



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-15-051

SUBJECT: Variances to minimum yard requirements for existing accessory structures on Urban Mobile Home/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W) zoned property.

LOCATION: 182 Colman Street, Edgewater

APPLICANT/OWNER: George Rodman

STAFF: Susan Jackson, AICP, Planner III

I. SUMMARY OF REQUEST

The applicant has applied for variances to reduce the minimum side yard requirements from 5 feet to 1.2 feet for an existing shed structure, covered boat slip and wood deck on Urban Mobile Home Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W) zoned property.

The requested variances are:

- Variance 1: A variance to Section 72-277(1) for an east side yard from the required 5 feet to 1.2 feet for an existing storage building; and,
- Variance 2: A variance to Section 72-278(5) for an east side yard from the required 15 feet to 1.2 feet for an existing covered boat slip/deck structure; and,
- Variance 3: A variance to Section 72-278(5) for an east side yard from the required 15 feet to 1.2 feet for a new six-foot extension of the covered boat slip/deck, all being located on Urban Mobile Home/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W) zoned property.

Staff recommendation:

Variance 1 and 2: Staff finds that variance 1 and 2 meet all five criteria for granting said variance and, therefore, recommends approval.

Variance 3: Staff finds that variance 3 does not meet all five criteria for granting said variance and, therefore, must recommend denial.

II. SITE INFORMATION

1. Location: The property is located on the south side of Coleman Street, approximately 2,000 feet east of the intersection of Coleman Street with Nellie Street, near the City of Edgewater.
2. Parcel No(s): 8538-0900-0510
3. Property Size: 6,550 square feet
4. Council District: 3
5. Zoning: Urban Mobile Home/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W)
6. Future Land Use: Urban Medium Intensity (UMI)
7. ECO Overlay: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	MH-5W	UMI	Single-family dwelling
East:	MH-5W	UMI	Single-family dwelling
South:	MH-5W	UMI	Single-family dwelling
West:	MH-5W	UMI	Single-family dwelling

10. Maps:



AERIAL MAP



ZONING MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The subject property is zoned Urban Mobile Home (MH-5), and within the Indian River Lagoon Surface Water Improvements and Management Overlay Zone. It is a 131-foot deep by 50-foot wide, canal front lot with a boat slip cut into the side of the lot, approximately 1 foot from the side property line.

According to the Property Appraiser's information, a seawall, concrete boat ramp, boat house and boat lift were built on this property in 1976. These structures all appear on old surveys of the property, situated at 1.2 feet from the property line. The minimum setback requirement for an accessory structure at that time was five feet, and 15 feet for a dock. There is no record of a permit or variance for any of these structures, thus, they are considered nonconforming.

The property was originally developed with a mobile home, likely at the same time; however there is no permit record of dwelling at that time either. A mobile home was permitted on the property in 1985, which may have been a replacement unit. From aerial photographs taken near the time when this mobile home was permitted, the covered boat house appeared to be a simple roof structure over the entire boat slip and the storage building. In 2003, the mobile home was replaced by a concrete block/stucco home. Again from aerial photographic history, it appears that between 2006 and 2008 a portion of the boat house roof was replaced with an open deck. The deck is on the half closest to the water and serves as a roof over the boat slip.

The current owner purchased the home in 2012 with all the above accessory structures in place. Upon purchasing the property, the owners found the deck contained rotted wood and was hazardous to use. While repairing the existing deck, the owners also extended it approximately 6 feet into the canal along the same 1.2-foot setback line. The previous deck did not extend beyond the seawall. The owners did not obtain building permits prior to performing these repairs and were subsequently cited for construction without a permit in November, 2013. Since that date, the owners have been working toward remedying the violation. Code enforcement records indicate the owners have been working steadily toward obtaining the necessary engineered plans to support the permit. This variance application is also in support of obtaining the building permit.

The variances being requested are to legitimize the existing structures on the site and to allow the deck extension to remain as follows:

Variance 1: This variance applies to the shed only, as it is considered an accessory structure. The setback requirement for accessory structures is 5 feet from the side property line. The request is to allow it to remain at the existing 1.2-foot setback.

Variance 2: This variance applies to the existing boathouse and deck structure. These structures fall under the definition of a dock. The setback requirement for dock is 15 feet from the side property line. The request is to allow them to remain at the existing 1.2-foot setback.

Variance 3: This variance applies to the new extension of the dock structure into the canal. This extension must maintain a 15-foot setback to the property line as it extends

out into the canal. The purpose of this variance is to allow the extension of the deck to maintain the same setback as the existing structure it is attached to. Without this variance, the dock must either be removed or the whole structure relocated to meet the required 15-foot setback.

