



Board of Adjustment  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida  
Agenda  
Wednesday, August 17, 2022

**Call To Order 1:30 p.m.**

**Approval of Minutes - July 20, 2022**

**H. Public Hearings**

- H.1.** Indian River Colony Club, Inc. (Michael Allen) requests variances from the eastern and southern property lines, in a PUD zoning classification. (22V00012) (Tax Account 2600723) (District 4)
- H.2.** Robert L. and Theresa A. Sheck (Scott Herber) request four variances for docks in a PUD zoning classification. (22V00013) (Tax Account 2606891) (District 4)
- H.3.** Daniel Dee and Brandi R. Chavez request three variances for an accessory structure and minimum lot size in an AU zoning classification. (22V00020) (Tax Account 2403668) (District 1)
- H.4.** Shawn M. Beard and Dawn M. Ostovich request three variances for a boat dock in an RU-2-15 zoning classification. (22V00024) (Tax Account 2606765) (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

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H.1.

8/17/2022

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### **Subject:**

Indian River Colony Club, Inc. (Michael Allen) requests variances from the eastern and southern property lines, in a PUD zoning classification. (22V00012) (Tax Account 2600723) (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 variances from the eastern and southern property lines in a PUD (Planned Unit Development) zoning classification.

### **Summary Explanation and Background:**

Indian River Colony Club, Inc. (Michael Allen) requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1945(d), to permit a variance of 10 ft. from the required 25-ft. setback from the eastern property line; 2.) Section 62-1945(d), to permit a variance of 15 ft. from the required 25-ft. setback from the southern property line, in a PUD (Planned Unit Development) zoning classification. The property is 6.46 acres, located at the end of Old Glory Blvd., approx. 0.2 mile east of Murrell Rd. (1600 Old Glory Blvd., 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: Paul Body, Planner III

THRU: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, August 17, 2022

DATE: July 06, 2022

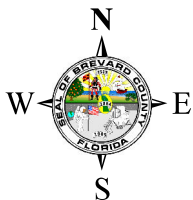
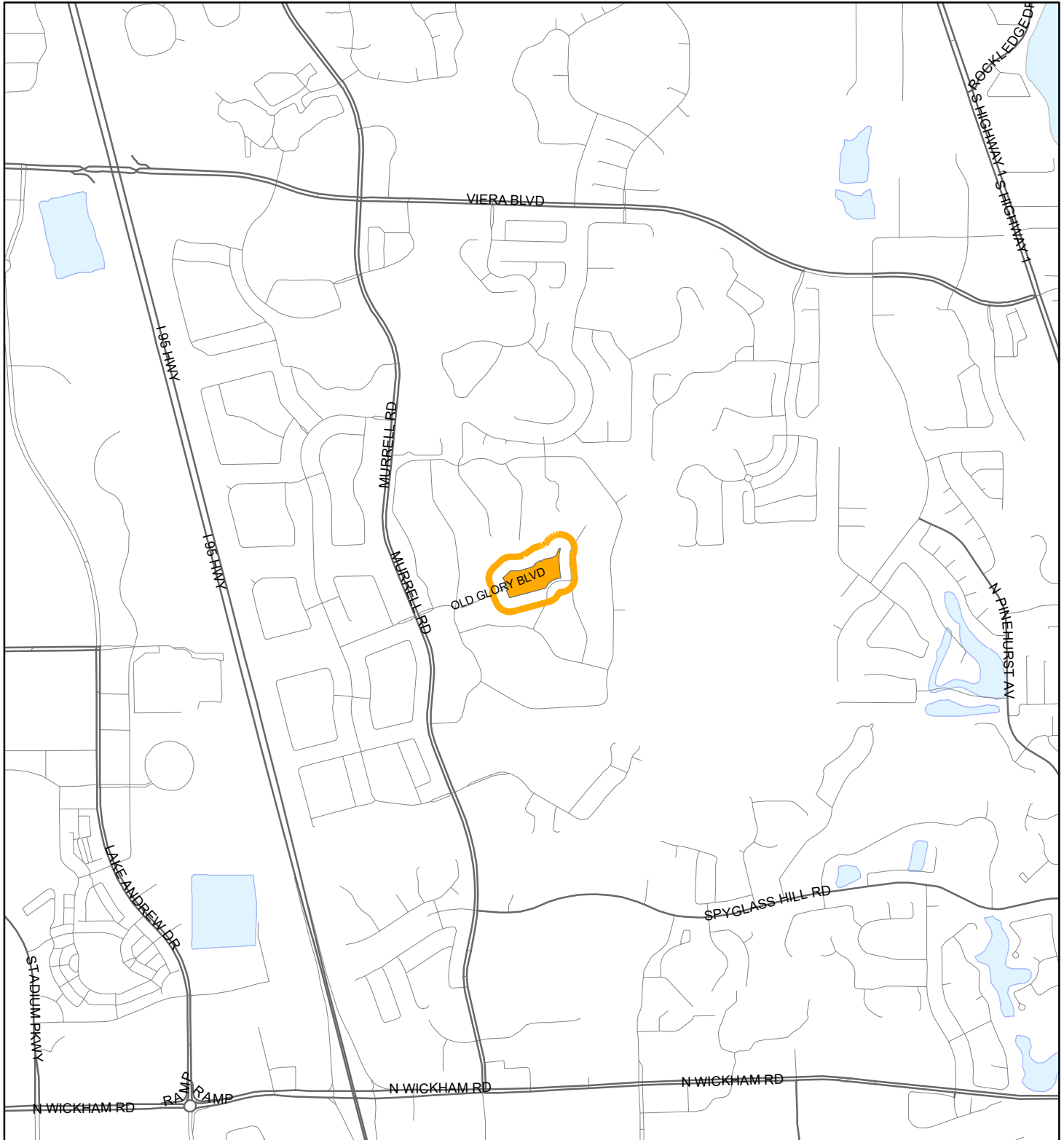
### DISTRICT 4

1. **(22V00012) Indian River Colony Club, Inc.** (Michael Allen) requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1945(d), to permit a variance of 10 ft. from the required 25-ft. setback from the eastern property line; 2.) Section 62-1945(d), to permit a variance of 15 ft. from the required 25-ft. setback from the southern property line, in a PUD (Planned Unit Development) zoning classification. This request represents the applicant's request to modify the amenity-center for the expansion of tennis courts and pickle ball courts. The applicant states the land allocated for the amenities is constrained by the original plat and site plan design and has little area to meet the expansion for the proposed amenities. The first request equates to a 40% deviation to what the code allows. The second request equates to a 60% deviation to what the code allows. There are no variances to the accessory setback requirements in the immediate area. If the Board approves this variance, it may want to limit its approval as depicted on the site plan provided by the applicant dated 01-20-22.

# LOCATION MAP

INDIAN RIVER COLONY

22V00012





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.

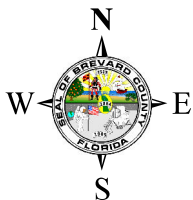
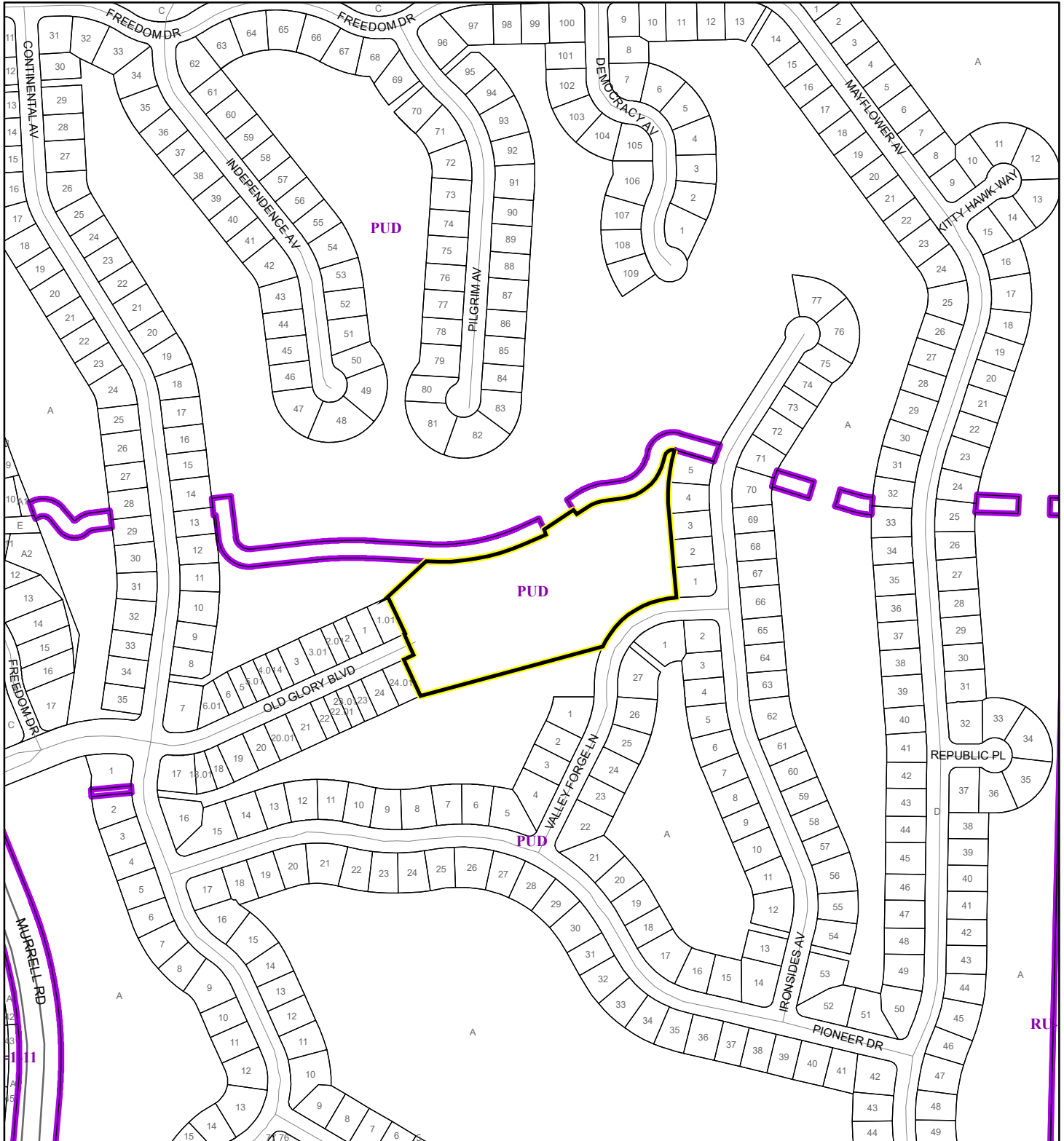
Produced by BoCC - GIS Date: 6/20/2022

