



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT  
PLANNING AND DEVELOPMENT SERVICES DIVISION**  
123 West Indiana Avenue, DeLand, Florida 32720  
(386) 736-5959

**PUBLIC HEARING:** November 18, 2021 – Planning and Land Development Regulation Commission (PLDRC)

**CASE NUMBER:** V-22-018

**SUBJECT:** Variances to the minimum yard requirements on Urban Single-Family Residential (R-4) zoned property

**LOCATION:** 115 Pierside Drive, Ormond Beach

**APPLICANT(S):** Gregory Charles Evans

**OWNER(S):** Same as above

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## **I. SUMMARY OF REQUEST**

The applicant seeks two variances for an existing single-family house as follows:

Variance 1: A variance to reduce the west side yard from 12 feet to 11.7 feet for an existing porch.

Variance 2: A variance to reduce the east side yard from 8 feet to 5.3 feet for an existing offset in the east side façade.

### ***Staff Recommendation:***

Approve variances 1 and 2, case number V-22-018, as the variances successfully meet all five criteria for granting said variances.

**II. SITE INFORMATION**

- 1. Location: On the north side of Pierside Drive, approximately 500 feet east of its intersection with John Anderson Drive, Ormond Beach
- 2. Parcel Number(s): 3221-22-00-0010
- 3. Property Size: +/- 7,290 square feet
- 4. Council District: 4
- 5. Zoning: Urban Single-Family Residential (R-4)
- 6. Future Land Use: Urban Medium Intensity (UMI)
- 7. Overlays: N/A
- 8. Local Plan Area: N/A
- 9. Adjacent Zoning and Land Use:

| DIRECTION | ZONING | FUTURE LAND USE | EXISTING USE            |
|-----------|--------|-----------------|-------------------------|
| North:    | R-4    | UMI             | Single-family residence |
| East:     | R-4    | UMI             | Single-family residence |
| South:    | R-4    | UMI             | Single-family residence |
| West:     | R-4    | UMI             | Retention pond          |

10. Maps:

**ZONING MAP**



**FUTURE LAND USE MAP**



### III. BACKGROUND AND OVERVIEW

The subject property is zoned R-4, which requires a minimum lot area of 7,500 square feet and a minimum lot width of 75 feet. The lot is 7,290 square feet in area and 90 feet in width. The lot is nonconforming to the zoning standards but has been found to be a good nonconforming lot that is eligible for building



permits. The applicable setbacks in the R-4 zoning classification are: front – 25 feet, rear – 20 feet, side – 20 feet combined with a minimum of 8 feet on any one side.

The lot is a standard interior lot. It is developed with a single-family home built in 1986. In 1995, a previous owner built a screened porch on the west side of the house without benefit of a building permit. The current owner purchased the property in 2019. In July 2021, the current owner was issued a notice of violation for construction without a permit for proceeding to convert the porch into a 'Florida room' or 'sun room'. The porch encroaches into the west side yard approximately four inches. In order to be able to obtain permits for the current construction, a variance is needed to reduce the west side yard from 12 feet to 11.7 feet.

The existing house also contains an offset, or protrusion, in the middle of the east side façade that accommodates an interior shower. The offset encroaches 2.7 feet into the east side yard. This offset is part of the original house. In an abundance of caution, a variance is being requested in order to legitimize the existing house as it was built in 1986.

Note that the survey also shows that an eight-foot by 12-foot wood deck extends off the screen porch on the west side of the house. The applicant has stated that this deck will be removed. If it is not removed, it will also require a variance and building permit to remain as located.

### IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 of the Zoning Ordinance contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

***i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.***

Variations 1 and 2: The subject property is a standard interior lot. It is nonconforming to lot size, but meets lot width requirements. The existing porch was built in 1995 by a previous owner, and the east façade offset was part of the original house built in 1986.

Staff finds that this criterion is met.

***ii. The special conditions and circumstances do not result from the actions of the applicant.***

Variances 1 and 2: The applicant purchased the house in 2019. He is not responsible for the construction of the porch addition or the offset in the east side façade.

Staff finds that this criterion is met.

***iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.***

Variance 1: Literal interpretation of the zoning requirements would not deprive the applicant of commonly enjoyed rights, but may work an unnecessary hardship. The existing porch has been so located since 1995 without complaint. The encroachment is minimal at four inches. Requiring the porch to be renovated to reduce it by four inches would work an undue hardship.