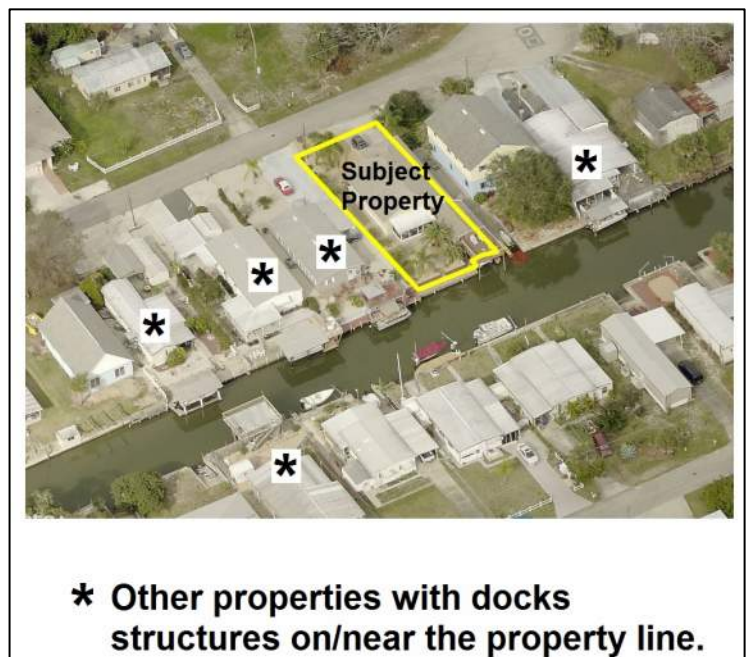
IV. REVIEW CRITERIA AND ANALYSIS

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.

Variance 1 and 2: The storage building and boathouse have been in place since 1976 according to the Property Appraiser's record card. Previous surveys dating back to 2000 show these structures being the same size and in the same location on the lot. Between 2006 and 2008, it appears that the boat house roof was modified to replace the waterward half with a deck. The deck now serves as the roof of the boathouse. The boathouse covers a boat slip/ramp that is cut into the lot on the right side of the property. This is a common configuration for many of these canal lots. The adjacent neighbor has the same type of boat slip, located adjacent to the subject property's slip, however it is not covered. The special circumstance associated with these buildings is that they have existed as seen in this photo since 1976. The applicant purchased the property in 2012 and is not responsible for their placement. These variances meet this criterion.

Variance 3: The extension of the existing deck into the canal is required to meet a 15 foot setback to the side property line per section 72-278 of the zoning code. Since the owners did not get a building permit in advance of the repairs of the existing deck, they were unaware of this setback requirement. They simply added on to the existing structure, following the same setback extension into the canal. Many other properties have identical boat slip/deck configurations. The uniqueness of this canal-oriented subdivision inadvertently encourages this development pattern. The lots are narrow and many have the same boat slip configuration, being located on the side property line, and many of these contain similar boathouses and decks above their boat slips. As can be seen in the above photograph, just in this small stretch of canal there are five other similar structures. There are three canals, approximately 2,300 feet long, with approximately 45 lots per side. There are literally hundreds of similar structures. It is understandable that the new owners may



have thought they were not violating any setback regulations. This variance meets this criterion.

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

Variance 1 and 2: The structures were constructed in 1976. The applicant purchased the property in 2012. The conditions are not the result of actions of the applicant. These variances meet this criterion.

Variance 3: The predominant development pattern for boathouses and decks within this subdivision is adjacent, or very close to, the property lines. The boat slips being located on the edge of the property encourages this style of boat house. This historic development pattern is not the result of actions of the applicant. This 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.

Variance 1 and 2: Literal interpretation of the zoning code would require the owners to remove structures that have been in place on the property since 1976, many years prior to their buying it. Research of the zoning case files for similar canal front lots within this subdivision shows several other properties have applied for variances to side yard setbacks for existing accessory structures and have been granted them. These variances meet this criterion.

Variance 3: Literal interpretation of the zoning code would require the owner to remove the deck extension or relocate it so that it is offset from the existing deck. In this particular subdivision, there are numerous examples of decks built over the water that are either on or very near the property line. It is likely most of them were constructed without benefit of a permit. Additionally, the applicant's deck does not extend as far into the water as most others that can be seen from his back yard. If the applicant is required to remove this extension, he will be made to adhere to standards that are not being met by many of these canal front lots. The 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.

Variance 1 and 2: The requested variance would be the minimum to allow reasonable usage of the existing structures as they have historically existed since 1976. These variances meet this criterion.

Variance 3: Because this is an after-the-fact variance request, if the variance is not granted, the owners will be required to remove the deck extension. However, the original deck can still remain, subject to granting variance 2, and reasonable use of the land and remaining deck structure can be made without the extension. This variance does not meet 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.

