



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
CURRENT PLANNING ACTIVITY
123 W. Indiana Avenue, DeLand, FL 32720
(386) 943-7059

PUBLIC HEARING: February 11, 2014 - Planning and Land Development
Regulation Commission (PLDRC)

CASE NO: V-14-018

SUBJECT: Variance to the minimum waterfront yard requirement for an
addition to a single-family dwelling on Urban Single Family
Residential (R-3) zoned property.

LOCATION: 3670 John Anderson Drive, Ormond by the Sea

APPLICANT: George H. & Sheila E. Brown

OWNERS: George H. & Sheila E. Brown

STAFF: William Gardner, Activity Project Manager

I. SUMMARY OF REQUEST

The applicant is requesting variances to the minimum waterfront yard for an enclosed glassed sunroom, screened patio and walkway. During the staff review of the survey, it was determined that an existing \pm 61 square-foot accessory structure did not meet the minimum side yard for R-3 zoned property and was not approved through a building permit.

A site visit also revealed that a boat trailer and cargo utility trailer are stored within a portion of the subject property's side and waterfront yards but also located on the adjacent property to the south. The proposed enclosures require the variances and the existing shed and trailers will require relocating to meet the minimum side and waterfront yards or removal as conditions.

The requested variances are as follows:

A variance for a waterfront yard from the required 25 feet to 10 feet for an enclosed sunroom, and screened patio addition to a single-family dwelling on Urban Single-Family Residential (R-3) zoned property.

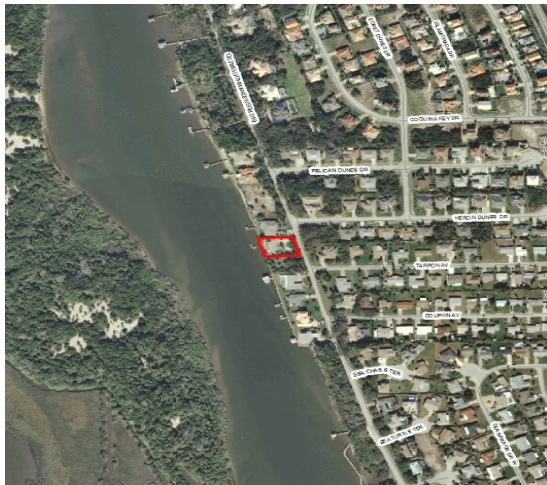
Staff recommendation: Approval with staff recommended conditions

II. SITE INFORMATION

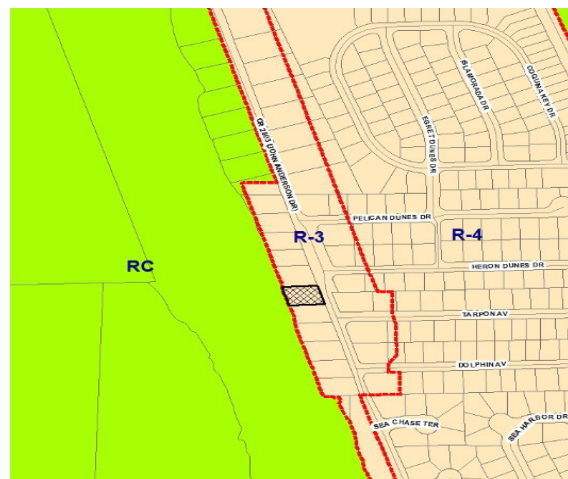
1. Location: The property is located on the west side of John Anderson Drive, approximately 80 feet south of its intersection with Heron Dunes Drive, Ormond by the Sea.
2. Parcel No(s): 3217-00-01-0020
3. Property Size: \pm 15,250 square feet / 0.35 acres
4. Council District: 4
5. Zoning: Urban Single-Family Residential (R-3)
6. Future Land Use: Urban Low Intensity (ULI)
7. ECO Overlay: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	Urban Single-Family Residential (R-3)	Urban Low Intensity (ULI)	Single-family dwelling
East:	Urban Single-Family Residential (R-3)	Urban Low Intensity (ULI)	Vacant Lot and Single-family dwelling
South:	Urban Single-Family Residential (R-3)	Urban Low Intensity (ULI)	Vacant Lot
West:	Resource Corridor (RC)	NA	Halifax River

10. Location Maps:



2009 AERIAL MAP



LOCATION AND ZONING MAP

II. BACKGROUND AND PREVIOUS ACTIONS

The property is part of the Burre Unrecorded Subdivision Referenced #1099 approved in 1983. A revetment and single-family dwelling were constructed in 1984, while a screened patio and in-ground spa were added as miscellaneous improvements on the property record card in 1987. Staff found no building permits for the latter improvements. A recent site visit on December 31, 2013, revealed that the screened patio had been removed without a demolition permit and the spa was still in place. In addition, the applicants have a + 61-square foot shed that extends onto an adjoining lot, which they have stated will be relocated onto their lot with a permit.

The R-3 zoning requires a minimum lot size area of 10,000 square feet, and a minimum 30 feet for the front yard and 25 feet for the waterfront yard. The property has approximately 15,250 square feet and the dwelling has a front yard setback of 59 feet and a rear yard setback of 18 feet as the closest corner location for the rear of the dwelling which did not meet the minimum waterfront yard of 20 feet at the time (1984) when the dwelling was constructed.

The applicant seeks a waterfront yard variance approval to build a glassed sunroom (610 square feet), screened patio and walkway (240 square feet) additions to the existing single-family dwelling on property located on John Anderson Drive and the Halifax River. Though enclosed with different materials, the glassroom and screened patio will share a common roof structure.

Per site plan, the proposed additions are located ten feet from the existing rip rap rock revetment. The existing brick patio on the southwest corner of the house will be screened, and connected to the sunroom with a five-foot wide screened walkway.

Waterfront yards (i.e. setbacks) for properties with a revetment are measured from the top of bank of the revetment, consistent with Section 72-294 *Waterfront Yards* of the zoning code.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1) a. 4 *Variances* of the zoning code 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.***

The R-3 zoned property has a minimum 25-foot waterfront yard and the lot is measured from the top of bank of the rip rap rock revetment, which has existed on the property since 1984. Based on review of the property survey, the upper limit of the top of bank/rip rap rock revetment is ±10 feet from the proposed glassed sunroom and screened patio/walkway.