Staff finds this criterion is met.

Variance 2: Literal interpretation of the zoning requirements would not deprive the applicant of commonly enjoyed rights, but may work an unnecessary hardship. The offset was part of the original construction and appears to be a common house design in the neighborhood. Requiring the offset to be removed would work an undue hardship.

Staff finds this criterion is met.

***iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.***

Variances 1 and 2: Neither of the variances are necessary to make reasonable use of the land; however, they are the minimum that will allow the structures to remain in place and for the applicant to obtain an after-the-fact building permit for the porch.

Staff finds that this criterion is met.

***v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.***

Variances 1 and 2: Granting these variances is unlikely to be injurious to the area involved. The porch has existed since 1995 and the offset since the original construction of the house. Further, the house is adjacent to a retention pond and trees on the west side that provides the appearance of a larger side yard.

Staff finds that this criterion is met.

## **V. STAFF RECOMMENDATION**

Approve variances 1 and 2, case number V-22-018, as the variances successfully meet all five criteria for granting said variances.

The PLDRC may take into account additional competent substantial evidence presented at the hearing or may make an alternate finding to already presented evidence, that there is sufficient evidence such that the request meets all five criteria and should be granted. Should the PLDRC find that the applicant has provided competent substantial evidence to support approval of the variances; the following conditions are provided for consideration:

1. The variance is limited to the porch/Florida room and east façade offset as depicted on the variance site plan. Any change to the location or size of either of these features shall require approval of a separate variance.
2. The property owner or authorized agent shall obtain and complete all required building permits and inspections for the porch/Florida room.
3. The eight-foot by 12-foot wood deck shall be removed from the property.

## **VI. ATTACHMENTS**

- Variance Site Plan
- Written Petition
- Survey
- Environmental Memo
- Land Development Memo
- Photographs
- Map Exhibits

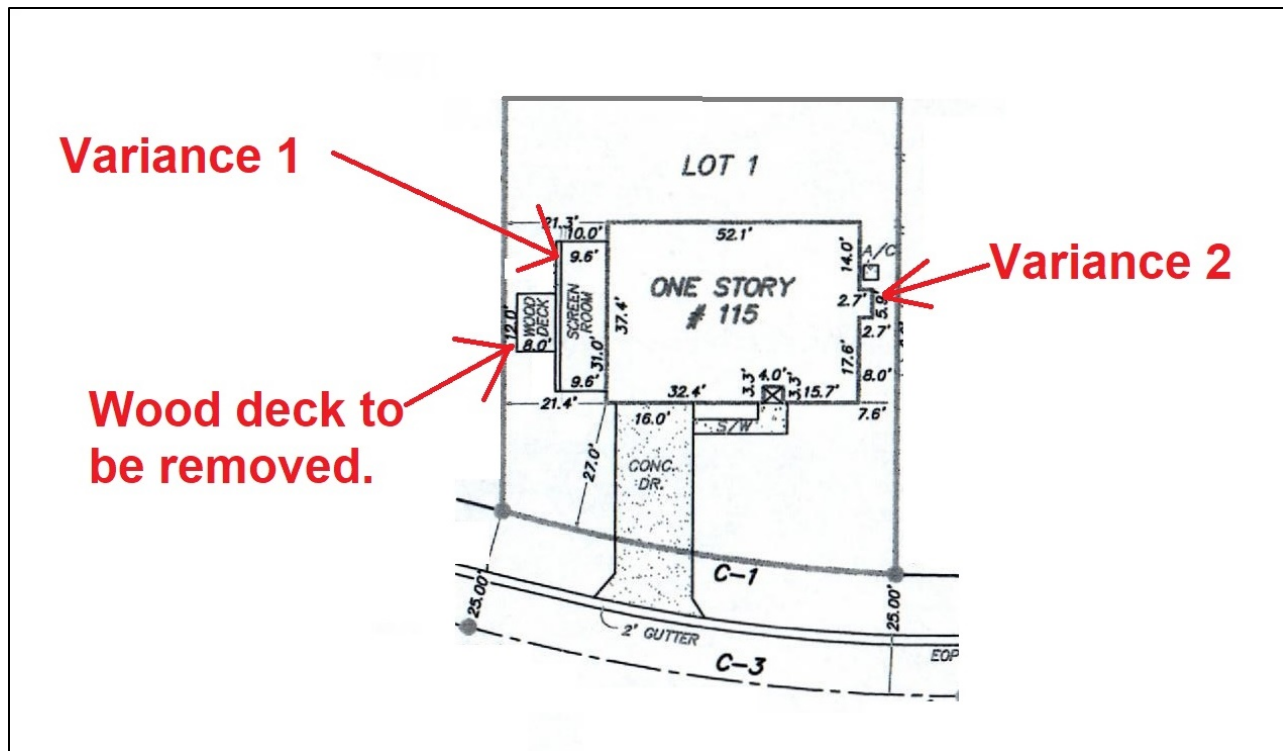
## VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the Zoning Ordinance, authorize, after due public notice upon application on a form prescribed by the Zoning Enforcement Official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the County Council.