Variance 1 and 2: These structures have existed relatively unchanged since 1976 and thus, the impact on adjacent properties has not changed since 1976. Granting this variance will not be injurious to the area involved. These variances meet this criterion.

Variance 3: This deck extension is not unique to the area. In fact it is a modest extension into the canal compared to many others. It does not appear to impede the use of the adjacent boat slip. It may cause a reduction in the neighbor's visibility of the west side of the canal, however, the original boathouse and deck already impacted this side view. The structure is in harmony with the unique development pattern of the subdivision. This variance meets this criterion.

V. STAFF RECOMMENDATION

Staff finds that variance 1 and 2 meet all five criteria for granting said variances and, therefore, recommends approval as follows:

Variance 1: A variance to Section 72-277(1) for an east side yard from the required 5 feet to 1.2 feet for an existing storage building; and,

Variance 2: A variance to Section 72-278(5) for an east side yard from the required 15 feet to 1.2 feet for an existing covered boat slip/deck structure, all being located on Urban Mobile Home/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W) zoned property.

Staff finds that variance 3 does not meet all of the five criteria for granting said variance and, therefore, must recommend denial. If the commission finds that the request meets all five criteria, then staff recommends the variance be approved with conditions as stated below.

Variance 3: A variance to Section 72-278(5) for an east side yard from the required 15 feet to 1.2 feet for a new six-foot extension of the covered boat slip/deck, located on Urban Mobile Home/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (MH-5W) zoned property.

1. The variance is limited the six-foot extension as depicted on the variance site plan and said extension shall not be further extended and no further variance shall be sought to do so.
2. The applicants/owners shall obtain and complete all required building permits and inspections for the structures as necessary.

VI. ATTACHMENTS

Written Petition
Survey
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.

JUN 19 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? **NO**

NONE KNOWN TO US
UNLESS IT WOULD BE THE EXISTING STRUCTURES
THAT WERE THERE WHEN WE PURCHASED 182
COLEMAN ST.

- 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?

NOT KNOWN UNLESS RULING WAS
HANDED DOWN TO REMOVE STRUCTURES NOT
IN COMPLIANCE.

- 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:

PRE EXISTING STRUCTURE BUILT IN 1976 WAS
BUILT CLOSE TO PROPERTY LINE AND NEEDED
MAINTENANCE + REPAIR. WE USED EXISTING
PARAMETERS TO EXTEND DECK BY APPROX 6'
DURING THE REPAIR

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?

yes

and

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

VARIANCE IS at REAR of PROPERTY impeding
NO TRAFFIC = AUTOMOBILS OR BOAT ; CAN ONLY be Seen
by Neighbors AND CANAL TRAFFIC ; INHANCES PROPERTY VALUE

George Rodman
Applicant's Signature

6-15-15
Date

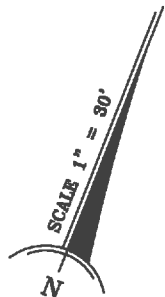
Lori Rodman
Applicant's Signature

6-15-15
Date

BOUNDARY SURVEY

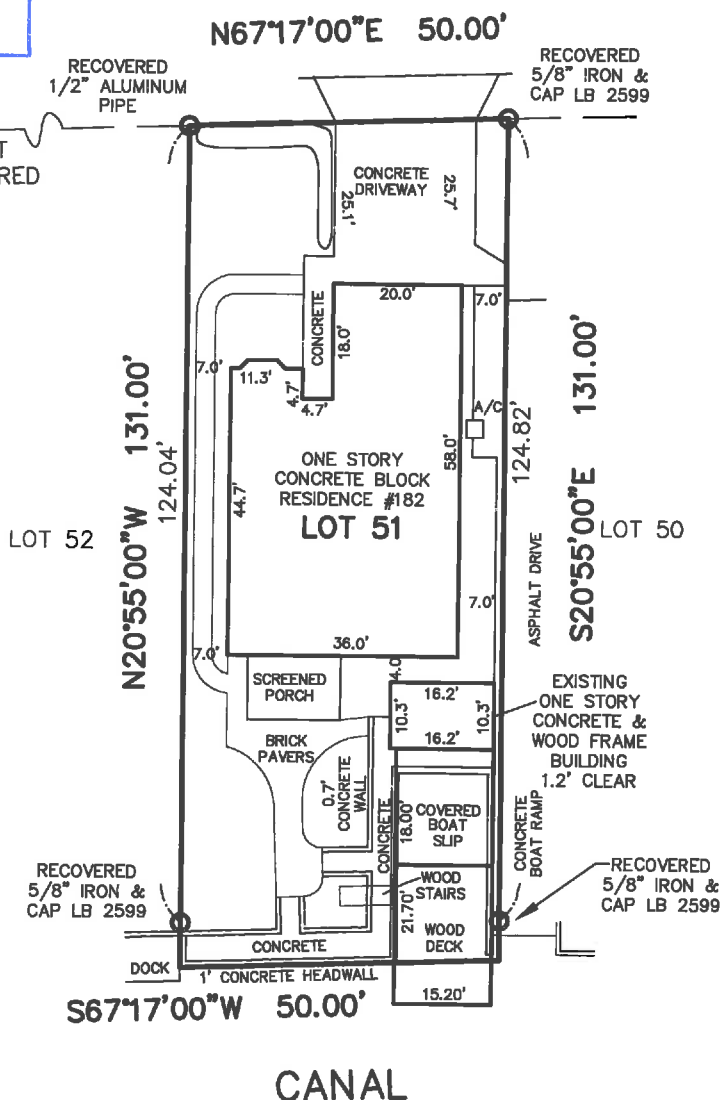
DESCRIPTION: Lot 51, South Waterfront Park Subdivision per Map Book 23, Page 195, Public Records of Volusia County, Florida.

