



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:** November 12, 2013 - Planning and Land Development  
Regulation Commission (PLDRC)

**CASE NO:** V-14-006

**SUBJECT:** Variance to the minimum rear yard requirement for an accessory  
structure on Rural Agriculture (A-2) zoned property.

**LOCATION:** 1655 Pine Avenue, Orange City

**APPLICANT:** Brian and Leigh Hoover

**OWNERS:** Brian and Leigh Hoover

**STAFF:** Carol McFarlane, AICP, Planner II

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## **I. SUMMARY OF REQUEST**

The applicants are requesting a variance to allow for an in-ground pool and pool deck to be constructed in the rear yard of their property, which was developed as a single-family dwelling in 2006.

The requested variance is:

A variance to the minimum rear yard requirement for an accessory structure from the required 50 feet to 27 feet on Rural Agriculture (A-2) zoned property.

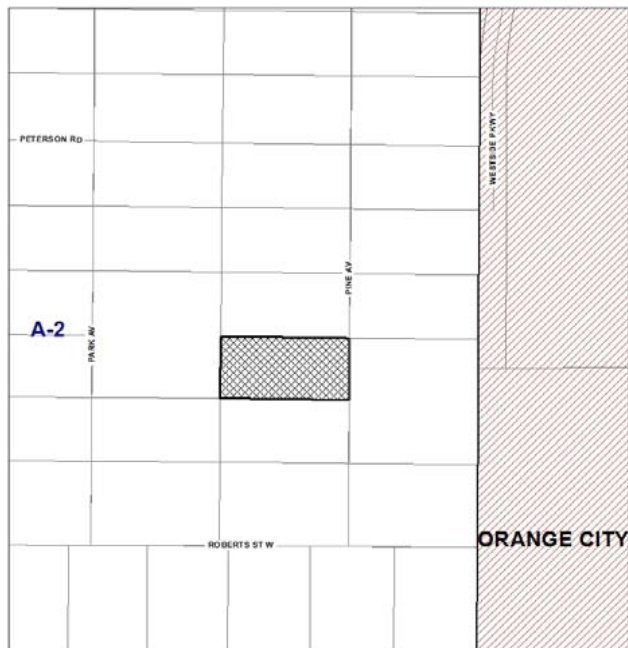
*Staff recommendation:* Approval, subject to the staff recommended conditions.

## II. SITE INFORMATION

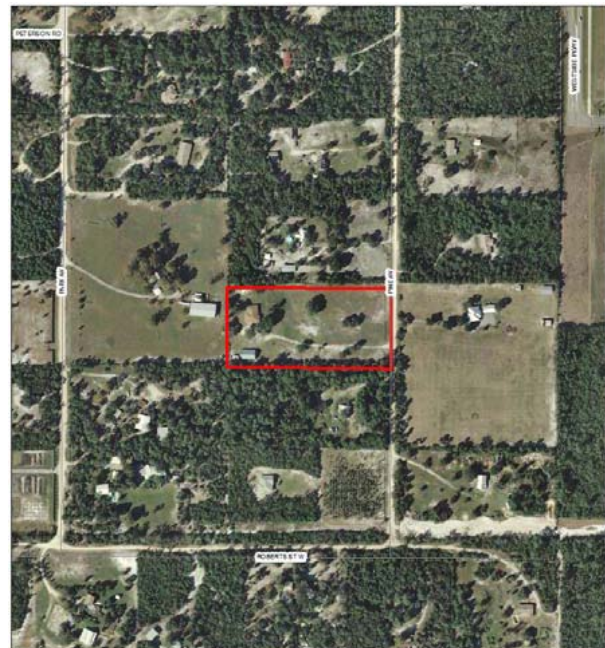
1. Location: The property is located on the west side of Pine Avenue, approximately 715 feet north of its intersection with West Roberts Street, in the Orange City area.
2. Parcel No(s): 8016-00-00-0101
3. Property Size: ±5 acres
4. Council District: 1
5. Zoning: Rural Agriculture (A-2)
6. Future Land Use: Rural
7. ECO Overlay: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	A-2	R	Single-Family Residence
East:	A-2	R	Single-Family Residence
South:	A-2	R	Single-Family Residence
West:	A-2	R	Single-Family Residence

### 10. Location Maps:



Zoning Map



Aerial Map

### III. BACKGROUND AND PREVIOUS ACTIONS

The subject property is part of the Kantor Unrecorded Subdivision that was approved in 1977. The property is five acres in size and rectangular in shape, being approximately 333 feet wide and 654 feet deep. The site is developed with a single-family residence that was constructed in 2006 (building permit #20050628040), and a 33-foot by 60-foot metal barn. The survey provided by the applicant depicts an above ground pool which has since been removed. In June of 2013, a covered porch was converted into living area, and is marked as “new addition” on the survey provided.

