



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: July 12, 2016 - Planning and Land Development Regulation Commission (PLDRC)

CASE NO: V-16-003

SUBJECT: Variance to the side yard requirement for an accessory structure (dock) on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (R-9W) zoned property.

LOCATION: 6750 Turtle mound Road, New Smyrna Beach

APPLICANT: F.A. (Alex) Ford, Jr., Esq.

OWNERS: Estate of John A. Bollman III

STAFF: Scott Ashley, AICP, Senior Zoning Manager

I. SUMMARY OF REQUEST

The applicant is requesting variances to the yard requirement for an existing dock. A dock permit issued in 2002 expired with no final inspection. In the process of re-opening the permit, staff discovered that a portion the dock walkway encroaches into the north side yard, which needs to be resolved to enable the completion of the building permit application for the dock revision. The regulations for a residential dock are in Section 72-278 of the zoning code.

Additionally, a property boundary dispute has developed between the subject property owner and an adjacent property owner over the perceived location of a waterfront property boundary. This dispute affects the western section of the existing dock. To maintain the existing dock location, and resolve the boundary issue, there is a second setback variance request.

The requested variances are:

1. A variance to section 72-278(5) to the minimum north side yard from the required 15 feet to 4 feet for an existing dock, and
2. A variance to section 72-278(5) to maintain a north side yard of 38.5 feet from the north side lot line extension for an existing dock (Variance 2) on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (R-9W) zoned property.

Staff recommendation: Approval, as the request can meet the applicable five criteria for granting variances subject to recommended conditions.

II. SITE INFORMATION

1. Location: The property is located west side of Turtle mound Road adjacent to the Indian River, in the community of Bethune Beach.
2. Parcel No(s): 8505-01-49-0210
3. Property Size: ±16,800 square feet
4. Council District: 3
5. Zoning: Urban Single-Family Residential/Indian River Lagoon Surface Water Improvement and Management Area (R-9W)
6. Future Land Use: Urban Low Intensity (ULI)
7. ECO Overlay: Yes
8. NRMA Overlay: Yes
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	R-9W	ULI	Single-family dwelling and a vacant lot
East:	R-7W	UHI	Multifamily dwellings
South:	R-9W	ULI	Single-family dwelling
West:	RC	Water	Indian River

10. Location Maps:



ZONING MAP

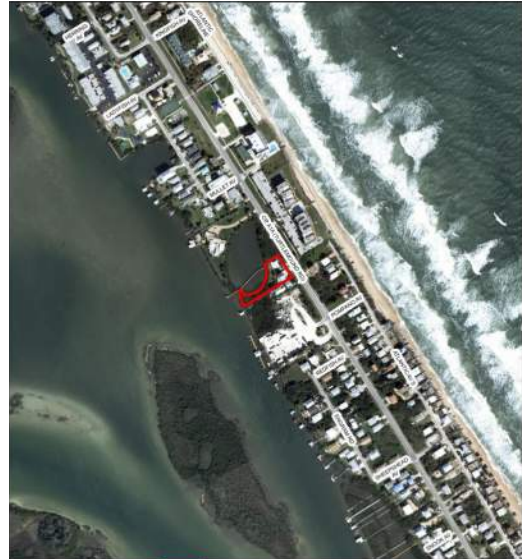


FUTURE LAND USE MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The subject parcel is located in the Bethune-Volusia Beach subdivision platted in 1940's, and developed with a single-family residence since 1983. The parcel consists of six platted lots, with Lot 21 the northernmost. The parcel is located on A section of the Indian River labeled as Turner Flats on the county ArcGIS database.

The applicant is requesting two setback variances so that he can maintain the existing dock location to resolve a setback encroachment, and to settle a boundary dispute. This dock stretches from the shore across a lagoon to the Turner Flats section of the Indian River. The property owner received a building permit in 2002 (#20020627003) to construct a dock structure. Per the permit's plot plan approved by the zoning staff, the straight alignment of the structure would meet a 15-foot north side yard from the extension of the parcel's north lot line. Per section 72-278 (5) of the zoning code, no dock can be less than 15 feet of any side lot line, or its extension into the water.



During the course of a code compliance action, county staff determined that the original 2002 permit expired without a final inspection. As part of their request to reopen the expired permit through the county's Building and Zoning Division, the owner provided an updated property survey. Staff reviewed the new survey/plan and found that the dock was noncompliant with only a four-foot north side setback due to a dock design deviation. If PLDRC approves the variance, the applicant can complete their permitting process to reinstate the permit and obtain a dock final inspection. Compliance action is being held pending outcome of the variance request.

