



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
CURRENT PLANNING ACTIVITY**

123 W. Indiana Avenue, DeLand, FL 32720
(386) 736-5959

PUBLIC HEARING: August 11, 2015 – Planning and Land Development Regulation Commission (PLDRC)

CASE NO: V-15-046

SUBJECT: Variance to the maximum building height for a single-family residence on Urban Single-Family Residential (R-3) zoned property.

LOCATION: 2810 S. Peninsula Drive, Daytona Beach

APPLICANT: Matthew Lane, Blenheim Consulting LLC, agent for owner

OWNER: Fairhomes Gulf Coast Housing, LLP

STAFF: Carol McFarlane, AICP, Planner II

I. SUMMARY OF REQUEST

The applicant is requesting a variance to complete the review of a building permit application for a proposed single-family residence. The residence will be three-stories, with a building footprint of 2,980 square feet. The applicant is requesting an increase to the maximum height of the building by four feet.

Specifically, the applicant is requesting the following variance:

A variance to the maximum building height from the maximum allowed 35 feet to 39 feet for a single-family residence on Urban Single-Family Residential (R-3) zoned property.

Staff recommendation: Approval with staff recommended condition.

II. SITE INFORMATION

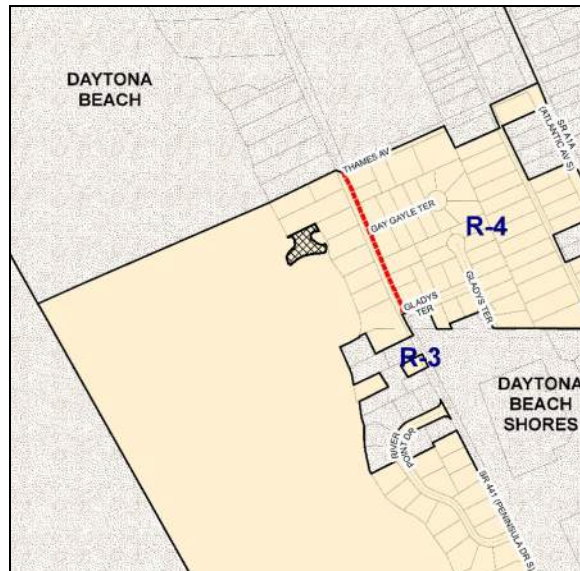
- 1. Location: The property is located on S. Peninsula Drive, approximately 150 feet north of its intersection with Gay Gayle Terrace, near Daytona Beach.
- 2. Parcel No(s): 5327-05-00-0220
- 3. Property Size: ± 17,598 square feet
- 4. Council District: 2
- 5. Zoning: R-3
- 6. Future Land Use: Urban Low Intensity
- 7. ECO Overlay: No
- 8. NRMA Overlay: No
- 9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	R-3	ULI	Single-Family Residence
East:	R-3	ULI	Halifax River and Single-Family Residences
South:	R-3	Water	Halifax River
West:	R-3	Water	Halifax River

10. Location Maps:



AERIAL MAP



ZONING MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The subject property is Parcel 2 of the Holmes Unrecorded Subdivision, approved in 1991. The property is an irregularly shaped peninsula on the Halifax River. The property connects to South Peninsula Drive by a private 25-foot wide access and utility easement on the eastern portion of the property. In July of 2013, the county council granted variances to the south and east waterfront yards to allow for construction of a single-family dwelling.

In October of 2014, the applicant met with county staff members to discuss construction of the future residence. There were multiple meetings between county staff and the applicant to discuss county regulations and the Florida building code. At some point, the applicant was given a misinterpretation of the definition of building height by county staff. Based on that misinterpretation, the applicant began to design plans that measured the building height from the height of the eaves, rather than the average height between the eaves and the ridge as required by code. It is the applicant's position that at this point, it would create a hardship for the applicant to redesign the construction plans to meet the county definition of building height.

Variance Site Plan

The building plans for permit number 20150526022 were used for the variance site plan for this application. A portion of the residence will be three stories, and will include a garage and a pool on the first floor. The footprint of the building is 2,980 square feet. However, not all of the building will be three stories; only the third story (1,601 square feet) will exceed the 35-foot building height maximum.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379 (1) a. 4 *Variances* of the zoning code contains five applicable criteria by which the PLDRC may grant a variance. Staff bases its evaluation 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.