CURRENT PLANNING
 ACTIVITY
JUN 19 2015
 RECEIVED



COLEMAN STREET
(50' RIGHT-OF-WAY)

NELLIE STREET
(50' RIGHT-OF-WAY)



Notes:

– Bearings based on the south right-of-way line of Coleman Street as being N67°17'00"E.

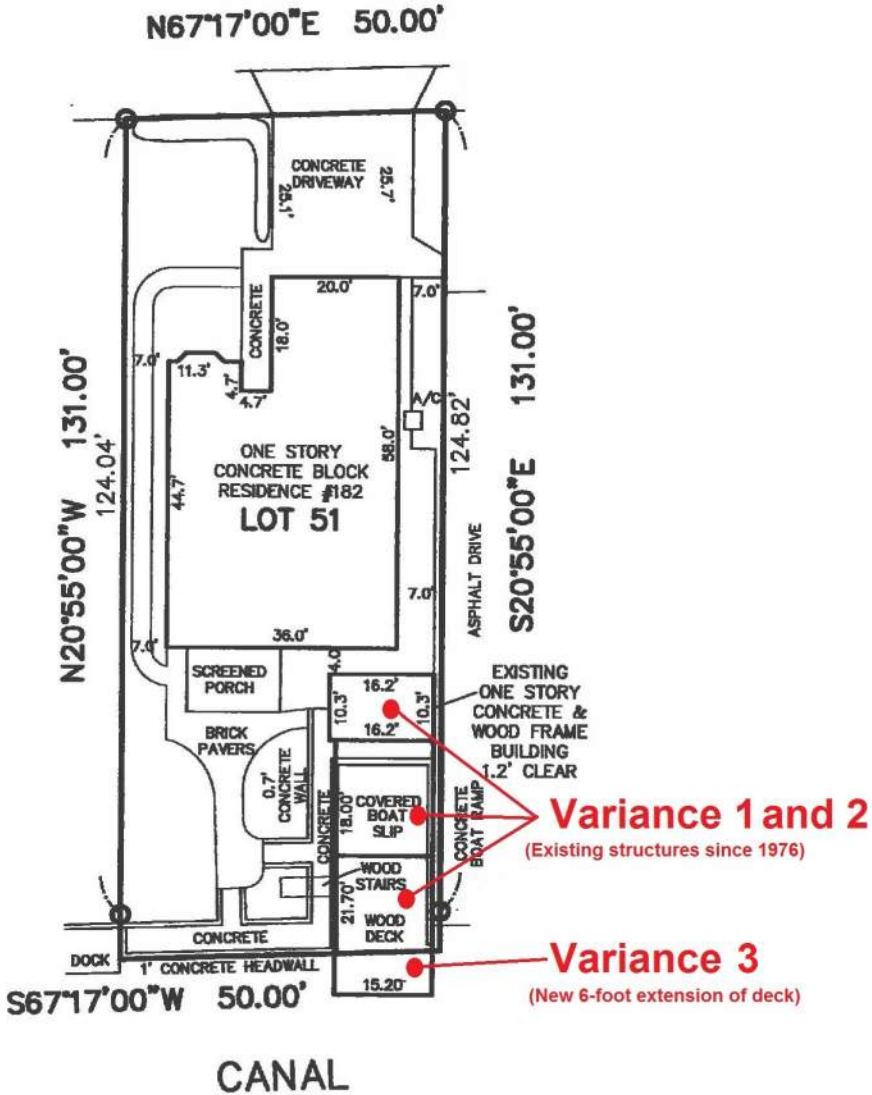
JAMES R. SHANNON JR., P.L.S. #46571
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHANNON SURVEYING, INC.
 499 NORTH S.R. 434 - SUITE 2155
 ALTAMONTE SPRINGS, FLORIDA, 32714
 (407) 774-8372 LB # 6898