The A-2 zoning on the property requires a minimum of 5 acres, and setback of 50 feet for the front and rear yards, and 25 feet for the side yard. The 2006 building permit for the house shows that the house would be located 100-feet from the rear (west) yard, and 150-feet from the side (north) yard. However, according to the survey, the house was constructed approximately 79 feet from the rear yard, and 97 feet from the northern side yard.

The purpose of this variance application is to construct an in-ground pool and deck at the rear of the house, so that the pool would be accessible via the existing back door of the house. The proposed construction would reduce the required rear yard of 50 feet to 27 feet.

Per the applicants’ plan, the proposed swimming pool and deck area will extend from the rear side of the house in an east-west alignment. This pool placement is dictated by a recent home addition and the desire to shield the pool behind the existing house.

### 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 by the commission. The staff evaluation using these criteria is as follows:

***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.***

There are special circumstances that are peculiar to the land and structure in that the house that was constructed in 2006 was located in a different position than what was originally permitted, thus reducing the size of the rear yard. The house provides two back doors that could be used to access the rear yard, while there are no entrances on the sides of the house. As evidenced in the attached site photos, there is also greater visibility from windows on the rear of the house, and very little visibility from the side of the house.

These two issues, accessibility and visibility, are important safety issues when it comes to determining the best location of a family pool. Any other location for the pool would not provide the same safety features as the proposed location. For example, the pool could be located in the following places:

1. In front of the house: this is not a traditional location for pools, and the septic system is located in front of the house.
2. The east side of the house: certain improvements, such as the driveway and metal barn are already located in this area.
3. The west side of the house: although there are no obstructions on this side of the house, there are no doorways, and only one small bathroom window to provide visibility.

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 current owners purchased the property in 2010, therefore the special circumstances listed in paragraph i, above, are not the result from the actions of the applicants.

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.***

Literal interpretation of the zoning code would require that the pool be constructed in a different location than what is proposed. While there are other locations that the pool could be placed, the location that the applicant has proposed provides the best accessibility and visibility, as discussed in paragraph i, above.

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.***

As the evaluation in paragraph i, above, shows the proposed placement of the pool is the most reasonable location, and provides a location with adequate visibility and accessibility. It should also be noted that the pool is of a reasonable size and scale in relation to the residence. Staff recommends that in order to ensure that the variance is the minimum requested, the variance should be limited to the proposed pool as it is depicted on the variance site plan, and that the encroachment is not expanded upon in the future without approval of a new variance application.

Staff finds that the requested variance meets this criterion with the staff recommended conditions.

***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.***

The construction of a pool within 27 feet of the rear lot line will not create any traffic congestion, fire safety hazard, nor will it harm the appearance and aesthetic qualities of the neighborhood. The surrounding area has a rural and agricultural character, with lots that are at least five acres in size, and are either heavily wooded or have been cleared for agricultural purposes.

As shown on the attached site photos, there is an agricultural building on the parcel to the west that is located approximately 50 feet from the shared property line (building permit number 20000526017). There is no anticipated public safety hazard associated with the two structures being located 77 feet from one another. The next closest building (the residence of 1610 Park Avenue) is located approximately 275 feet from the subject parcel.

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 variance with the staff recommended conditions. Therefore, staff recommends approval of the requested variance to reduce the minimum rear yard from the required 50 feet to the proposed 27 feet on Rural Agriculture (A-2) zoned property to allow for the construction of a pool subject to the following conditions:

1. The variance shall apply only to the pool and deck as shown on the variance site plan, which is a modified copy of the boundary survey with a completion date of 12/10/2012, prepared by Swerdloff & Perry Surveying, Inc. Any future expansion of the structure beyond the proposed footprint not in compliance with the zoning code shall require approval of a separate variance application.
2. Any future screen enclosure shall be located within the footprint of the proposed deck as shown on the variance site plan, which is a modified copy of the boundary survey with a completion date of 12/10/2012, prepared by Swerdloff & Perry Surveying, Inc.