There are special circumstances that are peculiar to the land and structure in that the dwelling construction in 1984 placed the structure beyond the minimum 30-foot front yard (approximately at 59 feet) and left nominal land area for the dwelling expansion towards the rip rap rock revetment. Adhering to the minimum 25-foot waterfront yard would only allow a 288-square-foot glassed sunroom and no screened patio or walkway. In order to construct the proposed screened and glassed enclosures, expansion towards the seawall into the 25-foot waterfront yard is the only alternative, as the side yards do not provide sufficient land area.

Staff finds that the requested variance meets this criterion.

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

The applicant purchased the property in March 2013 with the special circumstances of the limited amount of waterfront yard area available due to the close proximity of the revetment when the dwelling was constructed in 1984. The circumstances are not the result of the applicant.

Staff finds that the requested variance meets this criterion.

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.*

The property's limited waterfront yard area is comparable to other waterfront properties located between John Anderson Drive and the Halifax River.

Literal interpretation of the provisions of the zoning code would permit a limited amount of land area (288 square feet) to construct the glassed sunroom with an irregular shaped floor area for indoor living. The screened patio and walkway would be located within the minimum 25-foot waterfront yard with no options to locate elsewhere on the property. The proposed locations of the additions provide reasonable adaptation of the existing outdoor brick patio areas.

Staff finds that the requested variance meets this criterion.

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

The enclosed sunroom will be limited to the existing footprint of the brick patio although replaced by new flooring. The existing small brick patio will be screened enclosed as well as the five-foot wide walkway that connects to the sunroom. The proposed placement of the new structures in relation to the waterfront yard will make possible a reasonable use of the land in relation to the dwelling. The vertical construction of the enclosures will not

obscure the view from the north adjoining property as it is landscaped with tall shrubs and the dwelling is located further west than the subject residence. The property to the south is vacant. To ensure that the variances are the minimum requested, the proposed enclosed glassed sunroom and screened patio and walkway as shown on the variance site plan shall not be expanded in the future without approval of a new variance application.

Staff finds that the requested variance meets this criterion.

- 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.***

Granting the requested variance of 10 feet for the enclosed sunroom, patio and walkway would be in harmony with the zoning code and would have negligible affect on essential governmental services. The requested variances are doubtful to create fire hazards, or significantly block light, air, views and unlikely to be injurious to the immediate area. The developed portion of the Burre Unrecorded Subdivision #1099, are single-family dwellings with the typical enclosed swimming pools, patios, boat docks and lots of the equivalent size.

Staff finds that the requested variance meets this criterion.

V. STAFF RECOMMENDATION

Staff finds that the application can meet all five criteria to grant the requested variances with the staff recommended conditions. Therefore, staff recommends approval of requested variance to a waterfront yard from the required 25 feet to 10 feet for an enclosed sunroom and screened patio addition to a single-family dwelling on Urban Single-Family Residential (R-3) zoned property, subject to the following conditions:

1. The 10-foot variance shall apply to the enclosed sunroom, and screened patio area as shown on the variance site plan, which is a modified copy of the boundary survey prepared by Sliger & Associates, Inc., Job No. 13-0988, dated October 9, 2013, and certified to Suncoast Roofing & Construction and George H. & Sheila E. Brown. Any future expansion of the structures beyond the proposed footprints not in compliance with the applicable zoning code requirements shall require approval of a separate variance application.
2. The existing \pm 61 square-foot accessory structure will be removed or relocated to comply with the zoning ordinance with an approved building permit.
3. The existing boat trailer and cargo utility trailer shall be relocated from the adjoining property to the south, and located outside of the side and waterfront yards.

VI. ATTACHMENTS

- Written Petition
- Variance Site Plan
- Survey
- Applicant Photos
- Site Visit Photos
- Reviewer Comments
- Maps

VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, 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. 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.

**VOLUSIA COUNTY
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, as listed in the Ordinance.

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):

- A. What special condition(s) and circumstance(s) exist which are peculiar to your land, structure, building, or sign and are not applicable to other lands, structures, buildings, or signs in the same zoning classification? Were these special condition(s) and circumstance(s) the result of actions by you?

SCREEN ENCLOSURE WAS NOT BUILT PROPERLY

- B. How would literal interpretation of the Zoning Ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification and be an unnecessary and undue hardship on you?

OTHER PROPERTIES IN THE IMMEDIATE AREA ARE

BUILT INSIDE THE EXISTING SETBACKS

- C. Explain how the Variance(s) you are requesting is/are the minimum Variance(s) that will make it possible for you to make reasonable use of your land, building, structure or sign:

A VARIANCE WILL HELP US BUILD A PROPERLY

PERMITTED SUN ROOM + SCREEN ROOM + REMOVE

A BELOW GROUND HOT TUB THAT MAY BE SHORTING

OUT BELOW CONCRETE

- D. The general intent and purpose of the Zoning Ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10 is to lessen congestion in the streets; to promote public health, safety, morals, and the general welfare; to properly provide for the use of land and governmental services; and to preserve the character, appearance, and aesthetic qualities of Volusia County by regulating signs.

1. Is your request for Variance(s) consistent with this intent and purpose?

WE DO BELIEVE IT IS.

and

2. Explain how your request for Variance(s) will not be injurious to the surrounding area:

WE BELIEVE THE NEW SUN ROOM + SCREEN ROOM
WILL BE BUILT IN ACCORDANCE TO TODAYS BUILDING
CODE + WE INCREASE PROPERTY VALUE


