



Board of Adjustment
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida
Agenda
Wednesday, July 20, 2022

Call To Order - 1:30 p.m.

Approval of Minutes - June 15, 2022

H. Public Hearings

- H.1.** OBC Realty, LLC (Michael Allen) requests variances to the minimum lot width and breezeway requirements in an RU-2-15 zoning classification. (22V00005) (Tax Account 2520973) (District 2)
- H.2.** James O. and Donna Andrus Born request a variance for fence height in an EU zoning classification. (22V00014) (Tax Account 2317189) (District 1)
- H.3.** Lisa C. Shover requests three variances for a swimming pool, and one variance for an accessory structure in an RU-1-13 (Single-Family Residential) zoning classification. (22V00015) (Tax Account 2502115) (District 2)
- H.4.** Todd J. Starkey (Brian Stephens) requests a variance for a screened pool enclosure in a PUD (Planned Unit Development) zoning classification. (22V00016) (Tax Account 2631042) (District 4)
- H.5.** Board of County Commissioners, Brevard County, Florida (Tim Lawry) requests a variance from the front setback in a GML(H) zoning classification. (22V00019) (Tax Account 2606131) (District 4)

Public Comment

Adjournment

Pursuant to the Florida Rules of Appellate Procedure, any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may, within thirty (30) days after the date the order is signed, apply to a court of competent jurisdiction for appropriate relief. Speakers must provide their names and addresses for the public record.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

7/20/2022

Subject:

OBC Realty, LLC (Michael Allen) requests variances to the minimum lot width and breezeway requirements in an RU-2-15 zoning classification. (22V00005) (Tax Account 2520973) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of Adjustment conduct a public hearing to consider variances for the minimum lot width and breezeway requirements in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification.

Summary Explanation and Background:

OBC Realty, LLC (Michael Allen) requests variances from Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1372(4), to permit a variance of 24.9 ft. from the required 75-ft. minimum lot width in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification; 2.) Section 62-2105(d), to permit a variance of 8.2 ft. from the minimum breezeway requirement of 21.4 ft., in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification. The property is 0.30 acres, located on the east side of S. Atlantic Ave., approx. 143 ft. north of 35th St. (3477 S. Atlantic Ave., Cocoa Beach)

Clerk to the Board Instructions:

None



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members

FROM: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, July 20, 2022

DISTRICT 2

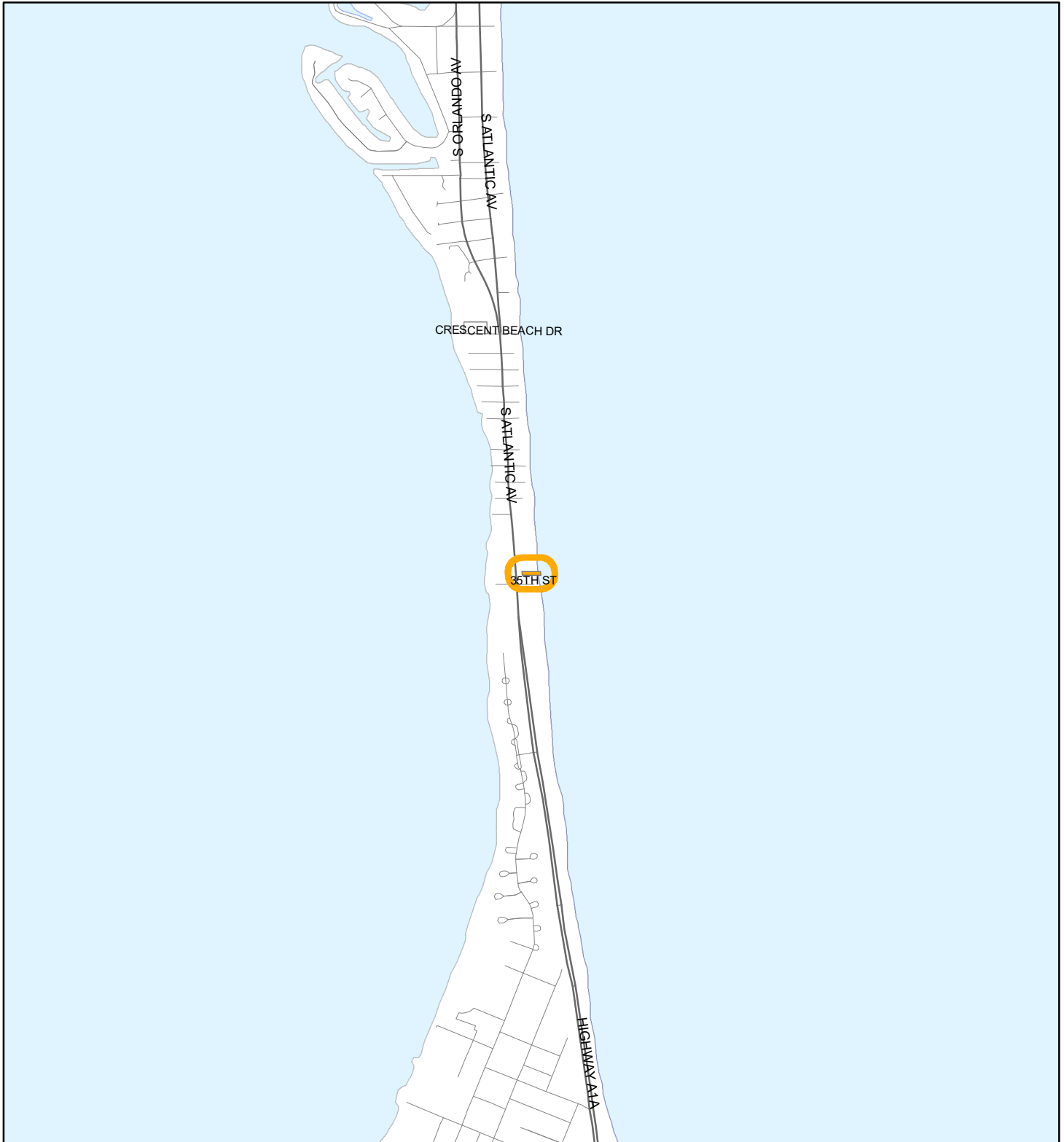
1. (22V00005) OBC Realty, LLC (Michael Allen) requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1372(4), to permit a variance of 24.9 ft. from the required 75-ft. minimum lot width; 2.) Section 62-2105(d), to permit a variance of 8.2 ft. from the minimum breezeway requirement of 21.4 ft., in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification.

The applicant is requesting two variances: 1.) a 24.9 ft. variance from the required 75-ft. minimum lot width in a RU-2-15 zoning district; and 2.) an 8.2-ft. variance from the required minimum breezeway width of 21.4 ft. The site will be redeveloped as a new multi-family condominium. The first request equates to a 33% deviation of what the code requires. The second request equates to 38% deviation of what the code requires. A variance for side setbacks was approved on the property 100 ft. to the north in 1962. Variances for side setbacks and breezeway width were denied for the adjacent property to the south in 1982. The two denials were to permit a variance of 5 ft. from the required 10 ft. setback on each side lot line; and to permit a variance of 3 ft. from the required 25% breezeway in a RU-2-15 zone classification. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the plans provided by the applicant.

LOCATION MAP

OBC REALTY LLC

22V00005





1:24,000 or 1 inch = 2,000 feet

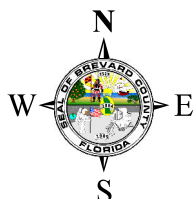
Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/10/2022

-  Buffer
-  Subject Property

22V00005



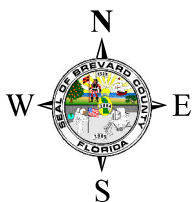
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Zoning

AERIAL MAP

OBC REALTY LLC

22V00005




1:600 or 1 inch = 50 feet

PHOTO YEAR: 2021

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/10/2022

 Subject Property

 Parcels

ALLEN ENGINEERING, INC.

CIVIL ENGINEERS • SURVEYORS

106 Dixie Lane • Cocoa Beach, FL 32931 • Tel: 321-783-7443 • Fax: 321-783-5902 • www.AllenEng.net

March 28th, 2022

Peter Martin
Planning and Development
Brevard County
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, FL 32940

Re: Variance Requests
OBC Ocean
3477 S Atlantic Ave, Cocoa Beach, FL 32931

Dear Mr. Martin:

The owner, OBC Realty, LLC, is proposing to redevelop the site located at the address referenced above into a new 4-unit 4-story condominium. The site currently houses a dilapidated 4-unit building that sits seaward of the Brevard County CCCL setback line. Brevard County Natural Resources was contacted in April of 2021 to determine if redevelopment was feasible and if a Letter of Compliance could be issued. After site investigations were conducted, Brevard County Natural Resources determined that the existing foundation was intact and that redevelopment could occur so long as the proposed building follows the footprint of the existing building in areas seaward of the CCCL setback line.

For successful redevelopment to occur, two variances are needed to bring the site into conformity with the current zoning and adjacent developments. One for a variance of 24.78' from the minimum lot width of 75' and one to reduce the required breezeway for the site by 6.65'.

Contained within this submittal for the variance requests you will find:

- Application for Variance (2 Requests)
- Variance Hardship Worksheet for Request #1
- Variance Hardship Worksheet for Request #2
- Authorization to Act
- Property Deed
- Sunbiz Printout
- Certified Survey
- Property Appraisers Printout
- Relevant Construction Drawing Sheets
- Variance V-1305

- Letter of Compliance
- Site Photos
- Building Height Calculations
- Exhibit that overlays the proposed building footprint on top of the existing building footprint
- Exhibit that highlights existing setbacks and calculates the existing breezeway
- Exhibit that highlights proposed setbacks and calculates the proposed breezeway

The previously approved variance from 1983, Variance V-1305, had three requests in total. One to permit the application of zoning density to a non-conforming lot of record, another to reduce the side setbacks from 10' to 5', and a final request to reduce the breezeway requirements. The first two requests were approved, and the third request was deemed unnecessary. To allow the reduced setbacks to be utilized and to follow the existing building footprint a variance is needed to reduce the breezeway requirement. The proposed building height per the breezeway definition is 44.70', which results in a required breezeway of 19.89'. Per the exhibit submitted showing the proposed breezeway, a breezeway of 13.24' is proposed. Due to this, it is requested that the required breezeway be reduced by 6.65'.

Please review the enclosed submittal package at your earliest convenience. If you have any questions or need any additional information, please don't hesitate to contact either Michael Allen or myself. Our emails are mallen@alleneng.net and dwainwright@alleneng.net.

Regards,

Dalton Wainwright

Dalton J. Wainwright

Enclosures



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action: ☐ Yes ☒ No

If yes, please indicate the case number and the name of the contractor:

Case Number: _____

Contractor: _____

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

Request #1(Code Section 62-1372)

The existing parcel is zoned RU-2-15 with a minimum lot width of 75'. The existing parcel is only 50.1' wide with existing developments to the north and south. A variance of 24.9' of the minimum lot width is required to allow for redevelopment of the site. The existing lot width is consistent with next 10 parcels south of the subject parcel.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

Request #1(Code Section 62-1372)

The parcel was platted in 1946 with a lot width of 50 feet. The applicant did not take ownership of the parcel until 2019. Therefore, the applicant did not create any special conditions and circumstances that require this variance request.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification.

Applicant Response:

Request #1(Code Section 62-1372)

The variance request is simply to allow a substandard lot to be redeveloped under the current zoning. The platted width of 50' from 1946 does not meet the minimum lot width requirements of the current zoning.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

Applicant Response:

Request #1(Code Section 62-1372)

The parcel can not be redeveloped under the current zoning without a variance to the minimum lot width.

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

Applicant Response:

Request #1(Code Section 62-1372)

The variance request of 24.9' is the minimum request to the minimum lot width requirement of 75'. The current lot width is 50.1'.

6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

Request #1(Code Section 62-1372)

The granting of the variance will allow the applicant the ability to redevelop the parcel under the current zoning. The redevelopment shall be a 4-unit multifamily project which is harmonious with the existing multifamily project to the north and south of the subject parcel.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.


Signature of Applicant Robert Vander Weide
OBC Realty, LLC


Signature of Planner



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action: ☐ Yes ☒ No

If yes, please indicate the case number and the name of the contractor:

Case Number: _____

Contractor: _____

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

Request #2 (Code Section 62-2105)

The parcel is only 50.1' wide and has had Variance V-1305 approved to reduce side setbacks for the existing structure to 5'. Because the existing structure extends seaward of the 1981 CCCL and the Brevard County CLS, the structure proposed for the redevelopment of the site must remain in the footprint of the existing structure. See attached letter of Compliance from Brevard County Natural Resources. Therefore, project approval cannot be obtained without a variance to the breezeway requirements.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

Request #2 (Code Section 62-2105)

The site conditions are existing and not a result of the applicants actions. However, redevelopment of the site, to be consistent with the surrounding areas, requires the breezeway variance to bring the project into compliance.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification.

Applicant Response:

Request #2 (Code Section 62-2105)

Reduction of the breezeway requirement goes along with the previously approved Variance V-1305 (side setbacks reduced to 5'). The Brevard County Natural Resources Letter of Compliance also stated that the proposed building footprint may follow the same footprint as the existing building in areas seaward of the 25' setback off of the 1981 CCCL. Without the breezeway requirement reduced, the referenced approvals cannot be realized.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

Applicant Response:

Request #2 (Code Section 62-2105)

The parcel will not be able to be redeveloped without following the existing building's footprint. The existing building footprint cannot be utilized without a variance to the breezeway requirement.

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

Applicant Response:

Request #2 (Code Section 62-2105)

The applicant is limited to the use of the existing footprint by the Department of Natural Resources. Thus, a variance of 8.2' to the required 21.4' breezeway is needed to allow reasonable use of the property.

6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

Request #2 (Code Section 62-2105)

Approval will allow the site to be redeveloped to a higher standard of quality and match up more closely to the newer developments in the surrounding area.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.


Signature of Applicant Robert Vander Weide
OBC Realty, LLC


Signature of Planner



BOARD OF COUNTY COMMISSIONERS

Natural Resources Management Department

2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

April 15, 2021

Michael S. Allen, P.E.
Allen Engineering, Inc.
106 Dixie Lane
Cocoa Beach, FL 32931

**RE: 3477 S. Atlantic Avenue, Cocoa Beach, FL.
Multi-Family Unit - Quadruplex
Parcel No. 25-37-35-25-1-8, Tax Account No. 2520973**

Dear Mr. Allen:

This letter serves to provide Natural Resources Management Department (NRM) comments on a multi-family development proposed on an oceanfront parcel located at 3477 South Atlantic Avenue, located between Florida Department of Environmental Protection (FDEP) reference monuments R-52-T and R-53-T, in Cocoa Beach, Brevard County. Comments are based on the attached plans provided by Allen Engineering that include, Architectural Plans (Sheets A-0.0 – A-1.4), Existing Conditions and Demolition Plan, and Site & Stripping Plan. Comments are subject to revision based on any changes to the attached plans dated February 24, 2021. NRM determined that the attached plans are not consistent with all criteria established in Brevard County Comprehensive Plan Coastal Element Objective 4; Chapter 62, Article XII, Coastal Setback and Control Lines; and other relevant environmental code.

Per the conceptual plans, the applicant proposes to demolish the existing, non-conforming, multi-family structure, leaving the foundations intact. Plans propose a new multi-family structure within the building footprint of the existing foundation. The multi-family structure will be constructed as a four (4) -story, multi-family quadruplex comprised of (1) one building, two (2) stairwells (east and west), and an elevator with lobby on each floor. The first floor is proposed to contain a pool, pool pump room, and parking garage. The second floor is proposed with two (2) habitable units, and the third and fourth floors are proposed with one habitable unit each.