The second variance is to address a property boundary dispute between the property owner and an adjacent owner (8505-01-49-0060) that has a potential settlement. As mentioned above, a dock must meet the required setback provision from the side lot line or its extension into the water. Per the Bethune-Volusia Beach subdivision plat, the north lot line of Lot 21 would project straight into the Indian River. Presently, this north lot line extends over Turner Flats lagoon and a narrow land area to the Indian River. The adjacent property owner is claiming ownership of the lagoon and the land area, where the western end of the dock meets the applicable dock setback from the extension of the applicant's north lot line with a 38.5-foot setback. Under a proposed private settlement, the subject property owner proposes to relinquish any ownership claim to the peninsula area to the adjacent property owner, which will shift the side lot line resulting in a future nonconforming setback for the eastern end of the dock. Therefore, the applicant is seeking a variance to recognize the dock will not be any closer than 38.5 feet to the side lot extension of parcel 8505-0149-0210. A full description of the boundary dispute is outlined in the applicant's written petition.

IV. REVIEW CRITERIA AND ANALYSIS

Variance Site Plan - The purpose for the variance is to allow for the reopening of an expired building permit. Under section 72-277(5) of the zoning code, boat docks, or its extension into the water, may be located in water front yards but shall not be permitted within 15 feet of any side lot line. With this variance case, a segment of the dock's walkway is angled such that it encroaches beyond the applicable north setback by 11 feet.

Variance Criteria - 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 following 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.

Variance 1: The special conditions and circumstances peculiar to the structure involved is that the dock already encroaches into the required side front yard. The dock does not comply with the applicable side yard requirement of Section 72-282 of the zoning code, and needs to obtain a variance to address the encroachment and proceed with the county building permit process.

Variance 2: The western end of the dock currently complies with the applicable code setback, but the dock will not be in compliance if the applicant reaches a legal settlement with an adjoining property owner of a property boundary dispute. This is a unique circumstance not relatable to other lands or structures in the R-9 zoning classification.

Staff finds that the variance requests do meet this criterion.

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

Variance 1: Per the applicant, the special condition concerning the dock layout is the result of the actions of the original contractor, whom did not follow the permit plan nor called for the final inspection. The property owner relied on the services of his professional contractor while absent from his property. After learning of the construction issue more than 10 years after dock construction, the owner apparently sought to have the contractor resolve the dock encroachment, but the contractor refused. However, the former owner is partially responsible as the contractor was his agent.

Variance 2: The circumstances of this particular variance were not of the caused by the applicant or subject property owner.

Staff finds that the variances can meet this criterion with appropriate conditions.

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 zoning code requirements would make it difficult for the property owners to keep this preexisting structure. Approximately 100 feet or more of dock structure must be physically removed, and reinstalled to meet the required side yard setback. This would work an undue hardship on the current owner.

Variance 2: Literal interpretation of the provisions of this zoning code would work an unnecessary and undue hardship on the applicant if the dock were required to meet the applicable dock setback as a result of the potential settlement of a boundary dispute.

Staff finds that the variance requests do meet 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: The property owner has asked for the minimum variance that will allow the accessory dock structure to remain in place as shown on the survey. The request is to satisfy the code compliance issue of an expired permit inherited by the current owner and to legitimize the noncompliant dock structure, all at the same time.

Variance 2: The variance request is the minimum to allow the dock to remain in place as previously permitted by the county, and not have the dock shifted or realigned to a different location if necessary in the future.

Staff finds that the variance requests do 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.

Variances 1 and 2: Granting the requested variance does not create traffic congestion, fire hazards, or block adequate light or air and would have no foreseeable affect on essential governmental services. There will be little impact to the scenic value of the neighborhood, as the existing dock extends to the Indian River, and the view to the properties to the north south of the subject property are not obscured.

Staff finds that the variance requests do meet this criterion.

V. STAFF RECOMMENDATION

Staff finds that the application can meet all five criteria to grant the requested variance. Therefore, staff recommends the PLDRC approve a variance to section 72-278(5) to the minimum north side yard from the required 15 feet to 4 feet for an existing dock (Variance 1); and a variance to section 72-278(5) to maintain a north side yard of 38.5 feet from the north side lot line extension for an existing dock (Variance 2) on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (R-9W) zoned property, subject to the following conditions:

1. The applicant, property owner or authorized agent(s) shall submit the approved variance site plan to obtain and complete the required building permit and inspection for the dock along with the rendition letter as verification to the approval of the granted variances to the Volusia County Building and Zoning Division within 60 days of the PLDRC action.
2. The variance is limited to the dock structure as depicted on the as-built survey/variance site plan dated October 30, 2012, prepared by Daniel W. Cory Surveyor, LLC, and the dock shall not be enlarged, increased, or extended further to encroach or occupy any greater area of the property without approval of a separate variance and/or building permits.
3. If the dock is destroyed, removed, or damaged in excess of 50% of its replacement cost at the time of proposed reconstruction, Variance 1 will be deemed invalid, and any reconstruction of the dock shall comply with all applicable requirements of the zoning code.

VI. ATTACHMENTS

- Written Petition
- Survey
- Variance Site Plan
- Reviewer Comments
- Letter of Support
- 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.

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?

SEE ATTACHED

- 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?

SEE ATTACHED

- 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:

SEE ATTACHED

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.