 Applicant's Signature

 Date

 Applicant's Signature

 Date

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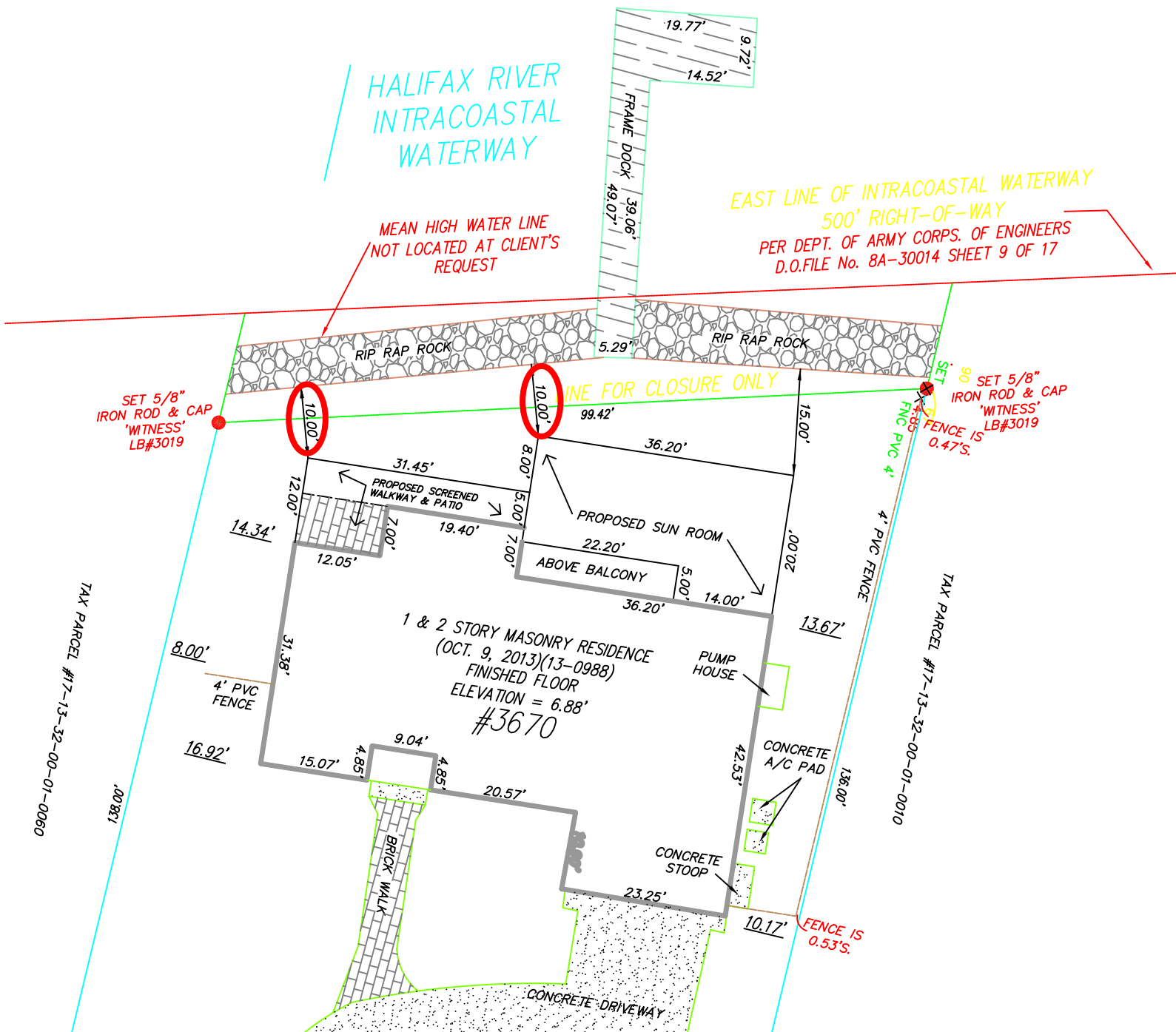
WE BELIEVE THE NEW SUN ROOM + SCREEN ROOM
WILL BE BUILT IN ACCORDANCE TO TODAY'S BUILDING
CODE + WE INCREASE PROPERTY VALUE


Applicant's Signature

Date


Applicant's Signature

Date



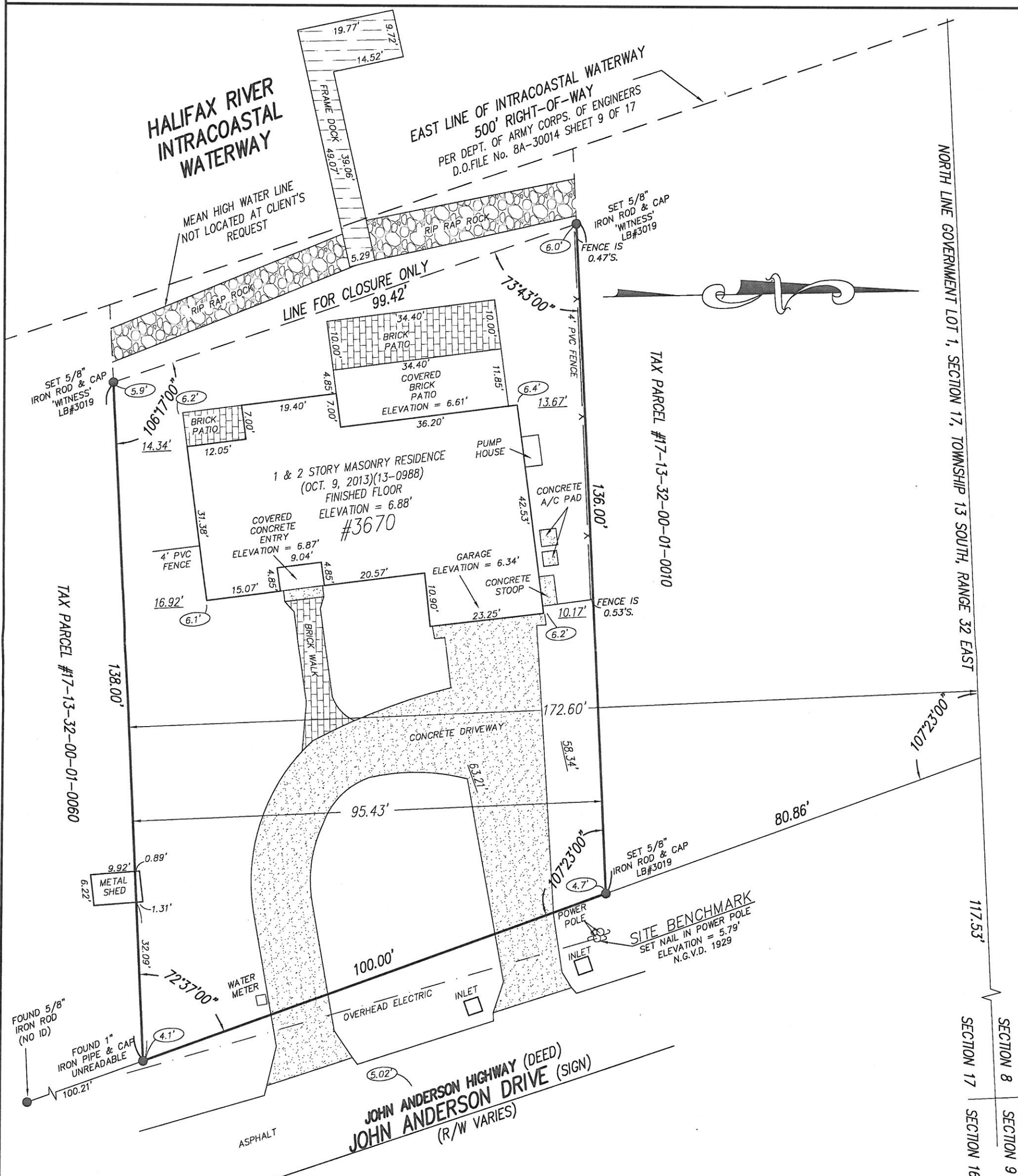
PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