DATE OF SURVEY: December 9, 2013
 FIELD BY: JS SCALE: 1" = 30'
 FILE NUMBER: Pb23pg195 Lot 51

Variance Site Plan

COLEMAN STREET
(50' RIGHT-OF-WAY)



Note: The date stamp on these photographs is incorrect. All these photographs were taken 7/23/15.



Photo taken from back corner of house, showing boat house with deck.



Photo taken from seawall, showing 6-foot deck extension into canal.



Photo of east side of subject property. Neighbors boat ramp/slip adjacent to property line.

Note: The date stamp on these photographs is incorrect. All these photographs were taken 7/23/15.



Photo of east side of boat house/deck on subject property, taken from neighbors boat ramp/slip.



Photo taken from subject property seawall, showing deck extension. Also shows a similar dock extension on the east side of neighbor's property. This dock is also on the shared property line.



Photo of neighbor to the west, shows dock, boat lift and deck, extending into the canal, adjacent to the property line.

Note: The date stamp on these photographs is incorrect. All these photographs were taken 7/23/15.



Photo of boat house extending into canal, of property on other side of east neighbor. Structure is on the common property line.



Photo of canal, looking west from subject property's deck. Shows the number of structures extending into the water. Very few of them appear to meet the 15-foot side setback requirement.



Photo taken at west end of canal, looking east. Shows the number of structures extending into the water. Very few of them appear to meet the 15-foot side setback requirement.

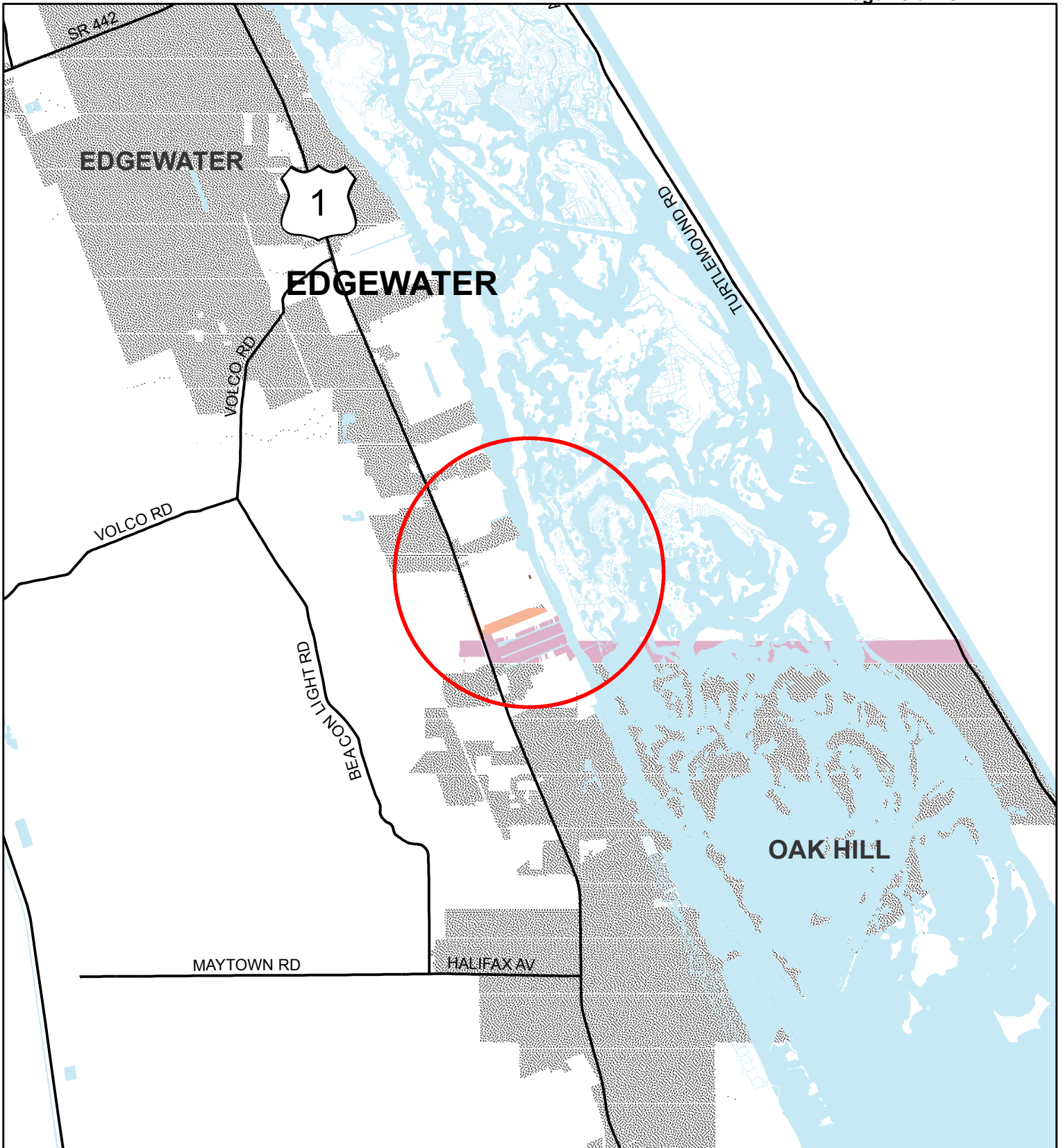
Note: The date stamp on these photographs is incorrect. All these photographs were taken 7/23/15.