## **VI. ATTACHMENTS**

- Variance Site Plan
- Written petition
- Site Photos
- Survey
- Copy of 2005 building permit survey and house floor plan
- Maps

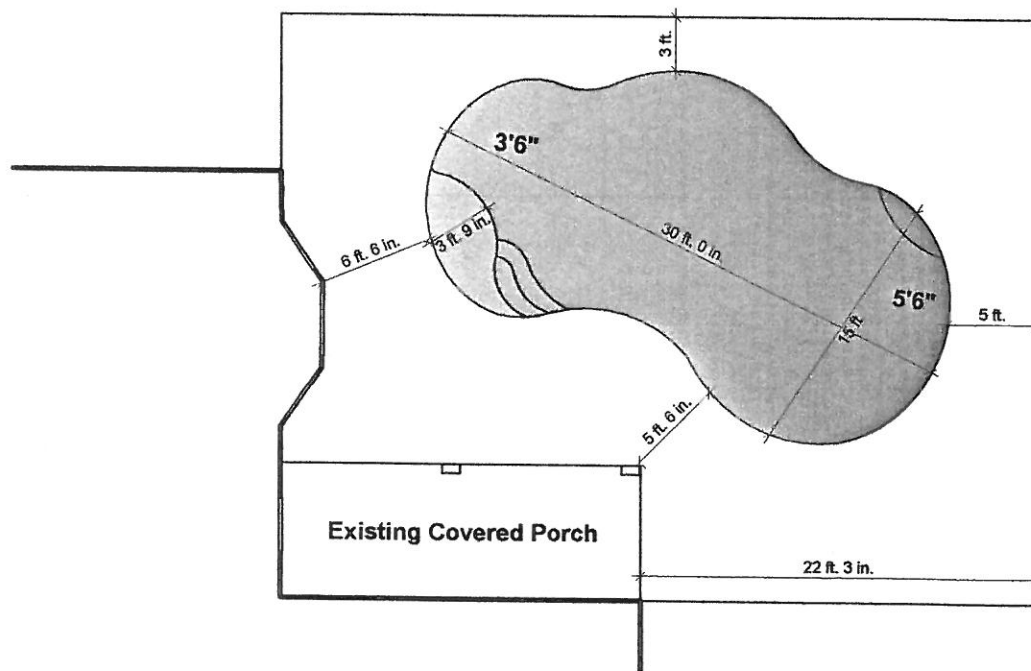
## **VII. AUTHORITY AND PROCEDURE**

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?

We purchased the home already constructed at the  
rear of the property due to elevation.

- 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?

Most pools are commonly placed in the rear yard  
for privacy, better view from indoors for safety, and  
aesthetics. The placement of the house will not allow  
for pool construction in the rear due to standard  
setback.

- 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:

The pool is of a normal and common size/layout.

- 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; increased visibility/safety to swimming

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

and

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

This variance will have no bearing on the surrounding area, particularly since variance request involves the owners' property only, and the area is not visible to any other surrounding property.

\_\_\_\_\_

Brian Hare  
Applicant's Signature

9/16/13 Date

Deirdre Hoover  
Applicant's Signature

9/17/2013 Date



Pine Avenue



1655 Pine Avenue



1655 Pine Avenue



Front of residence



Driveway



Approaching rear  
of residence





Rear view of residence



Area of proposed pool



Northern side of property



View of rear yard from the northwest corner of property



Standing north looking south at residence



Looking south at northern side of property



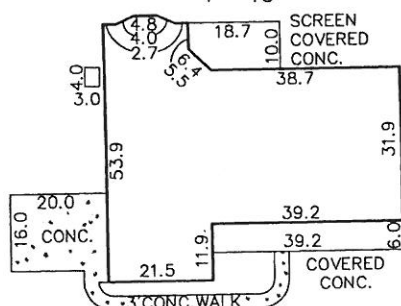
*The South 1/2 of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 16, Township 18 South, Range 30 East, together with an easement 60 feet wide, over and along the existing graded road, for roadway and utility purposes, being described as 30 feet East of and 30 feet West of West line of the East 1/2 of the East 1/2 of the Northeast 1/4 of said Section 16, Volusia County, Florida.*

Community number: 125155 Panel: 0615  
 Suffix: G F.I.R.M. Date: 4/15/2002 Flood Zone: X  
 Date of field work: 12/9/2010 Completion Date:  
 12/10/2010