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DESCRIPTION: PER OFFICIAL RECORDS BOOK 6834, PAGE 3191 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THAT PART OF OF THE SOUTH 95.43 FEET OF THE NORTH 172.6 FEET OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 13 SOUTH, RANGE 32 EAST, VOLUSIA COUNTY, FLORIDA AS LIES WESTERLY OF THE JOHN ANDERSON HIGHWAY AND EASTERLY OF THE INTRACOASTAL RIGHT OF WAY. TOGETHER WITH ANY AND ALL RIPARIAN AND LITTORAL RIGHTS THAT MAY BE APPERTAINING THERETO.

DATA FILE: 130988.TXT

JOB # 13-0988

SCALE: 1"=20'

FIELD BOOK: 1336

PAGE(S): 32

BOUNDARY SURVEY

ABBREVIATIONS		SHEET 1 OF 2	
(P)	PLATTED DIMENSION		LEGEND
(D)	DEEDED DIMENSION	●	IRON ROD WITH CAP
(M)	MEASURED DIMENSION	○	IRON PIPE
(C)	CALCULATED DIMENSION	□	CONCRETE MONUMENT
ID	IDENTIFICATION	■	PERMANENT REFERENCE MONUMENT
A/C	AIR CONDITIONER	△	PERMANENT CONTROL POINT
R/W	RIGHT OF WAY	(R)	RADIAL LINE
℄	CENTERLINE	(NR)	NON-RADIAL LINE
D	CENTRAL ANGLE	○	EXISTING ELEVATION
R	RADIUS	□	PROPOSED ELEVATION
L	ARC LENGTH		
CB	CHORD BEARING		
FP&L CO.	FLORIDA POWER & LIGHT COMPANY		
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM		
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY		

PROFESSIONAL LAND SURVEYORS

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

SURVEYORS NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.
2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
3. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
4. THIS PROPERTY IS LOCATED IN FLOOD INSURANCE RATE MAP (F.I.R.M.) ZONE "AE". THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M. MAP NO. 12127C0064 G. MAP EFFECTIVE DATE: APRIL 15, 2002. APPROXIMATE SCALE: 1"=500'
5. ELEVATIONS REFER TO N.G.V.D. OF 1929 PER U.S.C. & G.S. BENCH MARK R-18 HAVING A PUBLISHED ELEVATION OF 23.92 FEET.
6. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)

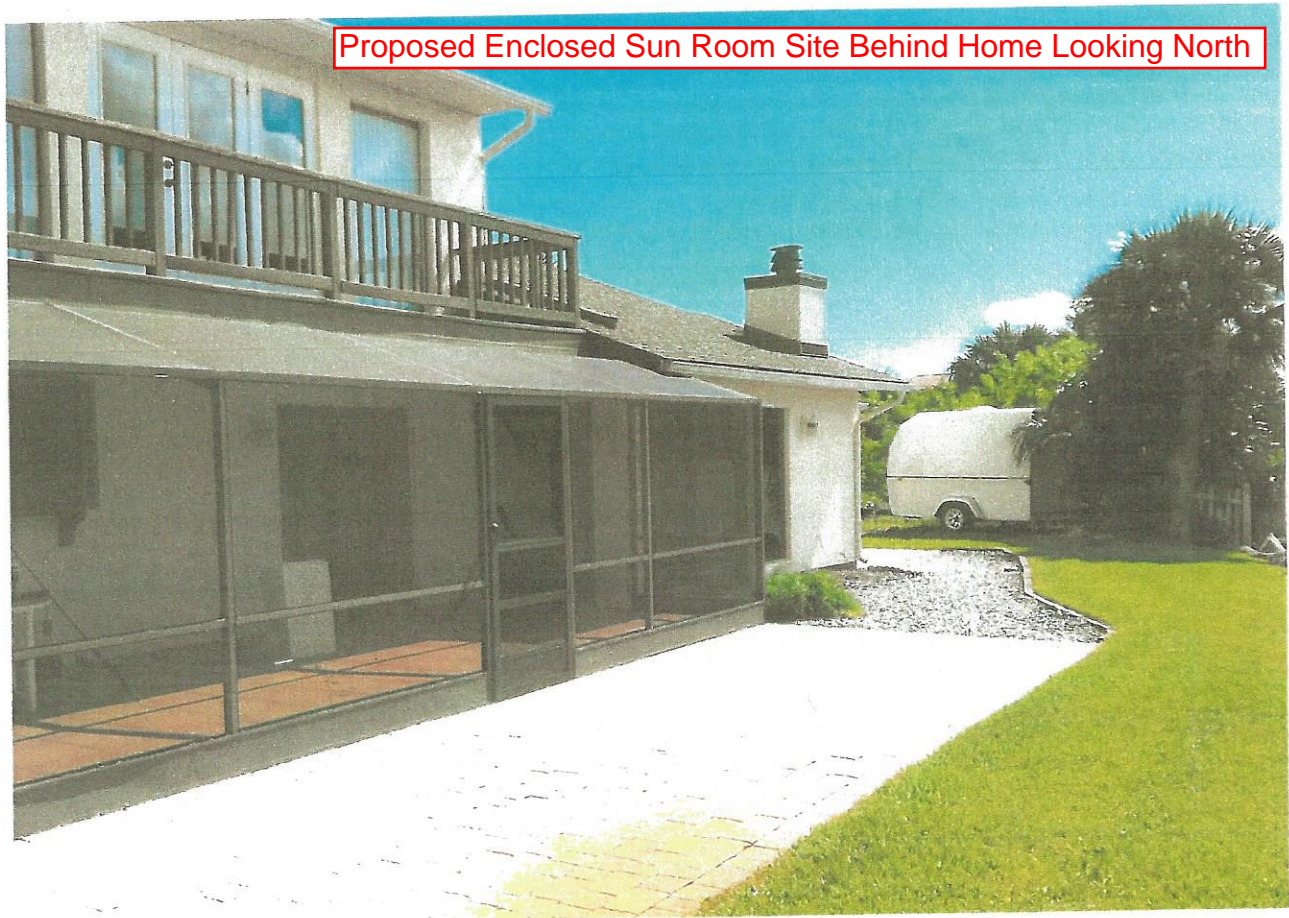
[illegible]