Pursuant to Section 72-412, no variance shall be granted, in whole or in part, unless four members concur. A tie vote shall be grounds for continuance to the next scheduled meeting.

Any new information to be presented at the Planning and Land Development Regulation Commission meeting for any application will be grounds to continue an application to the next Planning and Land Development Regulation Commission meeting. Applicants shall inform and provide staff with the new information prior to the Planning and Land Development Regulation Commission meeting.

Variance Site Plan  
V-22-018



Variance 1: A variance to reduce the west side yard from 12 feet to 11.7 feet for an existing porch.

Variance 2: A variance to reduce the east side yard from 8.0 feet to 5.3 feet for an existing offset in the east side facade.



## Written Petition for a Variance

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a variance submit a written petition as part of the application. The written petition must clearly describe how the variance request satisfies all of the specific conditions necessary for the granting of the variance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance. (Use additional sheets if necessary.)

1. What special conditions and circumstances exist which are peculiar to your land, structure, building or sign that are not applicable to other lands, structures, buildings or signs in the same zoning classification. Are these special conditions and circumstances the result of actions by you?

I bought the house with these infractions already there. If I where to correct them I would have to cut the roof of roof of end make structure bearing walls.

2. How would literal interpretation of the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification? How would this interpretation be an unnecessary and undue hardship on you?

I have already paid for these portions of the house upon purchase, it would cost me almost 40,000 in work.

3. Explain how the variance you are requesting is the minimum variance that will make possible the reasonable use of your land, building, structure, or sign.

With this variance I will be able to use my shower and keep my porch which I have already paid for in the price of the house.

4. How is your request consistent with the general intent and purpose of the Volusia County Zoning Ordinance and Comprehensive Plan, which are to promote public health, safety, morals, and the general welfare; and to preserve the character, appearance and aesthetic qualities of Volusia County?

The porch originally was rotted and covered in dirt because of strong westerly winds. I want to use and maintain it unless given in it will now look kept up and match the house if the variance is granted.

5. Explain how your request for a variance will not be injurious to the surrounding area.

My property on the west side is next to a retention area that is unbuildable land, so the porch is sneaking on open air.

Wooden deck on the west side is being removed.





**Inter-Office**  
*Memorandum*



**TO:** Susan Jackson, AICP Senior Planning Manager

**DATE:** October 10, 2021

**FROM:** Samantha J. West, Environmental Specialist III

**SUBJECT:** Parcel #: 3221-22-00-0010  
Case #: V-22-018

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Environmental Permitting (EP) has reviewed the application for a variance to minimum yard requirements on Urban Single-Family Residential (R-4) zoned property and provides the following report:

The subject property is located within the Halifax watershed and has been identified as containing suitable habitat for the gopher tortoise. The gopher tortoise is a Candidate species for federal protection and designated as threatened in the State of Florida. Any future development of the site will require compliance Division 17 *Gopher Tortoise Ordinance*, of the Land Development Code.

EP does not object to the variance request. However, any future development must comply with the applicable requirements of the Land Development Code at the time of building permit application.

Inter-Office  
Memorandum



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**To:** Susan Jackson, AICP  
Planning Manager

**Date:** October 10, 2021

**From:** Direne Ostrander  
Land Development Assistant II

**Subject:** V-22-018  
Parcel #: 3221-22-00-0010

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Land Development has reviewed the parcel involved in the subject variance to minimum yard requirements and provides the following determination:

The subject parcel consists of a whole platted lot 1 in Pierside Subdivision, MB 40, Page 78, which fronts on a paved publicly maintained road. The subject parcel complies with the county's subdivision regulations.