Staff's misinterpretation of the definition of building height created the special circumstance in which building plans were designed and engineered that do not meet the maximum building height requirements of the R-3 zoning classification.

Staff finds that the variance request meets this criterion.

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

The special circumstance of a misinterpretation of code requirements by county staff is not the result of the applicant's actions.

Staff finds that the variance request 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.*

Literal interpretation of the zoning ordinance would require that the applicant redesign the building plans so that the building height meets the 35-foot height limitation as defined by the zoning code. According to the applicant's petition, it would cost an additional \$45,000 to re-engineer the construction plans. Enforcing the maximum building height on this project will work an undue hardship on the applicant as they relied on information provided by county staff.

Staff finds that the variance request 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 variance requested is the minimum variance necessary to make use of the proposed house construction plans as designed.

Staff finds that the 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.*

This variance request will not affect the intent and purpose of the comprehensive plan and not cause injury, safety hazards or deprive the general public of services. The requested variance will allow for a residence that is four feet taller than what the zoning code allows.

Staff finds that the variance request meets this criterion.

V. STAFF RECOMMENDATION

Staff finds that the application meets the five criteria required for the approval of a variance. Therefore, staff recommends approval of the variance to the maximum building height from the maximum allowed 35 feet to 39 feet for a single-family residence on Urban Single-Family Residential (R-3) zoned property, subject to the following condition:

1. The variance shall be limited to the single-family residence as depicted on the architectural plan and elevation drawing prepared by Pemberton Design and received by the Current Planning office on June 11, 2015. The structure shall not be enlarged, increased, or extended further to encroach or occupy a greater height without approval of a separate variance.

VI. ATTACHMENTS

- Written Petition
- Variance Site Plan
- Site Photographs
- Map Exhibits

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.

CURRENT PLANNING
ACTIVITY

JUN 11 2015

RECEIVED

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?

During meetings with the Volusia County Planning and
Development Dept. we were informed that the building height
constraint was a max of 35' from finished grade to the eaves
of the roof. Volusia County Zoning Review have now informed
us code is 35' to the mean roof height from finished grade.

- 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?

To meet the Zoning Review requirements would require
redesigning the entire house along with all associated
engineering at an approximate cost of \$45,000. The design and
engineering as submitted was done under the direction of advice
recieved from the Volusia County Planning and Development Dept.

- 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 to permit the max height of the building to be 40'
4.25" will allow us to build the home as designed and
engineered following the advice of Volusia County Planning
and Development Dept. without further undue hardship and cost
to Fairhomes for redesign and engineering.

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?

This development will replace an unsightly and poorly constructed property.
We have already promoted the Public Health and Safety by replacing the septic
system at a cost of \$72,000. This Variance will promote the General Welfare by
utilizing the highest and best use of the land while enhancing appearances,
aesthetically, in accordance with our previously approved Variance request,
which enjoys Neighborhood support.

and

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

An increase in roof height of Five feet Four and one-quarter inches
will have no negative impact on air traffic over the property, nor
would it result in appreciable diminishing of views, relative to the
overall building size.



Applicant's Signature

JUNE 10th 2015.