The proposed pool, pool pump room, two (2) stairwells (east and west), elevator/lobbies, and three (3) habitable units are located east of the Brevard County Coastal Setback Line (CSL). Of these structures, the east stairwell and three (3) habitable units are located east of the 1981 Florida Department of Environmental Protection Coastal Construction Control Line (CCCL). Each of the three (3) units proposes a balcony that is within the existing footprints of the major habitable structure. One proposed (1) habitable unit, the trash/recycling room, the electrical room, and the proposed parking garage are located west of the CSL in accordance with Section 62-4212, the Coastal Setback and Control Lines ordinance.



A site inspection was conducted by NRM on March 26, 2021. The inspection found existing structures located east of the CSL consisting of habitable units, a 245 square foot (SF) wooden deck, and several areas of exposed concrete areas/pads, and sidewalks.

Per Section 62-4201, the proposed habitable structures, stairwells, elevator, and lobbies meet the definition of major habitable structure. A major habitable structure includes the area within the walls, and does not include any area under a roof overhang. The proposed balconies located east of the CCCL meet the definition of major habitable structure as they are proposed within the walls of the major habitable structure.

Per Section 62-4201, the proposed pool, pool pump house, and existing concrete areas/pads and sidewalks meet the definition of a major accessory structure.

Plans to rebuild the major habitable structure upon the remaining foundation footprint of the demolished major habitable structure is permissible as follows:

Sec. 62-4207. Nonconforming structures.

The setback provisions of sections 62-4212 and 62-4213 shall not apply to any modification, maintenance or repair of any nonconforming structure, provided that such

modification, maintenance or repair:

- (1) Does not expand the nonconforming structure further into the area seaward of the coastal setback line;*
- (2) Does not alter the foundation except as is necessary to meet current building code for the existing use;*
- (3) Does not convert major habitable structures into major accessory structures or major accessory structures into major habitable structures.*

However, proposed plans to construct the pool and pool pump house within the existing, non-conforming major habitable structure envelope is not permissible as follows:

Sec. 62-4212. Prohibited structures and activities seaward of CSL.

(a) No new major habitable or major accessory structures shall be constructed seaward of the coastal setback line; and

Sec. 62-4207. Nonconforming structures.

The setback provisions of sections 62-4212 and 62-4213 shall not apply to any modification, maintenance or repair of any nonconforming structure, provided that such modification, maintenance or repair:

- (3) Does not convert major habitable structures into major accessory structures or major accessory structures into major habitable structures.*

From the plans, it appears that the exposed concrete areas/pads, sidewalks and 245 SF wooden deck are to remain as-is, and thus will not conflict with Section 62-4207(3). The applicant should contact this office prior to any modifications.

At time of site plan and/or building permit, an overlay of existing structures/foundation compared to proposed structures shall be required to ensure development does not convert existing uses.

A cross section detail was not provided. At the time of site plan and/or building permit, a cross sectional detail will be required. Excluding permissible alterations to the foundation as described above, per Section 62-4212(c), prohibited activities seaward of the CSL include excavations, including the removal or alteration of soil, sand or vegetation by digging, dredging, filling, drilling, cutting, scooping or hollowing out shall be prohibited seaward of the coastal setback line. Potable water and sewage are connected to the local municipality.

At this time, no elevated dune crossover is proposed. At time of crossover proposal, it shall be constructed in accordance with Section 62-4213(a). The dune crossover location shall be located to minimize impacts to existing native dune vegetation. Dune crossover construction details will be addressed at building permit review and will require FDEP approval/permit.

Coastal Management Element Comprehensive Plan Policy 4.1.A requires that oceanfront development maintain at least 50% of the native dune vegetation on site. A site visit by NRM on March 26, 2021, found most of the property developed with a few sea grape trees along the northern property line. Sea grapes may be pruned to accommodate construction activities. Native dune vegetation seaward of the FDEP 1981 CCCL shall not be removed unless necessary for approved emergency vehicle access or coastal protection needs. Temporary impacts east of the CSL required for construction shall be the minimum necessary, and in-kind restoration with native species shall be required. With the exception of the minimum and temporary impacts required for construction, the use of machinery is not permissible east of the CSL. At the time of permitting, the applicant shall provide more specific information regarding the removal of the invasive species, and restoration/revegetation of disturbed areas east of the CSL. Vegetation east of the CSL shall be native and suitable for the coastal environment.

Gopher tortoises can be found in many coastal areas. Should they be discovered, the applicant shall ensure their appropriate protection in accordance with State regulations.

This letter does not constitute final County approval for the proposed development. The applicant shall be required to comply with all applicable land development regulations at the time of Brevard County site planning and/or permitting. In addition, the applicant is responsible for obtaining all necessary State and Federal approvals or permits. Additional comments may be made upon formal plan submittal. Please contact me at (321) 633-2016 if you should have any questions.

Sincerely,

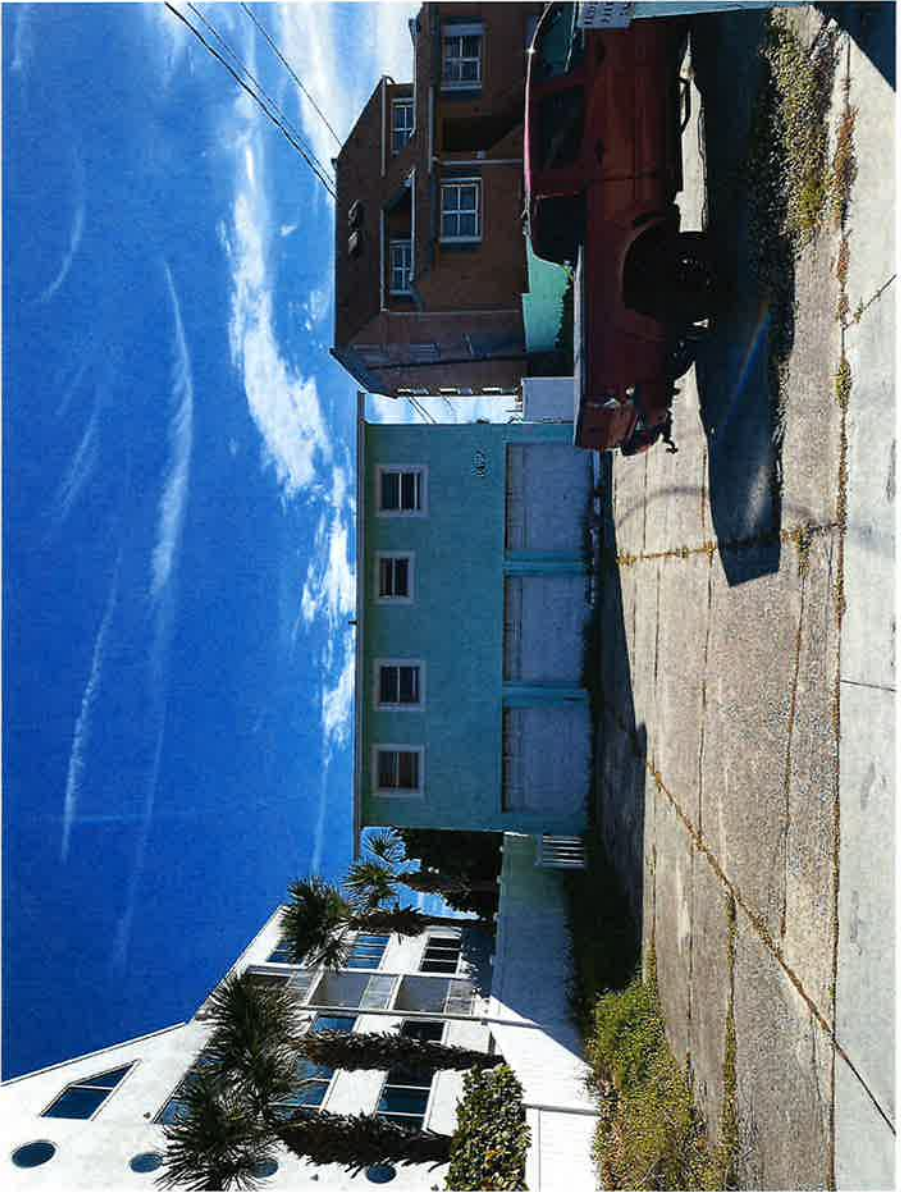
Janice Allen

Main Line (321) 633-2016 • brevardfl.gov/NaturalResources/Home

Jeanne Allen
Environmental Resources Management

Attachments:

Existing Conditions and Demolition Plan
Site & Stripping Plan
Architectural Plans (Sheets A-0.0 – A-1.4)













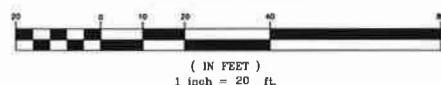


MAP OF BOUNDARY & TOPOGRAPHIC SURVEY 3477 South Atlantic Avenue, Cocoa Beach

NATURAL VEGETATION LEGEND
1. BEACH DUNE (GRASSES AND GROUND COVERS)
2. COASTAL STRAND (SAND PALMETTO AND SALT PRUNED SHRUBS)
3. HAMMOCK (OVERHEAD FOREST CANOPY)
4. WETLAND (MANGROVE, MARSH, OR SWAMP)
5. EXOTICS (GREATER THAN 50 PERCENT AUSTRALIAN PINE, BRAZILIAN PEPPER, AUSTRALIAN SCAEVOLA OR OTHER INVASIVE NUISANCE SPECIES)

INDICATES VEGETATION TYPE

GRAPHIC SCALE



LEGEND
A/C = AIR CONDITIONER
B/E = BASE FLOOD ELEVATION
BLDG = BUILDING
BLK = BLOCK
BM = BENCHMARK
BRG = BEARING
C = CALCULATED
CATV = CABLE TELEVISION
CBS = CONCRETE BLOCK STRUCTURE
CHS = CHORD
C/L = CENTERLINE
CLF = CHAIN LINK FENCE
CMF = CONCRETE MONUMENT FOUND
CMP = CORRUGATED METAL PIPE
CONC = CONCRETE
COR = CORNER
(D) = DEED
DB = DEED BOOK
DA = DELTA ANGLE
ELEC = ELECTRIC
ELEV = ELEVATION
ENC = ENCROACHMENT
EOP = EDGE OF PAVEMENT
FSMT = EASTMENT
FB = FILL BOOK
FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY
FF = FINISHED FLOOR
FNC = FENCE
FND = FOUND
FPLM = FLORIDA POWER & LIGHT COMPANY
ID = IDENTIFICATION
IPF = IRON PIPE FOUND
IRC = IRON ROD & CAP FOUND
IRF = IRON ROD FOUND
IRS = 5/8" IRON ROD SET "LB 7838"
LB = LICENSED BUSINESS NUMBER
LS = (RLS) or (PLS) REGISTERED OR PROFESSIONAL LAND SURVEYOR
(M) = MEASURED
NAVD = NORTH AMERICAN VERTICAL DATUM
NDF = NAIL & DISK FOUND
NUS = 1 1/4" NAIL & DISK SET "LB 7838"
NOVD = NATIONAL GEODETIC VERTICAL DATUM
No. = NUMBER
O/H = OVERHEAD
ORB = OFFICIAL RECORDS BOOK
O/S = OFFSET
(P) = PLAT
PB = PLAT BOOK
PC = POINT OF CURVATURE
POC = POINT OF COMPOUND CURVATURE
POP = PERMANENT CONTROL POINT
PI = POINT OF INTERSECTION
PLS = PROFESSIONAL LAND SURVEYOR
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PRC = POINT OF REVERSE CURVATURE
PRM = PERMANENT REFERENCE MONUMENT
PSM = PROFESSIONAL SURVEYOR AND MAPPER
PT = POINT OF TANGENCY
PUDE = PUBLIC UTILITY & DRAINAGE EASTMENT
PUC = PUBLIC UTILITY EASEMENT
R = RADIUS
REF = REFERENCE
RNG = RANGE
R/W = RIGHT OF WAY
SEC = SECTION
SFHA = SPECIAL FLOOD HAZARD AREAS
TEL = TELEPHONE RISER
TWP = TOWNSHIP
TYP = TYPICAL
UP = UTILITY POLE
WD = WOOD
WY-COR = 5/8" IRON ROD SET WITH CAP "WITNESS LB 7838"
WM = WATER METER
XCF = CROSS CUT FOUND

NOTES:

1. BEARINGS BASED ON AN INVERSE FROM REF MON "70 85 A19-2" TO "70 80 A20" BEING 508°40'43" AS PER NORTH AMERICAN DATUM OF 1927.
2. ELEVATIONS BASED ON NAVD 1988 AND REF MON "70 85 A19-2" BEING AT AN ELEV OF 4.35 FEET NAVD 1988.
3. FLOOD ZONE "X" MAP No. 12090004030 COMMUNITY No. 120902, MARCH 17, 2014. FLOOD ZONE INFORMATION DEPICTED HEREON IS APPROXIMATE. FEMA RETAINS SOLE AUTHORITY REGARDING BOUNDARY AND EXTENT OF SFHA.
4. HORIZONTAL CLOSURE MEETS OR EXCEEDS THE ACCURACY REQUIREMENTS FOR SUBURBAN LAND AS PER FLORIDA STATUTE 54-17-6.003.
5. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE.
6. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
7. THE SURVEYOR HAS NOT LOCATED NOR ATTEMPTED TO LOCATE ANY UNDERGROUND UTILITIES, FOUNDATIONS, OR STRUCTURES OTHER THAN THOSE THAT MAY BE SHOWN HEREON.
8. ONLY BOUNDARY CORNER MONUMENTS AS SHOWN HEREON ARE TO BE USED FOR THE LOCATION AND CONSTRUCTION OF IMPROVEMENTS.
9. UNLESS OTHERWISE INDICATED THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH OR ATTORNEY'S TITLE OPINION.
10. THE SHORELINE DEPICTED HEREON IS APPROXIMATE AND DOES NOT REPRESENT A PRECISE LOCATION OF THE MEAN HIGH WATER LINE IN ACCORDANCE WITH THE COASTAL MAPPING ACT OF 1974. SHOULD A PRECISE LOCATION OF THE MEAN HIGH WATER LINE BE REQUIRED FOR USE AS A REGULATORY SET BACK LINE THE SURVEYOR MUST BE CONTACTED PRIOR TO PREPARATION OF BUILDING PLANS, DESIGN, ENGINEERING, OR CONSTRUCTION.
11. THE COORDINATES SHOWN HEREON ARE BASED ON NORTH AMERICAN DATUM 1927 FLORIDA MERCATOR EAST ZONE AND REFERENCE MONUMENTS "70 85 A19-2" AND "70 80 A20".
12. THE CONTROL LINE MONUMENTS SHOWN HEREON WERE LOCATED BY A TOPCON HIRSH REAL TIME KINEMATIC CLOSURE POSITIONING SYSTEM. AN ANALYSIS OF POSITIONING FROM A RESECTION SHOTS YIELDED A 1:50,000 COMPARISON OF RECORDED VERTICES FIELD INVERSE BETWEEN DEPICTED REFERENCE MONUMENTS.