PER DEED

*Certified to:*  
*Brian A. Hoover; Leigh A. Hoover; Real Estate Title*  
*Consultants of Florida, Inc.; Commonwealth Land*  
*Title Insurance Company; FBC Mortgage, LLC, its*  
*successors and/or assigns.*

1 STORY  
RESIDENCE  
DETAIL VIEW  
1"=40'



WELL  
46'± TO BOUNDARY  
34'± TO HOUSE  
89'± TO DRAINFIELD  
86'± TO SEPTIC  
APPROX SEPTIC  
20'± TO HOUSE  
APPROX DRAINFIELD  
23'± TO HOUSE

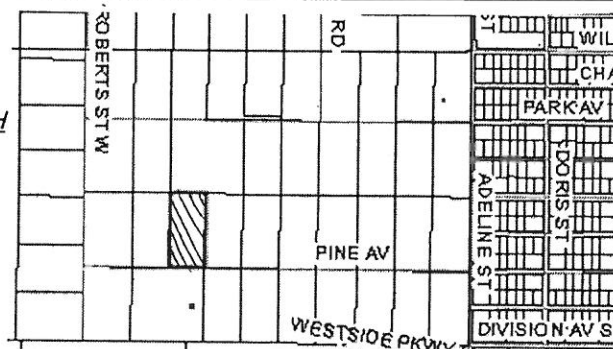
\*OF THE E 1/2 OF THE SE 1/4  
OF THE NE 1/4 OF SECTION 16,  
TOWNSHIP 18 S, RANGE 30 E

\*\*FOR ROADWAY &amp; UTILITY PURPOSES

\*\*\*OF THE NE 1/4 OF  
SECTION 16, TOWNSHIP 18 S  
RANGE 30 E

LOCATION SKETCH

*Not to Scale*



Adjoining Parcel ID: 16183000000130

**Subject Property**

**Dimensions and Bearings:**

- Top Boundary: 332.32(M)
- Right Boundary: 654.25(M)
- Bottom Boundary: 333.38(M)
- Left Boundary: 657.13(M)

**Internal Features and Dimensions:**

- 18x26 METAL BUILDING ON CONC.
- 17x12 COVERED AREA
- 1 STORY RESIDENCE
- SEPTIC AREA
- WELL
- 10' WIDE DIRT DRIVE
- WOOD FLOOR
- ABOVE GROUND POOL

**Surrounding Features:**

- 4' WIRE FENCE (TYP.)
- DIRT ROAD 1.0' ON
- 15' WIDE DIRT ROAD
- PINE AVENUE

**Adjoining Parcel IDs:**

- Top: 16183000000100
- Right: 16183000000191
- Bottom: 16183000000100








**Other Labels:**

- FENCE CORNER 0.60'N 0.30'E
- FENCE CORNER 1.60'S 0.20'E
- FENCE CORNER 1.10'N 32.29'W
- FENCE CORNER 0.52'S 29.48'
- PROPERTY ADDRESS: 1655 Pine Ave, Orange City, FL 32173