VALID WITH SIGNATURE & EMBOSSED SEAL ONLY

	DATE	JOB NO.	P.C.	DRW.	CHECKED BY
SKETCH OF DESCRIPTION					
BOUNDARY	OCT. 9, 2013	13-0988	JL	JR	STK
TOPOGRAPHIC INFORMATION					
FOUNDATION LOCATED					
FINAL IMPROVEMENTS					
RECERTIFICATION					
PROPOSED HOUSE LOCATION					

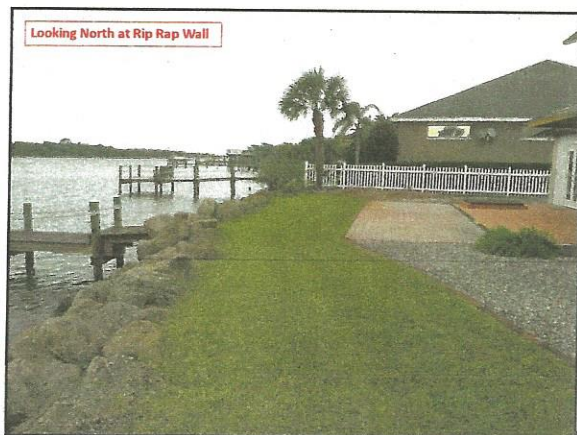
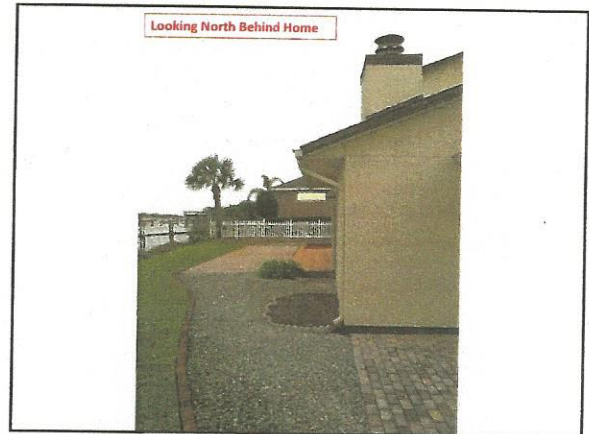
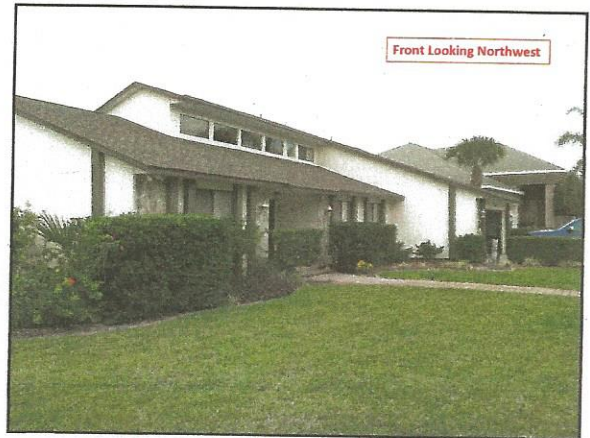
I HEREBY CERTIFY THAT THIS PLAT
MEETS THE MINIMUM TECHNICAL
STANDARDS SET FORTH BY THE
FLORIDA BOARD OF PROFESSIONAL
SURVEYORS AND MAPPERS IN CHAPTER
5U-17.05, FLORIDA ADMINISTRATIVE
CODE, PURSUANT TO SECTION 472.027,
FLORIDA STATUTES.