Please call the Land Development Office at 386-736-5942 for any questions.

## Photographs

Photo of porch prior to renovations. Wood deck in front of porch to be removed.



Photo of porch undergoing renovation to a "Florida Room".



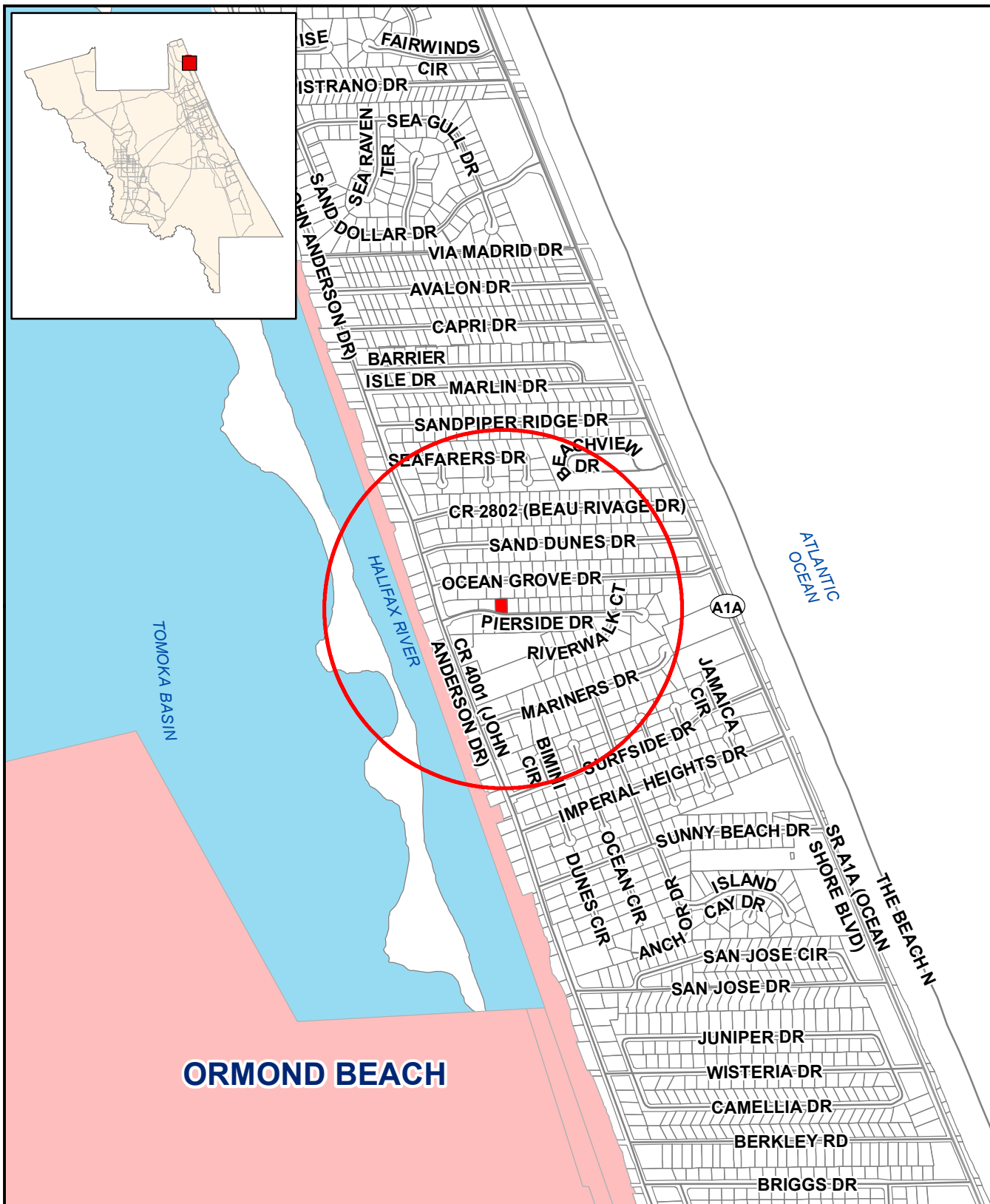
Photo showing retention pond area adjacent to west side of house.