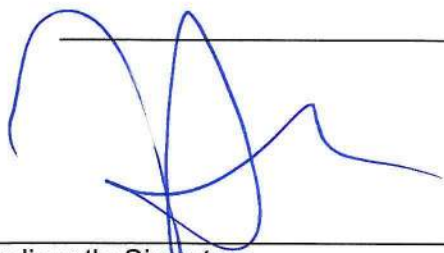
1. Is your request for Variance(s) consistent with this intent and purpose?

SEE ATTACHED

and

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

SEE ATTACHED



Applicant's Signature

10/15/15

Date

Applicant's Signature

Date

WRITTEN PETITION FOR A VARIANCE

Applicant seeks a variance to Section 72-278 (5) of the Zoning Ordinance of Volusia County (the "Dock Ordinance"), in order to (A) allow him to settle a boundary dispute which is currently in litigation in the Circuit Court and (B) to permit his existing dock and boathouse/terminal platform ("dock") to remain in place despite an encroachment into the setback area arising out of a mistake by his dock contractor.

A. Settlement of Boundary Dispute.

The Applicant seeks the relief requested, in part, to allow him to settle the boundary dispute. This dispute did not arise due to his own actions. The subject property, which fronts on two distinct but connected water bodies (the Indian River North and Turner Flats, a lagoon which is connected to the river by a narrow inlet), has been part of a longstanding boundary dispute. The basis for that dispute arises out of the plat of Bethune-Volusia Beach, recorded in Map Book 11, page 151, et seq., which subdivided the property and surrounding areas. The written description of the platted lands states that the land runs along the waters edge of the Indian River North and that it meanders the eastern edge of the river. The plat, recorded in 1947, shows that the subject property extends all the way to the waters edge of the Indian River North.

The north lot line, the dimensions of which are not shown on the plat, should run to the river according to the plat. But, if scaled off for a distance based upon the plat's scale, the property would not extend to the river. The dimensions on the plat indicate that the distance to the river is substantially less than what actually exists on the ground. In approximately 2003 a neighbor obtained a deed from the original subdivider which purported to convey to that neighbor certain lands which were described as "unnumbered and not depicted on the plat" of Bethune-Volusia Beach Subdivision. Applicant takes the position that there are no such lands (because the plat runs all the way to the water's edge). But, the situation has created uncertainty as to the location of his and others' lot lines. This situation has given rise to at least two lawsuits for boundary determination, one of which includes the Applicant. Both of those suits are currently pending. The situation also gave rise to a third neighbor entering into settlement with the neighbor who obtained the deed from the original subdivider, which was reached without litigation.

To further complicate matters, although the platted property is described in the plat as meandering the river's edge, the sketch of the plat shows the river as having a substantially straight shoreline, and does not show the lagoon.

In any event, the Applicant and his neighbor are attempting to settle the boundary dispute. The anticipated settlement would provide for Applicant to convey a portion of the property in dispute, being the southern tip of the peninsula (highlighted in the attached site plan), to the neighbor. Under the anticipated settlement, the neighbor would then convey to Applicant the property south of the peninsula, thus making it clear that Applicant does own all the way to the river (except as to the peninsula). As a result, the existing dock will encroach into the setback area. The need for the requested variance results, in part from settlement of the litigation, because the dock is already more than 15 feet from the property line as was recognized before the 2003 deed. Applicant seeks a variance for a setback of 38.5' from the North line of Lot 21 or its extension into the water, rather than 15' from the north side lot line or its extension into the water. Reference to the extension of the platted north lot line (the current lot line) is intentional, since it will be difficult to determine the location of the northerly lot line after conveyance of the property as per the settlement agreement.

Attached hereto is a copy of the plat as well as aerial photographs of the property from 1943 and 2015. As can be seen, both at the time of platting and today, the plat did not reflect the actual physical characteristics of the property. Thus, this situation arose as a result of the original plat and not as a result of the Applicant's actions. Settlement of the litigation is Applicant's attempt to resolve a matter which was not of his own making.

Alternatively, if the litigation is not resolved by settlement or in favor of Applicant, Applicant shows that the property lines were previously recongized as extending all the way to the water, thus including the peninsula in Applicant's property. Attached is a copy of the tax parcel map dated March 20, 2012, which showed Applicant's property line running all the way to the river and including the peninsula. Some time after that date, the property appraiser "moved" the property line to exclude the peninsula from Applicant's parcel. The current tax parcel map is also enclosed. The dock was constructed at a time when the Applicant's tax parcel included the peninsula.

B. Existing Encroachment.

As previously mentioned, the dock is already in existence. In addition to the setback encroachment which will arise from the settlement, there is an existing encroachment which Applicant seeks to resolve. The specific request to resolve the existing encroachment is for a variance to allow a 4.6' setback from the north line of Lot 21 or its extension into the water, rather than 15' from the north lot line or its extension into the water, as required by code. Again, reference to the extension of the platted north lot line (the current lot line) is intentional, since it will be difficult to determine the location of the northerly lot line after conveyance of property to the neighbor, as per the anticipated settlement agreement.