BOUNDARY & TOPOGRAPHIC	DATE: 11/12/19	JOB No. 38508
REVISED CERTIFICATIONS	DATE: 3/28/22	FD 19-9-94
		ORLANDO/1.BB1

Kane Surveying, Inc.
FLORIDA LICENSED BUSINESS No. LB 7834
505 DISTRIBUTION DRIVE
MELBOURNE, FLORIDA 32904
(321) 676-0427
FAX (321) 984-1448

CERTIFIED TO:
OBC REALTY, LLC, A MICHIGAN LIMITED LIABILITY COMPANY

CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE STANDARDS AND PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 54-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

3/28/2022 | 5:35 AM PDT

JOEL A. SEYMOUR
JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 8133

DRAWN BY: JED

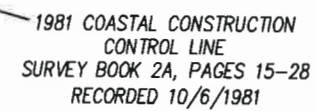
SCALE 1 INCH = 20 FEET

LEGAL DESCRIPTION:

LOT 8, BLOCK 1, PLAT OF ORLANDO BEACH, RECORDED IN PLAT BOOK 9, PAGE 43, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

BLDG
FF ELEV=8.99

LOT 7 BLOCK 1

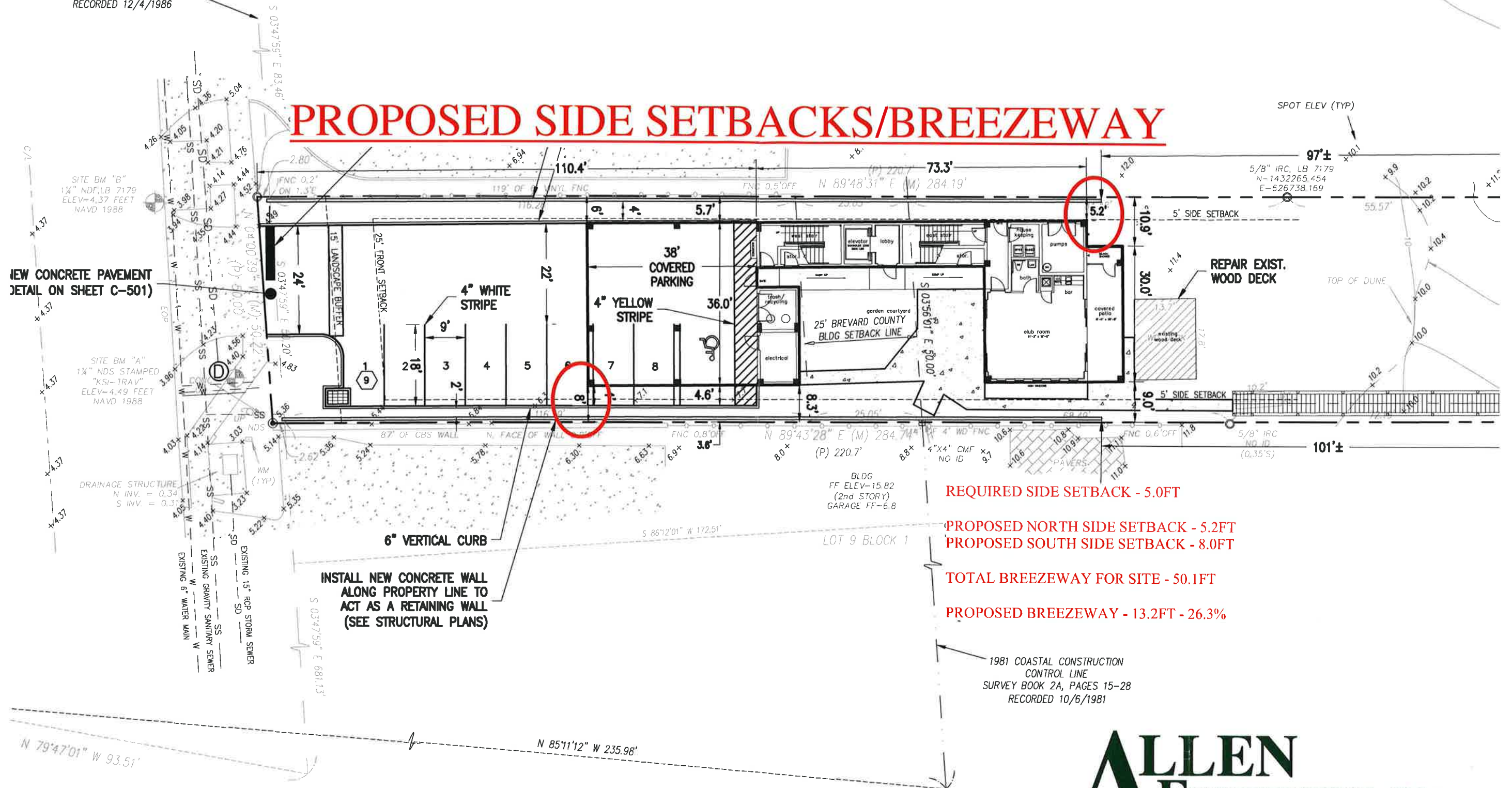


35

1986 COASTAL CONSTRUCTION
CONTROL LINE
SURVEY BOOK 2A, PAGES 29-42
RECORDED 12/4/1986

BLDG
FF ELEV=8.99

PROPOSED SIDE SETBACKS/BREEZEWAY



REQUIRED SIDE SETBACK - 5.0FT

PROPOSED NORTH SIDE SETBACK - 5.2FT
PROPOSED SOUTH SIDE SETBACK - 8.0FT

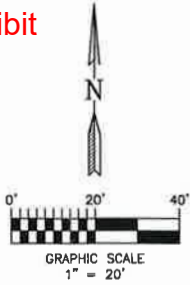
TOTAL BREEZEWAY FOR SITE - 50.1FT

PROPOSED BREEZEWAY - 13.2FT - 26.3%

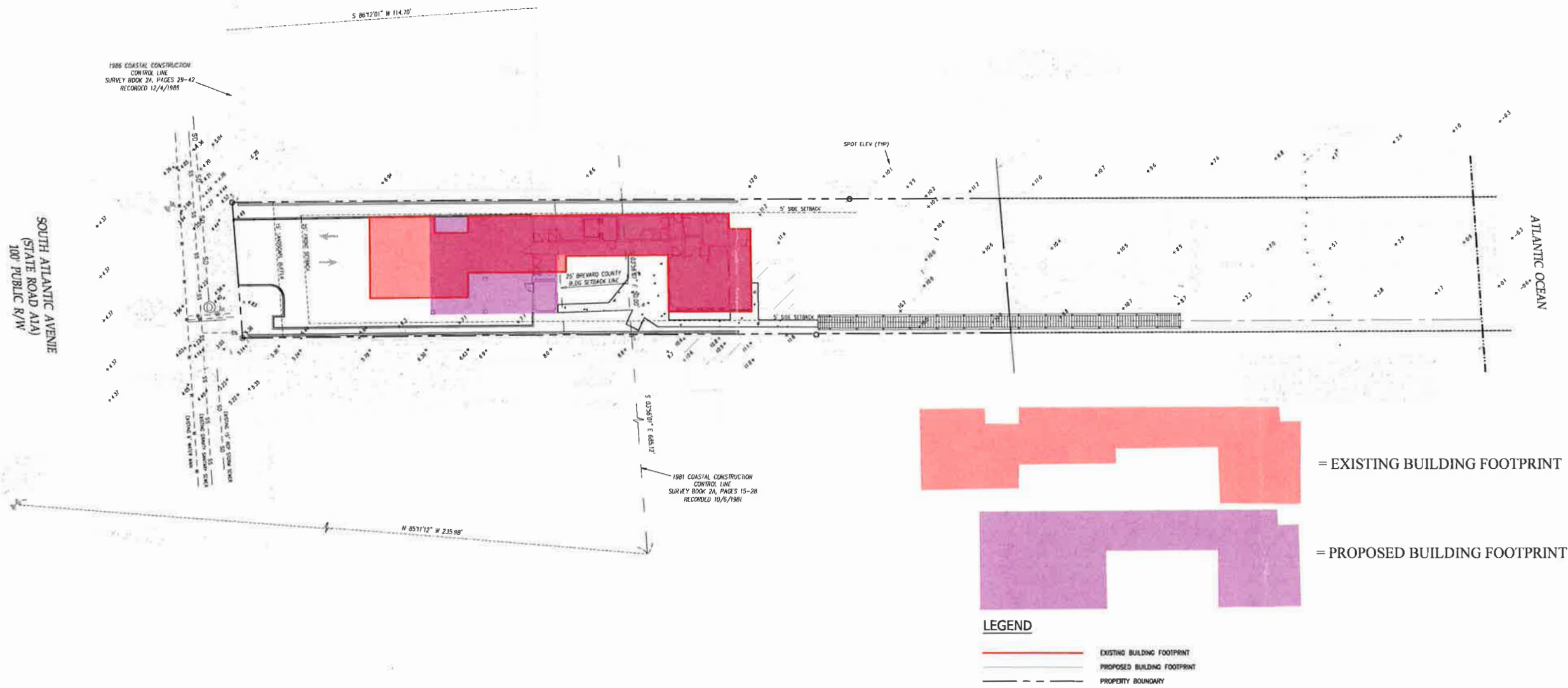
1981 COASTAL CONSTRUCTION
CONTROL LINE
SURVEY BOOK 2A, PAGES 15-28
RECORDED 10/6/1981

ALLEN
ENGINEERING, INC.
CIVIL ENGINEERS • SURVEYORS

Building Footprint Exhibit
22V00005
OBC Realty



LOCATION MAP
NOT TO SCALE

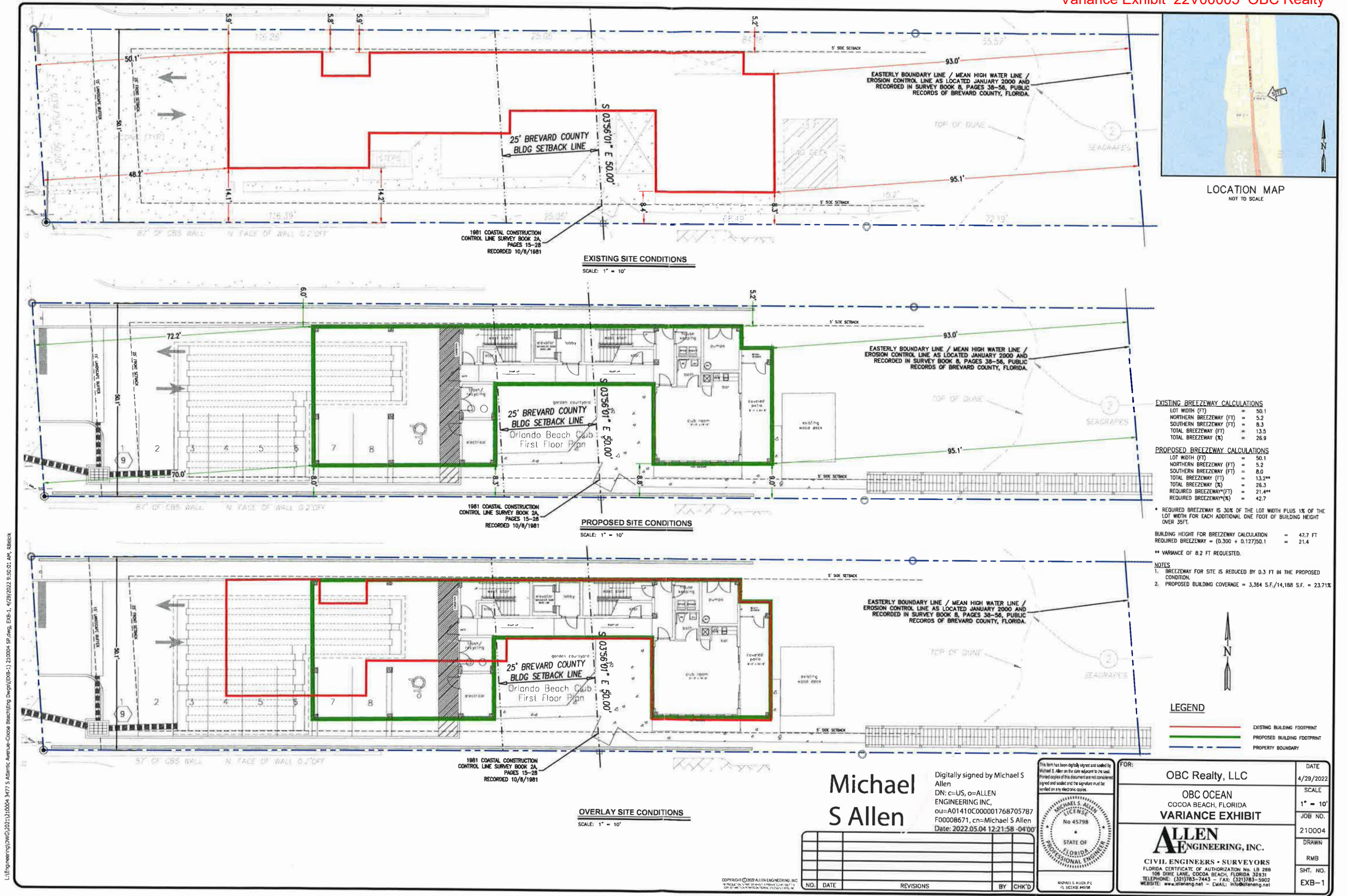


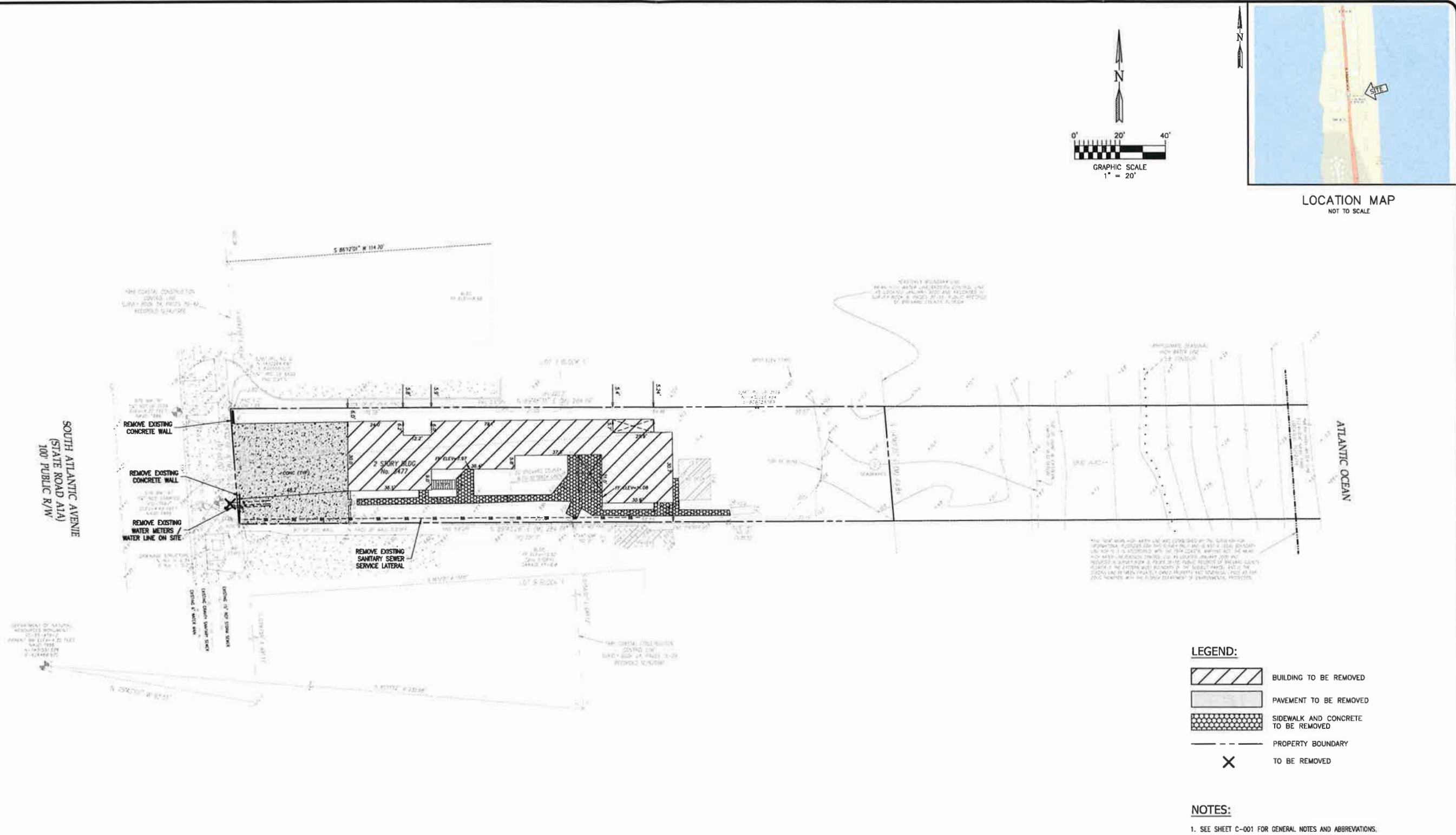
NOTES:
1. SEE SHEET C-001 FOR GENERAL NOTES AND ABBREVIATIONS.