*Property Address:*  
1655 Pine Avenue  
Orange City, FL 32763

Survey number: SL 114045

### LEGEND

	Wood Fence	W.M.	Water Meter	N.T.S.	Not to Scale
	Wire Fence	TEL.	Telephone Facilities	O.R.	Official Records
C.L.F.	Chain Link Fence		Covered Area	O.R.B.	Official Records Book
F.N.	Found Nail	B.R.	Bearing Reference	P.C.P.	Permanent Control Point
CONC	Concrete	CH	Chord	P.R.M.	Permanent Reference Monument
M	Field Measured	RAD	Radial	PG.	Page
CL	Clear	A/C	Air Conditioning	PVMT.	Pavement
ENCR	Encrachment	B.M.	Bench Mark	E.O.P.	Edge of Pavement
	Centerline	C.	Calculated	P.B.	Plat Book
	Concrete	ZZZZ	Block Wall	P.O.B.	Point of Beginning
R	Property Line		Central Angle/Delta	P.O.C.	Point of Commencement
C.M.	Concrete Monument	D.B.	Deed Book	P.O.L.	Point on Line
F.I.R.	Found Iron Rod	D.	Description or Deed	P.C.	Point of Curvature
F.I.P.	Found Iron Pipe	D.H.	Drill Hole	P.R.C.	Point of Reverse Curvature
R/W	Right of Way	D/W	Driveway	P.T.	Point of Tangency
N&D	Nail & Disk	ESMT	Easement	R.	Radius (Radial)
D.E.	Drainage Easement	EL	Elevation	R.O.E.	Roof Overhang Easement
U.E.	Utility Easement	F.F.	Finished Floor	S.I.R.	Set Iron Rod & Cap
FD.	Found	F.C.M.	Found Concrete Monument	S/W	Sidewalk
P	Plat	F.P.K.	Found Parker-Kalon Nail	T.O.B.	Top of Bank
O.H.U.	Overhead Utilities	L	Length	TYP.	Typical
P.P.	Power Pole	L.B.	Licensed Business	W.C.	Witness Corner
TX	Transformer	L.A.E.	Limited Access Easement	10.05	Existing Elevation
CATV	Cable Riser		Line Break Not to Scale	E.O.W.	Edge of Water
CB	Chord Bearing	M.H.	Manhole	P.C.C.	Point of Compound Curve
F.C.C.	Found Cross Cut	O	Found	PI	Point of Intersection
F.	Field	OHL	Overhead Lines	T.B.M.	Temporary Bench Mark

## GENERAL NOTES

1. Legal description provided by others.
2. The lands shown hereon were not abstracted for easements or other recorded encumbrances not shown on the plat.
3. Underground portions of footings, foundations or other improvements were not located.
4. Wall ties are to the face of the wall.
5. Only visible encroachments located.
6. No identification found on property corners unless noted.
7. Dimensions shown are plat and measured unless otherwise noted.
8. Elevations if shown are based upon N.G.V.D. 1929 unless otherwise noted.
9. Adjoining lots are within the same block unless otherwise noted.
10. This is a **BOUNDARY SURVEY** unless otherwise noted.
11. Not valid unless sealed with the stamp of a surveyor embossed seal.
12. **FLOOD ZONE DETERMINATIONS** ARE PROVIDED AS A COURTESY ONLY, AND ARE DERIVED FROM THE BEST SOURCES AVAILABLE TO THE SURVEYOR. THIS INFORMATION SHOULD NOT BE RELIED UPON FOR FLOOD INSURANCE PURPOSES, AND MAY DIFFER FROM INFORMATION PROVIDED BY OTHERS.
13. Septic tank and/or drainfield locations are approximate and must be verified by appropriate utility location companies.
14. Bearing basis shown per plat unless otherwise noted.
15. Survey is for reference only unless signed and sealed by a Florida Registered Land Surveyor.
16. Curved lines are not radial unless otherwise noted.
17. Recertification does not indicate an update.

I hereby certify that this survey is a true and correct representation of a survey prepared under my direction.

L.B. 7132

Ralph Swerdloff  
Louis B. Ramirez

Registered Land Surveyor No. 3411  
Professional Surveyor and Mapper No. 6304

### LEGEND

Legal Description-

THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSTA COUNTY, FLORIDA, TOGETHER WITH AN EASEMENT 60 FEET WIDE OVER AND ALONG THE EXISTING GRADED ROAD, FOR ROADWAY AND UTILITY PURPOSES, BEING DESCRIBED AS 30 FEET EAST OF AND 90 FEET WEST TO THE WEST 1/2 LINE OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 16.



DAVID BRIGHAM  
THERESA BRIGHAM  
BANK OF AMERICA, N.A.  
VULSIA TITLE SERVICES, INC.  
FIRST AMERICAN TITLE INS. CO.

DRAWN	
R.M.	
CHECKED	
L.D.	
DATE	
6-14-05	
SCALE	
1" = 40'	
JOB NO.	
349-05	
SHEET	

\* This is to certify that I have recently surveyed the property described hereon and that said above ground survey and sketch are accurate to the best of my knowledge and belief. I further certify that this survey meets the minimum technical standards in Section 472.027, Florida Statutes (or Rule Chapter 61G17-4, F.A.C.)

REVISIONS, RECERTIFICATIONS, AMENDMENTS  
(IF ANY) ARE NOTED ABOVE  
VALID ONLY WITH EMBOSSED SEAL.