The Applicant seeks to legitimize the existing encroachment into the proper setback. The relief requested is not as a result of his own actions. Applicant originally obtained appropriate permits for construction of the dock, and it was constructed in or around 2003. Applicant was out of state when the dock was built, and the dock contractor did not construct the dock at least 15' from the Applicant's north property line (or extension into the water), as set forth in the permits and required by Code. The dock contractor started building the dock within the appropriate adequate setback, but oriented it along the same orientation as the residential structure on site. That directed the dock into the lagoon at the wrong angle. When the contractor discovered this error, instead of correcting the error by removing the offending section and re-building the dock so as to maintain a 15' setback from the extension of the property line, as required by Code and the permits, he left the already built section where it was, performed a course correction, and then completed the dock.

When Applicant was cited by code enforcement, he approached the dock contractor and asked him to fix the problem, since it was created by the contractor. The contractor responded that "the statute of limitations has run," and refused. The necessity for the requested variance resulted from the actions of the dock contractor. Applicant did not cause the existing encroachment into the setback area.

It should be noted that FDEP has approved the current location.

C. Summary.

The requested variances are limited to the location of the existing dock. Applicant has requested the minimum variance necessary to get reasonable relief. A lesser variance would not permit settlement under the terms as agreed and would require demolition and reconstruction of a perfectly good dock. The request is specifically tied to the north line of Lot 21, due to the uncertainty of what the proper point of measurement will be after resolution of the boundary dispute.

This request is consistent with the general intent and purpose of the Zoning Ordinance of Volusia County and the Volusia County Comprehensive Plan, and will not be injurious to the surrounding area.

A - J A N - J 3

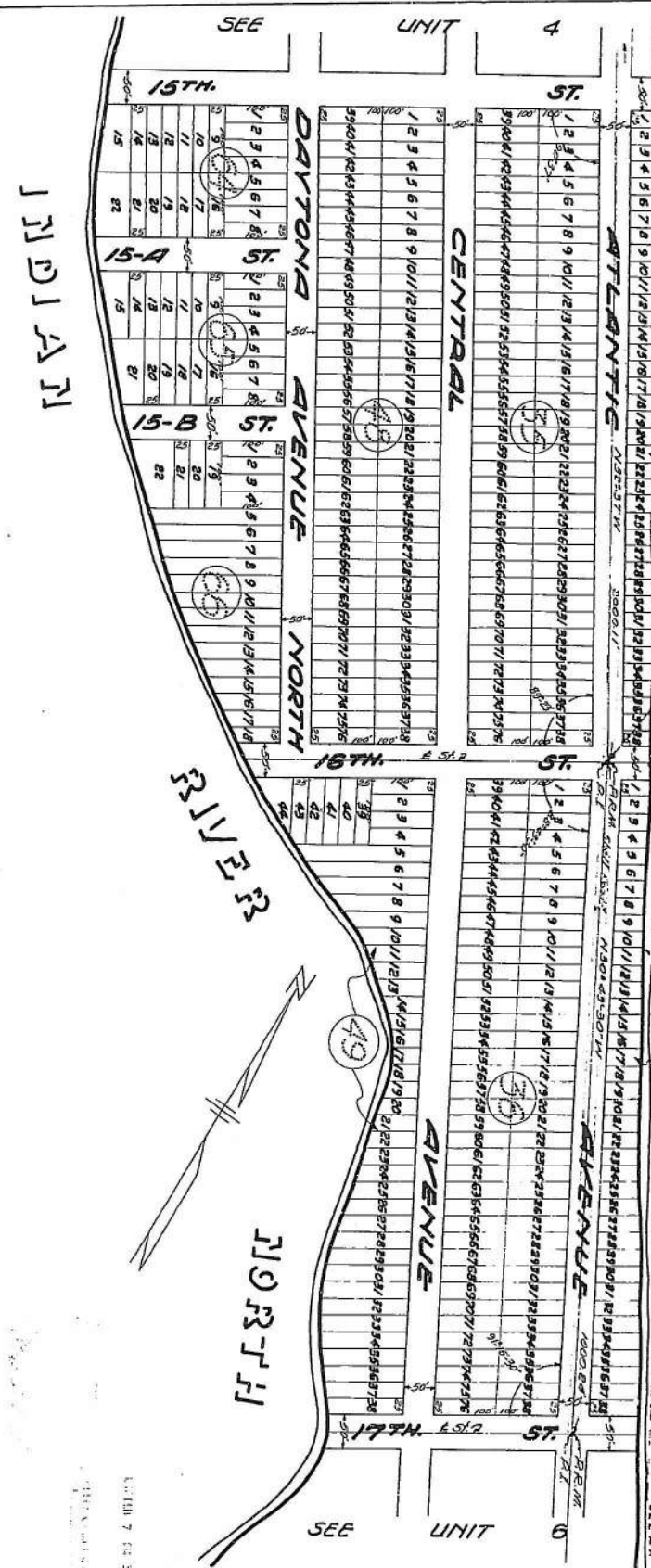
(14)