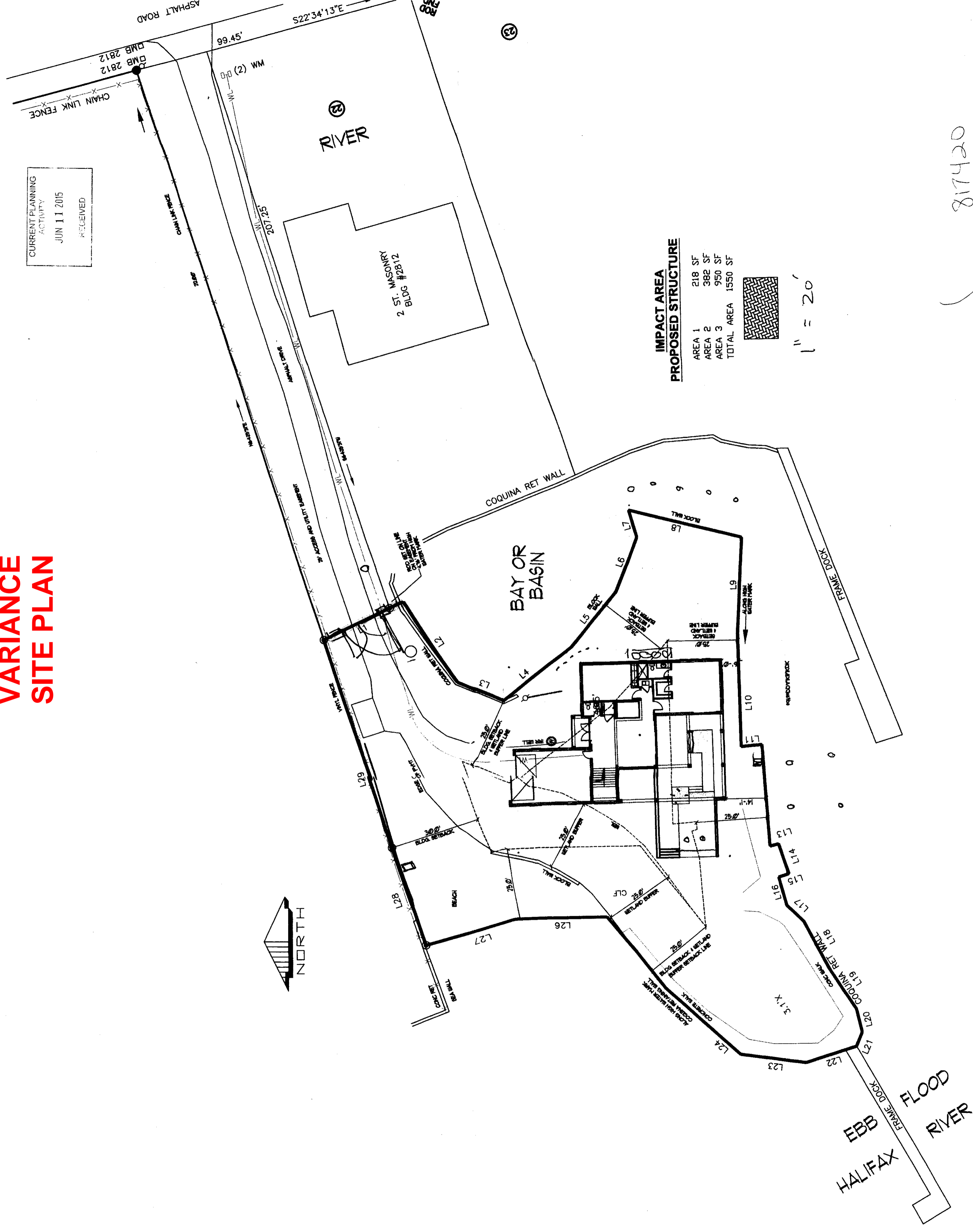
Date

Applicant's Signature

Date

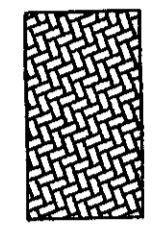
VARIANCE SITE PLAN

CURRENT PLANNING
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IMPACT AREA PROPOSED STRUCTURE

AREA 1	218 SF
AREA 2	382 SF
AREA 3	950 SF
TOTAL AREA	1550 SF



1" = 20'

817420

Site Photos – July 16, 2015
V-15-046
2810 S. Peninsula Drive



Driveway to 2810 S. Peninsula Drive is in between the two columns. 2812 S. Peninsula Drive is to the left.



Farther down the driveway of 2810 S. Peninsula Drive, this is a rear view of 2812 S. Peninsula Drive.

Site Photos – July 16, 2015
V-15-046
2810 S. Peninsula Drive



View of 2814 S. Peninsula Drive, from the construction area.



View of the eastern shore from the construction area.

Site Photos – July 16, 2015
V-15-046
2810 S. Peninsula Drive



View of 2806 S. Peninsula Drive (property to the north) from the construction area.