NO.	DATE	REVISIONS	BY	CHK'D

ISSUED FOR REVIEW	FOR: OBC Realty, LLC	DATE 2/24/202
	OBC OCEAN COCOA BEACH, FLORIDA	SCALE 1"=20'
MICHAEL S. ALLEN P.E. FL. LICENSE #60788	BUILDING FOOTPRINT EXHIBIT	JOB NO. 210004
	ALLEN ENGINEERING, INC. CIVIL ENGINEERS • SURVEYORS FLORIDA CERTIFICATE OF AUTHORIZATION No. LB 266 106 DIXIE LANE, COCOA BEACH, FLORIDA 32931 TELEPHONE: (321)783-7443 - FAX: (321)783-5902 WEBSITE: www.alleneng.net - EMAIL: info@alleneng.net	DRAWN PAR SHT. NO. EXB-1







LEGEND:

- BUILDING TO BE REMOVED
- PAVEMENT TO BE REMOVED
- SIDEWALK AND CONCRETE TO BE REMOVED
- PROPERTY BOUNDARY
- TO BE REMOVED

NOTES:

1. SEE SHEET C-001 FOR GENERAL NOTES AND ABBREVIATIONS.

NO.	DATE	REVISIONS	BY	CHK'D

This form has been digitally signed and sealed by Michael S. Allen on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

MICHAEL S. ALLEN
LICENSE
No. 45798
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

MICHAEL S. ALLEN, P.E.
FL LICENSE #45798

FOR:	OBC Realty, LLC	DATE	2/24/2021
	OBC OCEAN COCOA BEACH, FLORIDA	SCALE	1"=20'
	EXISTING CONDITIONS AND DEMO PLAN	JOB NO.	210004
	ALLEN ENGINEERING, INC.	DRAWN	PAR
	CIVIL ENGINEERS • SURVEYORS FLORIDA CERTIFICATE OF AUTHORIZATION No. LB 285 106 DIXIE LANE, COCOA BEACH, FLORIDA 32931 TELEPHONE: (321)783-7443 ~ FAX: (321)783-5902 WEBSITE: www.alleneng.net ~ EMAIL: info@alleneng.net	SHT. NO.	C-100

811 Know what's below.
Call before you dig.

ISSUED FOR REVIEW



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

7/20/2022

Subject:

James O. and Donna Andrus Born request a variance for fence height in an EU zoning classification.
(22V00014) (Tax Account 2317189) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of Adjustment conduct a public hearing to consider a variance for fence height in an EU (Estate use Residential) zoning classification.

Summary Explanation and Background:

James O. and Donna Andrus Born request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(c), to permit a variance of 2 ft. over the maximum 4-ft. height limitation for a fence within the front setback in an EU (Estate Use Residential) zoning classification. The property is 1.06 acres, located on the east side of Brentwood Dr., approx. 285 ft. east of N. U.S. Highway 1 (4690 Brentwood Dr., Cocoa)

Clerk to the Board Instructions:

None



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members

FROM: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, July 20, 2022

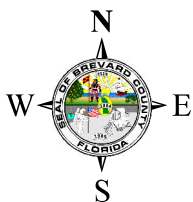
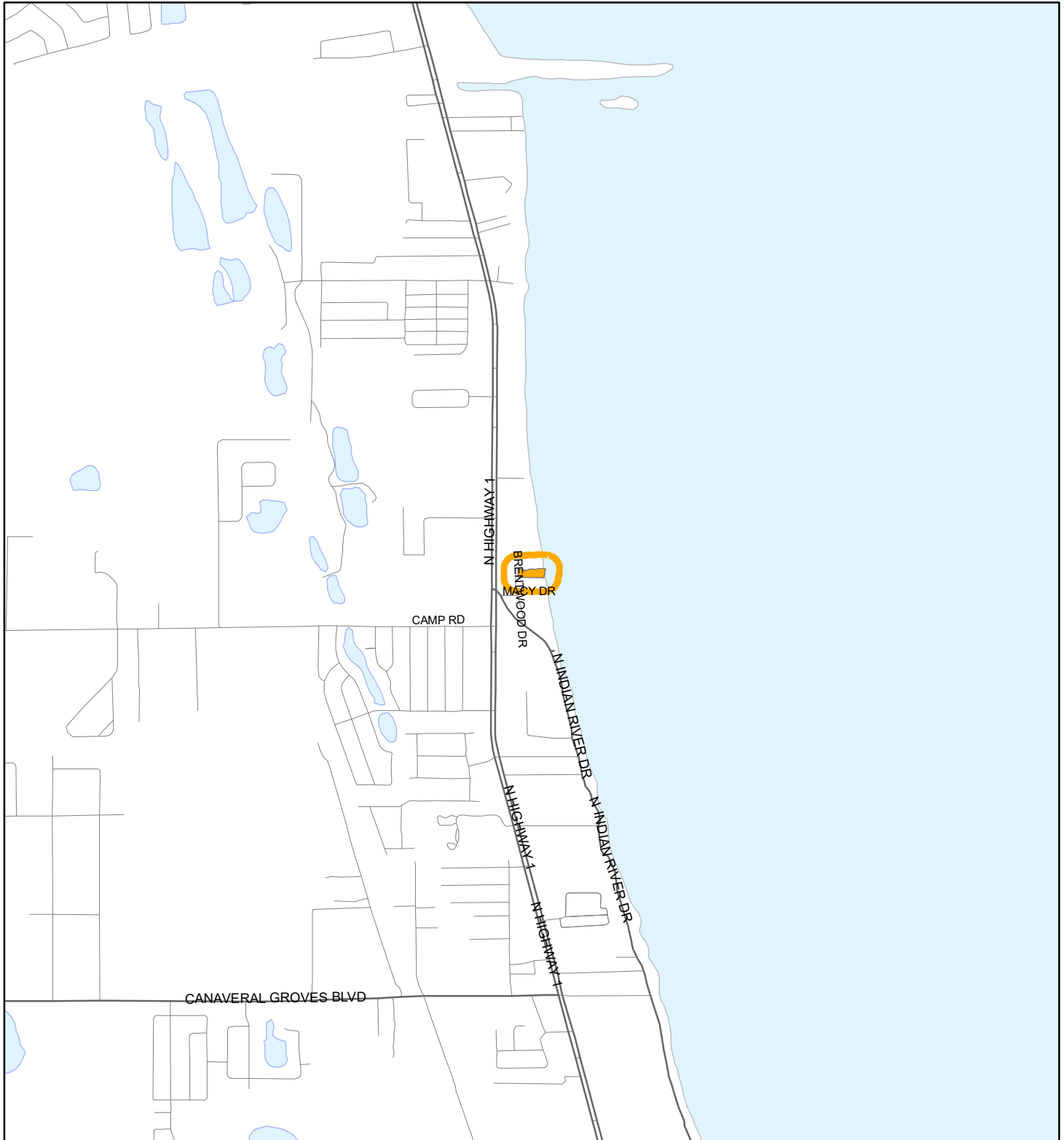
DISTRICT 1

2. (22V000014) James O. and Donna Andrus Born request a variance of Chapter 62, Article VI, Brevard County Code, Section 62-2109(c), to permit a variance of 2 ft. over the maximum 4-ft. height limitation within the front setback in an EU (Estate Use Residential) zoning classification.

The applicant is requesting a variance of 2 ft. over the required 4-ft. maximum height limitation for a fence within the front setback. The request equates to a 33% deviation over what the code allows. The property has an administrative approval for a detached accessory building not to exceed 1,000 square feet issued under A-0292, and a variance for an accessory building located forward of the front building line under V-1860. Both actions were approved in 1987. A similar fence variance was approved for 2 ft. over the 4-ft. limit in the front setback approximately 200 ft. to the south in 2017. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant.

LOCATION MAP

BORN, JAMES O
22V00014





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

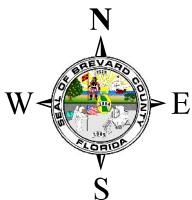
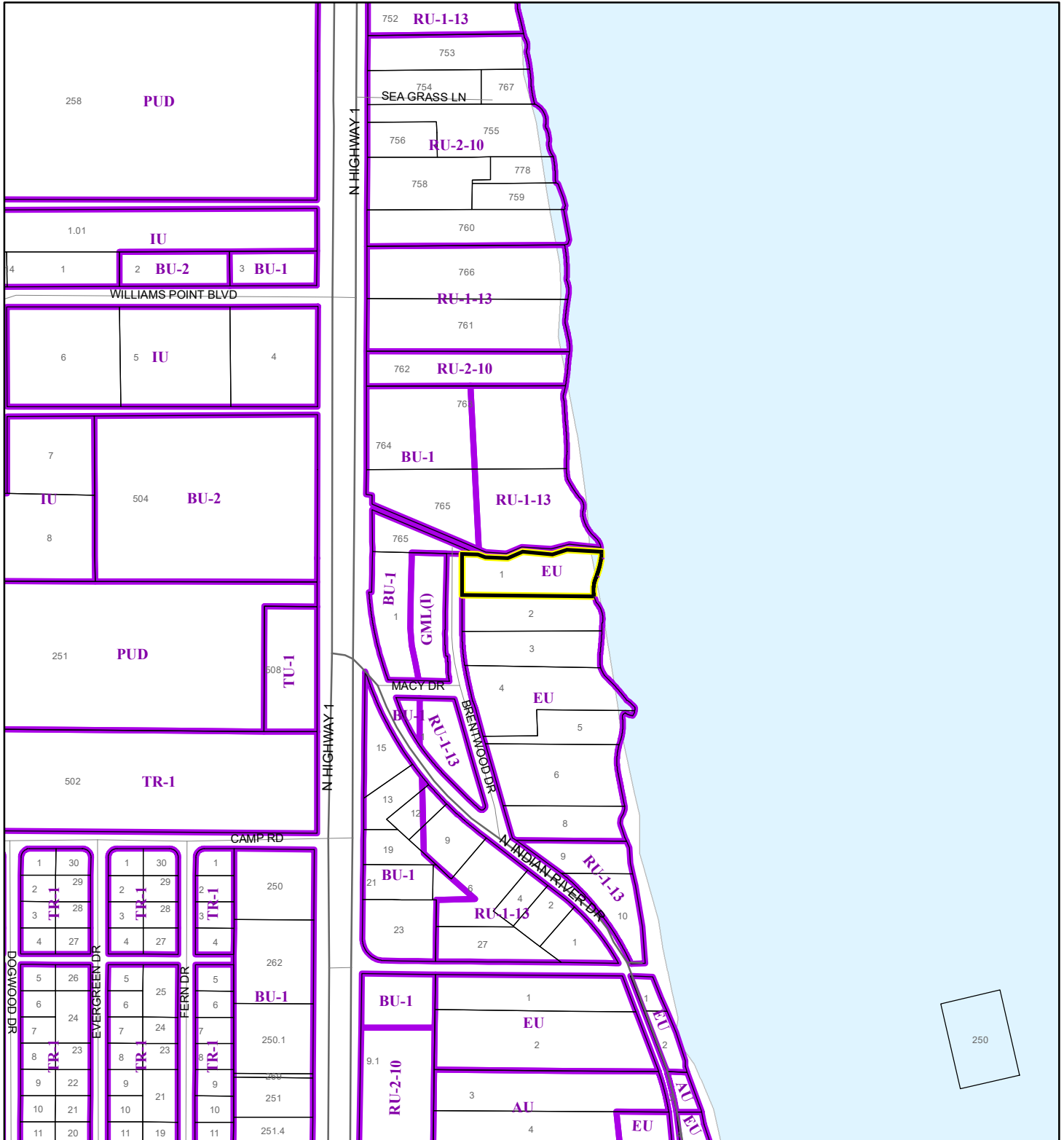
Produced by BoCC - GIS Date: 6/13/2022

 Buffer
 Subject Property

ZONING MAP

BORN, JAMES O


22V00014



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

 Zoning

AERIAL MAP

BORN, JAMES O

22V00014



1:715 or 1 inch = 60 feet

PHOTO YEAR: 2021

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action: Yes ☒ No

If yes, please indicate the case number and the name of the contractor:

Case Number: _____

Contractor: _____

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance. JB

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist: JB

1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

Our house is the last house on the street. There are only houses on the east side of Brentwood. There is a fire station/Boy Scout camp directly in front of us that borders US 1. US 1 is approximately 50 yards west of our property line. The traffic on US 1 is constant and visible. In addition, occasionally, pedestrians wander off US 1 and onto our property. We are hoping to deter trespassing, as well as reduce the traffic noise and visibility. There are other houses on the street which have 6-foot-tall fences and received a variance.



2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

The conditions for this variance are not a result of actions by us. When we purchased the home in October of 2020, there was thick vegetation around the Boy Scout camp. This foliage was removed in early December 2020, completely opening up the view to US 1. And revealing paths to our house.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification:

Applicant Response:

This variance request in no way impacts any buildings near our residence. It will not affect our neighbors, nor in any way affect the Boy Scout camp. In addition, we have checked with our two closest neighbors and they in favor of a six-foot fence for security and personal reasons.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Applicant Response:

Our house is the only one on the street that is completely visible from US 1. Even though we are 50 yards off the highway, the access to our front yard is easy and available to anyone walking along the highway. The fence would be set back on my property so the County could have access to any utilities and manholes.

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

Applicant Response:

We believe that a six-foot fence would enhance security and safety, as well as the comfort of our residence. A wooden fence, 6 feet high, would be secure enough that we would no longer be concerned about people coming from the highway and entering our yard. It is the minimum height for safety and quiet.

6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

Applicant Response:

This variance will not impact the neighborhood or public welfare in any way. The fence will be a standard wooden fence without any advertisement or markings on the front other than our address. It will fit in with the decor of the rest of the street and provide the Boy Scout camp with some privacy from us. There are other approved 6 foot fences on the street.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria. ✓

James O. Born

Signature of Applicant

Janina Ramos

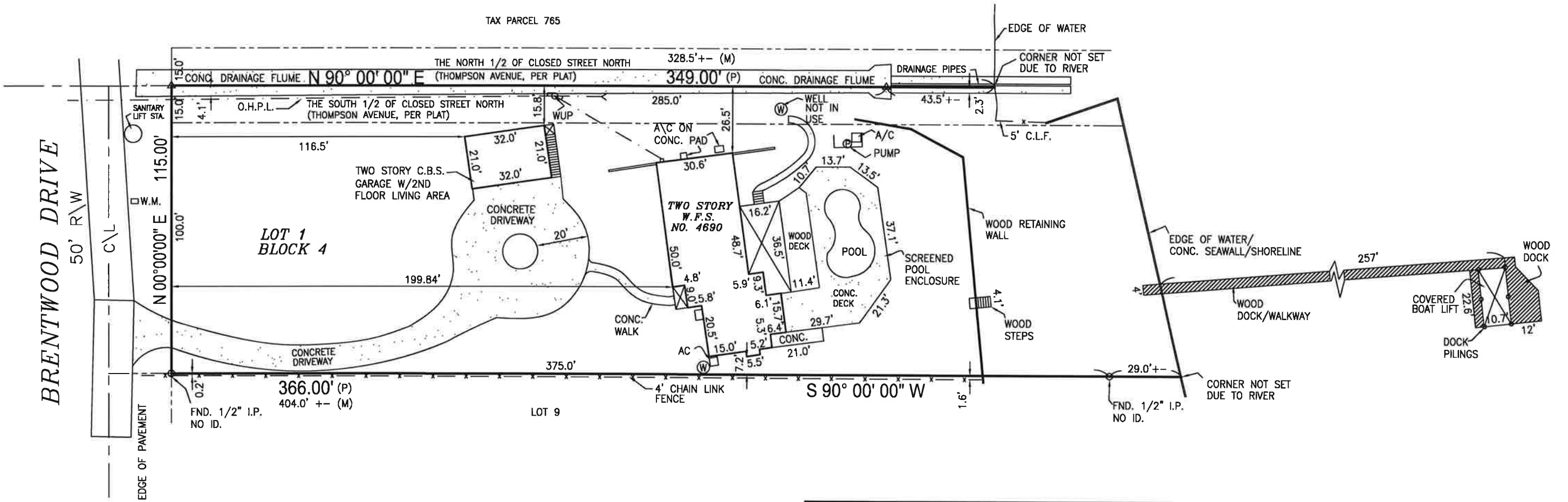
Signature of Planner

MAP OF BOUNDARY SURVEY

LEGAL DESCRIPTION: (per Official Records Book 3101, Page 2303, Public Records of Brevard County, Florida)

LOT 1, & S 1/2 of closed st. on N of said lot, Brentwood Heights
Blk 4, as recorded in Plat Book 3, Page 47, Brevard County, Florida.