 Buffer  
 Subject Property

# ZONING MAP

INDIAN RIVER COLONY


22V00012



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: 6/20/2022

 Subject Property

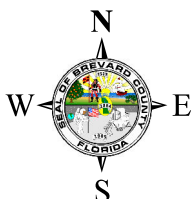
 Parcels

 Zoning

# AERIAL MAP

INDIAN RIVER COLONY

22V00012




1:2,400 or 1 inch = 200 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: 6/20/2022

 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:

The land allocated for the amenities is predetermined due to Indian River Colony Club being fully developed. This has caused minimal space to be available for the renovations that the community desires. Pickle ball has risen in popularity in recent years and the population of IRCC is eager to be able to enjoy the sport while still having their tennis courts and shuffleboard available for use. Another constraining factor is that the amenity building requires a 15' crane access drive for air handler maintenance behind the building. Please note that the existing facilities currently encroach into the required setback along the southern property line and that the proposed facilities will not have any lighting that will negatively impact residents to the east. A landscape buffer will also be added to the eastern boundary of the proposed facilities.

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

The land allocated for the amenities is constrained by the original plat and design plans that were enacted prior to the current Indian River Colony Club's Board being brought into power. The current board is working in the best interest of IRCC's residents and is working with what they have available to meet the resident's desires.

(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:

Newer developments have the ability to modify their proposed layout to make space for the required recreational facilities. IRCC is constrained due to the existing buildings and lot lines within the PUD. The benefit is to the residents of IRCC to give them more opportunity to stay active within their community.

(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:

Literal enforcement would not provide enough available space to fit the desired recreational facilities in. Newer developments have the ability to modify their proposed layout to make space for the required recreational facilities.

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

The southern setback of 10' is the minimum allowable to fit the required recreational facilities in the available space while also keeping appropriate separation off of the drainage right of way to the north. Note that the current setback of the existing facilities off of the southern property line is 11.27'.

The eastern setback of 15' is the minimum allowable to fit the required recreational facilities in the available space along with the 15' wide crane access drive along the back of the amenity building for air handler maintenance.

(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 granting of the variance will be in harmony with the chapter as it is in place to ensure appropriate separation is given from the recreational facilities and surrounding roadways and parcels. Adequate separation is still proposed and the added facilities will be of direct benefit to surrounding parcels. The land in question is within a PUD and is set aside for recreational use. Lighting will not be added to the facilities to ensure no negative impact on the neighbors to the east. A landscape buffer will also be added along the eastern boundary to minimize the encroachment felt.

Granting of the variance will allow for improvements to be made that will benefit the public welfare within the community by enabling them to engage in an up and coming sport and boost the overall outdoor exercise had by the IRCC residents.

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.

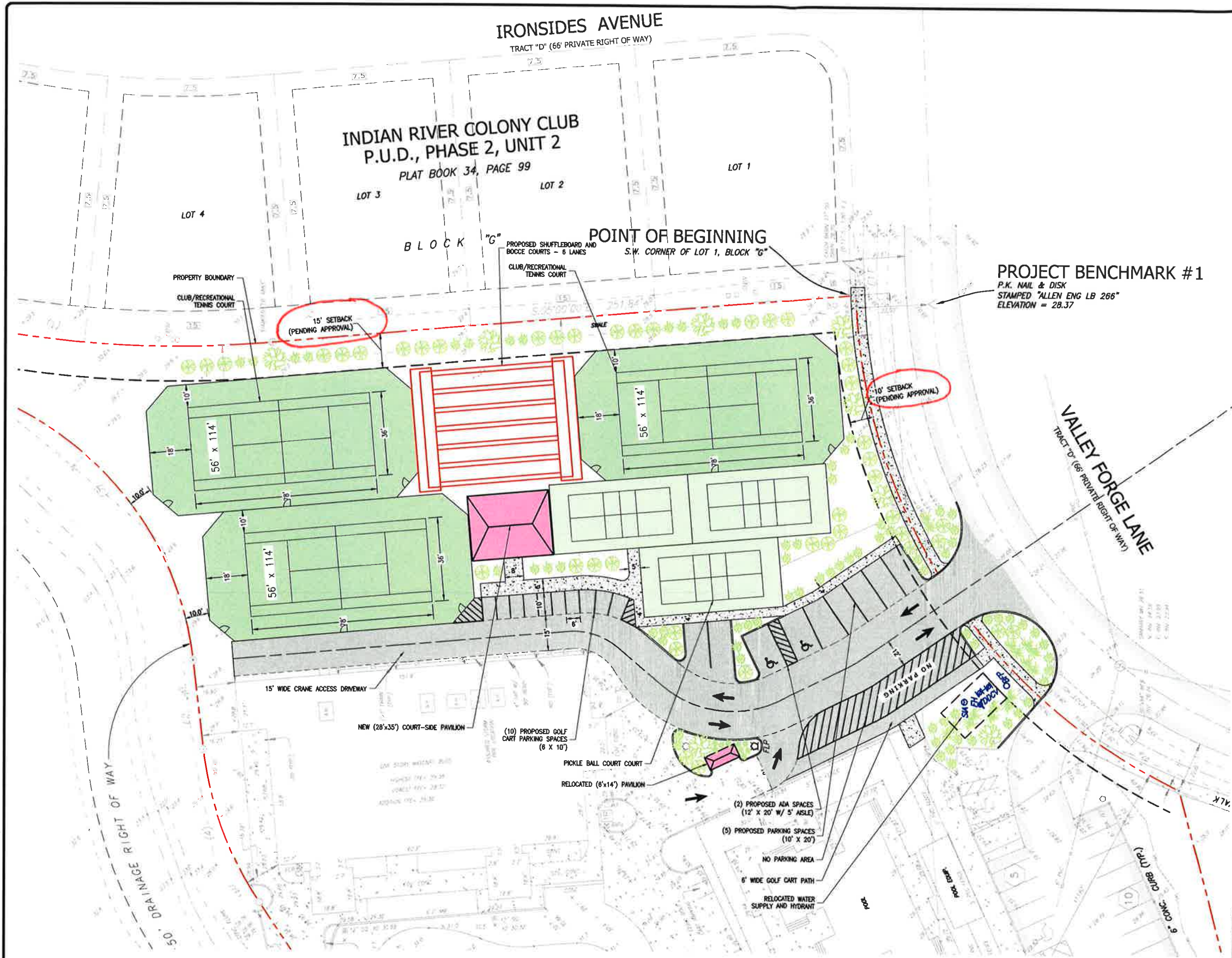
Signature of applicant

John K. Robinson

Signature of planner

Dania Ramos

L:\Engineering\DWG 1992-2006\1996\196074.3 CH-Amen Center Outdoor Renovation\Eng Dwg\196074.3 CH-Amen Center Outdoor Renovation.dwg, C-101, (C), 4/27/2022 11:52:28 AM, RBeck



#### SITE INFORMATION:

##### GENERAL STATEMENT:

MODIFY THE EXISTING AREA DEDICATED TO RECREATIONAL FACILITIES FOR INDIAN RIVER COLONY CLUB TO ALLOW FOR THE INSTALLATION OF THREE(3) PICKLEBALL COURTS.

##### CLIENT:

INDIAN RIVER COLONY CLUB  
1935 FREEDOM DRIVE  
MELBOURNE, FL 32940  
TELEPHONE: (321) 255-6006  
C/O JOHN K. ROBINSON, CCM, CAM  
CHIEF OPERATING OFFICER / GEN. MGR.  
EMAIL: corporate@colonyclub.com

##### ENGINEER:

ALLEN ENGINEERING, INC.  
106 DIXIE LANE  
COCOA BEACH, FL 32931  
TELEPHONE: (321) 783-7443  
FAX: (321) 783-5902  
EMAIL: info@alleneng.net

##### SITE ACREAGE:

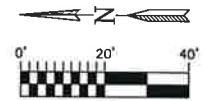
59,710± S.F. = 1.37± ACRES

##### SETBACKS (PER SEC. 62-1945)

	REQUIRED	PROVIDED
NORTH:	25'	N/A (DRAINAGE ROW)
EAST:	25'	15'
SOUTH:	25'	10'

#### LEGEND

	EXISTING GRADE
	PROPOSED GRADE
	EXISTING FENCE
	EXISTING POWER OVERHEAD
	EXIST. SANITARY SEWER
	EXISTING GAS LINE
	EXISTING FORCE MAIN
	EXISTING RECLAIMED WATER
	EXISTING WATER, FIRE HYDRANT
	EXISTING CLEANOUT, VALVE
	EXISTING SS MANHOLE
	EXISTING STORM PIPE
	FEMA FIRM ZONE
	HANDICAPPED PARKING
	PARKING COUNT
	STOP SIGN AND STOP BAR
	TIRE STOP
	PROPERTY BOUNDARY
	SILT FENCE
	NEW CONCRETE PAVEMENT
	NEW CONCRETE SIDEWALK

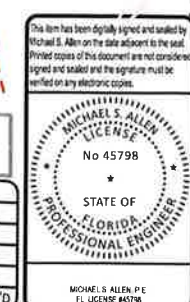


Digitally signed by Michael S. Allen  
DN: c=US, o=ALLEN ENGINEERING INC., ou=A01410C00000176870578, 7F00008671, cn=Michael S. Allen  
Date: 2022.04.27 13:13:29 -0400

Michael S. Allen

ISSUED FOR REVIEW

NO.	DATE	REVISIONS	BY	CHK'D



FOR:	INDIAN RIVER COLONY CLUB	DATE	01-20-22
	CLUBHOUSE-AMENITY OUTDOOR RENOVATION	SCALE	1" = 20'
	VIERA, FLORIDA	JOB NO.	96074.3
	ENGINEERING SITE PLAN	DRAWN	RMB
	ALLEN ENGINEERING, INC.	SHT. NO.	C-101
	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		



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**Donald T. Glenn, Jr. CMC**  
Certified Management Consultant

Objection  
22V00012  
Indian River Colony Club

July 31, 2022

Board of Adjustment  
Brevard County  
Planning and Development  
2725 Judge Fran Jamieson Way  
Melbourne, Florida 32940

PZ#: 22V00012

Board of Adjustment;

Thank you for your time and consideration for this matter.