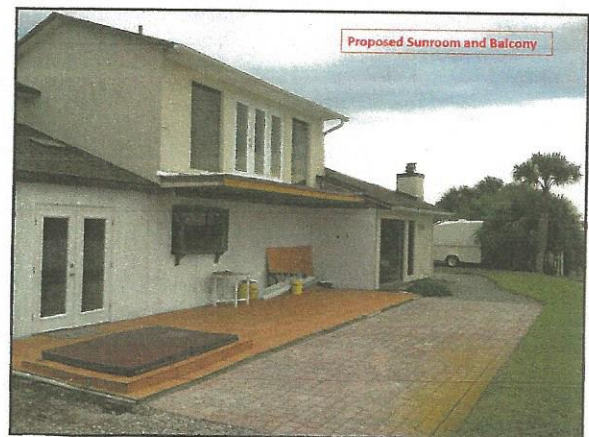
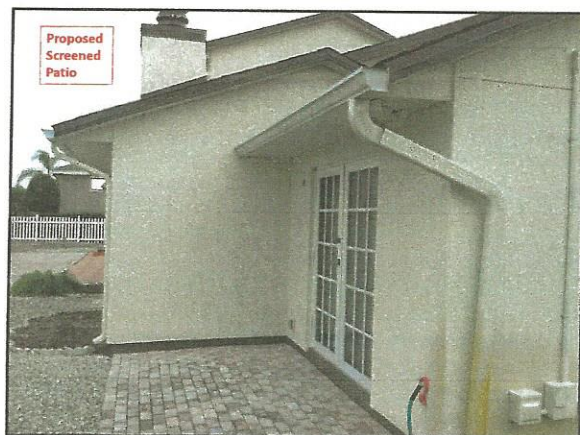
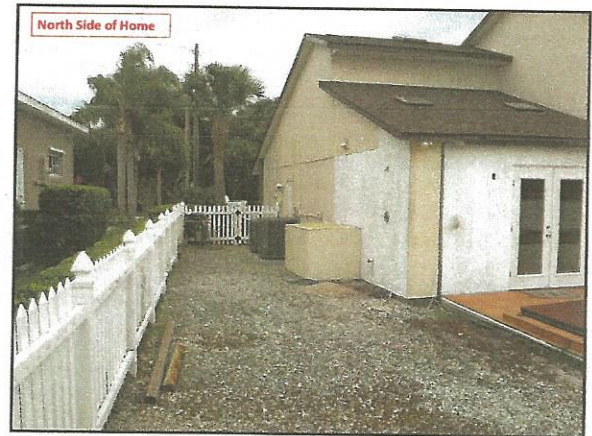
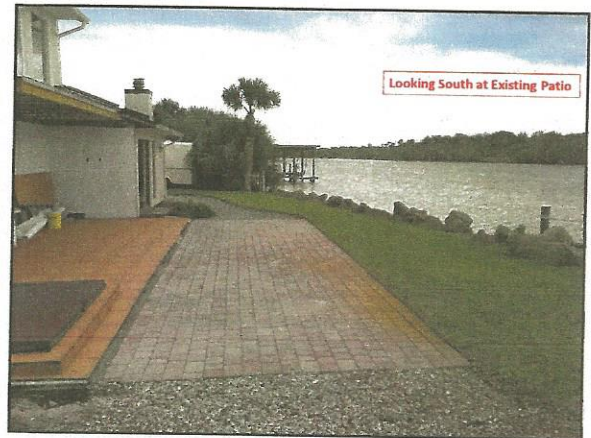
J.E. ZAPERT, P.L.S. NO. 4046
STEVEN T. KRUGER, P.L.S. NO. 4722
C.O. VAN KLEECK JR., P.S.M. NO. 6149
MICHAEL S. MURPHY, P.S.M. NO. 6208

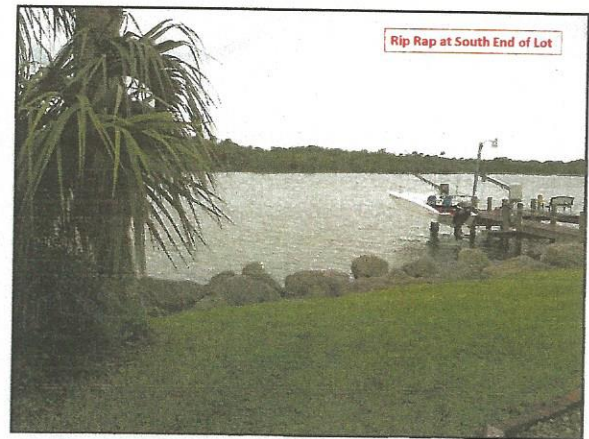
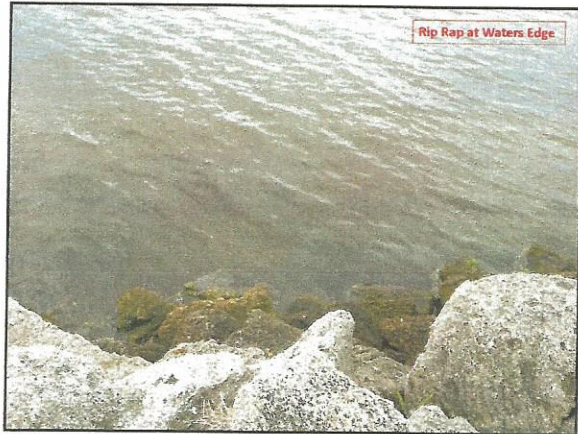


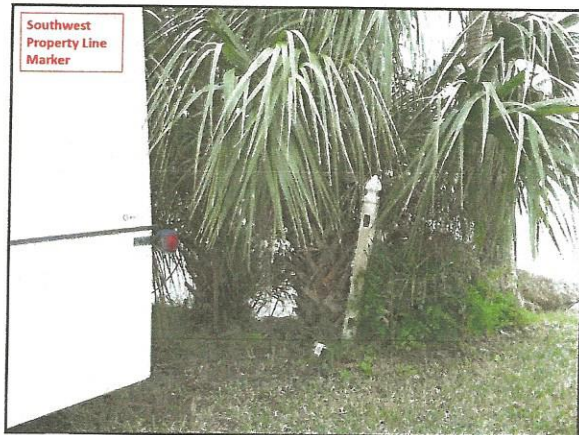


Site Visit Photos









**Inter-Office
Memorandum**



TO: Bill Gardner, Activity Manager **DATE:** January 30, 2014

FROM: Danielle Dangleman, Environmental Specialist III

SUBJECT: Planning & Land Development Regulation Commission meeting for
Date: February 11, 2013
Parcel #: 3217-00-01-0020
Case #: V-14-018, George and Shelia Brown, owners

Environmental Permitting (EP) has reviewed the application and conducted a site visit of the Brown property. The property lies along the Halifax River, which has an associated fifty (50) foot upland buffer because the Halifax River falls within the Natural Resource Management Area. According to the Property Appraiser's record card the home, seawall, porches, and boat dock were all built between 1984 and 1989. The County of Volusia's wetland ordinance was adopted in December of 1989; therefore most of the construction of the home and accessory structures were done prior to requiring a wetland alteration permit.

The work proposed with this variance will be in the wetland buffer and require a wetland alteration permit and mitigation. The mitigation will be determined by EP staff at the time of building permit application. EP has no objection to this variance.