Subject to easements and restrictions of record, if any.
together with all riparian rights appertaining thereto.



SURVEYORS NOTES:

1. This property is located in Flood Zone(s) X&AE, The Residence is in Flood Zone(s) X, Map No. 12009C0310G, Panel No. 310, Suffix G, Community No. 125092, Effective Date, March 17, 2014

2. The bearings shown are based on an Assumed North Meridian, Being S 90° 00' 00" W along the South line of Lot 1, Brentwood Heights.

3. This is Real Property being situated in Section 30, Township 23 S, Range 36 E, Brevard County, Florida.

4. The Surveyor has not abstracted the property. Only platted or furnished easements or encumbrances that may restrict the property are shown.

5. Underground improvements are not located unless requested.

LEGEND & ABBREVIATIONS:

○ = Set 5/8" iron rod with plastic cap
△ = Set nail with metal disc □ = Set concrete monument with disc
— = 4' C.L.F. — = Center Line
— = 6' W.F. XXX = Existing Elevations
— = OHPL (XXX) = Proposed Elevations

(B.M.)=Benchmark,(CONC.)=Concrete,(C\L)=Centerline,(C.B.S.)=Concrete Block Structure
(C.B.S.)=Concrete Block Structure,(C.&S.)=Covered and Screened,
(C.M.)=Concrete Monument,(C.M.P.)=Corrugated Metal Pipe,(C.L.F.)=Chain Link Fence
(D)=Deed,(E.M.)=Electric Meter,(F.F.E.)=Finished Floor Elevation,(Fnd.)=Found,
(F.P.R.)=Fixed Point of Reference, (IRC)=Iron Rod with Cap,(I.P.)=Iron Pipe
(G.M.)=Gas Meter,(L.B.)=Licensed Business,(L.S.)=Licensed Surveyor,(M)=Measured
(M.E.S.)=Mitered End Section,(N&D)=Nail & Disc,(O.R.B.)=Official Records Book,
(OHPL)=Over Head Power Line,(P.C.P.)=Permanent Control Point, (P)=Plat
(P.O.B.)=Point of Beginning,(P.O.C.)=Point of Commencement
(P.R.M.)=Permanant Reference Monument,(P.U. & D.E.)=Public Utility & Drainage Easement,
(RNG.)=Range,(R.C.P.)=Reinforced Conc. Pipe,(R\W)=Right of Way,(SEC.)=Section
(TWP.)=Township,(WUP)=Wood Utility Pole,(W.F.S.)=Wood Frame Structure,(W.M.)=Water Meter

CERTIFIED TO: JAMES O. BORN and DONNA ANDRUS BORN

Eric Nielsen Digitally signed by Eric Nielsen
Date: 2022.05.31 13:05:46 -04'00'
Signature Date:

Certified By:
I Eric Nielsen Profesional Surveyor & Mapper, No. 5386, L.B. 6946, State of Florida
certify this map of survey meets the standards set per Florida Administrative Code
5J-17.051 pursuant to Chapter 472.027 per Florida Statutes.

Eric Nielsen Land Surveying, Inc.

Revisions:
RECERTIFICATION 05-31-2022

12 STONE STREET, COCOA, FL. 32922
Ph: (321) 631-5654 Fax: (321) 631-5974

SCALE: 1"= 40' DATE: 08-05-2015 JOB NO. 15-250-08



UNLESS IT BEARS THE SEAL & SIGNATURE OF A FLORIDA LICENSED SURVEYOR THIS SURVEY IS FOR INFORMATIONAL PURPOSES ONLY.

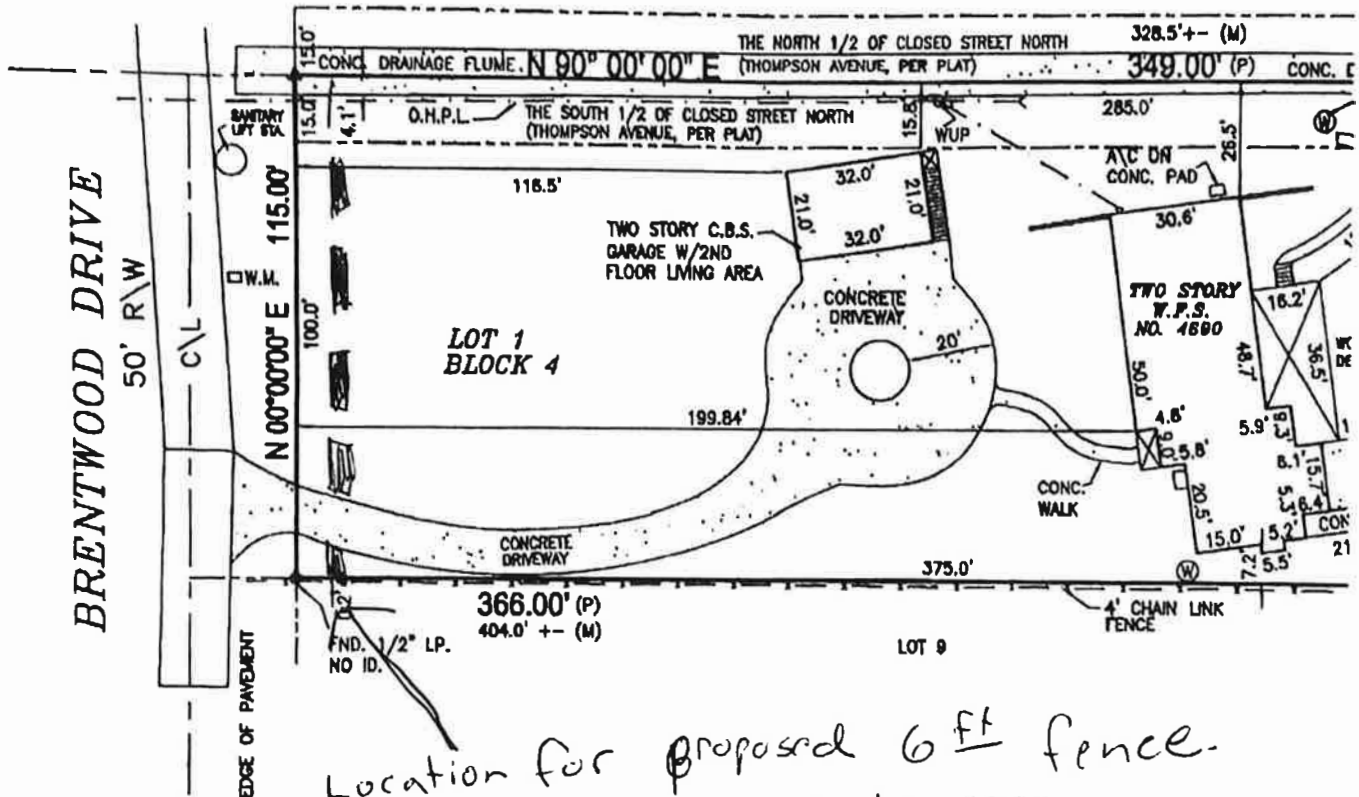
MAP OF BOUN

LEGAL DESCRIPTION: (per Official Records Book 8101, Page 2303, Public Records of Brevard County, Florida)

LOT 1, & S 1/2 of closed st. on N of said lot, Brentwood Heights
Blk 4, as recorded in Plat Book 3, Page 47, Brevard County, Florida.

Subject to easements and restrictions of record, if any.
together with all riparian rights appertaining thereto.

TAX PARCEL 765



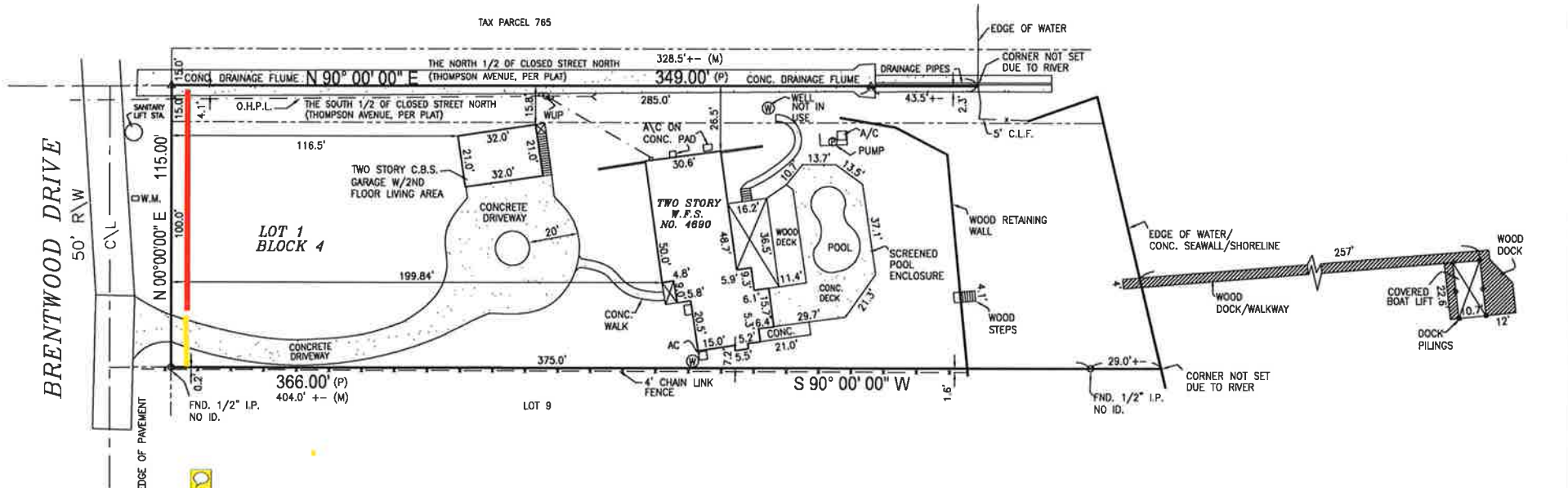
Proposed fence in front
of the house

MAP OF BOUNDARY SURVEY

LEGAL DESCRIPTION: 1per Official Records Book 3101, Page 2303, Public Records of Brevard County, Florida)

LOT 1, & S 1/2 of closed st. on N of said lot, Brentwood Heights
Blk 4, as recorded in Plat Book 3, Page 47, Brevard County, Florida.

Subject to easements and restrictions of record, if any.
together with all riparian rights appertaining thereto.



Location of 6 ft fence if variance is approved. a gate will
be across the driveway. Marked in yellow

SURVEYOR'S NOTES:

1. This property is located in Flood Zone(s) X&AE, The Residence is in Flood Zone(s) X, Map No. 12009C0310G, Panel No. 310, Suffix G, Community No. 125092, Effective Date, March 17, 2014
2. The bearings shown are based on an Assumed North Meridian, Being S 90° 00' 00" W along the South line of Lot 1, Brentwood Heights.
3. This is Real Property being situated in Section 30, Township 23 S, Range 36 E, Brevard County, Florida.
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LEGEND & ABBREVIATIONS:

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(F.P.R.)=Fixed Point of Reference, (IRC)=Iron Rod with Cap,(I.P.)=Iron Pipe
(G.M.)=Gas Meter,(L.B.)=Licensed Business,(L.S.)=Licensed Surveyor,(M)=Measured
(M.E.S.)=Mitered End Section,(N&D)=Nail & Disc,(O.R.B.)=Official Records Book,
(OHP)=Over Head Power Line,(P.C.P.)=Permanent Control Point, (P)=Plot
(P.O.B.)=Point of Beginning,(P.O.C.)=Point of Commencement
(P.R.M.)=Permanent Reference Monument,(P.U. & D.E.)=Public Utility & Drainage Easement
(RNG.)=Range,(R.C.P.)=Reinforced Conc. Pipe,(R.W.)=Right of Way,(SEC.)=Section
(TWP.)=Township,(WUP)=Wood Utility Pole,(W.F.S.)=Wood Frame Structure,(W.M.)=Water Meter

CERTIFIED TO: JAMES O. BORN and DONNA ANDRUS BORN

Eric Nielsen

Digitally signed by Eric Nielsen
Date: 2022.05.31 13:05:46 -04'00'
Signature Date:

Certified By:
I, Eric Nielsen, Professional Surveyor & Mapper, No. 5385, L.B. 6946, State of Florida
certify this map of survey meets the standards set per Florida Administrative Code
5J-17.051 pursuant to Chapter 472.027 per Florida Statutes.

Eric Nielsen Land Surveying, Inc.

Revisions:
RECERTIFICATION 05-31-2022

12 STONE STREET, COCOA, FL. 32922
Ph: (321) 631-5654 Fax: (321) 631-5974

SCALE: 1"= 40'
DATE: 08-05-2015
JOB NO. 15-250-08



UNLESS IT BEARS THE SEAL & SIGNATURE OF A FLORIDA LICENSED SURVEYOR THIS SURVEY IS FOR INFORMATIONAL PURPOSES ONLY.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

7/20/2022

Subject:

Lisa C. Shover requests variances three variances for a swimming pool, and one variance for an accessory structure in an RU-1-13 (Single-Family Residential) zoning classification. (22V00015) (Tax Account 2502115) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of Adjustment conduct a public hearing to consider three variances for a swimming pool, and one variance for an accessory structure, in an RU-1-13 (Single-Family Residential) zoning classification.