Am the homeowner at 1521 Valley Forge Lane, 32940, at IRCC (corner of my house is about 50 yards across the street from the current bocce and shuffleboard courts) and a tennis player.

Am vehemently opposed to the variance request PZ#: 22V00012.

The proposed variance request is ill advised, planned, and timed.

Ill-advised:

- 1) Am not aware that any of the property owners immediately adjacent, tennis players, bocce and shuffleboard players were contacted formally as groups during the process, so far, for their input, comments, and suggestions.
- 2) Will adversely affect “quality of life” for homeowners on two sides by moving activity and noise too much closer to homes.
- 3) Adjacent home property values will drop accordingly.

Ill-planned:

- 1) Are trying to cram “too much into too small an area” (flow congestion, not pleasing to the eye, and uncomfortable feeling).
- 2) Pickleball noise is not something a homeowner, other sports players, or people at the pool want to have disturb the enjoyment of their home, activity, and/or relaxation (a serious problem for the sport).

- 3) Not enough green space.
- 4) Not enough walkway access for tennis, pickleball, bocce and shuffleboard.
- 5) Not enough space between (a) tennis courts and (b) fence barriers.
- 6) Not enough space for tennis court rotation shelters.
- 7) Covered shelter not big enough for all activities (present shelter size accommodates tennis, bocce, shuffleboard, and or resident entertainment activities).

Ill-timed:

- 1) With current and future homeowner fee increases being what they are, funds are better utilized elsewhere.

Please contact me if you need to, and I do plan attending the variance request hearing on 8/17.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donald T. Glenn, Jr.", is written over a light gray rectangular background.

Donald T. Glenn, Jr.

## INDIAN RIVER COLONY CLUB VARINCE NOTICE 22V00012

Scheduled for Board of Adjustment hearing on August 17, 2022 at 1:30P.M.

My property is across the street from the southern border of the IRCC recreational facility. I am opposed to the setback variance requests as they would adversely impact me and neighbors as follows:

**Noise levels** would negatively impact nearby residences resulting in diminished right to quiet enjoyment in our own homes and yards. In addition to adding pickleball courts, tennis & shuffleboard courts would be moved closer to residential parcels.

**Devaluation of properties** as homes will be less desirable for future buyers.

**Views** from homes & yards less desirable as recreation facility is moved closed to residences.

Pickleball will create a nuisance to residents using the pool and other amenities.

My neighbors and I **strongly disagree** with the view stated in line item (6) that “the added facilities will be of direct benefit to surrounding parcels” and feel that the opposite is true. Reducing the setback requirement resulting in fences, tennis courts, bocce ball and shuffle board courts being moved much closer to homes would increase noise pollution and would be a visual distraction. **The proposed redesign will negatively impact owners of surrounding parcels.**

Additional considerations:

Pickleball creates an 85db noise level. To exacerbate the problem the noise has an annoying high pitch. Communities have reported that the pickle ball players are very enthusiastic and create noise problem themselves.

After visiting a pickleball court in a nearby community, I found the noise unacceptable at over 300 feet. My property is less than 100 feet from proposed courts. Noise reductions efforts won't suffice due of the proximity of the courts to nearby parcels.

Residents have said the negative impact will drive them to sell their homes if proposed recreational facility changes are made.

I request that the variance request No. 22v00012 be denied.

A discussion of prerequisite sections # 2 and # 6 follows.

## INDIAN RIVER COLONY CLUB VARIANCE NOTICE 22V00012

### Prerequisites for granting of variances.

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

**The action of rejecting alternative locations resulted in the current proposal.**

When the addition of pickleball was first considered 2-3 years ago, recreation management believed there was not enough space and that noise would be an issue if built in the now proposed location. Management believed there was a better location (near RV parking area) with more space, further away from neighboring residences.

A concern about the RV location was that players would have to drive 2 minutes to get to the clubhouse in their carts/cars after playing. If a 2 minute drive stops someone from playing you have to question the strength of their desire to play and the need to have courts. There may be another location near maintenance that might be less intrusive.

- (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 disagree that this will "be of direct benefit to surrounding parcels" as stated by the applicant. Closer proximity to current owner's properties will have a negative impact. Pickleball is a very loud sport which has caused considerable problems within communities adding courts, sometimes resulting in lawsuits, relocation of the courts and even medical problems for nearby residents. I submit that moving fences & noisy activities closer to residential property lines will make our homes less desirable, reduce property values, ability to sell, diminish **our right to quiet enjoyment**, and be visually undesirable as well.

In addition, other activities enjoyed by the community would be negatively impacted. The pool area is located feet away from the proposed courts. It would be difficult to have a relaxing day at the pool with the constant loud impulsive noise from the pickleball courts. My understanding is that having these courts near tennis courts has made tennis less enjoyable for tennis players too.

I believe that granting of the variance necessitated by the addition of pickleball courts **would be detrimental to our community.**

Respectfully,



Mike Ogden

1513 Valley Forge Lane, Melbourne Fl. 32940

8/1/22



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.2.

8/17/2022

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### **Subject:**

Robert L. and Theresa A. Sheck (Scott Herber) request four variances for docks in a PUD zoning classification. (22V00013) (Tax Account 2606891) (District 4)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider four variances for docks in a PUD (Planned Unit Development) zoning classification.

### **Summary Explanation and Background:**

Robert L. and Theresa A. Sheck (Scott Herber) request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(3), to permit a variance of 5.3 ft. over the maximum 30-ft. projection permitted for a boat dock (main dock); 2.) Section 62-2118(d)(3), to permit a variance of 1.2 ft. over the maximum 30-ft. projection permitted for a boat dock (finger dock); 3.) Section 62-2118(d)(5), to permit a variance of 60 sq. ft. over the maximum 400 sq. ft. permitted for the deck of a dock; 4.) 212 sq. ft. over the maximum 600 sq. ft. allowed for a deck together with a roofed area (main dock), in a PUD (Planned Unit Development) zoning classification. The property is 0.55 acres, located on the northeast corner of Lanternback Island Dr., approx. 1.1 mile north of Tortoise Dr. (265 Lanternback Island Dr., Satellite Beach)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members

FROM: Paul Body, Planner III

THRU: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, August 17, 2022

DATE: July 06, 2022

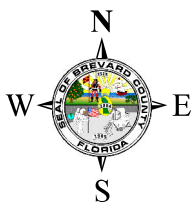
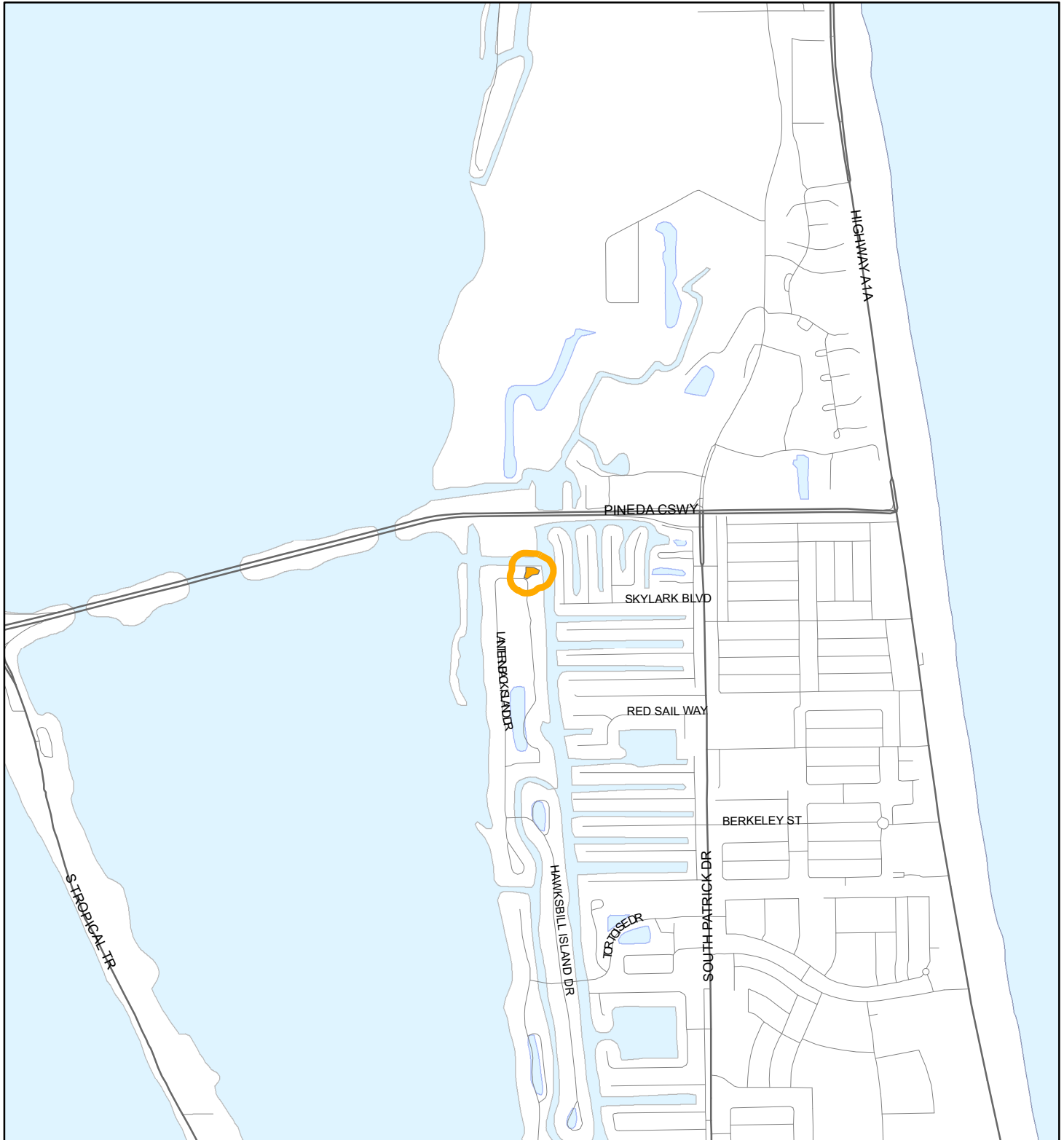
### DISTRICT 4