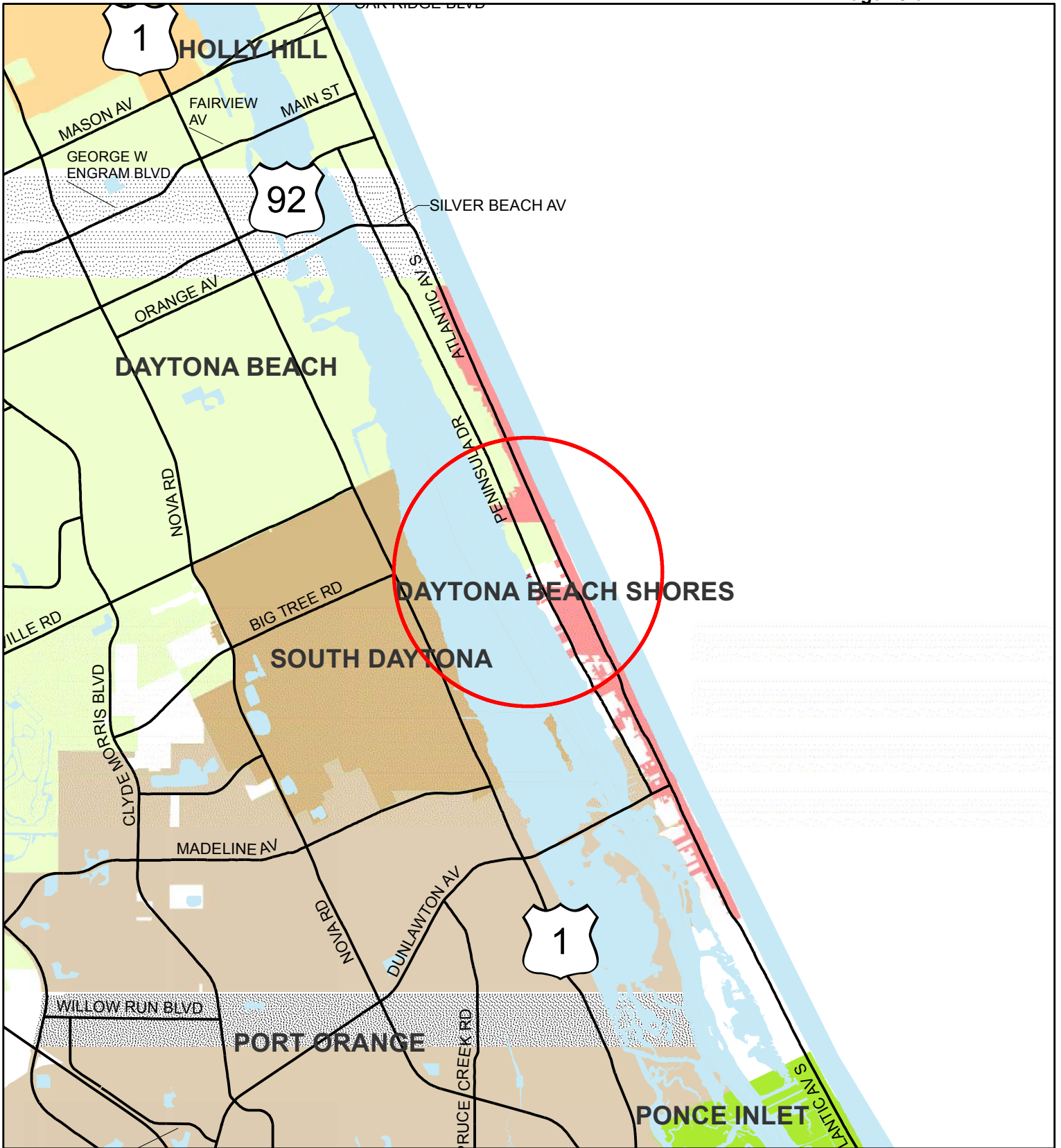


View of the northern shoreline from the construction area.

Site Photos – July 16, 2015
V-15-046
2810 S. Peninsula Drive




View of the southern shoreline from the construction area.