Summary Explanation and Background:

Lisa C. Shover requests variances from Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2123(a), to permit a variance to allow a swimming pool to be located forward of the front building line of the principal structure; 2.) Section 62-2123(a), to permit a variance of 2.5 ft. from the required 25-ft. front setback for a swimming pool; 3.) Section 62-2123(a), to permit a variance of 0.7 ft. from the required 25-ft. side setback for a swimming pool on a corner lot contiguous to a key lot; 4.) Section 62-1340(5)(b), to permit a variance of 2.5 ft. from the 7.5-ft. side setback for an accessory structure, in an RU-1-13 (Single-Family Residential) zoning classification. The property is 0.25 acres, located on the southwest corner of Bonita Dr. and Marlin Dr. (155 Bonita Dr., Merritt Island)

Clerk to the Board Instructions:

None



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members

FROM: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, July 20, 2022

DISTRICT 2

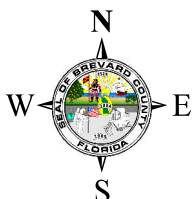
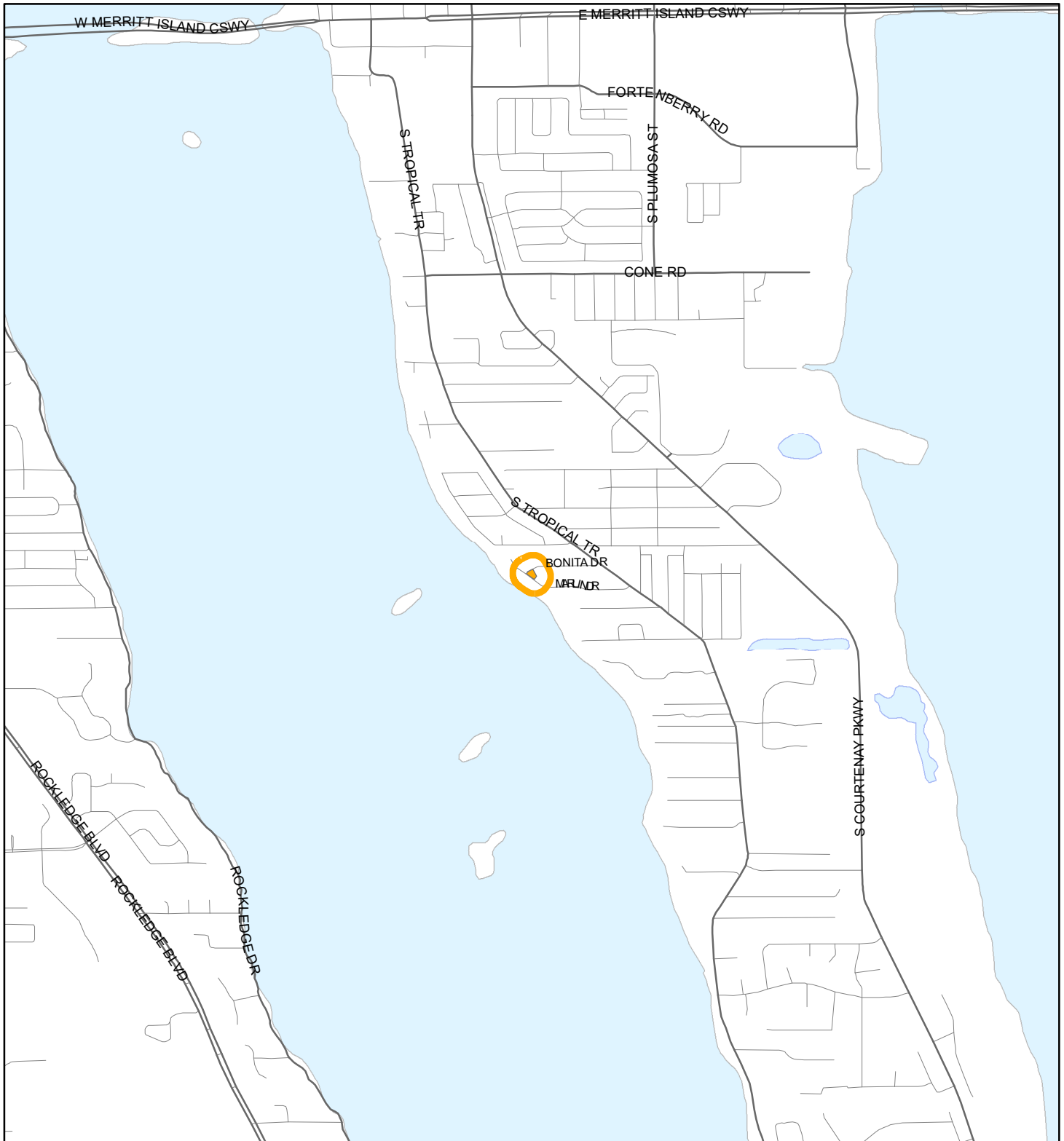
3. (22V00015) Lisa C. Shover requests variances from Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2123(a), to permit a variance to allow a swimming pool to be located forward of the front building line of the principal structure; 2.) Section 62-2123(a), to permit a variance of 2.5 ft. from the required 25-ft. front setback for a swimming pool; 3.) Section 62-2123(a), to permit a variance of 0.7 ft. from the required 25-ft. side setback for a swimming pool on a corner lot contiguous to a key lot; 4.) Section 62-1340(5)(b), to permit a variance of 2.5 ft. from the 7.5-ft. side setback for an accessory structure, in an RU-1-13 (Single-Family Residential) zoning classification.

The applicant is requesting four variances in the RU-1-13 zoning district: 1.) to allow a swimming pool to be located in front of the principal structure; 2.) a variance of 2.5 ft. from the required 25-ft. front setback for a swimming pool; 3.) a variance of 0.7 ft. from the required 25-ft. setback to allow for a swimming pool on a corner lot contiguous to a key lot; 4.) and a 2.5-ft. variance from the required 7.5-ft. setback for an existing accessory structure in the side setback. The first request equates to 100% variance from what is allowed. The second request equates to a 10% deviation from the required front setback. The third request equates to a 3% deviation from the required side setback. The fourth request equates to a 33% deviation from the required side setback for an accessory structure. There have been no variances approved for swimming pools or side setbacks within the immediate area. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant.

LOCATION MAP

SHOVER, LISA C

22V00015



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

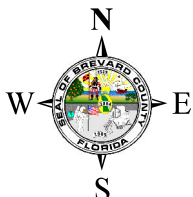
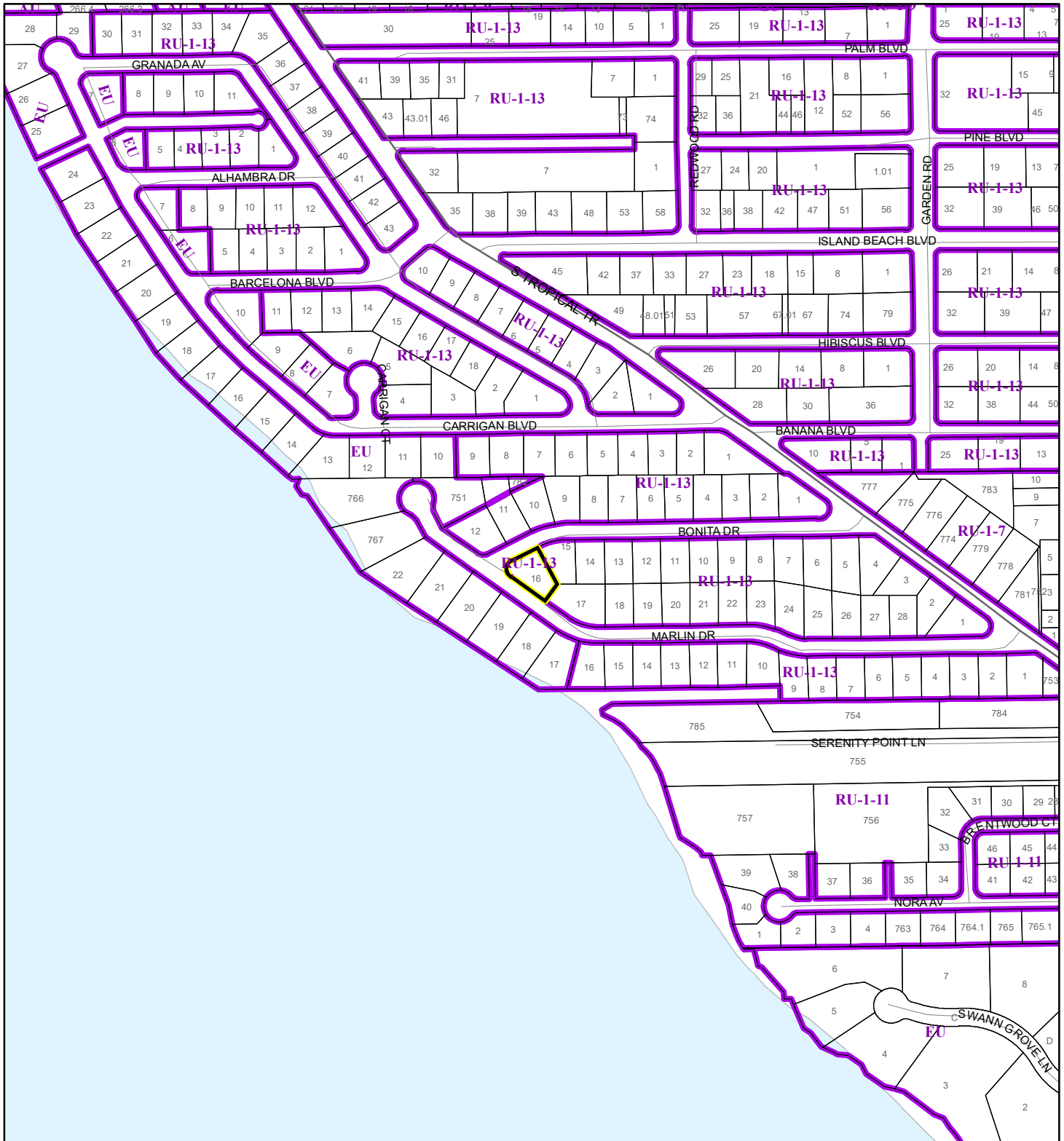
Produced by BoCC - GIS Date: 6/8/2022

Buffer
Subject Property

ZONING MAP

SHOVER, LISA C


22V00015



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/8/2022

 Subject Property

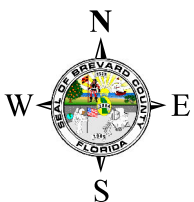
 Parcels

 Zoning

AERIAL MAP

SHOVER, LISA C

22V00015




1:600 or 1 inch = 50 feet

PHOTO YEAR: 2021

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/8/2022

 Subject Property

 Parcels

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number NA, and

name of contractor NA

☒ No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

This is A corner lot that is adjacent to a Key lot. My home is placed too far back on my lot. There is no room on side or back of lot for Pool.

I am also in need of a variance for my carport, which has been part of this property for over 25 years at least, according to my neighbors, who have lived here across street for that long.

(2) That the special conditions and circumstances do not result from the actions of the applicant:

All Current structures were here when I bought property and the lot configuration has not changed since it was platted.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification: The ability to have a pool on a lot zoned RU-113 is

a privilege that is commonly enjoyed by all residents in the RU-113 zoning areas, therefore granting this variance would not grant me any special privilege, over any other lots w/ the same zoning.

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Denying my variance would deprive me of enjoyment of a pool on my own property causing unnecessary + undue hardship to me and my family.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

I have chosen a reasonably sized pool, no different in size in comparison to others around me in which they enjoy. I believe this is a reasonable request.

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

This is the Best Area in which to put my pool for exercise + enjoyment on my property with out interfering with others or other properties. It is in Harmony with the General character of our neighborhood and will have a privacy fence around it.

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant

L. Chu

Signature of planner

Janina Rames



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

7/20/2022

Subject:

Todd J. Starkey (Brian Stephens) requests a variance for a screened pool enclosure in a PUD (Planned Unit Development) zoning classification. (22V00016) (Tax Account 2631042) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of Adjustment conduct a public hearing to consider a variance for a screened pool enclosure in a PUD (Planned Unit Development) zoning classification.

Summary Explanation and Background:

Todd J. Starkey (Brian Stephens) request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2123(c), to permit a variance of 1.5 feet from the required 5-ft. rear setback for a screened pool enclosure, in a PUD (Planned Unit Development) zoning classification. The property is 0.52 acres, located on the west side of Cortona Dr., at the southwest terminus of Cortona Dr. (3077 Cortona Dr., Viera)

Clerk to the Board Instructions:

None



Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members

FROM: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, July 20, 2022

DISTRICT 4

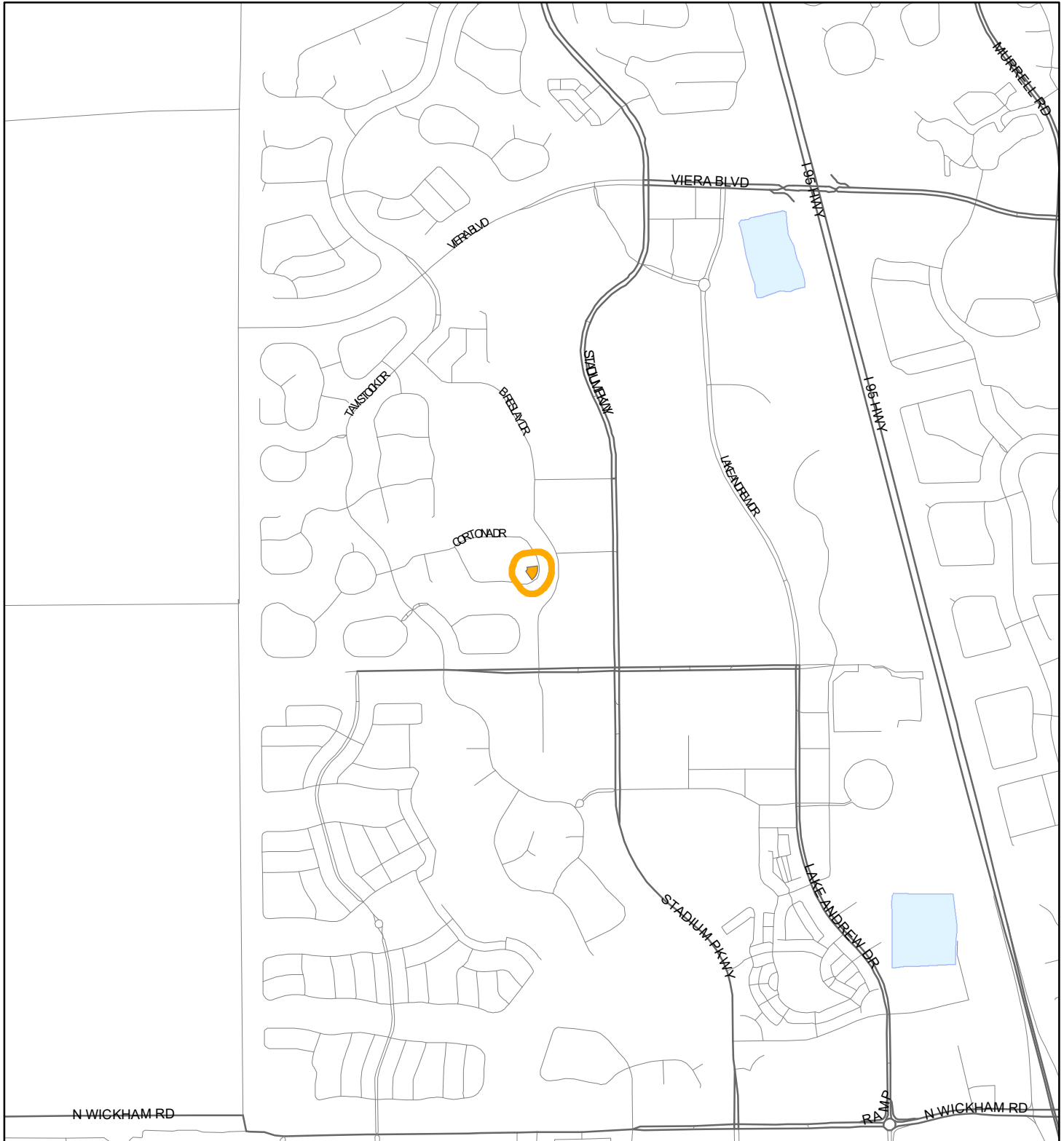
4. (22V00016) Todd J. Starkey (Brian Stephens) request a variance from Chapter 62, Article VI, Brevard County Code, Section 62-2123(c), to permit a variance of 1.5 ft. from the required 5-ft. rear setback for a screen enclosure, in a PUD-DRI (Planned Unit Development) zoning classification.

The applicant requests a variance of 1.5 ft. from the required 5-ft. rear setback for a screen enclosure. The request equates to a 30% deviation from the required rear setback. There have been no other variances approved within the immediate area. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant.