**2. (22V000013) Robert L. and Theresa A. Sheck** (Scott Herber) request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(3), to permit a variance of 5.3 ft. over the maximum 30-ft. projection permitted for a boat dock (main dock); 2.) Section 62-2118(d)(3), to permit a variance of 1.2 ft. over the maximum 30-ft. projection permitted for a boat dock (finger dock); 3.) Section 62-2118(d)(5), to permit a variance of 60 sq. ft. over the maximum 400 sq. ft. permitted for the deck of a dock; 4.) Section 62-2118(d)(5), 212 sq. ft. over the maximum 600 sq. ft. allowed for a deck together with a roofed area (main dock), in a PUD (Planned Unit Development) zoning classification. This request represents the applicants' request to expand an existing boat dock and add a roof and to legitimize the projection of an existing second boat dock. The applicant states they need a roof to protect the boat and the additional walkway to access and maintain the other side of the boat. The first request equates to an 18% deviation to what the code allows. The second request equates to a 4% deviation to what the code allows. The third request equates to a 15% deviation to what the code allows. The fourth request equates to a 35% deviation to what the code allows. There are no variances to the dock requirements in the immediate area. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant with a revision date of May 6, 2022.

# LOCATION MAP

SHECK, ROBERT L

22V00013



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

Buffer Distance: 200 feet

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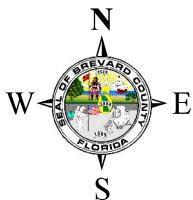
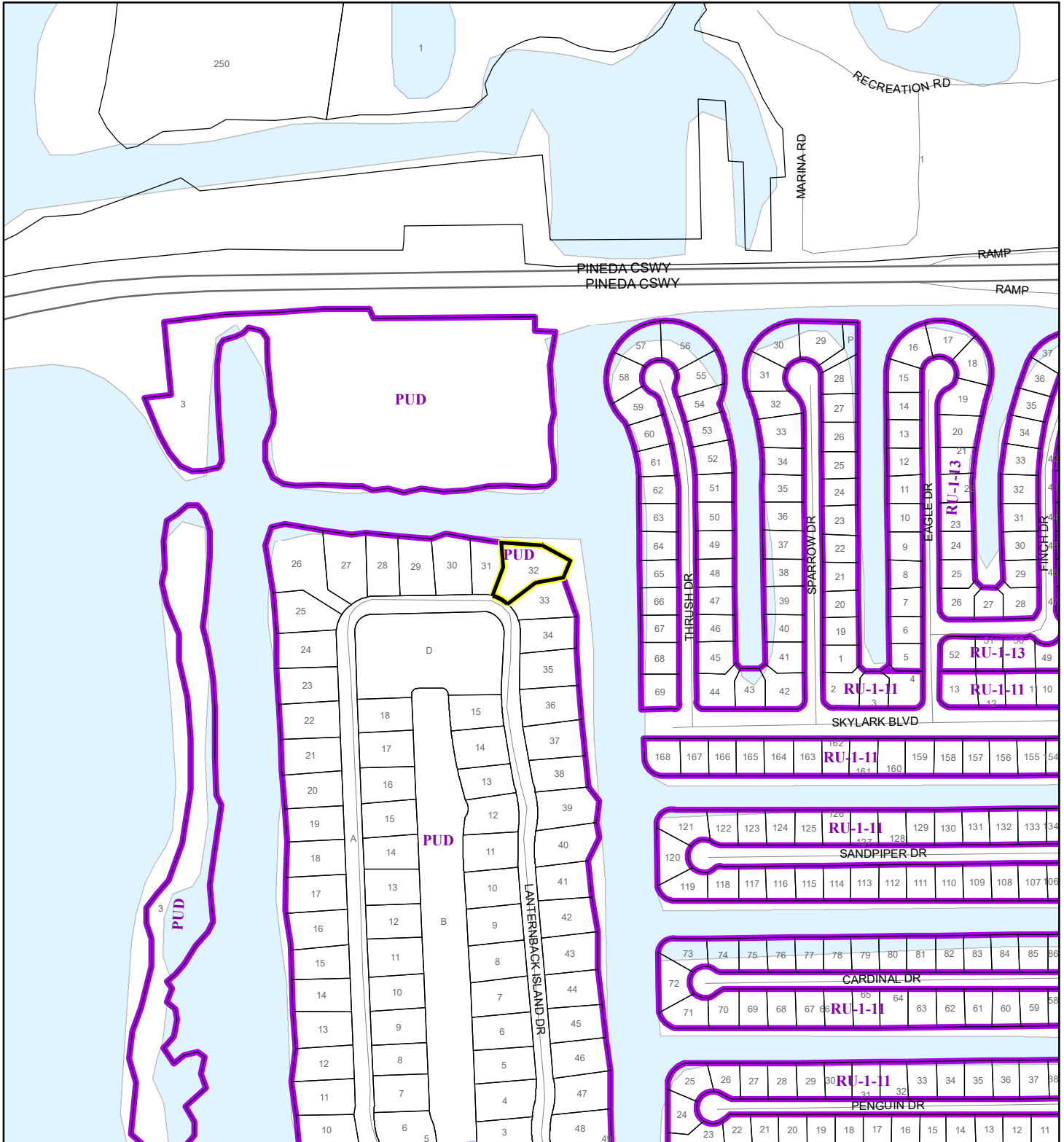
Produced by BoCC - GIS Date: 7/22/2022

Buffer  
Subject Property

# ZONING MAP

SHECK, ROBERT L


22V00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/22/2022

 Subject Property

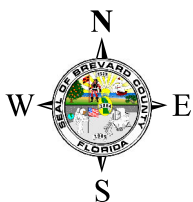
 Parcels

 Zoning

# AERIAL MAP

SHECK, ROBERT L

22V00013




1:600 or 1 inch = 50 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 7/22/2022

 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:

Yes.

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

No. The owner did not cause these conditions

(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 owner will not obtain special privilege. This  
Variance is supported by the neighbors

(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, other neighbors are granted similar & some rights

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

Yes, what the owner is asking for is minimal.

(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:

Yes, the request will not cause detriment to the area and will not infringe on the rights of others

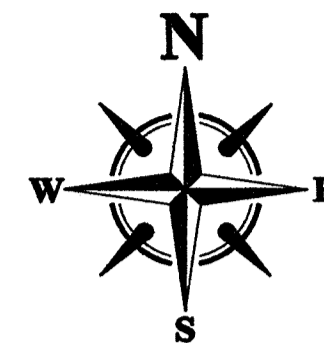
I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant

John P. Deak, Ph.D., C.E.

Signature of planner

Janice Ramos

MAP OF SURVEY  
 CERTIFICATE OF AUTHORIZATION L.B. 7426

 PROPOSED ADDITION OF  
 60 S.F. ACCESS DOCK  
 AND 390 S.F. COVERED  
 BOAT LIFT

 PROPOSED DOCK  
 AND BOAT HOUSE

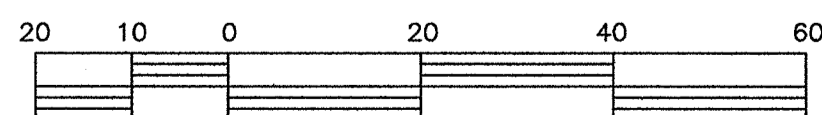
 Existing Dock = 234 Sq.Ft.  
 Boat Lift = 362 Sq.Ft.  
 Total = 596 Sq.Ft.

 PROVIDE  
 TURBIDITY  
 CURTAIN

 ACCORDING TO MAP NO. 12009C0528 H, DATED  
 JANUARY 29, 2021, THIS PROPERTY LIES IN  
 FLOOD ZONES "X", AE/(EL. 3) AND AE/(EL. 4).

 PROPERTY ADDRESS: 256 LANTERBACK ISLAND DRIVE  
 SATELLITE, FLORIDA 32937

 (Note - 11)  
 S89°45'21"E

 LANTERBACK  
 ISLAND DRIVE

 SCALE IN FEET  
 1 INCH = 20 FEET

 CERTIFIED TO: ROBERT L. & THERESA A. SHECK;  
 DREAM DOCKS

 THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP © COPYRIGHT 2022  
 SMITH & ASSOCIATES, SURVEYING AND MAPPING, INC. NOT VALID WITHOUT  
 THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR DIGITAL SIGNATURE OF A  
 FLORIDA LICENSED SURVEYOR AND MAPPER.

## SURVEYORS NOTES:

- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
- ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
- DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
- ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 5J17-6.003(1)(B) F.A.C.)
- PURSUANT TO FLORIDA LAW (F.A.C. 5J17-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
- USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
- ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
- LEGAL DESCRIPTION AS SHOWN WAS PROVIDED BY CLIENT.
- ELEVATIONS BASED ON 50.00' ASSUMED AT N/A
- ELEVATIONS BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1928 (PARENT B.M. N/A ELEVATION N/A) AND ARE EXPRESSED IN FEET AND DECIMAL THEREOF.
- BEARINGS BASED ON C/L OF LANTERBACK ISLAND DRIVE BEING S87°45'21"E (ASSUMED).
- PLOT PLANS ARE NOT TO BE USED FOR CONSTRUCTION LAYOUT PURPOSES.
- LOT DIMENSIONS AND BEARINGS ARE RECORD AND MEASURED UNLESS OTHERWISE NOTED.
- SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
- NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
- ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
- SETBACKS AS SHOWN ON PLOT PLANS WERE PROVIDED BY CONTRACTOR.
- HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, DRIVEWAYS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
- VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
- THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
- THE EXPECTED USE OF THE LAND IS RESIDENTIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 7,500 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.
- ALL "PROPOSED" IMPROVEMENTS SHOWN HEREON ARE NOT "AS-BUILT". ALL CONSTRUCTION PERFORMED ACCORDING TO THE "PROPOSED" INFORMATION SHOWN HEREON IS SUBJECT TO BEING APPROVED BY THE APPLICABLE AUTHORIZING AGENCIES. THE CLIENT IS RESPONSIBLE FOR COMPARING THE "PROPOSED" INFORMATION AS SHOWN, WITH THE "FINAL APPROVED FOR CONSTRUCTION" DOCUMENTATION PRIOR TO AUTHORIZING ANY LAYOUT WORK.