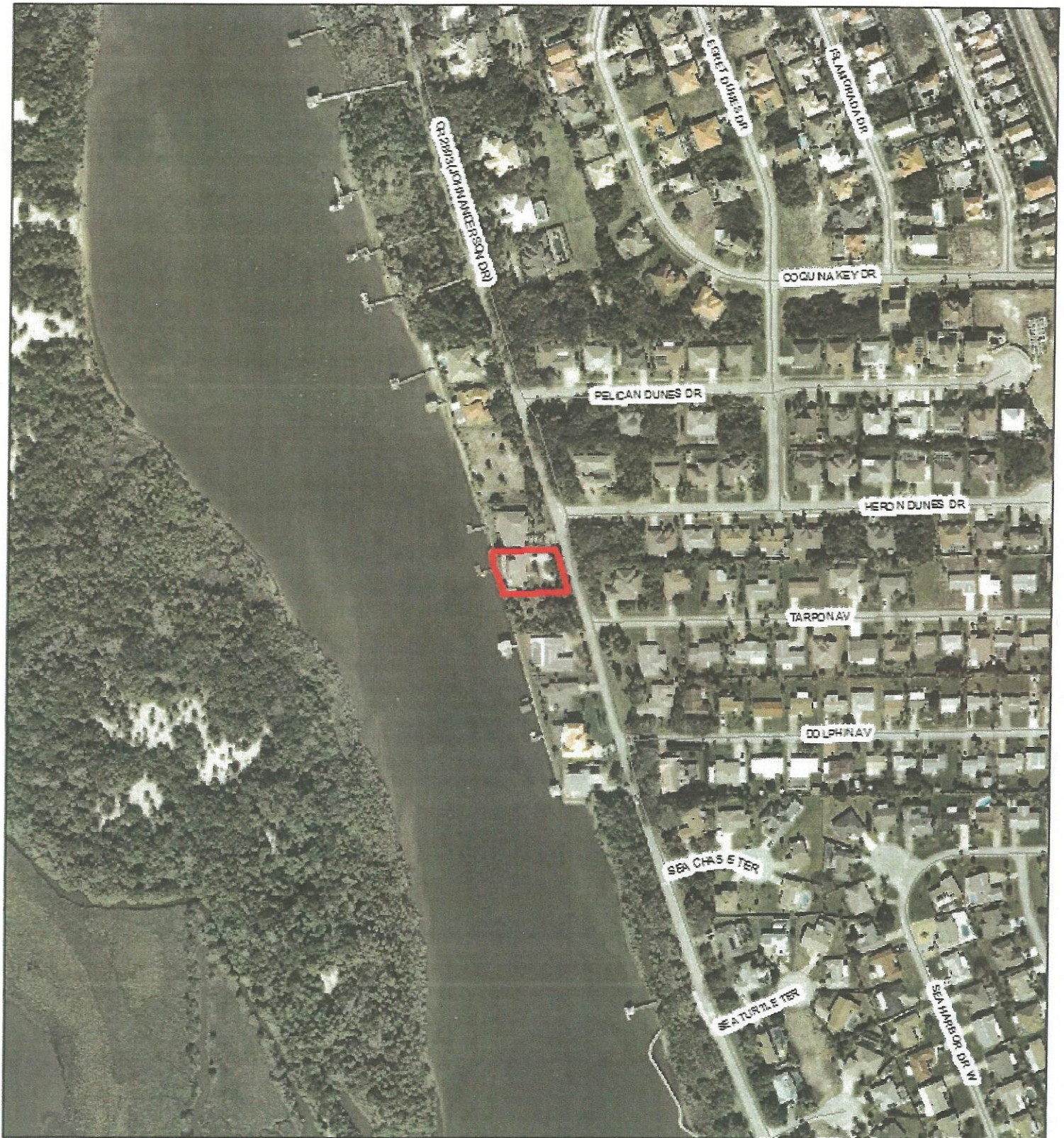
ZONING CLASSIFICATION

- RESIDENTIAL
- RESOURCE CORRIDOR
- REQUEST AREA

1 inch = 300 feet



**VARIANCE
CASE NUMBER
V-14-018**



AERIAL

IMAGE YEAR: 2012

1 inch = 300 feet

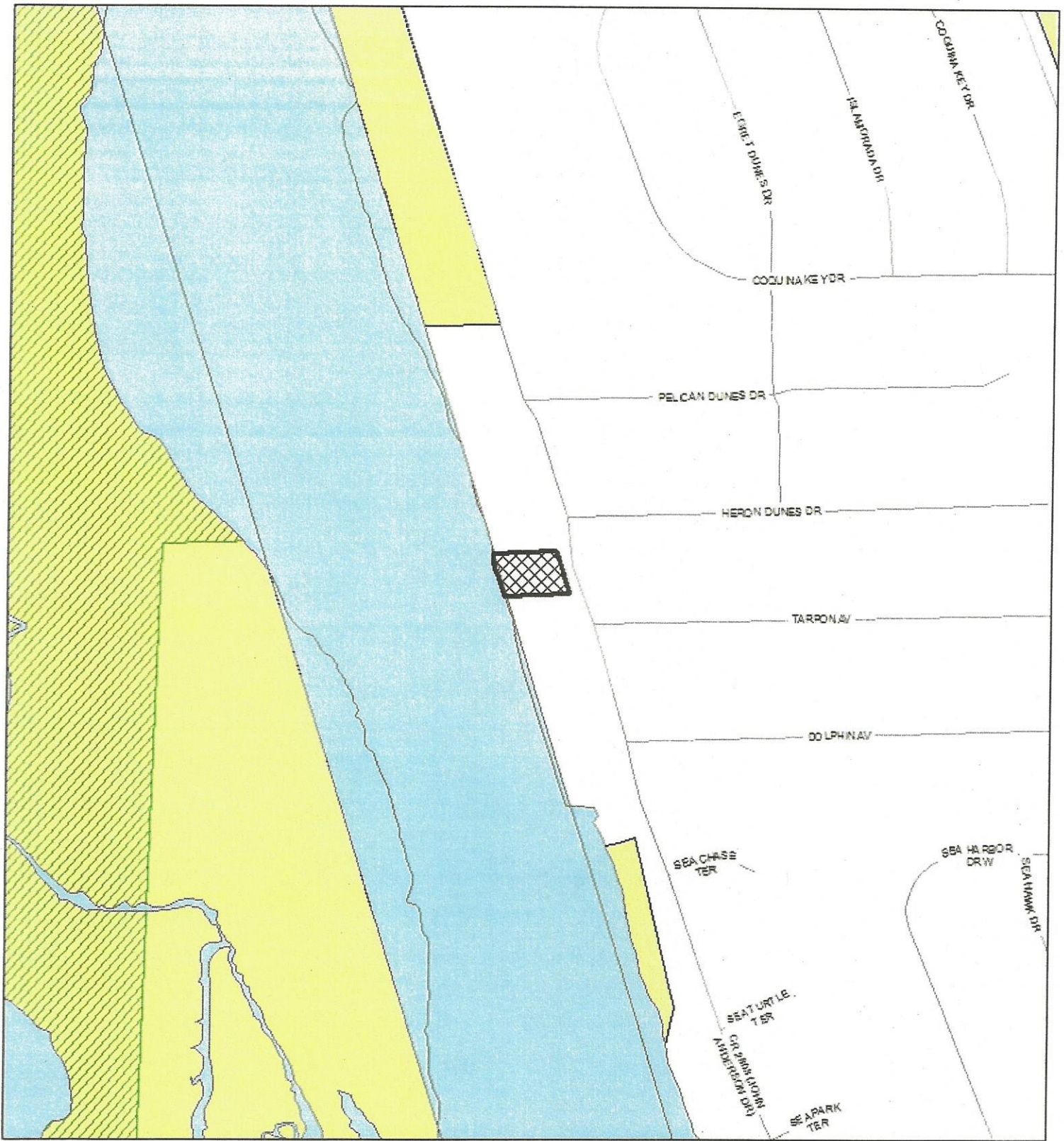


REQUEST AREA



**VARIANCE
CASE NUMBER**

V-14-018



