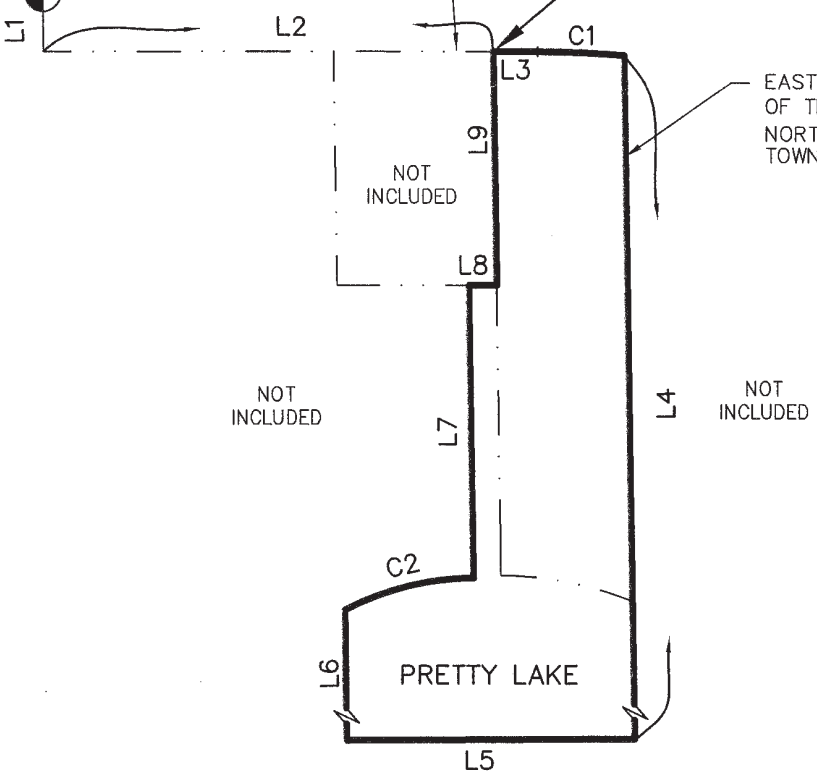


POINT OF COMMENCEMENT
 NORTHWEST CORNER OF THE NORTHEAST 1/4
 OF NORTHEAST 1/4 OF SECTION 26,
 TOWNSHIP 27 SOUTH, RANGE 17 EAST

NORTH MOBLEY ROAD

SOUTHERLY RIGHT-OF-WAY LINE

POINT OF BEGINNING



EAST LINE OF THE WEST 663.28 FEET
 OF THE NORTHEAST 1/4 OF THE
 NORTHEAST 1/4 OF SECTION 26,
 TOWNSHIP 27 SOUTH, RANGE 17 EAST

LINE TABLE		
LINE	BEARING	LENGTH
L1	S.00°50'55"E.	33.00'
L2	S.89°56'17"E	513.54'
L3	S.89°56'17"E.	50.64'
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L5	S.89°43'28"W.	330.95'
L6	N.00°39'34"W.	683.22'
L7	N.00°50'55"W.	334.64'
L8	S.89°56'20"E.	31.72'
L9	N.00°50'55"W.	266.86'

CURVE TABLE					
CURVE	ARC	RADIUS	DELTA	CHORD	CHORD BEARING
C1	99.58'	1082.28'	05°16'18"	99.54'	S.87°27'28"E.
C2	152.29'	321.51'	27°08'22"	150.87'	N.76°04'14"E.