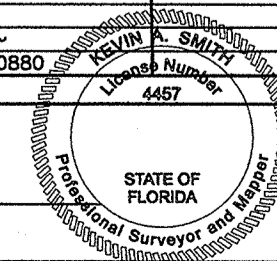
## LEGEND:

- |   |   |  |
|---|---|--|
| S.B.M. = SITE BENCH MARK<br>P.C.P. = PERMANENT CONTROL POINT<br>P.O.C. = POINT OF COMMENCEMENT<br>P.O.B. = POINT OF BEGINNING<br>P.T. = POINT OF TANGENCY<br>P.M. = PERMANENT REFERENCE MONUMENT<br>R.P. = RADIUS POINT<br>P.C. = POINT OF CURVATURE<br>P.C. = POINT OF COMPOUND CURVATURE<br>P.R.C. = POINT OF REVERSE CURVATURE<br>D = DELTA (CENTRAL ANGLE)<br>R = RADIUS<br>A = ARC<br>T = TANGENT<br>C = CENTERLINE<br>F.W. = FRUIT WOOD FRAME<br>S.T. = STORY<br>C.A. = CALCULATED R/W = RIGHT-OF-WAY<br>D = DEED<br>NO I.D. = NO IDENTIFICATION<br>C.B.S. = CONCRETE BLOCK & STUCCO<br>F.P. & L. = FLORIDA POWER AND LIGHT<br>RES. = RESIDENCE<br>PROP. = PROPOSED<br>CONC. = CONCRETE (TYP.) = TYPICAL<br>APPROX. = APPROXIMATE<br>E.O.P. = EDGE OF PAVEMENT<br>T.O.S. = APPROX. TOE OF SLOPE<br>E.O.W. = APPROX. EDGE OF WATER | B.S.L. = BUILDING SETBACK LINE<br>T.O.B. = APPROX. TOP OF BANK<br>N.T.S. = NOT TO SCALE<br>O/S = OFFSET<br>L.F.E. = LOWEST FLOOR ELEVATION<br>G.F.E. = GARAGE FLOOR ELEVATION<br>F.F.E. = FINISHED FLOOR ELEVATION<br>O.R.B. = OFFICIAL RECORDS BOOK<br>P.B. = PLAT BOOK<br>D.B. = DEED BOOK<br>P.G. = PAGE<br>P.V.C. = POLYVINYL CHLORIDE<br>C.M.P. = CORRUGATED METAL PIPE<br>R.C.P. = REINFORCED CONCRETE PIPE<br>C.P.P. = CORRUGATED PLASTIC PIPE<br>INV. = INVERT<br>E.L. = ELEVATION<br>F.Z.L. = FLOOD ZONE LINE<br>N.A.V.D. = NORTH AMERICAN VERTICAL DATUM<br>N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM<br>CLEAOUT = CLEAOUT<br>W. = WATER METER<br>E. = ELECTRIC METER/HANDHOLE<br>S. = SANITARY SEWER MANHOLE<br>S.M. = STORM SEWER MANHOLE<br>S.B. = SOUTHERN BELL MANHOLE/HANDHOLE<br>S.B. = SOUTHERN BELL RISER<br>C.T.V. = CABLE TELEVISION RISER | G. = GAS VALVE<br>R.W.M. = RECLAIM WATER METER<br>G.S. = GAS SERVICE<br>W.V. = WATER VALVE IN 2" x 2" CONC.<br>W.H. = WATER VALVE<br>P.H. = POWER POLE<br>L.P. = LIGHT POLE<br>G.A. = GUY ANCHOR<br>F. = FENCE<br>O.H.W. = OVERHEAD WIRE (O.H.W.)<br>S/T. = APPROXIMATE SEPTIC TANK<br>U.M.R. = UNDER MAIN ROOF<br>W. = WELL<br>I.M.F. = IRON MARKER FOUND - SEE DESCRIPTION<br>1/2" IRON ROD WITH PLASTIC CAP MARKED "K.A. SMITH LB 7426" SET<br>4" x 4" CONC. MONUMENT FOUND - SEE DESCRIPTION<br>4" x 4" CONC. MONUMENT MARKED "K.A. SMITH LB 7426" SET<br>NAIL & DISK FOUND - SEE DESCRIPTION<br>SET MAGNETIC NAIL<br>HUB & TACK SET |
|---|---|--|

 LOT 32, BLOCK 7,  
 "TORTOISE ISLAND, PHASE FOUR, P.U.D."

AS RECORDED IN PLAT BOOK 34, PAGES 69 &amp; 70, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

TYPE	SURVEY DATE	JOB NUMBER	CK. BY
REVISOR COMMENTS			
BOUNDARY SURVEY	MAY 11, 2022	22-0880	KEVIN A. SMITH
DRAWN BY: P.A.D.			

 PROFESSIONAL SURVEYOR & MAPPER IN CHARGE  
 KEVIN A. SMITH, FLORIDA CERTIFICATE NO. 4457  
 ANDREW J. SMITH, FLORIDA CERTIFICATE NO. 5690


Michael Feustel

244 Lanternback Island Drive

Satellite Beach, Fl. 32937

February 13, 2022

To whom it may concern,

My name is Michael Feustel and I live two doors down from Robert Sheck at 244 Lanternback Island Drive. His boat lift looks like it should have a roof on it. He told me he wants to put a roof on it to match the new roof he is getting on his house in a couple of months. I would like the lift dock to have a new roof as it would look much better and add value to our community.

I am in favor of granting him a variance to put up the new dock roof.

Sincerely,



Michael Feustel

Christina Goins

262 Lanternback Island Drive

Satellite Beach, FL. 32937

February 12, 2022

To whom it may concern,

My name is Christina Goins and I live next door to Robert Sheck. I live at 262 Lanternback Island Drive in Satellite Beach. His boat lift dock looks like it should have a roof over it. He told me he wants to put a roof on it that will match the new roof he is getting on his house in a few months.

I would like to see that happen. If he could put a roof on his boat lift it would look a lot better and add value to our neighborhood. Please approve his variance request so he can put a roof on his dock.

Sincerely,



Christina Goins

Jeff Tatlock

452 Eagle Drive

Satellite Beach, Fl. 32937

February 12, 2022

Dear Brevard County,

My name is Jeff Tatlock and I live at 452 Eagle Drive in Satellite Beach. My dock is just around the corner from Robert Sheck's dock and I drive by it 3-5 times per month. It currently has a boat lift with no roof and it looks unsightly. It looks like it should have a roof over it. It would look much better, and improve the waterfront area if it did.

He told me he is getting a new roof on his home in a couple of months and that he wants to put a matching roof on his boat lift. I agree that it would be a nice improvement to our area and I hope you grant his request for a variance.

Sincerely,



Jeff Tatlock

February 12, 2022

Brevard county building dept.

My name is Gordon Drysdale. I live at 442 Atlantis Drive in Satellite Beach. My dock is a couple of blocks down the Grand Canal from Robert Sheck's dock and I drive by it 2-3 times per month. His boat lift dock looks unfinished, like it should have a roof over it. He told me he wants to put a roof on it that will match the new roof he is getting on his house in a few months. I would like to see that happen. Please approve his variance request so he can put a roof on his dock.

Thank you,



Gordon Drysdale



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.3.

8/17/2022

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### **Subject:**

Daniel Dee and Brandi R. Chavez request three variances for an accessory structure and minimum lot size in an AU zoning classification. (22V00020) (Tax Account 2403668) (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 three variances for an accessory structure and minimum lot size in an AU (Agricultural Residential) zoning classification.

### **Summary Explanation and Background:**

Daniel Dee and Brandi R. Chavez request variances of Chapter 62, Article VI, Brevard County Code, as follows:

1.) Section 62-1334(5)(b), to permit a variance of 0.7 ft. from the required 15-ft. side (west) setback for an accessory structure; 2.) Section 62-1334(5)(b), to permit a variance of 3.4 ft. from the required 15-ft. side (west) setback for an accessory structure; 3.) Section 62-1334(4), to permit a variance of 1.5 acres from the required 2.5-acre minimum lot size, in an AU (Agricultural Residential) zoning classification. The property is 1 acre, located on the south side of Palmetto Ave., approx. 220 ft. south of Highway 528. (5041 Palmetto Ave., Cocoa)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members