**PROFESSIONAL SURVEYOR & MAPPER**  
383 CENTER STREET DELAND, FLORIDA  
PHONE & FAX (386) 740-7955

LAWRENCE R. DANIELS No. 22




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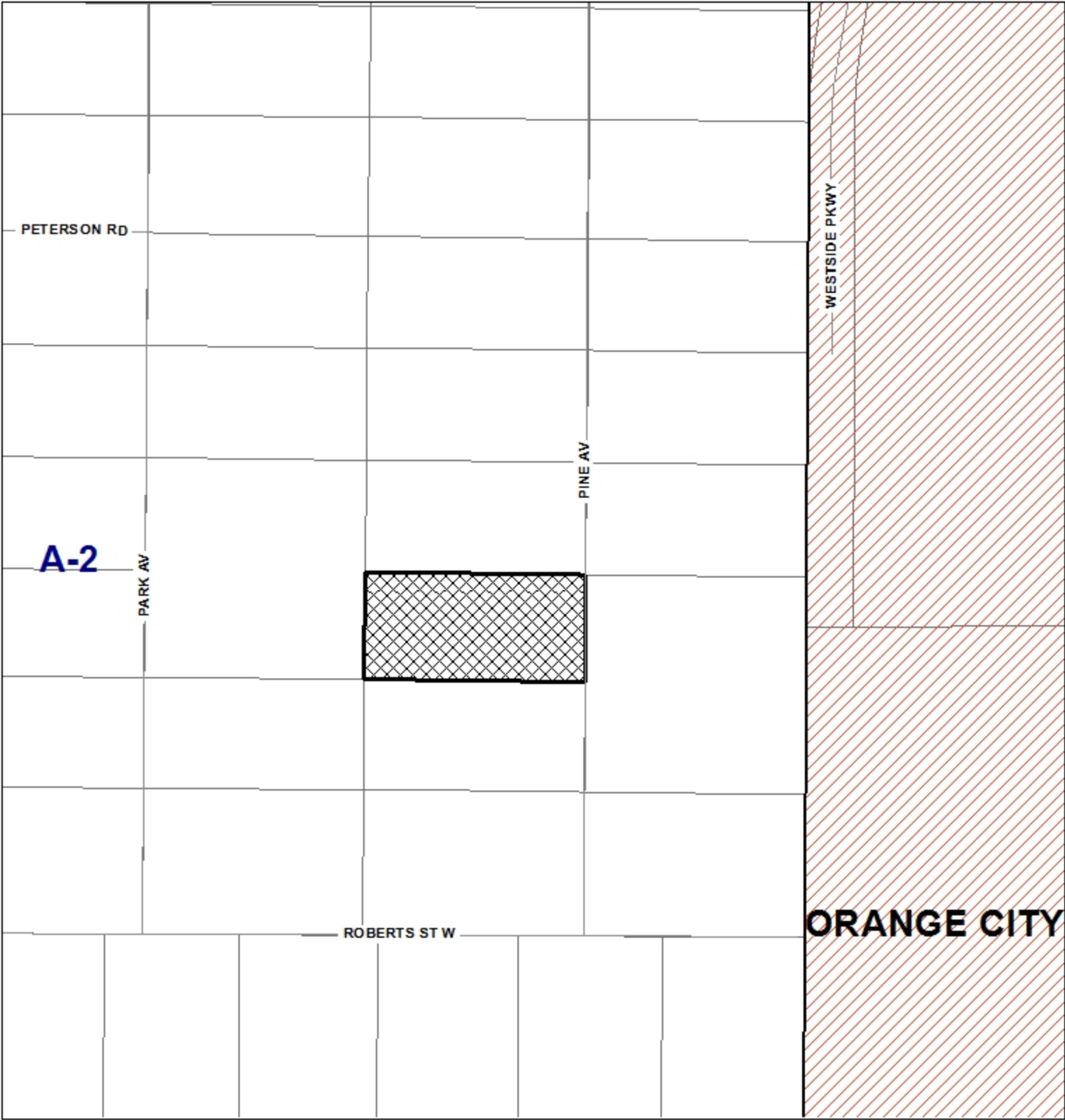
# **ECO/NRMA**