View of east façade off-set.



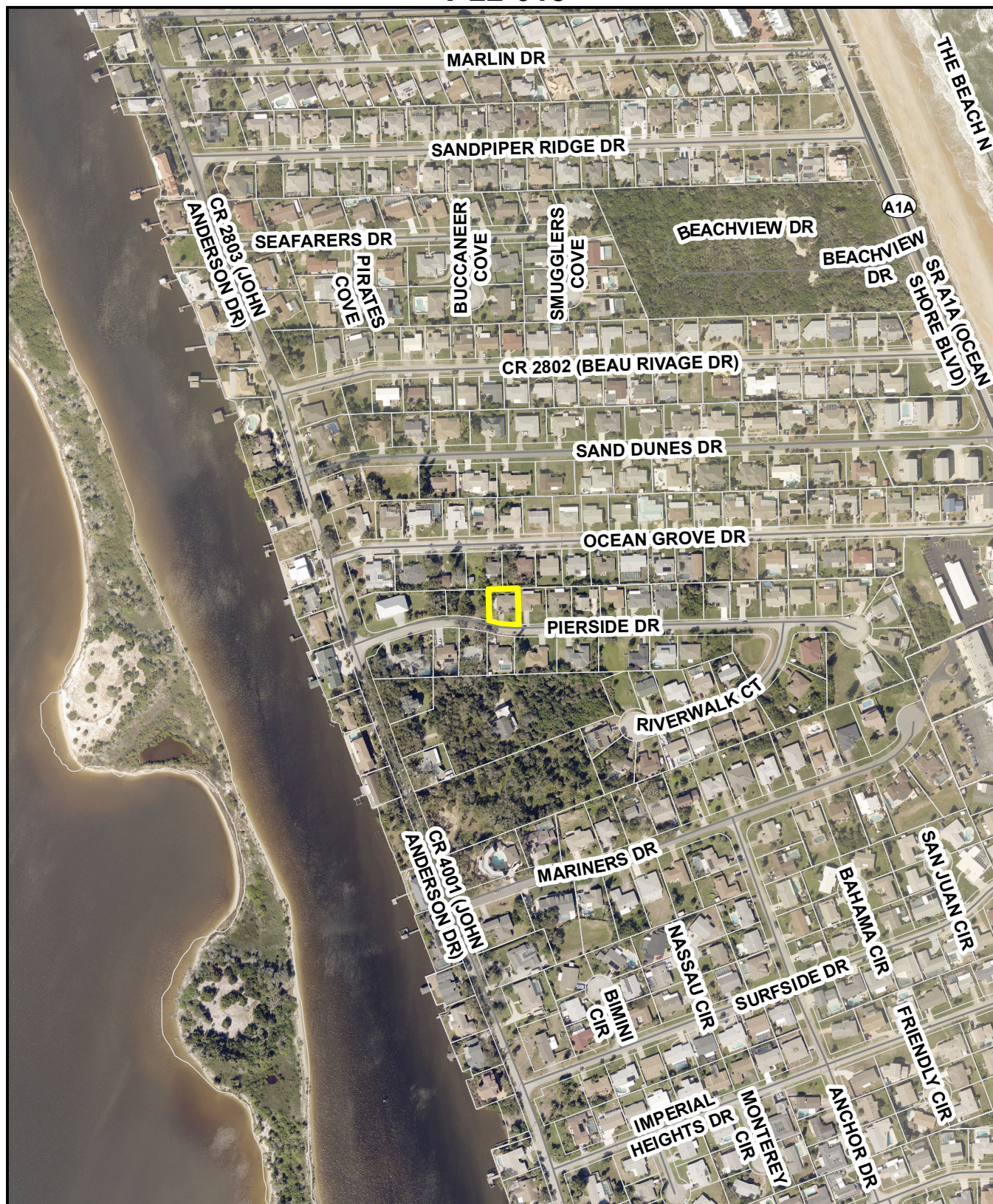
# PROPERTY LOCATION V-22-018



 SUBJECT PROPERTY

 1" = 1,000'  
9/30/2021

# AERIAL V-22-018



 SUBJECT PROPERTY