FROM: Paul Body, Planner III

THRU: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, August 17, 2022

DATE: July 06, 2022

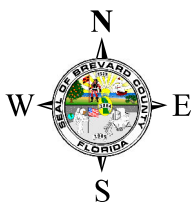
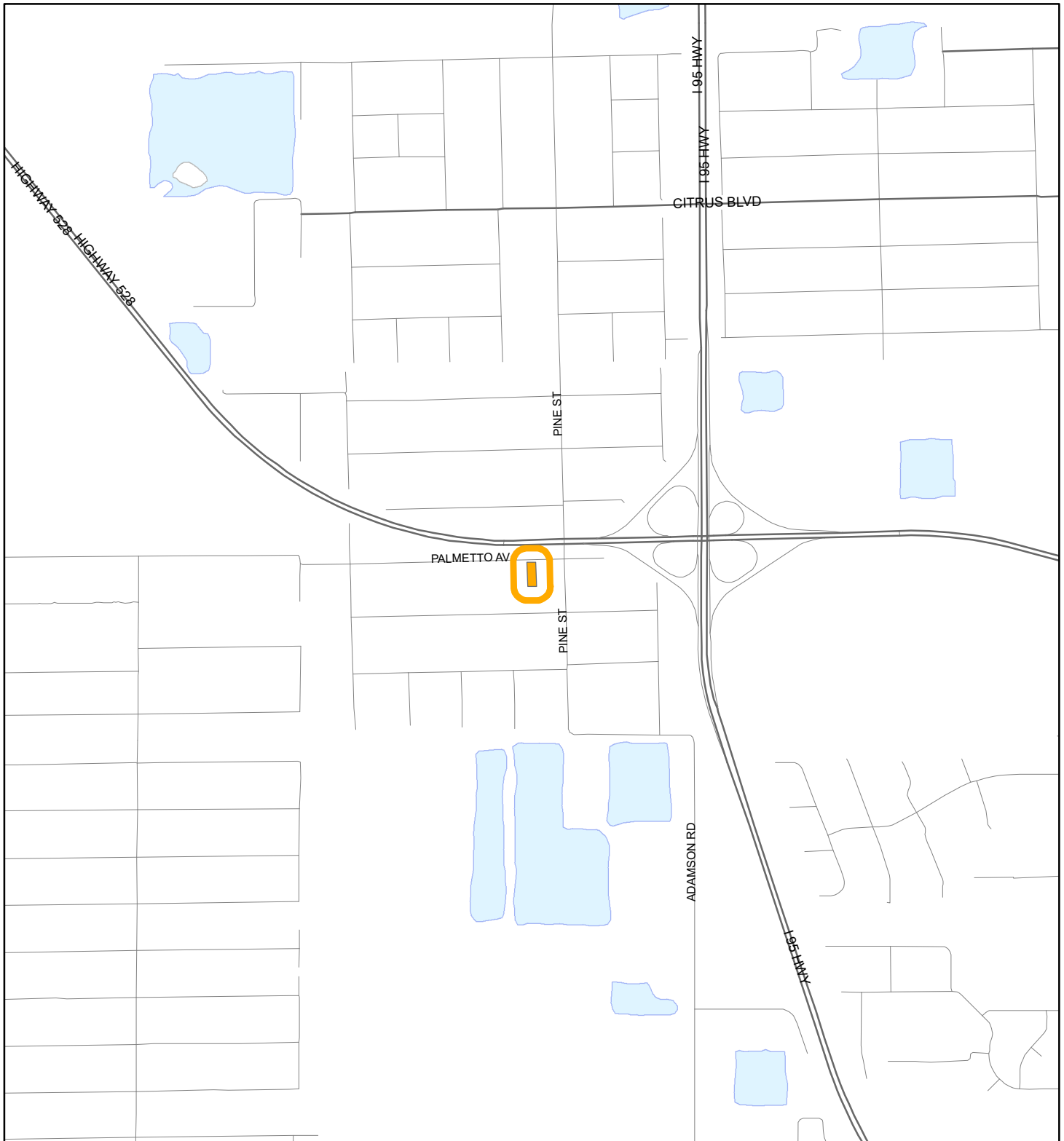
### DISTRICT 1

**3. (22V00020) Daniel Dee and Brandi R. Chavez** request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1334(5)(b), to permit a variance of 2.7 ft. from the required 15-ft. side (west) setback for an accessory structure; 2.) Section 62-1334(5)(b), to permit a variance of 3.4 ft. from the required 15-ft. side (west) setback for an accessory structure; 3.) Section 62-1334(4), to permit a variance of 1.5 acres from the required 2.5-acre minimum lot size, in an AU (Agricultural Residential) zoning classification. This request represents the applicants' request to legitimize an existing wood frame garage and carport and to legitimize the lot size for AU zoning. The applicants state that they applied for a permit to enclose the carport and were told that the carport and the garage do not meet the required side setbacks. The applicants state that these accessory structures were in this configuration when they purchase the property in January 2022. The applicants further state the accessory structures were built by a previous owner and have been in this configuration since the 1970's. The applicants also state the parcel was Platted in this configuration and size in Plat Book 13, page 141 on June 23, 1960. The first request equates to an 18% deviation to what the code allows. The second request equates to an 23% deviation to what the code allows. The third request equates to an 60% deviation to what the code allows. There are no variances to the accessory setback requirements in the immediate area. There are six variances to the lot size requirements in the immediate area. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant with a field date of 12/13/2021.

# LOCATION MAP

CHAVEZ, DANIEL DEE

22V00020





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.

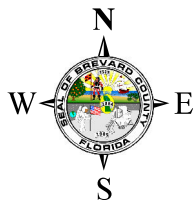
Produced by BoCC - GIS Date: 6/17/2022

 Buffer  
 Subject Property

# ZONING MAP

CHAVEZ, DANIEL DEE

22V00020



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: 6/17/2022

Subject Property

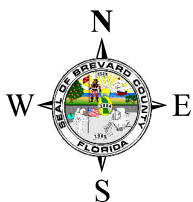
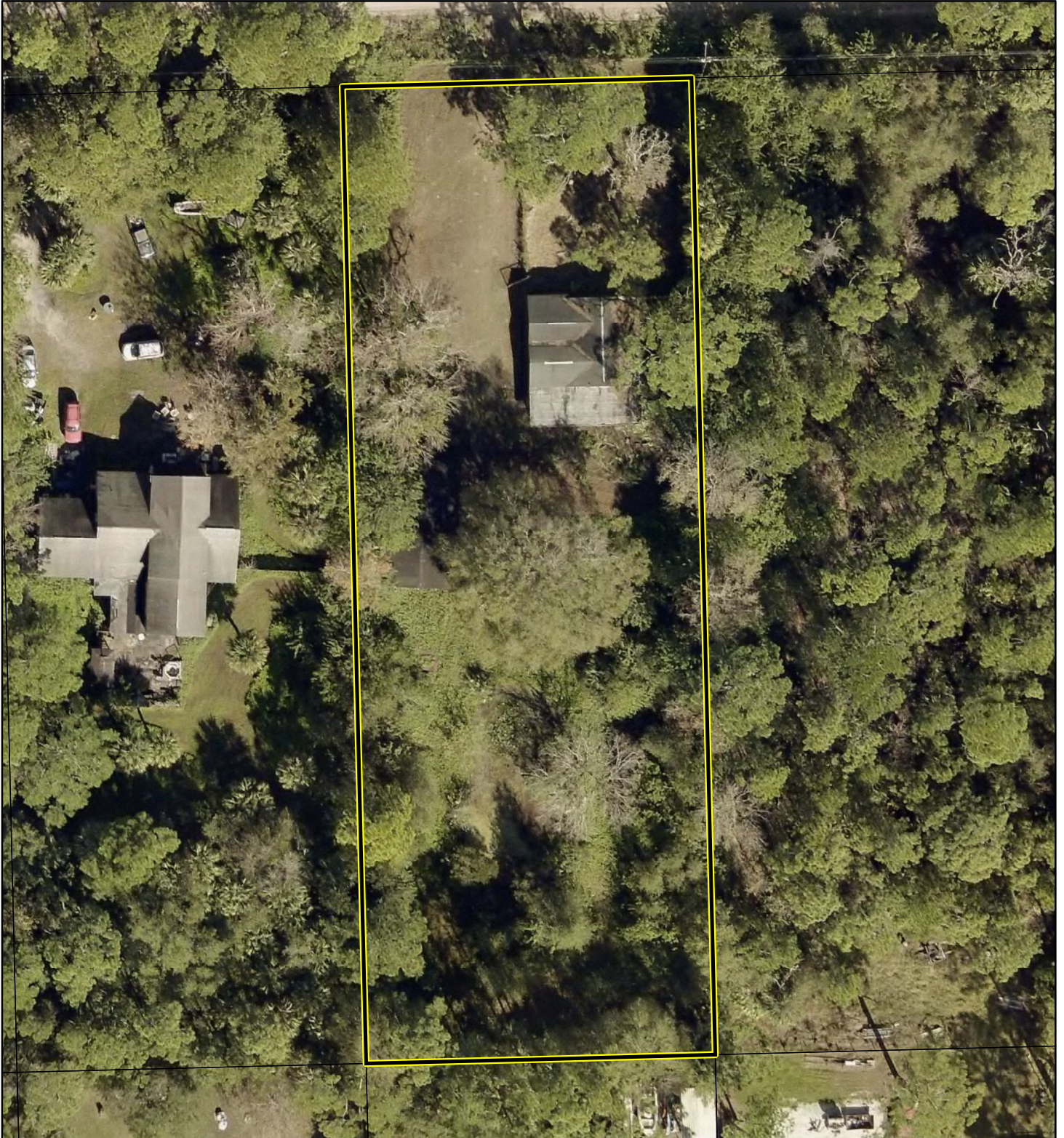
Parcels

Zoning

# AERIAL MAP

CHAVEZ, DANIEL DEE

22V00020




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: 6/17/2022

 Subject Property

 Parcels

## VARIANCE HARDSHIP WORKSHEET

for setbacks

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number N/A, and  
name of contractor N/A

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:

Bought The Land House & Pole barn  
The pole barn was built in the 1970s without any known  
permits may have been built in agricultural spec in 1970?

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

I did not build the building. I bought  
the property as it currently exist with the  
building in the place it sits on the property

(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:

This area contains many properties which  
have similar structures already granted variances.

(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:

I Bought This property for the said purpose  
of having a place to store & work on my  
CLASSIC CAR collection

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

I don't intent to Enlarge the Structure.  
I only intend to Improve the space for  
Storage & working conditions.

(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 Barn has Existed for more  
than 30 YEARS Before I Purchased the property.  
I'm only Enclosing the walls on The Existing Carport  
Section Adding power supply & Re Roofing.

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

Daniel Long

Signature of planner

Jania Ramas

## VARIANCE HARDSHIP WORKSHEET

for Lot Size

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:

I Bought this home & lot with Preexisting conditions  
AU zoning was conforming to Earlier county codes  
when the lot was originated

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

I Bought the lot As IS. I have NOT made  
Any Land changes which would Have Broken current  
county land zoning. The lot Has Always Been 1 Acre zoned AU

(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:

IN canaveral groves many Existing lots  
Are one Acre zoned AU. Therefore It grants  
Me NO Special privilege IN 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:

I Bought this property & Home To Enjoy The Assigned AV zoning with the potential to use it for Agricultural Usage in the Future. The for changing the zoning would deprive me of the intent for which I purchased the property.