SHEET 2 OF 2
 SEE SHEET 1 OF 2
 FOR LEGAL DESCRIPTION

SECTION	TOWNSHIP	RANGE	COUNTY, STATE
26	27S	17E	HILLSBOROUGH COUNTY, FLORIDA

AMERICAN SURVEYING INC.
 L.B. #7168
 4847 NORTH FLORIDA AVENUE
 TAMPA, FLORIDA 33603
 EMAIL: INFO@AMERICANSURVEYING.COM
 PH. (813)234-0103 • FAX (813)234-0108

PREPARED FOR:

DR. ANTONIO OCANA

PROJECT NO.: 06002119-21B SKL-EAST	DWN.: LCN	APRVD.: JWS
PROJECT NO.: 06002119-21B SKL-EAST	DATE: 2/11/22	DWN.: LCN
DESCRIPTION: CHANGED PREPARED FOR		APRVD.: JWS



Hillsborough County Florida

DEVELOPMENT SERVICES

PO Box 1110 Tampa, FL 33601-1110

AGLG Classic LLC

6553 Gunn Hwy

Tampa FL 33625

BOARD OF COUNTY COMMISSIONERS

Harry Cohen

Ken Hagan

Pat Kemp

Gwendolyn "Gwen" Myers

Kimberly Overman

Mariella Smith

Stacy R. White

COUNTY ADMINISTRATOR

Bonnie M. Wise

COUNTY ATTORNEY

Christine M. Beck

INTERNAL AUDITOR

Peggy Caskey

DEPUTY COUNTY ADMINISTRATOR

Gregory S. Horwedel

SUBJECT: CERTIFIED PARCEL SUBDIVISION

OCANA MOBLEY ROAD

FOLIO # 2183.0600,2183.0625 Project ID# 6152

Dear AGLG classic LLC,

The staff of the Development Services Department has completed its review of your request and it has been determined that the requirements have been met. The Certified Parcel Subdivision request complies with the Land Development Code as adopted by the Board of County Commissioners on April 1, 1997.

The approved two (2) lots indicated in Exhibit "A" and on the Certified Parcel Subdivision Survey submitted to the Development Services Department on February 28, 2022 have appropriate access. The property is located in Section 26, Township 27, Range 17.

The lots hereby described are part of a subdivision of a certified parcel as certified by the Administrator and may not be further subdivided under the provisions for subdividing a Certified Parcel.

Any further subdivision activity and/or creation of more than the lots described above shall require compliance with Section 10.01.05 and other applicable provisions of the Land Development Code.

Approval is granted with the following conditions:

1. Prior to the issuance of building permits, deeds shall be recorded for the new lots. (It is recommended that deeds be recorded within 30 days of this approval.)
2. Please be advised that this approval applies only to the development proposal as submitted, and in no way does it provide EPC approval to any other aspect of the EPC process. By this approval, EPC grants no reliance that wetlands may be developed within these parcels.
3. Where public water and/or wastewater service is supplied by Hillsborough County Water Resource Services, an application for service for each individual lot must be made to the Water Resources Department prior to the issuance of a building permit for

Page 2

Ocana Mobley Road

construction. If served by private well and septic tank, each shall be located on the same parcel as the principal use per Section 2.02.04 (Accessory Uses) of the LDC.

4. Prior to construction of a driveway connection to a County roadway, a right-of-way use permit must be obtained from the Public Works Right-of Way Management Office.

When applying for permits for the approved lots, please submit a copy of this letter along with the application for a permit. Failure to do so may cause unnecessary delays in the permit review process.

In addition, a copy of this Certified Parcel Approval letter is required to be attached as an exhibit to your deed when recorded.

You may be required to apply for a permit from the Southwest Florida Water Management District (SWFWMD) prior to initiating any activity on site.

Please note that this approval does not release the developer from any requirements established by other ordinances nor does it imply exemption from obtaining all proper permits from other governmental agencies. It is the applicant's responsibility to comply with all applicable rules and regulations of Hillsborough County.

If you have any questions concerning this matter please e-mail Yarlene Valle at valley@hillsboroughcounty.org or call at (813) 276-8340.

Sincerely,



Lee Ann Kennedy

Manager

Site and Subdivision Intake

Development Services Department

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Additional / Revised Information Sheet

Office Use Only		
Application Number: VAR 24-0682	Received Date:	Received By:

The following form is required when submitted changes for any application that was previously submitted. A cover letter must be submitted providing a summary of the changes and/or additional information provided. If there is a change in project size the cover letter must list any new folio number(s) added. Additionally, the second page of this form must be included indicating the additional/revised documents being submitted with this form.