Photo taken by Code Enforcement in 2013, from across the canal.




*** Other properties with docks structures on/near the property line.**



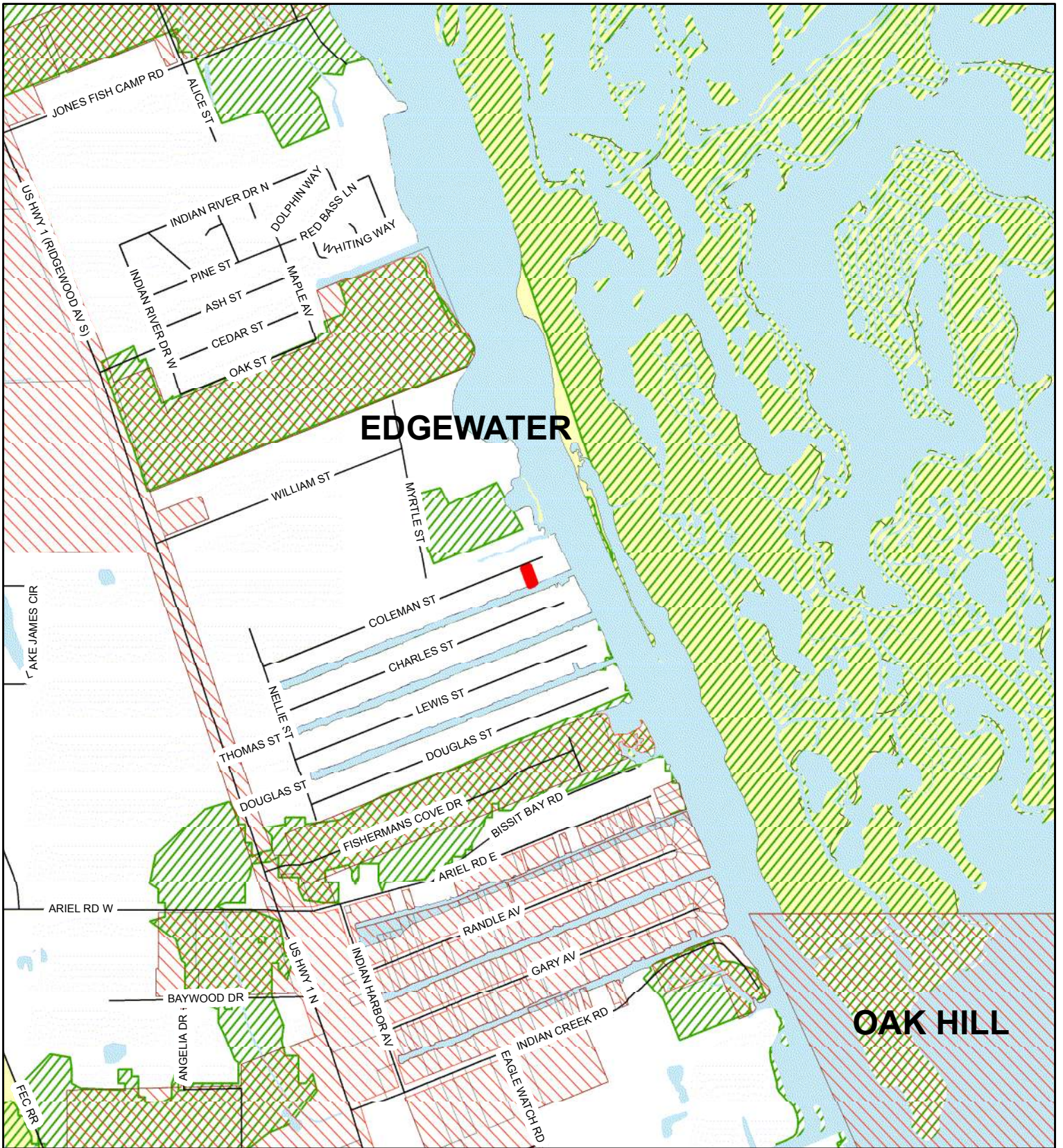
REQUEST AREA LOCATION

1" = 1 MILE

 REQUEST AREA



**VARIANCE
CASE NUMBER
V-15-051**



ECO/NRMA