17233' WINDWARDLY GRIND & ATLANTIC, W.N.
 70' N 1/2 SEC. 6, T. 20 N R. 10 E S. 6 E, SEC. 6.
 HIGH PINE LINE

(15)

APPROVED BY THE BOARD OF COUNTY
 COMMISSIONERS OF VOLUSIA COUNTY, FLORIDA.
 CHAIRMAN

MAP BOOK 11 PAGE 159

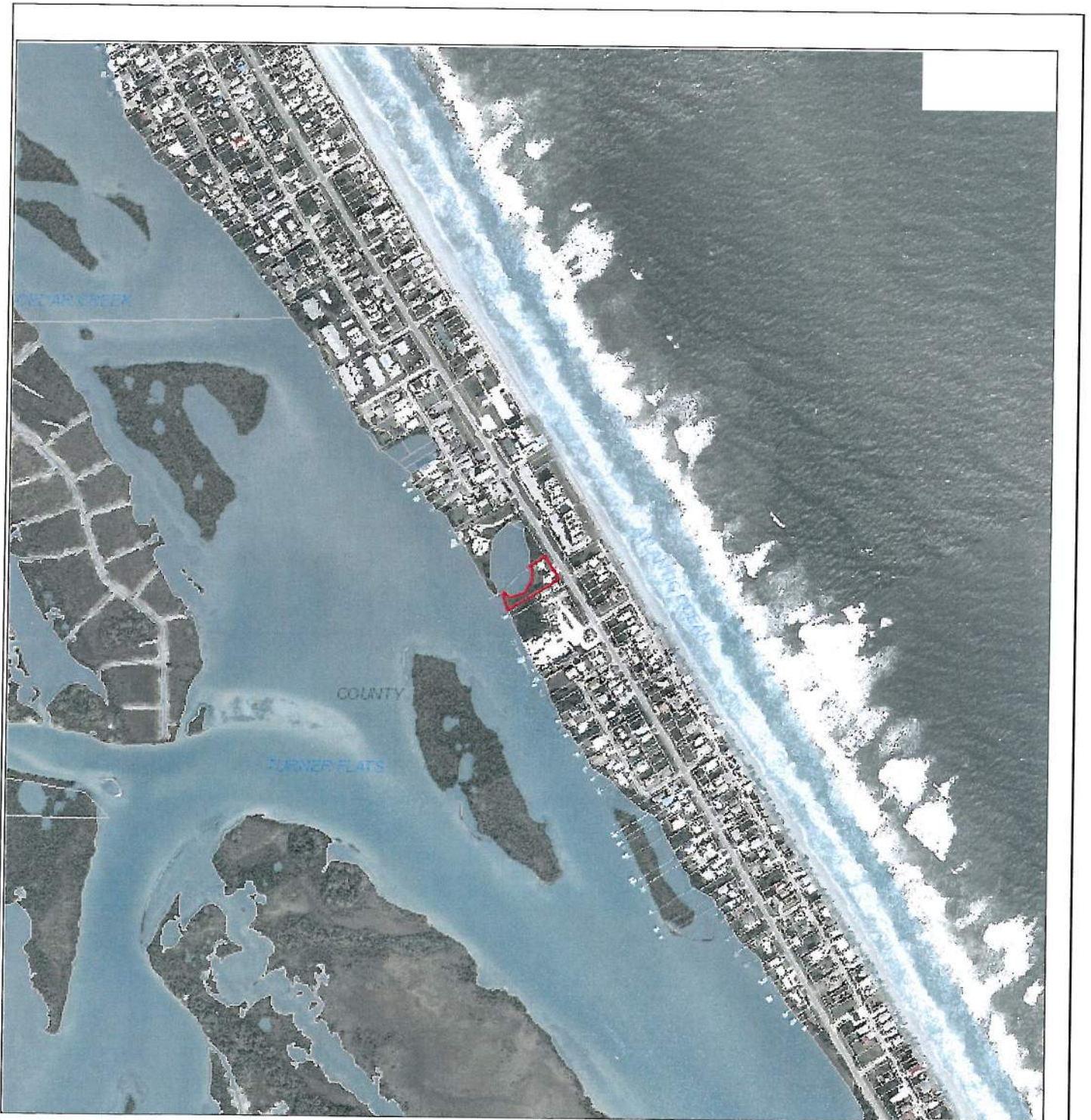


NOTE
 SEE MAP OF UNIT ONE FOR DESCRIPTION OF
 PROJECT IN WHICH THIS UNIT IS INCLUDED
 ALSO DEDICATIONS, CERTIFICATIONS, ETC.

I hereby certify that this map is a correct
 representation of the land plotted and that
 permanent reference monuments have been
 placed as required by the survey laws of the
 State of Florida.
 REGISTERED LAND SURVEYOR

BETHUNE VOLUSIA BEACH.
 UNITS 5 OF 7 UNITS.