IMAGE DATE 2021



1" = 400'  
9/30/2021

# ZONING CLASSIFICATION V-22-018



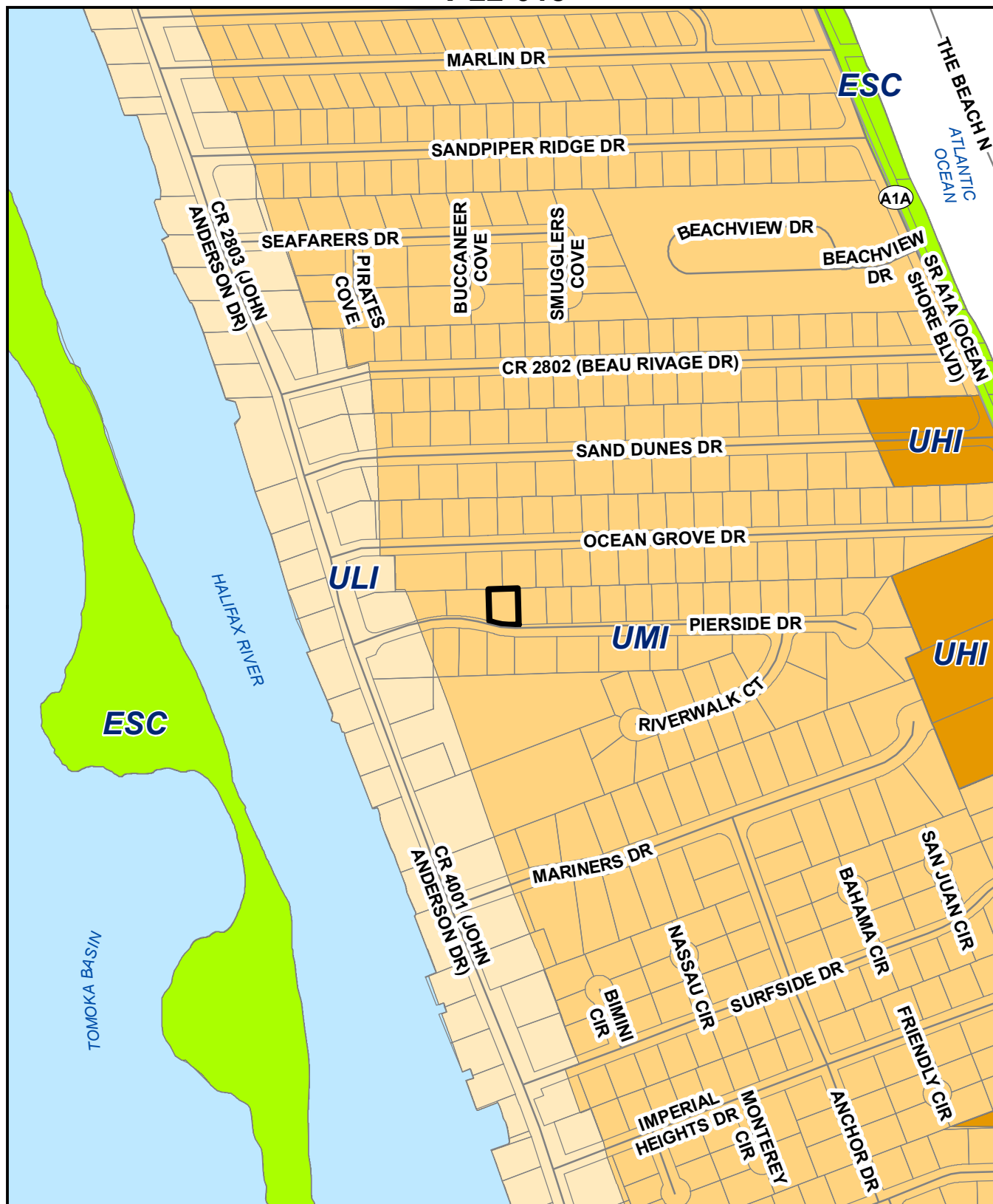
-  SUBJECT PROPERTY
-  ZONING BNDY
-  RESIDENTIAL
-  INCORPORATED
-  RESOURCE CORRIDOR