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

This variance is a fair comparison to other lots in the area & keeps it in conformity at minimum to the surrounding community. So I may use my land for Agricultural usage.

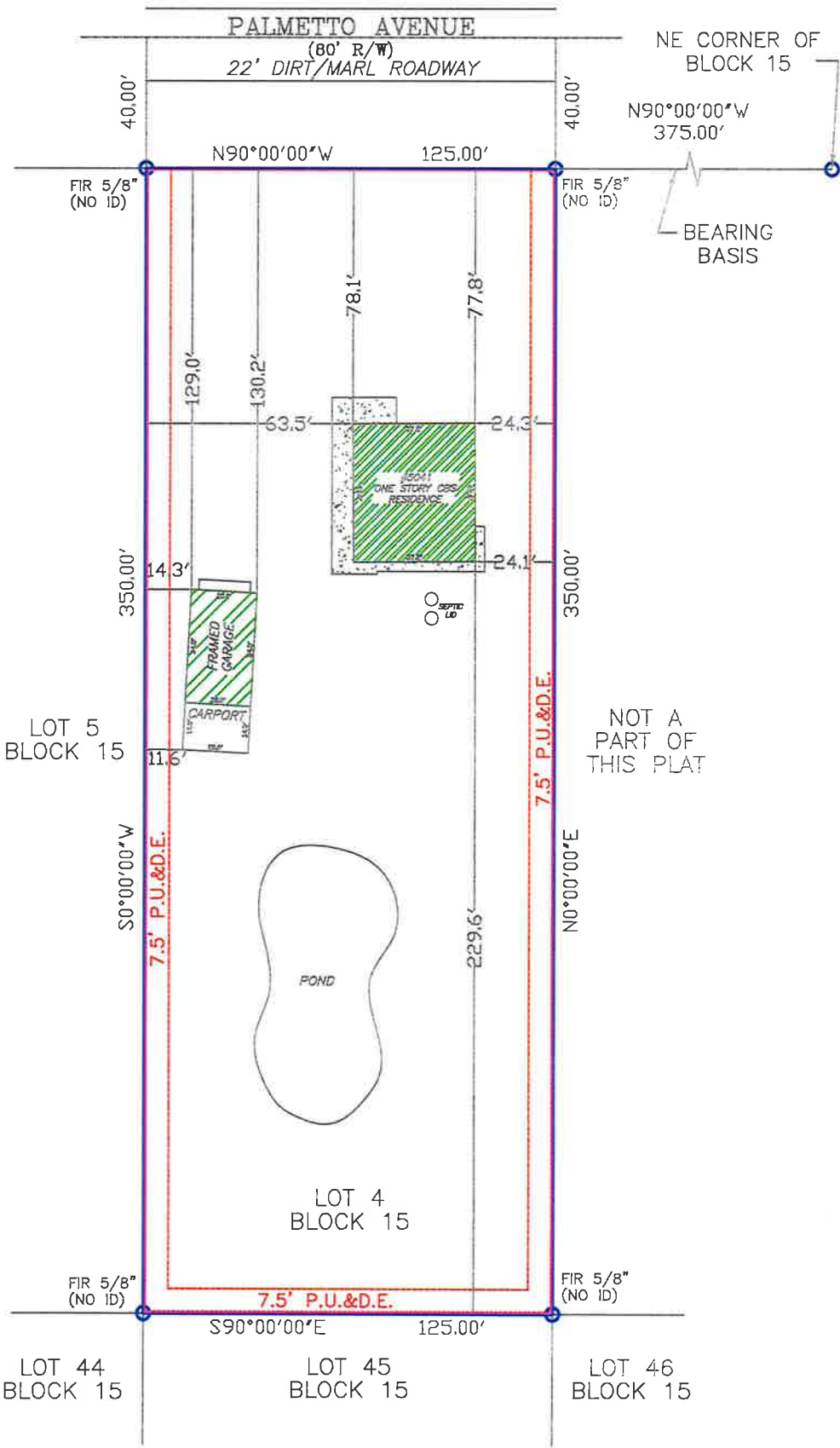
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The lot & zoning have existed for more than 50 years as well as other similar lots in the area.

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 Daniel Cruz 6-9-22

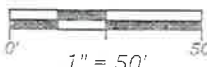
Signature of planner Janina Ramos



NOTES:  
ALL BEARINGS AND DISTANCES SHOWN ARE RECORD AND MEASURED, UNLESS OTHERWISE SHOWN.  
P.U.&D.E. = PUBLIC UTILITY AND DRAINAGE EASEMENT  
BEARINGS ARE BASED UPON THE RECORD BEARING.



NORTH ARROW &  
GRAPHIC SCALE



JOB # - 2112-123	REVISION -
FIELD DATE - 12/13/2021	REVISION -
DRAWN BY - C.T.	REVISION -
REVISION -	REVISION -
REVISION -	REVISION -
REVISION -	REVISION -

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

KNOW IT NOW, INC.  
PROFESSIONAL SURVEYING AND MAPPING  
5220 US HIGHWAY 1, #104  
VERO BEACH, FL 32967  
PHONE - (888) 396-7770  
WWW.KINSURVEY.COM





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

8/17/2022

---

### **Subject:**

Shawn M. Beard and Dawn M. Ostovich request three variances for a boat dock in an RU-2-15 zoning classification. (22V00024) (Tax Account 2606765) (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 three variances for a boat dock in an RU-2-15 (Medium Density Multi-Family) zoning classification.

### **Summary Explanation and Background:**

Shawn M. Beard and Dawn M. Ostovich (Davin Erickson) request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(2), to permit a variance of 5.5 ft. from the required 7.5-ft. side (east) setback for a dock; 2.) Section 62-2118(d)(2), to permit a variance of 5.5 ft. from the required 7.5-ft. side (west) setback for a dock; 3.) Section 62-2118(d)(3), to permit a variance of 5.0 ft over the 30-foot projection permitted for a boat dock for a dock, in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification. The property is 0.24 acres, located on the south side of Red Sail Way, approx. 910 ft. west of Green Turtle Cove. (449 Red Sail Way, Satellite Beach)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members

FROM: Paul Body, Planner III

THRU: Jeffrey Ball, AICP, Planning & Zoning Manager

SUBJECT: Variance Staff Comments for Wednesday, August 17, 2022

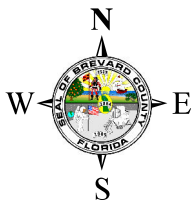
DATE: July 06, 2022

### DISTRICT 4

**4. (22V00024) Shawn M. Beard and Dawn M. Ostovich** (Davin Erickson) request variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(2), to permit a variance of 5.5 ft. from the required east 7.5-ft. side setback for a dock; 2.) Section 62-2118(d)(2), to permit a variance of 5.5 ft. from the required west 7.5-ft. side setback for a dock, 3.) Section 62-2118(d)(3), 5.0 ft over the 30 feet projection required for a dock in an RU-2-15 (Medium Density Multi-Family Residential) zoning classification. This request represents the applicants' desire to permit and build a new boat lift. The applicants state that their lot is a pie shape lot along the water. They also state that the shape of the lot as it was platted in the subdivision and developed along the canal leaves very little area to have a boat dock or boat lift. The first request equates to an 73% deviation to what the code allows. The second request equates to an 73% deviation to what the code allows. The third request equates to an 17% deviation to what the code allows. There are no variances to the dock setback and projection requirements in the immediate area. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board wishes to approve this variance, it may wish to limit its approval to the location depicted on the survey provided by the applicant with a revision date of 7/8/22.

# LOCATION MAP

BEARD, Shawn and OSTOVICH, Dawn M.  
22V00024



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.

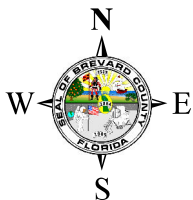
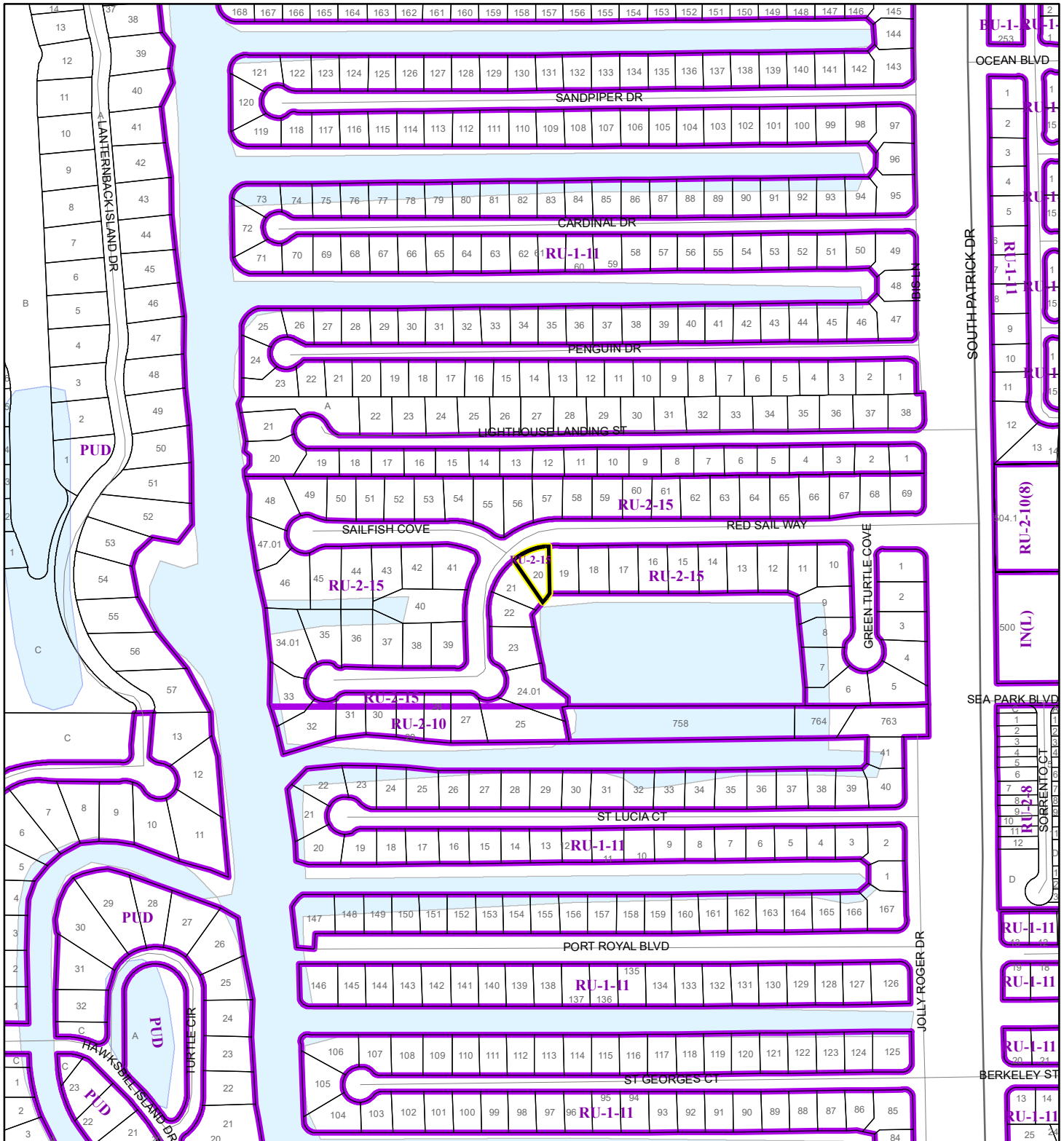
Produced by BoCC - GIS Date: 7/7/2022