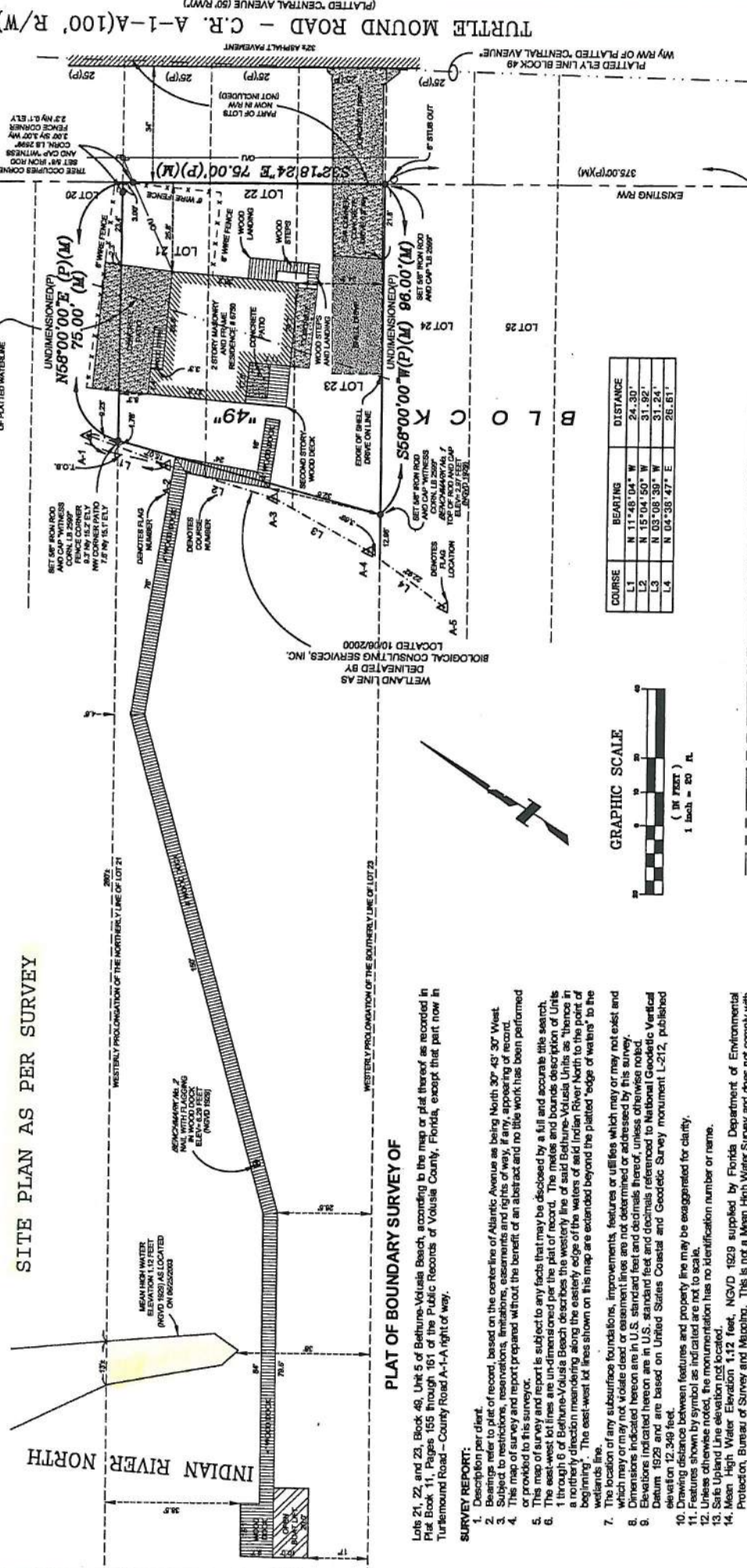
C. H. MONEYPENNY
 REGISTERED ENGINEER & SURVEYOR.
 DAYTONA BEACH, FLORIDA.
 STRIKE CERTIFICATES NOS. 2, 195.
 SCALE 1/4" = 100'
 SEPT. 24, 1946.



Scale 1:9,819 - 1 in = 818 ft
Date Created:
15-Oct-15 12:22 PM

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SOURCE: PARCEL DATA, VOLUSIA COUNTY PROPERTY APPRAISER

SITE PLAN AS PER SURVEY



PLAT OF BOUNDARY SURVEY OF

Lots 21, 22, and 23, Block 48, Unit 5 of Bethune-Volusia Beach, according to the map or plat thereof as recorded in Plat Book 14, Pages 155 through 161 of the Public Records of Volusia County, Florida, except that part now in Turtle Mound Road - County Road A-1-A right of way.