- REQUEST AREA
- ECO
- NRMA

1 inch = 1,000 feet




**VARIANCE
CASE NUMBER
V-15-051**



AERIAL 2012

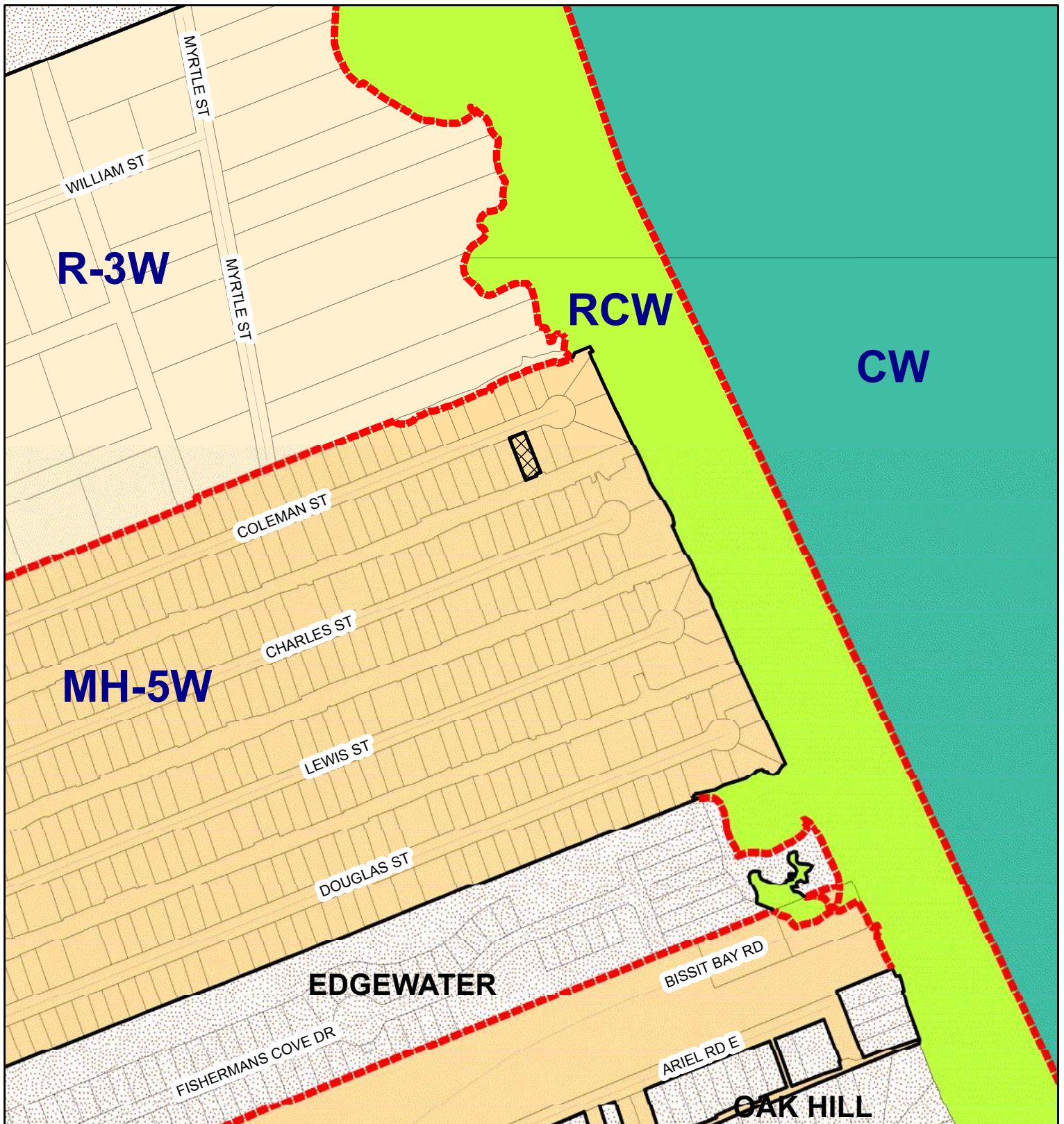
1 inch = 400 feet

 REQUEST AREA



**VARIANCE
CASE NUMBER**

V-15-051



ZONING CLASSIFICATION

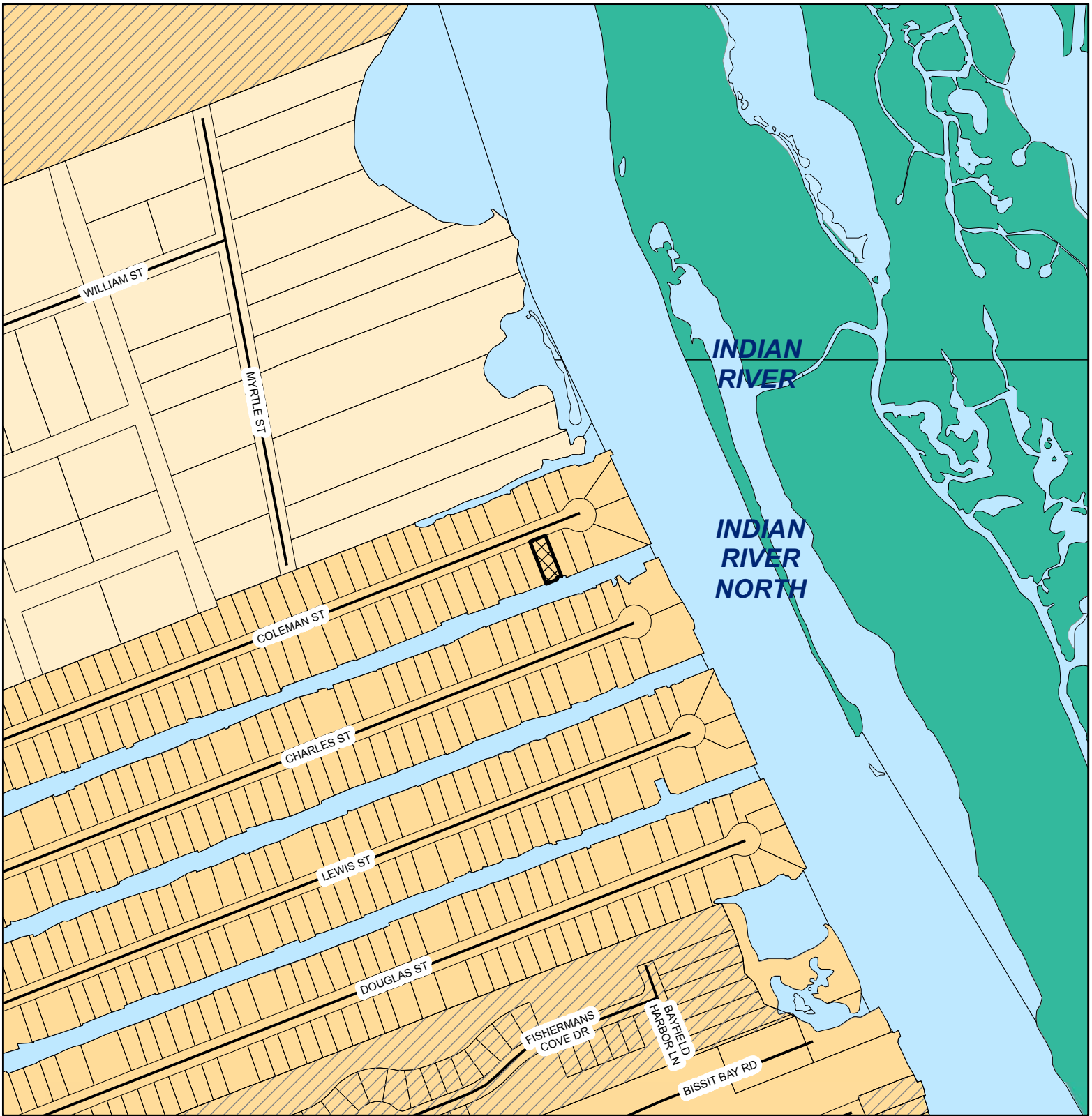
- CONSERVATION
- RESOURCE CORRIDOR
- RESIDENTIAL
- MOBILE HOME
- INCORPORATED

1 inch = 400 feet



**VARIANCE
CASE NUMBER**

V-15-051



FUTURE LAND USE DESIGNATION

1 inch = 400 feet

- CONSERVATION
- URBAN MEDIUM INTENSITY
- URBAN LOW INTENSITY
- WATER
- REQUEST AREA

VARIANCE CASE NUMBER



V-15-051