Application Number: VAR 24-0682 Applicant's Name: Keener Architecture

Reviewing Planner's Name: Colleen Marshall Date: 05/16/2024

Application Type:

<input type="checkbox"/> Planned Development (PD)	<input type="checkbox"/> Minor Modification/Personal Appearance (PRS)	<input type="checkbox"/> Standard Rezoning (RZ)
<input checked="" type="checkbox"/> Variance (VAR)	<input type="checkbox"/> Development of Regional Impact (DRI)	<input type="checkbox"/> Major Modification (MM)
<input type="checkbox"/> Special Use (SU)	<input type="checkbox"/> Conditional Use (CU)	<input type="checkbox"/> Other _____

Current Hearing Date (if applicable): 06/24/2024

Important Project Size Change Information

Changes to project size may result in a new hearing date as all reviews will be subject to the established cut-off dates.

Will this revision add land to the project? Yes No
If "Yes" is checked on the above please ensure you include all items marked with * on the last page.


Will this revision remove land from the project? Yes No
If "Yes" is checked on the above please ensure you include all items marked with * on the last page.

Email this form along with all submittal items indicated on the next page in pdf form to:
ZoningIntake-DSD@hcfgov.net

Files must be in pdf format and minimum resolution of 300 dpi. Each item should be submitted as a separate file titled according to its contents. All items should be submitted in one email with application number (including prefix) included on the subject line. Maximum attachment(s) size is 15 MB.

For additional help and submittal questions, please call (813) 277-1633 or email ZoningIntake-DSD@hcfgov.net.

I certify that changes described above are the only changes that have been made to the submission. Any further changes will require an additional submission and certification.


Signature

5/16/24
Date



Additional / Revised Information Sheet

Please indicate below which revised/additional items are being submitted with this form.

Included	Submittal Item
----------	----------------

1 **Cover Letter**** If adding or removing land from the project site, the final list of folios must be included

2 **Revised Application Form****

3 **Copy of Current Deed*** Must be provided for any new folio(s) being added

4 **Affidavit to Authorize Agent*** (If Applicable) Must be provided for any new folio(s) being added

5 **Sunbiz Form*** (If Applicable) Must be provided for any new folio(s) being added

6 **Property Information Sheet****

7 **Legal Description of the Subject Site****

8 **Close Proximity Property Owners List****

9 **Site Plan**** All changes on the site plan must be listed in detail in the Cover Letter.

10 **Survey**

11 **Wet Zone Survey**

12 **General Development Plan**

13 **Project Description/Written Statement**

14 **Design Exception and Administrative Variance requests/approvals**

15 **Variance Criteria Response**

16 **Copy of Code Enforcement or Building Violation**

17 **Transportation Analysis**

18 **Sign-off form**

19 **Other Documents** (please describe):

Added - Drawings for proposed fence.

*Revised documents required when adding land to the project site. Other revised documents may be requested by the planner reviewing the application.

**Required documents required when removing land from the project site. Other revised documents may be requested by the planner reviewing the application.



**Hillsborough
County Florida**
Development Services

Identification of Sensitive/Protected Information and Acknowledgement of Public Records

Pursuant to [Chapter 119 Florida Statutes](#), all information submitted to Development Services is considered public record and open to inspection by the public. Certain information may be considered sensitive or protected information which may be excluded from this provision. Sensitive/protected information may include, but is not limited to, documents such as medical records, income tax returns, death certificates, bank statements, and documents containing social security numbers.

While all efforts will be taken to ensure the security of protected information, certain specified information, such as addresses of exempt parcels, may need to be disclosed as part of the public hearing process for select applications. If your application requires a public hearing and contains sensitive/protected information, please contact [Hillsborough County Development Services](#) to determine what information will need to be disclosed as part of the public hearing process.

Additionally, parcels exempt under [Florida Statutes §119.071\(4\)](#) will need to contact [Hillsborough County Development Services](#) to obtain a release of exempt parcel information.