SURVEY REPORT:

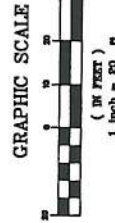
1. Description per client.
2. Bearings refer to plat of record, based on the center line of Atlantic Avenue as being North 30° 49' 30" West.
3. Subject to restrictions, reservations, limitations, easements and the like, appearing or record.
4. This map of survey and report prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.
5. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
6. The east-west lot lines are un-dimensioned per the plat of record. The metes and bounds description of Units 1 through 6 of Bethune-Volusia Beach describes the westerly line of said Bethune-Volusia Units as "thence in a northerly direction meandering along the easterly edge of the waters of said Indian River North to the point of beginning". The east-west lot lines shown on this map are extended beyond the platted "edge of waters" to the wetlands line.
7. The location of any subsurface foundations, improvements, features or utilities which may or may not exist and which may or may not violate dead or easement lines are not determined or addressed by this survey.
8. Dimensions indicated hereon are in U.S. standard feet and decimals thereof, unless otherwise noted.
9. Elevations indicated hereon are in U.S. standard feet and decimals referenced to National Geodetic Vertical Datum 1929 and are based on United States Coastal and Geodetic Survey monument L-212, published December 12, 1949 feet.
10. Drawing distances between features and property line may be exaggerated for clarity.
11. Features shown by symbol as indicated are not to scale.
12. Unless otherwise noted, the monumentation has no identification number or name.
13. Survey monumentation is 1.12 feet, NGVD 1929 supplied by Florida Department of Environmental Protection, Bureau of Survey and Mapping. This is not a Mean High Water Survey and does not comply with Chapter 177, Part II, Florida Statutes.
14. Riparian lines were not determined and are not shown.
15. Additions or deletions to this survey map or report by the signing party or parties is prohibited without written consent of the signing party or parties per F.A.C. Rule 5J-17.06(10)(b).
16. The survey map and report or copies thereof are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

CERTIFIED TO: JOHN A. BOLLMAN

POMPANO AVENUE (50' R/W)
PLATTED '17 TH STREET

10/30/2012 - AS-BUILT SURVEY OF DOCK

COURSE	BEARING	DISTANCE
L1	N 11° 45' 04" W	24.30'
L2	N 15° 04' 50" W	31.92'
L3	N 03° 03' 35" W	31.24'
L4	N 04° 35' 47" E	26.61'



CERTIFICATE OF AUTHORIZATION NUMBER LB 7883
I hereby certify that this survey map and report of the subject property is true and correct to the best of my knowledge, information and belief as surveyed in the field under my supervision on the dates shown hereon. I further certify that this survey map and report meets the minimum technical standards set forth in F.A.C. Rule 5J-17, adopted by the Florida Board of Professional Surveyors and Mappers, pursuant to Florida Statute Ch. 472.027, subject to the qualifications noted hereon.

DANIEL W. CORY
SURVEYOR, LLC
300 CANAL STREET
NEW SMYRNA BEACH, FLORIDA 32108
(386) 427-9575
(386) 427-1783

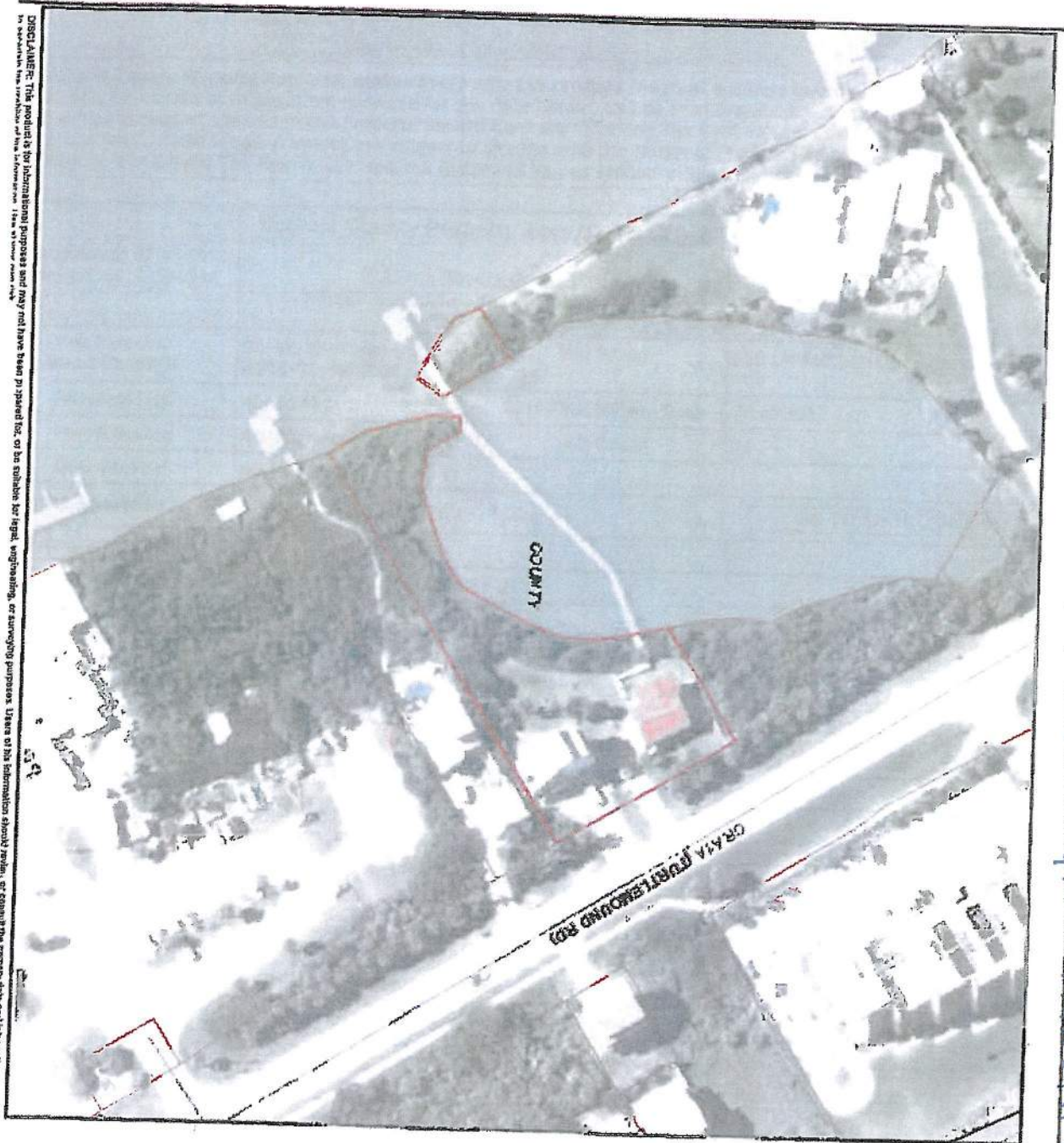
PREPARED FOR: JOHN A. BOLLMAN
SCALE 1" = 20'
FILE # 2061