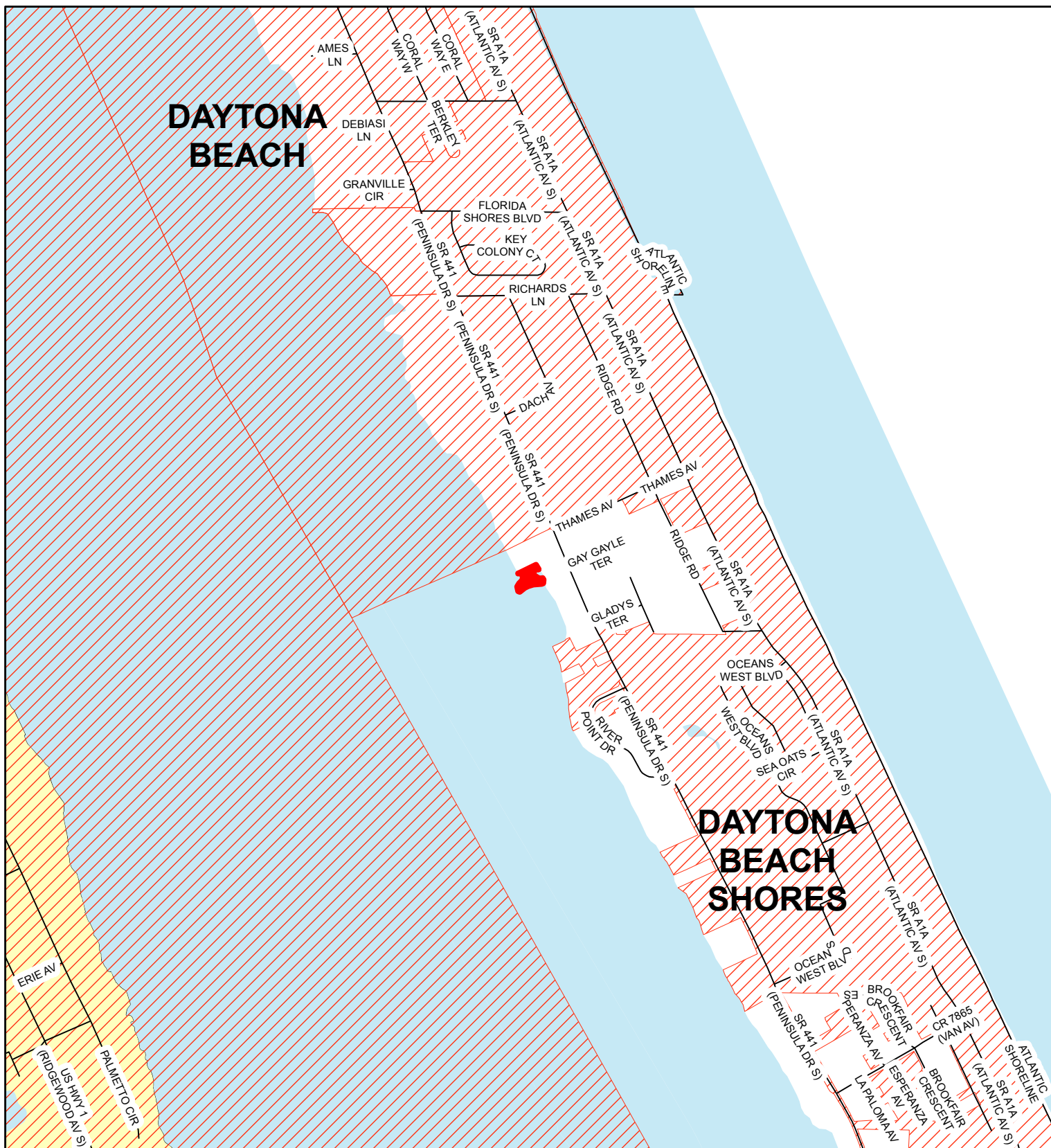
REQUEST AREA LOCATION

1" = 1 MILE

 REQUEST AREA



**VARIANCE
CASE NUMBER
V-15-046**



ECO/NRMA

- REQUEST AREA
- ECO
- NRMA

1 inch = 1,000 feet




VARIANCE CASE NUMBER

V-15-046



AERIAL 2012

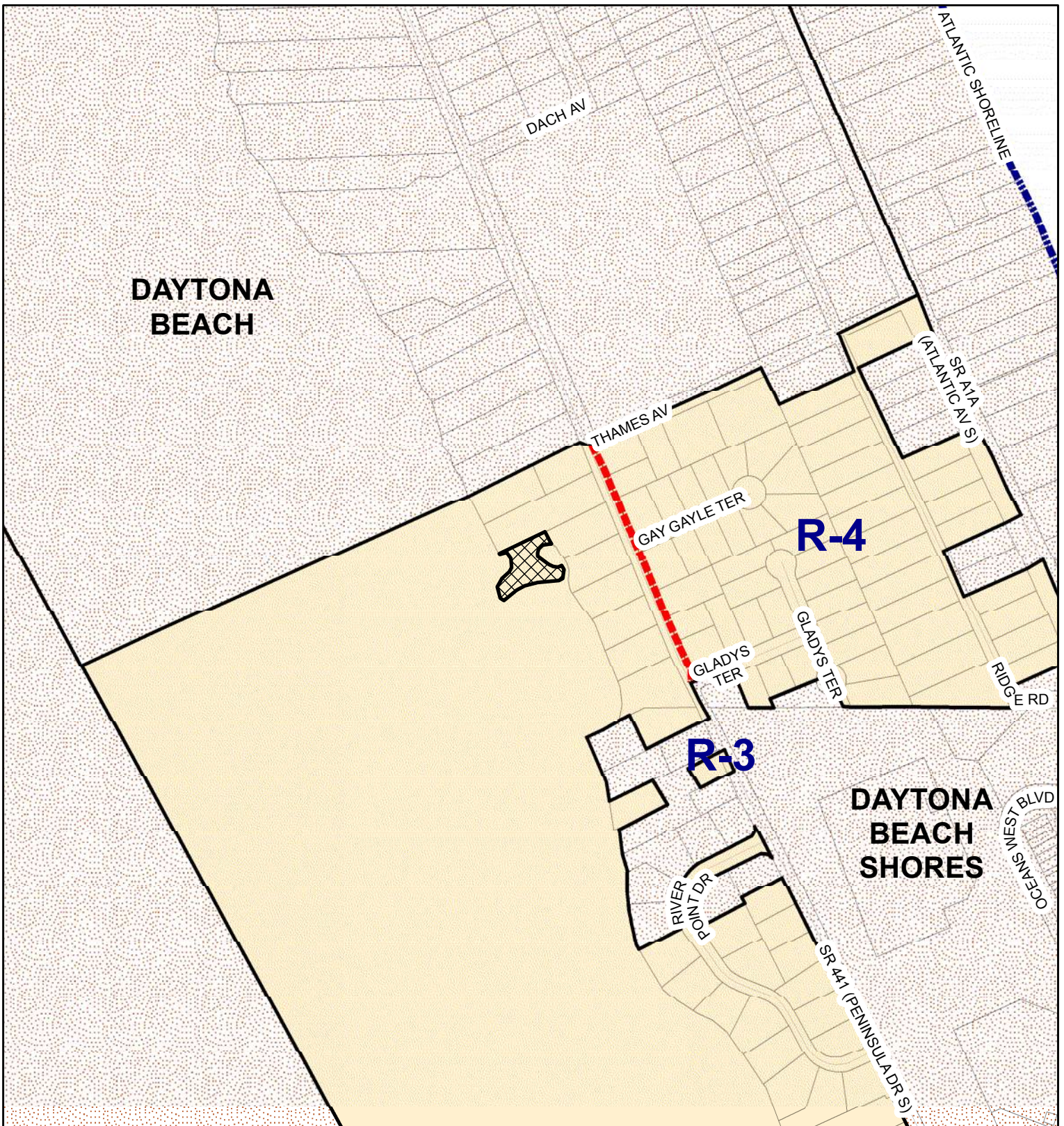
1 inch = 400 feet

 REQUEST AREA



**VARIANCE
CASE NUMBER**

V-15-046



ZONING CLASSIFICATION

1 inch = 400 feet

 REQUEST AREA
  INCORPORATED
  RESIDENTIAL



**VARIANCE
CASE NUMBER**

V-15-046



FUTURE LAND USE DESIGNATION

1 inch = 400 feet

VARIANCE CASE NUMBER

-  INCORPORATED
-  WATER
-  URBAN LOW INTENSITY
-  REQUEST AREA



V-15-046