Are you seeking an exemption from public disclosure of selected information submitted with your application pursuant to Chapter 119 FS? Yes No

I hereby confirm that the material submitted with application VAR 24-0682

Includes sensitive and/or protected information.

Type of information included and location _____

Does not include sensitive and/or protected information.

Please note: Sensitive/protected information will not be accepted/requested unless it is required for the processing of the application.

If an exemption is being sought, the request will be reviewed to determine if the applicant can be processed with the data being held from public view. Also, by signing this form I acknowledge that any and all information in the submittal will become public information if not required by law to be protected.

Signature: _____
(Must be signed by applicant or authorized representative)

Intake Staff Signature: _____ Date: _____



Keener Architecture
John L. Keener
600 S. Magnolia Ave.
Suite 275
Tampa, FL 33602
November 20, 2023

To: Hillsborough County Building Department
601 E Kennedy Blvd.
Tampa, FL 33602

Reason: Ocana Residence
7720 North Mobley Road
Odessa, FL
Zoning: ASC-1
Folio #: 002183-0625
Permit No.: HC-BLD-21-0020891
Variance Application #VAR 24-0682

Cover Letter – Additional/ Revised Information

We are submitting a revision to Variance application VAR 24-0682 to include along with the Accessory structure height increase request, a variance request for an increase in height for the front gate/fence.

The following submittal items have been revised/added:

1. Added - Additional / Revised information sheets.
2. Revised – Identification of Sensitive/protected information and acknowledgement of public records.
3. Revised – Property/Applicant/Owner Information Sheet.
4. Revised - Affidavit to authorize Agent – Variance.
5. Revised - Affidavit to authorize agent – Fee Waiver.
6. Revised - Site plan – Sheet A-002.
7. Revised - Project Description/Written Statement.
8. Revised - Variance Criteria Response for Accessory Structure.
9. Added - Variance Criteria Response for Gate and Fence
10. Added - Drawing sheet for proposed Front Fence/Gate.

Previously submitted items that did not require revision:

1. Deed
2. Buffer map
3. Neighborhood List
4. Approved - Cabana Permit Drawings
5. Letter Submitted addressing comments

6. Survey
7. Building Department Acknowledging Error
8. Documentation of Correspondence.

If you have any questions, please do not hesitate to call.

Thank You,

A handwritten signature in blue ink, appearing to read 'JLK', with a stylized flourish extending to the right.

John L. Keener
Architect, LEED AP, AIA



**Hillsborough
County Florida**
Development Services

Property/Applicant/Owner Information Form

Official Use Only

Application No: VAR 24-0682 Intake Date: _____
Hearing(s) and type: Date: _____ Type: _____ Receipt Number: _____
Date: _____ Type: _____ Intake Staff Signature: _____

Property Information

Address: 7720 N. Mobely Road City/State/Zip: Odessa, FL
TWN-RN-SEC: 27-17E-26 Folio(s): 002183-0625 Zoning: ASC-1 Future Land Use: 0100 Property Size: 7.7 ACRES

Property Owner Information

Name: Antonio & Gipsy Ocana Daytime Phone 813-389-1821
Address: 8605 Dolce Vita Lane City/State/Zip: Odessa, FL 33556
Email: ocanamobely7720@gmail.com Fax Number _____

Applicant Information

Name: Keener Architecture Daytime Phone 813-495-1400
Address: 600 S. Magnolia Ave. City/State/Zip: Tampa, FL 33606
Email: john@keenerarchitecture.com Fax Number _____

Applicant's Representative (if different than above)

Name: _____ Daytime Phone _____
Address: _____ City/State/Zip: _____
Email: _____ Fax Number _____

I hereby swear or affirm that all the information provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Signature of the Applicant

JOHN KEENER
Type or print name

I hereby authorize the processing of this application and recognize that the final action taken on this petition shall be binding to the property as well as to the current and any future owners.

Signature of the Owner(s) - (All parties on the deed must sign)

Antonio Ocana Gipsy Ocana
Type or print name