 ECO
  NRMA
  REQUEST AREA

1 inch = 1,000 feet




**VARIANCE**  
**CASE NUMBER**  
**V-14-006**



**ZONING CLASSIFICATION**

1 inch = 400 feet

 REQUEST AREA

*A-2*

**VARIANCE  
CASE NUMBER  
V-14-006**






**AERIAL**

IMAGE YEAR: 2012

1 inch = 300 feet

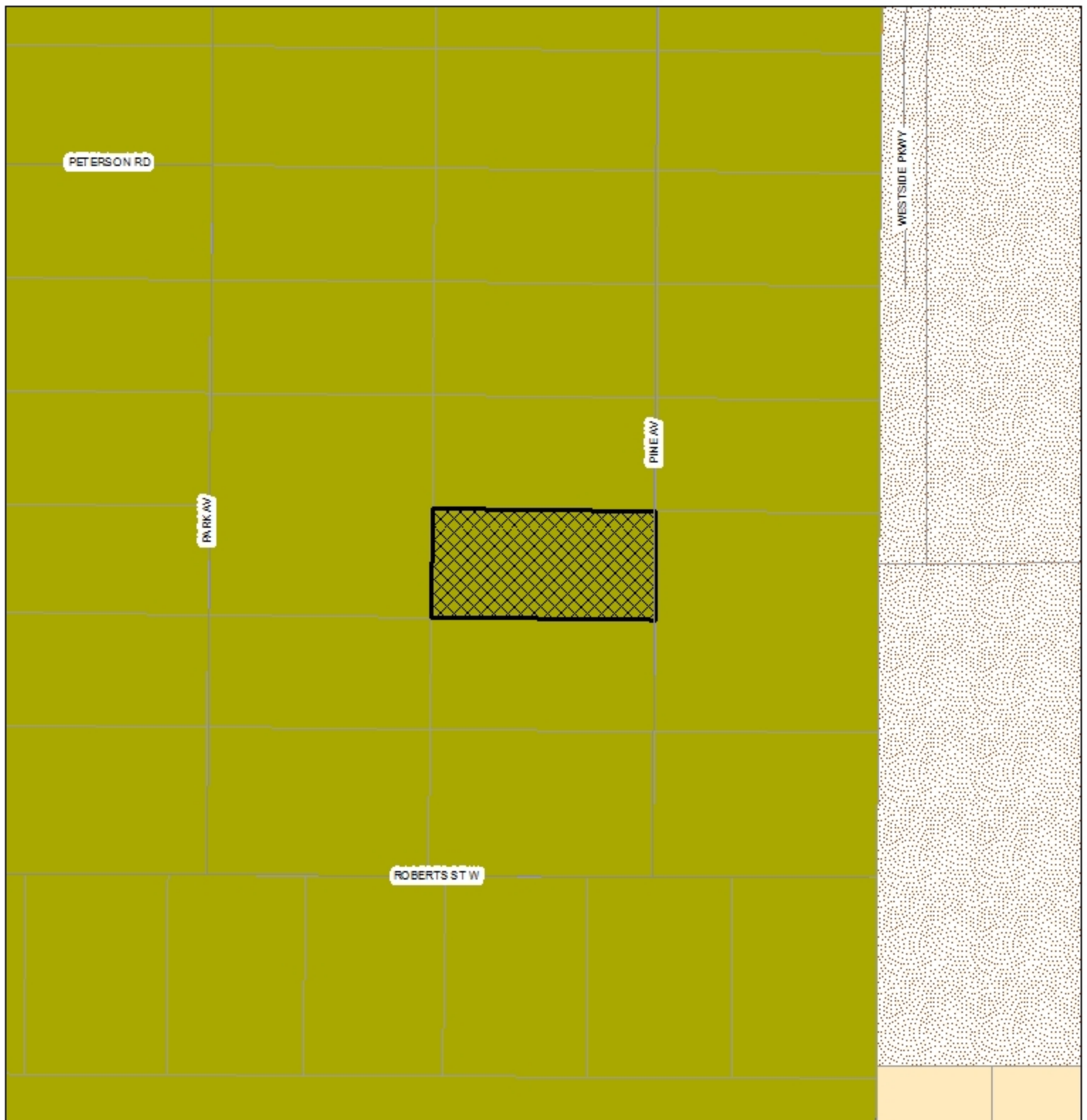
 REQUEST AREA



**VARIANCE  
CASE NUMBER**

**V-14-006**





***FUTURE LAND USE DESIGNATION***

1 inch = 400 feet



- |   |   |
|---|---|
|  INCORPORATED (1) |  URBAN LOW INTENSITY (1) |
|  RURAL (1)        |   |

***VARIANCE  
CASE NUMBER  
V-14-006***