1" = 400'  
9/30/2021



# FUTURE LAND USE V-22-018



 SUBJECT PROPERTY

 ENVIRONMENTAL SYSTEMS CORRIDOR

 URBAN HIGH INTENSITY

 URBAN LOW INTENSITY

 URBAN MEDIUM INTENSITY

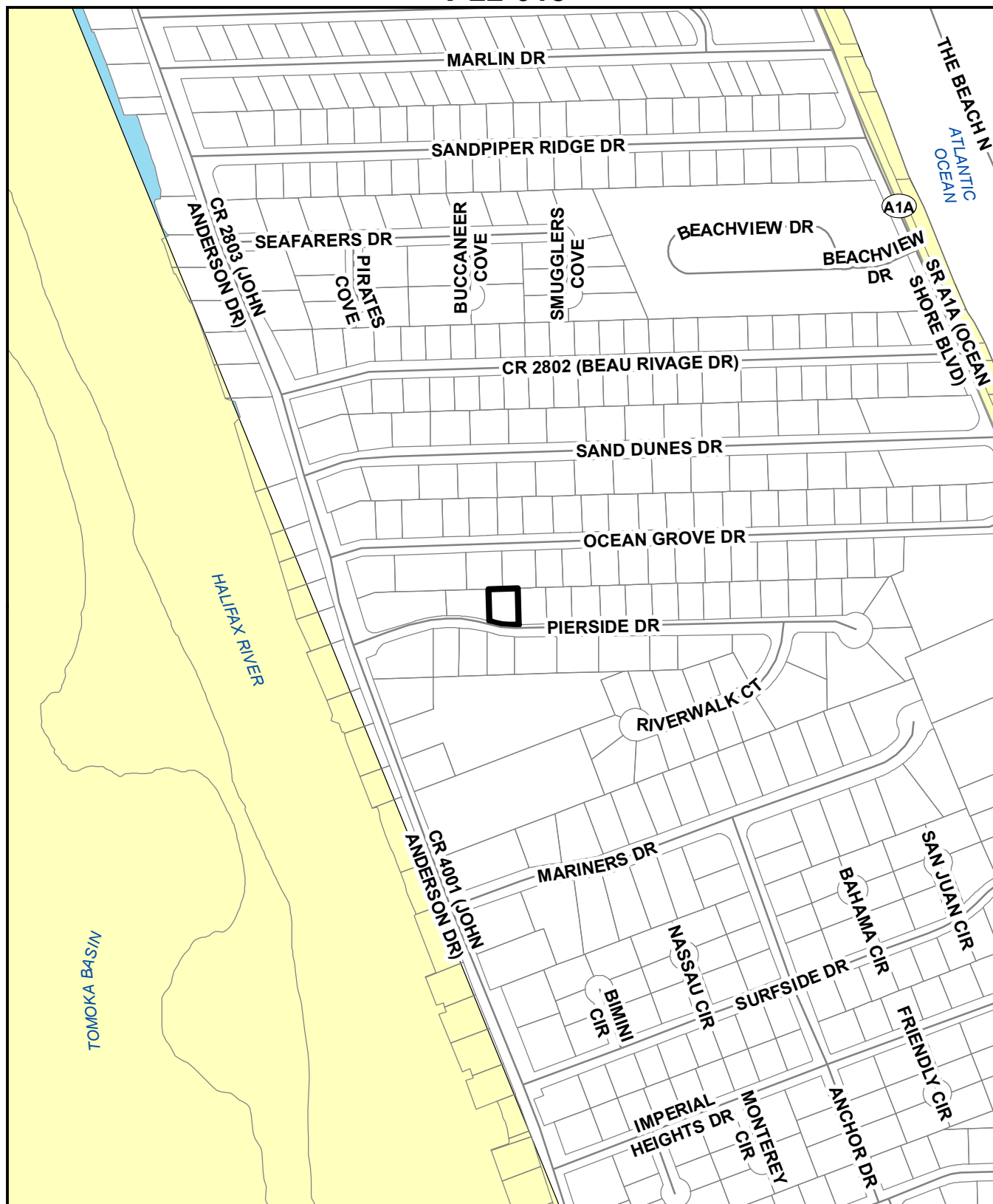





1" = 400'

9/30/2021

 WATER

# ECO/NRMA OVERLAY V-22-018



-  SUBJECT PROPERTY
-  ECO
-  NRMA



1" = 400'  
9/30/2021