Buffer  
Subject Property

# ZONING MAP

BEARD, Shawn and OSTOVICH, Dawn M.

22V00024



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: 7/7/2022

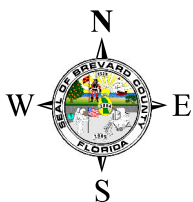
Subject Property

Parcels

Zoning

# AERIAL MAP

BEARD, Shawn and OSTOVICH, Dawn M.  
22V00024




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: 7/7/2022

 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 Florida Home & Dock Life

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:

Pie Shape lot in conjunction w/ Existing setback  
Requirements make it impossible to install Dock & Lift

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

It Does not

(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:

It Does not other than allowing to Build  
Dock that Already exists

(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:

The existing Dock is in BAD shape. All other owners are able to dock the vessel. The said property already has this Dock in same Footprint & they were unaware IT was not compliant

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

This will be the minimum required to allow access

(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 will be harmonious

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

Stephanie Tucker

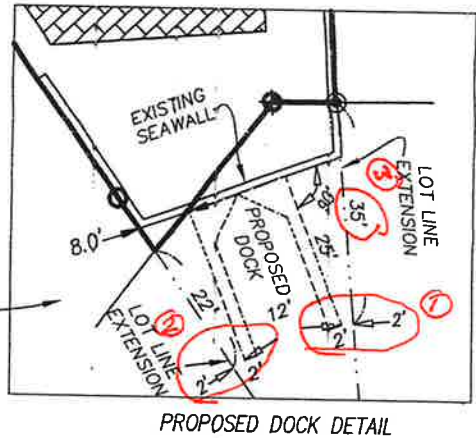
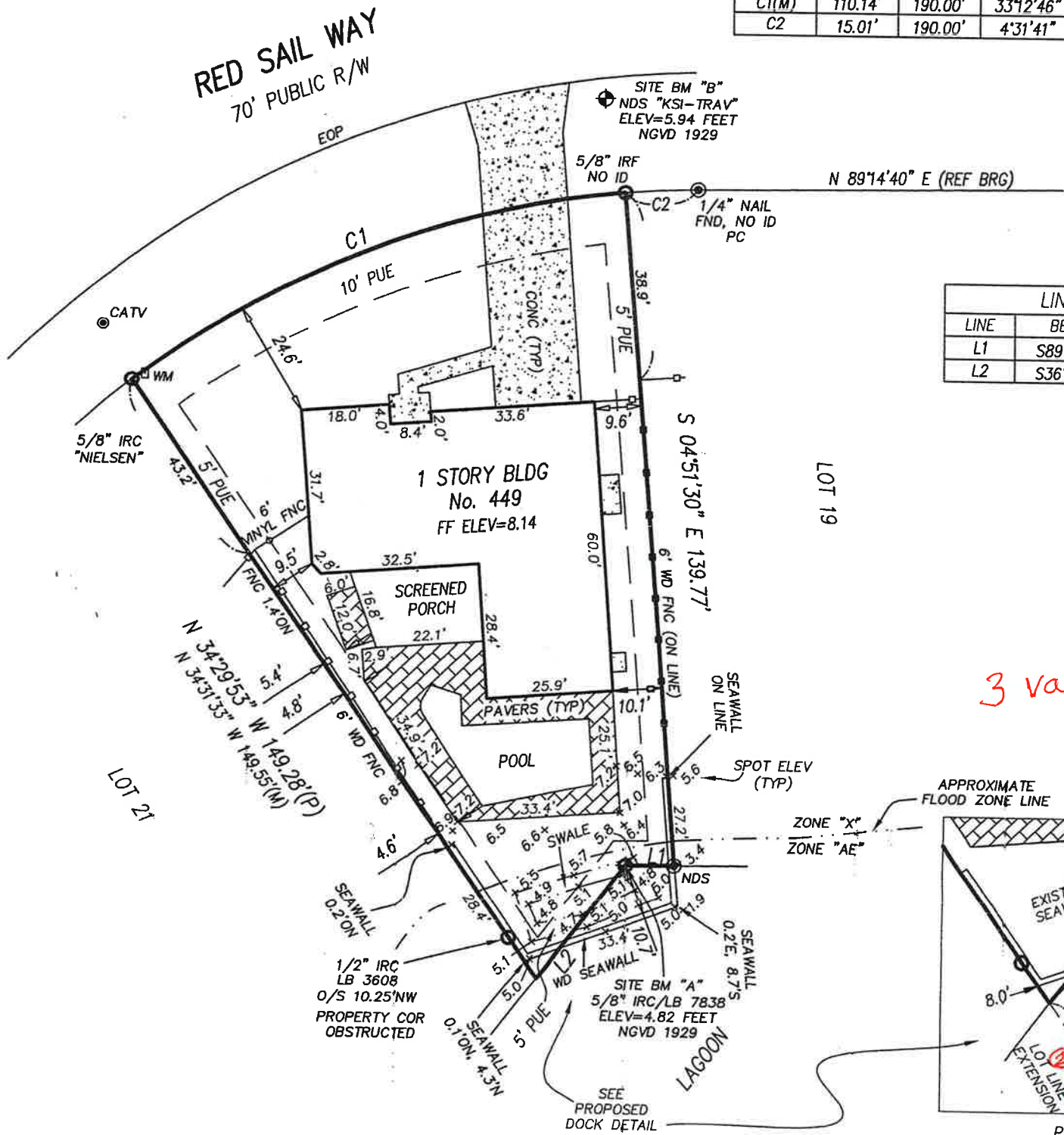
Signature of planner

[Signature]

# MAP OF BOUNDARY SURVEY

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BRG
C1(P)	110.00'	190.00'	33°10'16"		
C1(M)	110.14'	190.00'	33°12'46"	108.60'	N68°15'38"E
C2	15.01'	190.00'	4°31'41"	15.01'	N86°58'49"E

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°14'40"W	10.00'
L2	S36°45'55"W	30.00'



A = ARC  
A/C = AIR CONDITIONER  
BFE = BASE FLOOD ELEVATION  
BLDG = BUILDING  
BLK = BLOCK  
BM = BENCHMARK  
BRG = BEARING  
(C) = CALCULATED  
CATV = CABLE TELEVISION  
CBS = CONCRETE BLOCK STRUCTURE  
CHD = 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  
ESMT = EASEMENT  
FB = FIELD BOOK

**LEGEND**  
FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY  
FF = FINISHED FLOOR  
FNC = FENCE  
FND = FOUND  
FP&L = 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  
NDS = 1 1/4" NAIL & DISK SET "LB 7838"  
NGVD = 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  
PCO = POINT OF COMPOUND CURVATURE  
PCP = 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 CURVATURE  
PSM = PROFESSIONAL SURVEYOR AND MAPPER  
PT = POINT OF TANGENCY  
PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT  
PUE = 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  
WIT-COR = 5/8" IRON ROD SET WITH CAP "WITNESS LB 7838"  
WM = WATER METER  
XCF = CROSS CUT FOUND

## LEGAL DESCRIPTION:

LOT 20, SLEEPY LAGOON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGE 80, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

BOUNDARY	DATE: 1/10/22	JOB No. 40058
SEAWALL LOCATION	DATE: 6/3/22	
SWALE LOCATION & TOPO	DATE: 6/23/22	SLEEPY/L20
PROPOSED DOCK ADDED	DATE: 6/29/22	
ADDED DIMENSION TIE TO DOCK	DATE: 7/8/22	

## CERTIFIED TO:

DAWN OSTOVICH

## CERTIFICATION:

I HEREBY CERTIFY: THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

DATE: 7/8/22

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA No. LS 6133

DRAWN BY: JIL

SCALE 1 INCH = 30 FEET

## NOTES:

1. BEARINGS BASED ON THE S. R/W LINE BEING N 89°14'40" E AS PER PLAT (SEE SKETCH)
2. ELEVATIONS BASED ON NGVD 1929.
3. FLOOD ZONE "X" AND "AE", MAP No. 12009C0528H COMMUNITY No. 125092, JANUARY 29, 2021. 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 5J-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 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.

Kane Surveying, Inc.

FLORIDA LICENSED BUSINESS No. LB 7838

505 DISTRIBUTION DRIVE

MELBOURNE, FLORIDA 32904

(321) 676-0427 FAX (321) 984-1448

BEARD DOCK

SEAWALL

x 2' x 12' x 2' x

25'