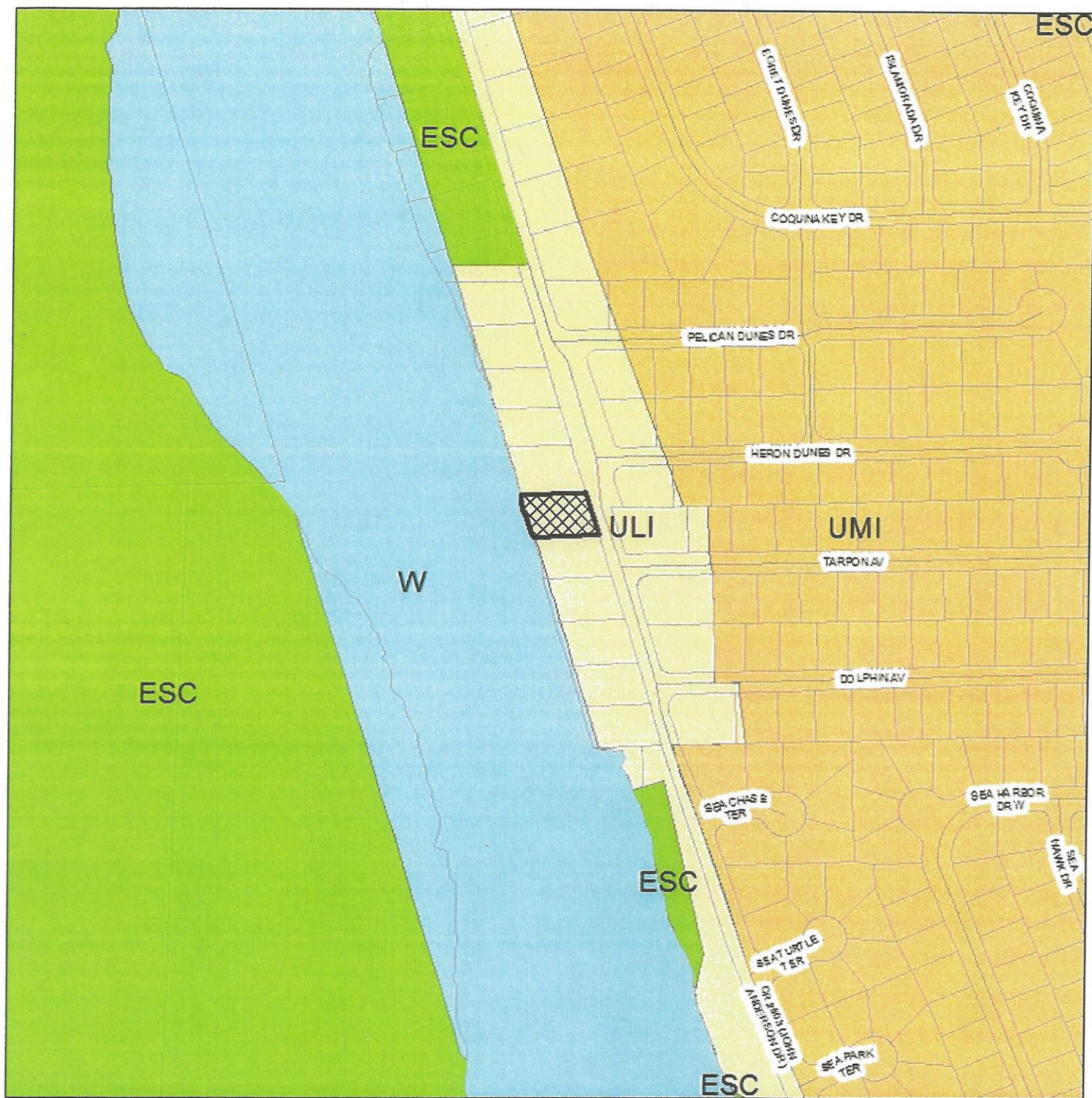
ECO/NRMA

ECO NRMA REQUEST AREA

1 inch = 300 feet



**VARIANCE
CASE NUMBER
V-14-018**



FUTURE LAND USE DESIGNATION

- ENVIRONMENTAL SYSTEMS CORRIDOR (5)
- URBAN LOW INTENSITY (1)

- URBAN MEDIUM INTENSITY (1)
- WATER (1)
- REQUEST AREA

1 inch = 300 feet

VARIANCE
CASE NUMBER
V-14-018