LOCATION MAP

STARKEY, TODD J

22V00016





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

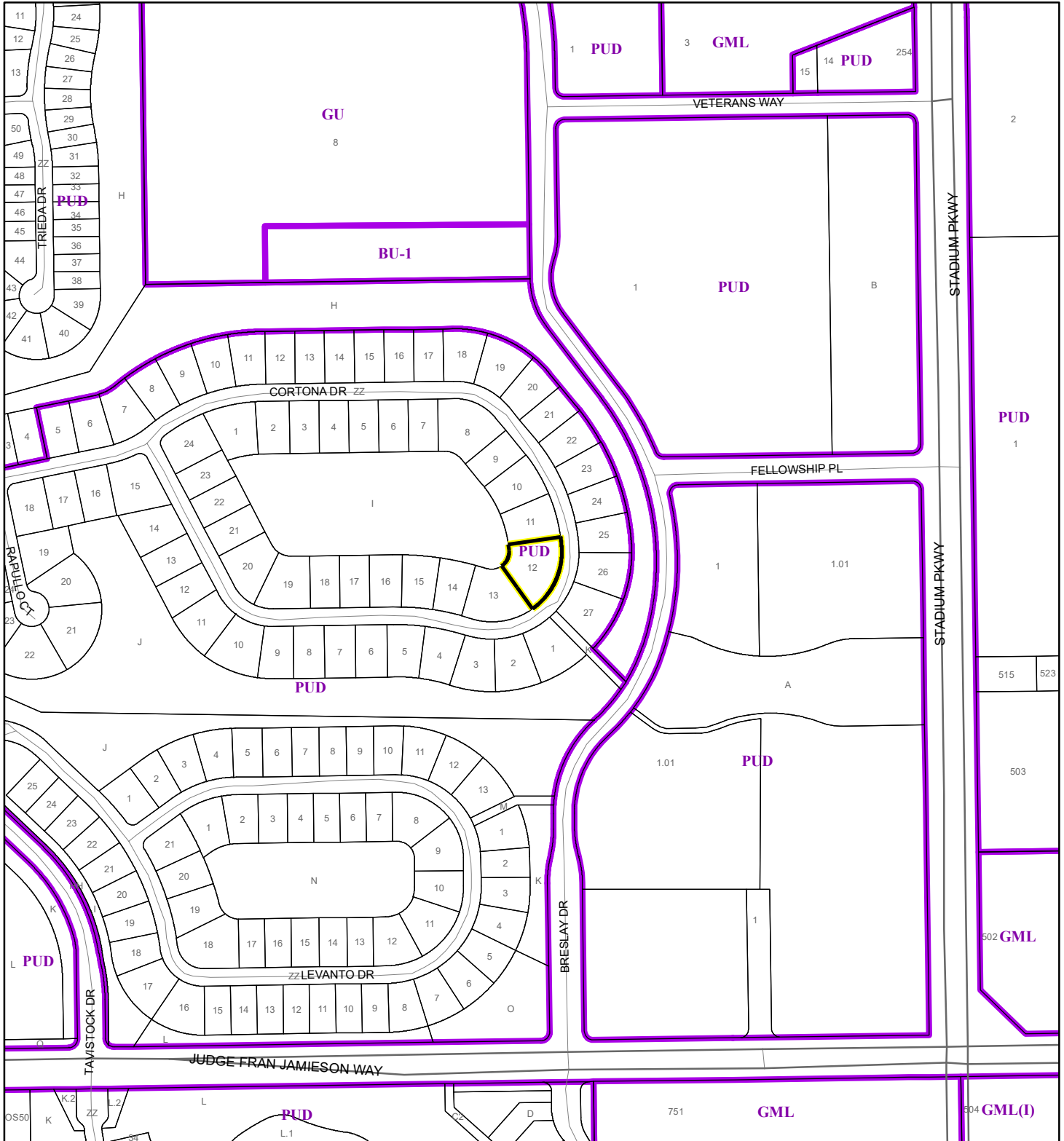
Produced by BoCC - GIS Date: 6/8/2022

-  Buffer
-  Subject Property

ZONING MAP

STARKEY, TODD J

22V00016



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/8/2022

Subject Property

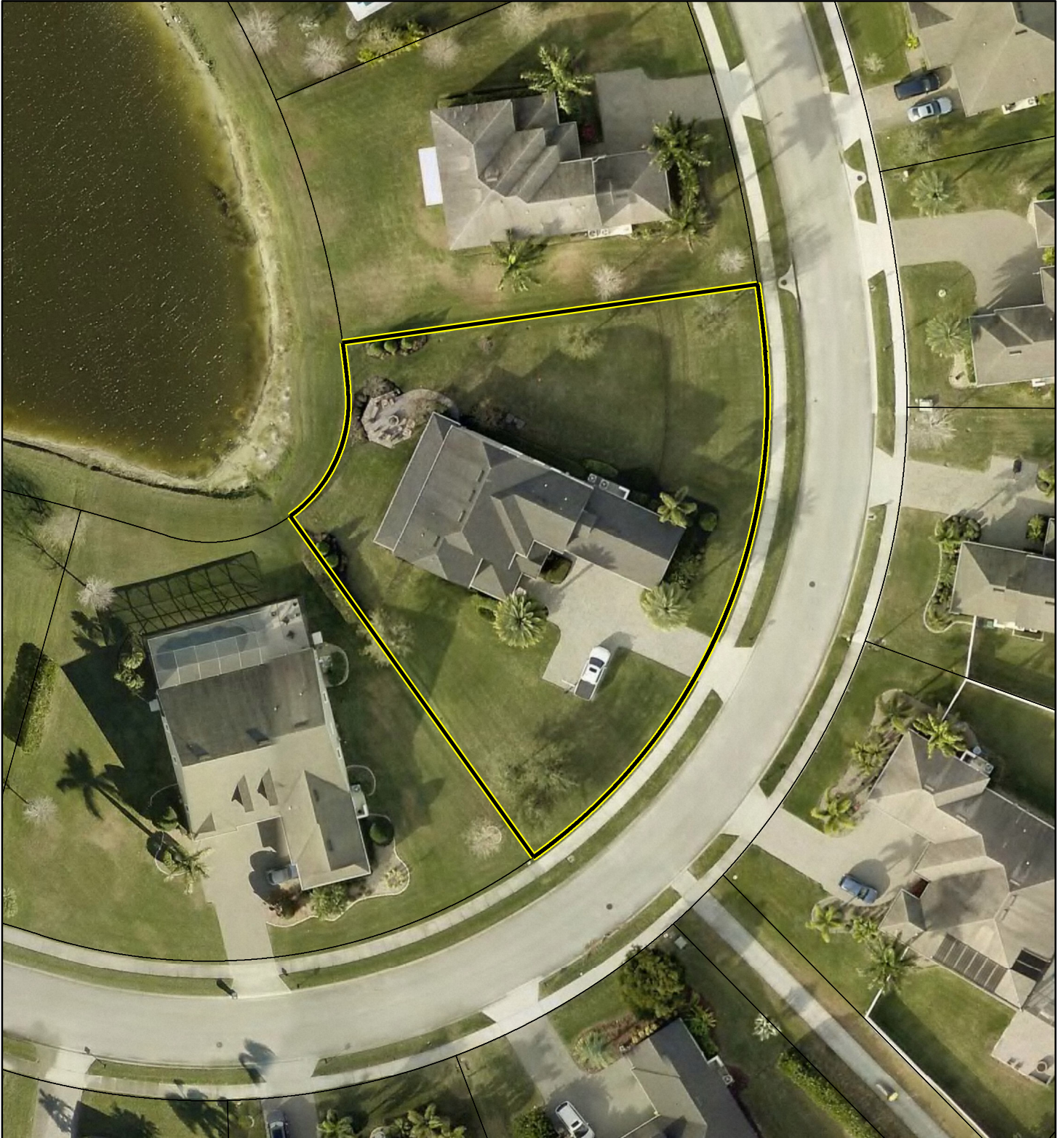
Parcels

Zoning

AERIAL MAP

STARKEY, TODD J

22V00016




1:600 or 1 inch = 50 feet

PHOTO YEAR: 2021

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/8/2022

 Subject Property

 Parcels

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

☐ Yes. If Yes, indicate case number _____, and
name of contractor _____

☐ No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

(2) That the special conditions and circumstances do not result from the actions of the applicant:

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

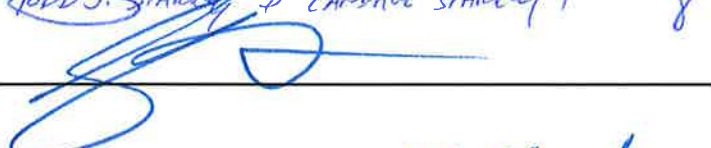
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant


TODD J. STARKEY & CANDACE STARKEY

Signature of planner


see attached

Variance Hardship Worksheet

Request: The applicant is requesting a variance from the normal five (5) foot rear setback to three and one-half (3.5) feet – allowing for an eighteen-inch encroachment.

Reason for Request: This applicant lives in Viera on a retention pond. No neighbor immediately abuts the rear of the applicant's home or rear lot line. The applicant contracted with a pool company recently to install a small pool in the backyard. The pool company submitted plans showing that it would be able to install the pool without encroaching on the rear setback. The County approved those plans and construction commenced. Unfortunately, because of site conditions and/or contractor negligence, the pool tank and concrete were installed in such a way that the footer and screen (required to enclose the pool) cannot be installed except within that setback. Once finished (if allowed as originally planned pursuant to this variance request), all improvements would lie three and one-half feet from the rear property line – a mere eighteen-inch encroachment. Unfortunately, the contractor did not catch this issue until recently. Given the level of improvements that have been installed (all concrete, plumbing, and electrical for the pool), those improvements cannot be moved without tremendous expense. It is important to note that this issue exists only because of the curvature of the pond and, thus, the rear lot line. If it were not for that curvature, this issue would not exist.

Response to Prompt 1: The special circumstances affecting this land relate primarily to the curvature of the rear lot line. If that curvature did not exist, then ample room would have been available to accommodate – despite the minor deviation from the plans.

Response to Prompt 2: The applicant is not the contractor. The applicant had no part in the installation of the pool or any part of its construction and did not participate in setting the boundary lines for any of the property.

Response to Prompt 3: No special privilege will befall the applicant when the variance is granted. Again, it is not the entire length of the pool that will be located in setback. Rather, only a small portion of the pool improvements will be located within the setback area and that, again, stems from the curvature of the rear property line.

Response to Prompt 4: If the application is denied, the applicant will not be able to put a screen over the pool – reducing usability during the hottest summer months and increasing operational expenses from the need to input additional/more consistent chemical treatments. Many other property owners in the area benefit from being able to enclose their pool via a screen.

Response to Prompt 5: The variance sought here is the bare minimum required to finish the pool as originally planned (subject to the eighteen-inch relocation).

Response to Prompt 6: A variance of this extent will never be noticed by anyone – except a surveyor. It permits only a very minor encroachment. The neighbors have all been advised of the application and none objected.





Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

7/20/2022

Subject:

Board of County Commissioners, Brevard County, Florida (Tim Lawry) requests a variance from the front setback in a GML(H) zoning classification. (22V00019) (Tax Account 2606131) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of Adjustment conduct a public hearing to consider a variance to the front setback in a GML(H) (Government Managed Lands, High-Intensity) zoning classification.

Summary Explanation and Background:

Board of County Commissioners, Brevard County, Florida (Tim Lawry) requests a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1572(6), to permit a variance of 5 ft. from the required 25-ft. front setback in a GML(H) (Government Managed Lands, High-Intensity) zoning classification. The property is 3.39 acres, located on the south side of Pineda Cswy., approx. 0.23 mile west of N. Wickham Rd. (2905, 2915, & 2925 Pineda Cswy., Melbourne

Clerk to the Board Instructions:

None



Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members

FROM: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, July 20, 2022

DISTRICT 4

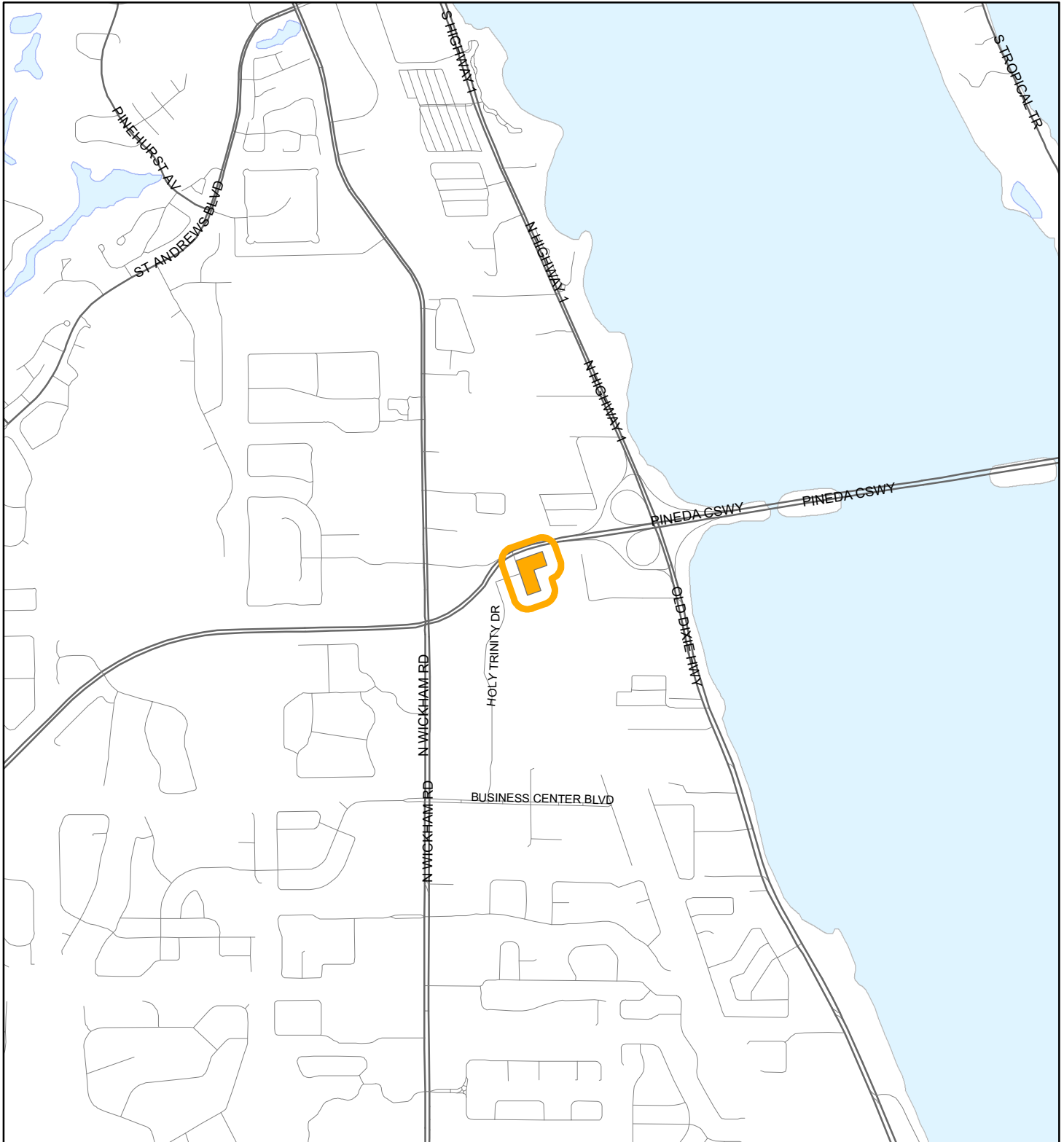
5. (22V00019) Board of County Commissioners, Brevard County, Florida (Tim Lawry) requests a variance from Chapter 62, Article VI, Brevard County Code, Section 62-1572(6), to permit a variance of 5 ft. from the required 25-ft. front setback in a GML(H) (Government Managed Lands, High-Intensity) zoning classification.

The applicant requests a variance of 5 ft. from the required 25-ft. front setback for the construction of the proposed Traffic Management Center Building. The site is being impacted by the construction of the Pineda Causeway Railroad Overpass and additional right-of-way. The request equates to 20% deviation from the code requirement. There have been no other variances approved within the immediate area. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the site plan provided by the applicant.

LOCATION MAP

BREVARD COUNTY

22V00019





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

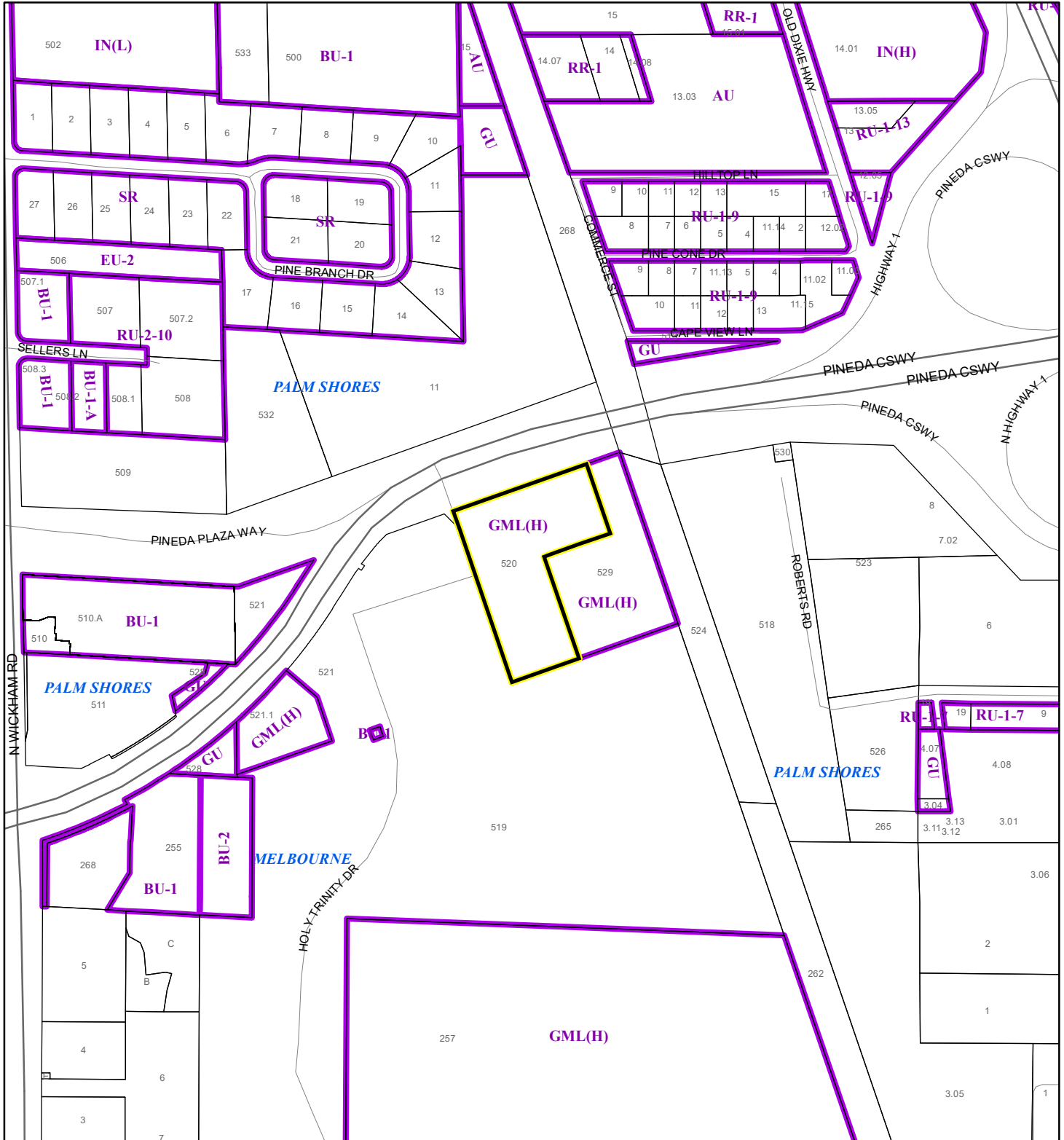
Produced by BoCC - GIS Date: 6/13/2022

 Buffer
 Subject Property

ZONING MAP

BREVARD COUNTY

22V00019



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

Subject Property

Parcels

Zoning

AERIAL MAP

BREVARD COUNTY

22V00019



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

☐ Yes. If Yes, indicate case number _____, and

name of contractor TBD

☒ No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

The construction of the Pineda Causeway Railroad Overpass created a hardship by limiting the access north onto the Pineda Causeway.

(2) That the special conditions and circumstances do not result from the actions of the applicant:

The construction of the Pineda Causeway overpass was constructed by Florida Department Of Transportation.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

The granting of this variance will not grant any special privilege to the Applicant.

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Yes, with the recent construction of the rail road overpass and its elevation, it eliminated the ability to access directly from the north side of the property onto the Pineda Causeway.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Yes, to maximize the use of the property, based on water retention, parking requirements, road access and building requirements, this is minimum variance required.

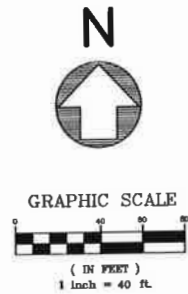
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The variance requested will be harmonious and non-detrimental to the public welfare.

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

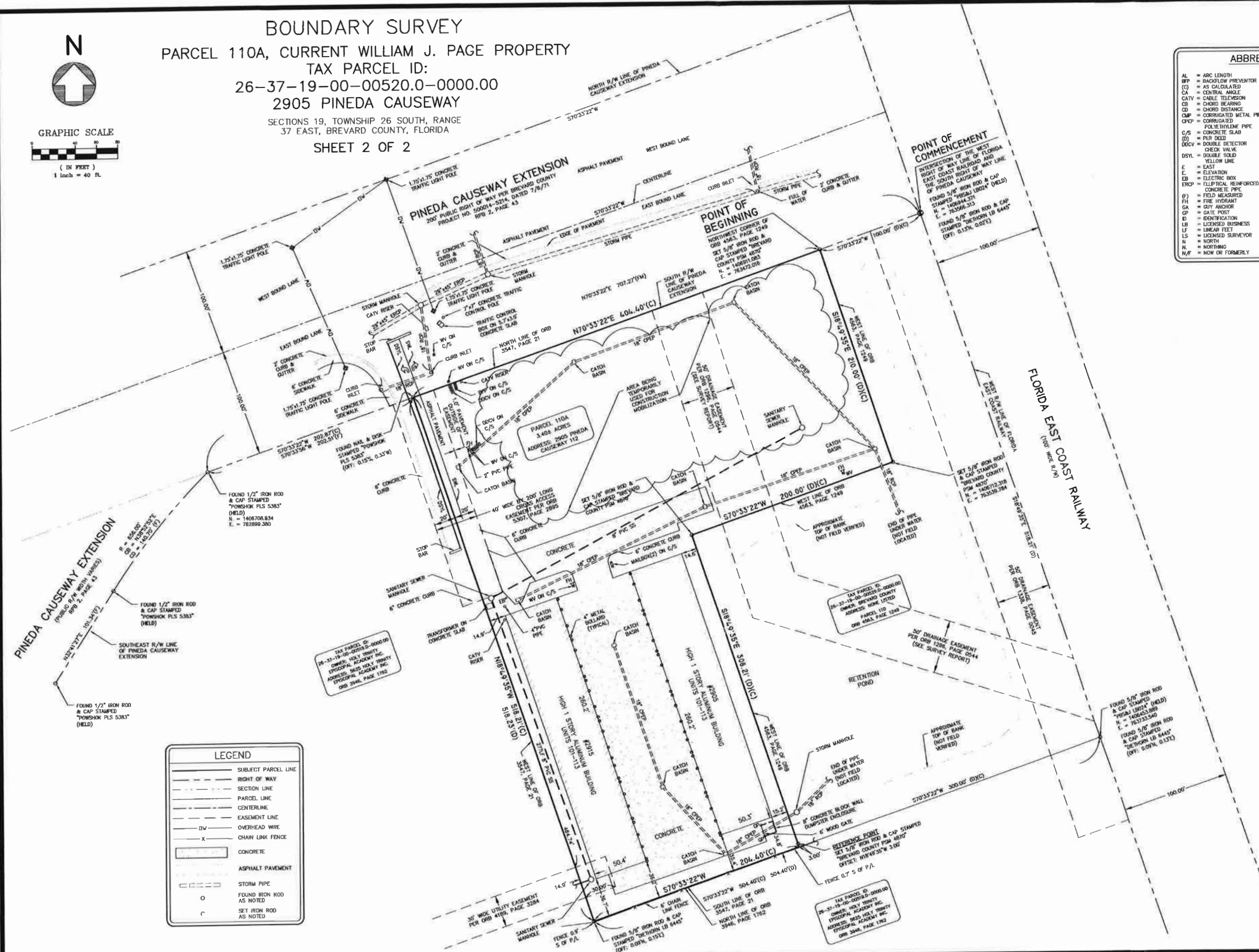
Signature of applicant Jim Laury


Signature of planner Janina Ramos

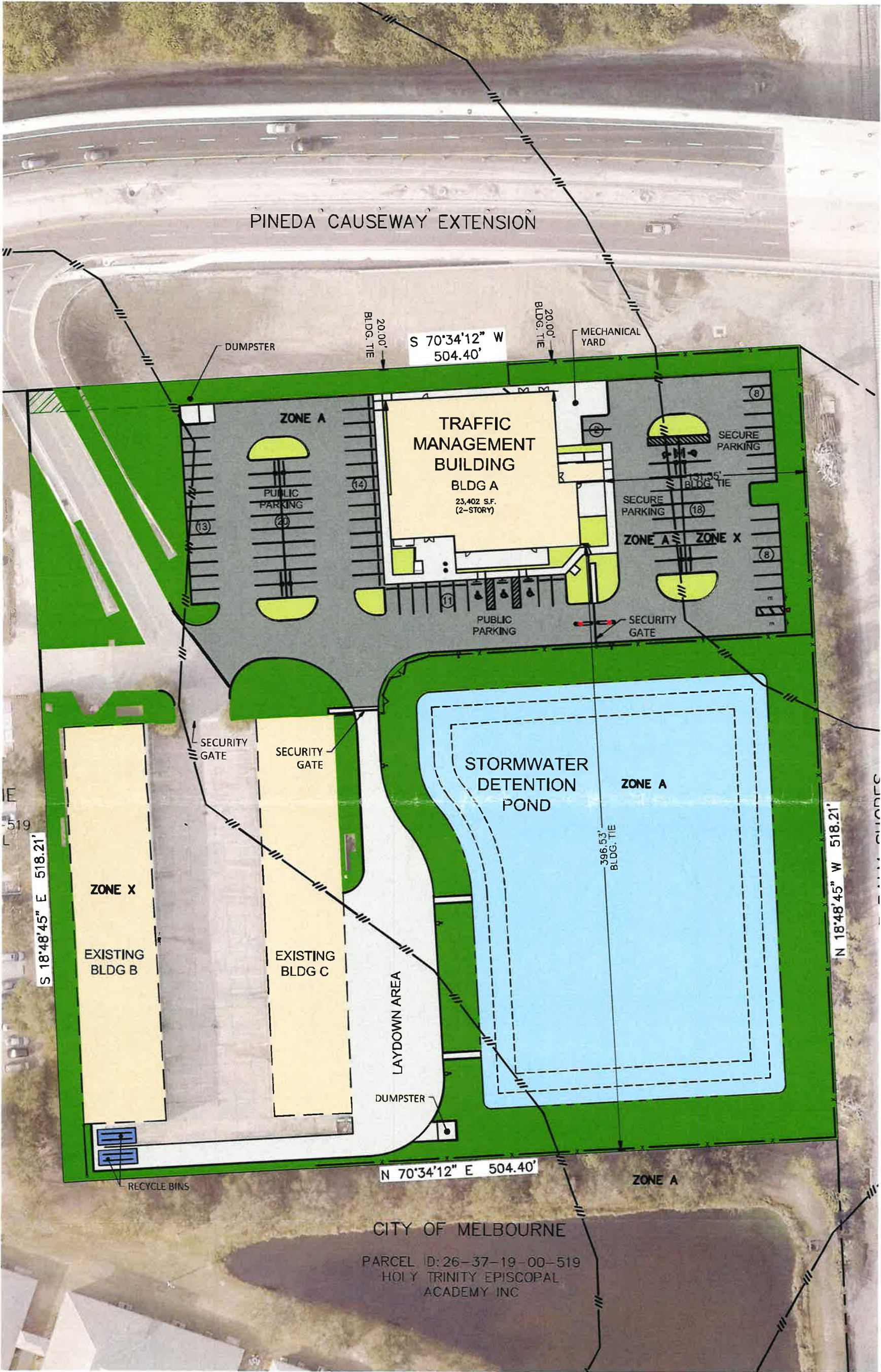


ABBREVIATIONS

AL	= ARC LENGTH	NE	= NORTHEAST
BP	= BACKFLOW PREVENTOR	NW	= NORTHWEST
(C)	= AS CALCULATED	ORR	= ORIGINAL RECORD BOOK
CA	= CENTRAL ANGLE	OW	= OVERHEAD WIRE
CATV	= CABLE TELEVISION	PER	= PER PLAT
CB	= CHORD BEARING	PE	= PLAT BOOK
CD	= CHORD DISTANCE	PLS	= PROFESSIONAL LICENSED SURVEYOR
COR	= CORRUPTED METAL PIPE	P	= PAGE
C/P	= CORRUGATED	P/L	= PROPERTY LINE
CPV	= POLYETHYLENE PIPE	POB	= POINT OF BEGINNING
(D)	= PER DEED	POC	= POINT OF COMMENCEMENT
DOCV	= DOUBLE DETECTOR	PSM	= PROFESSIONAL SURVEYOR & MAPPER
DE	= CHECK VALVE	PVC	= POLYVINYL CHLORIDE
DSYL	= DOUBLE SLOD		
	YELLOW LINE		
E	= EAST	R	= RADIUS
E	= ELEVATION	R/RP	= REINFORCED CONCRETE PIPE
EL	= ELECTRIC BOX	RNG	= RANGE
ERCP	= ELECTRICALLY REINFORCED CONCRETE PIPE	RPR	= RIGHT OF WAY
F	= FIELD MEASURED	S	= SOUTH
(F) H	= FIRE HYDRANT	SEC	= SECTION
GA	= GUY ANCHOR	SQ. FT.	= SQUARE FEET
GP	= GATE POST	SS	= SANITARY SEWER
ID	= IDENTIFICATION	SWL	= SLOD WHITE LINE
LS	= LICENSED SURVEYOR	TWP	= TOWNSHIP
LF	= LINEAR FEET	W	= WEST
LB	= LICENSED BUSINESS	WUP	= WATER UTILITY POLE
N	= NORTH		
N	= NORTHING	WV	= WATER VALVE
N/F	= NOW OR FORMERLY		



	
Public Works	
BREVARD COUNTY PUBLIC WORKS	
SURVEYING & MAPPING DIVISION	
2725 JUDGE FRAN JAMIESON WAY BUILDING A, SUITE A220 VIERA, FL. 32940 PHONE (321)633-2080	
DATE: OCTOBER 14, 2015	
SCALE: 1" = 40'	
PARTY CHIEF: M. HAZELWOOD	
DRAWN BY: M. CORNELL	
CHECK BY: M.J. SWEENEY	
FIELD BOOK: 570 PAGE: 58-67	
PROJECT NUMBER: 15-08-076	
REFERENCE PROJECT: 13-05-029	
DRAWING NAME: 263719_BN_1508076	
SHEET: 2 OF 2	
DATE	REVISION
11/19/18	UPDATE SURVEY PER FIELD INSPECTION OF 11/18/18.
TYPE OF SURVEY: BOUNDARY SURVEY WILLIAM J. PAGE PROPERTY 2905 PINEDA CAUSEWAY CERTIFIED TO: 1. BREVARD COUNTY, FLORIDA 2. FIDELITY NATIONAL TITLE INSURANCE COMPANY 3. GRAY ROBINSON SECTION: 19 TWN: 26 SOUTH RNG: 37 EAST	



MASTER SITE PLAN
SCALE: 1" = 50'

SPEED LIMIT ON PINEDA C



16