LEGEND & ABBREVIATIONS

DATA	FIELD DATA	REMARKS	REMARKS
DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
CALCULATED	CALCULATED	CALCULATED	CALCULATED
PROBABLE	PROBABLE	PROBABLE	PROBABLE
ORIGIN	ORIGIN	ORIGIN	ORIGIN
RECORD	RECORD	RECORD	RECORD
BOOK	BOOK	BOOK	BOOK
PLAT	PLAT	PLAT	PLAT
SECTION	SECTION	SECTION	SECTION
WATER METER	WATER METER	WATER METER	WATER METER
TELECOMMUNICATIONS (TUL)	TELECOMMUNICATIONS (TUL)	TELECOMMUNICATIONS (TUL)	TELECOMMUNICATIONS (TUL)
FINISHED FLOOR ELEVATION	FINISHED FLOOR ELEVATION	FINISHED FLOOR ELEVATION	FINISHED FLOOR ELEVATION
REMOVED CONCRETE PIPE	REMOVED CONCRETE PIPE	REMOVED CONCRETE PIPE	REMOVED CONCRETE PIPE
CONCRETE PIPE	CONCRETE PIPE	CONCRETE PIPE	CONCRETE PIPE
EXISTING ELEVATION (ELEV)	EXISTING ELEVATION (ELEV)	EXISTING ELEVATION (ELEV)	EXISTING ELEVATION (ELEV)

TYPE	SURVEY DATE	WORK ORDER #	P.C.	CALC.	DRAFT	CHECKED
BOUNDARY SURVEY	10/12/2000	00-07-068A	D.A.S.	J.W.C.	D.O.P.	D.W.C.
WOOD DOCK & MOON	06/25/2003	03-06-017	D.A.S.	J.W.C.	S.S.F.	D.W.C.
AS-BUILT SURVEY	10/30/2012	12-10-018	H.T.Q.	J.W.C.	B.T.C.	J.W.C.
FOUNDATION SURVEY						
FINAL SURVEY						
REIDENTIFICATION SURVEY						
SPECIFIC PURPOSE SURVEY						
SWITCH OF DESCRIPTION						

JOHN A. BOLWIK, JR. PROPERTY



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Scale: 1" = 100'



Date Created: 20-Mar-12 03:28 PM

http://mapp.vcgov.org/mox6/MapIT_.cfm

TAX PARCEL MAP

2012

3/20/2012



Scale 1:1,320 1 in = 111 ft
Date Created:
15-Oct-15 02:48 PM

TAX PARCEL MAP

2015

CURRENT PLANNING
ACTIVITY
OCT 15 2015
RECEIVED

SURVEY AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned authority, personally appeared H. Charles Woerner, Jr., as Personal Representative of the Estate of John A. Bollman, deceased, who upon being duly sworn, deposes and says:

1. That I am the Personal Representative of the Estate of John A. Bollman who at the time of his death was the owner of the following described property which is now included in the Estate of John A. Bollman, and in my capacity as the Personal Representative of said Estate. I now own the following described property:

Lots 21, 22, and 23, Block 49, Unit 5 of Bethune-Volusia Beach, according to the map or plat thereof as recorded in Plat Book 11, Pages 155 through 161 of the Public Records of Volusia County, Florida, except that part now in Turtlemound Road – County Road A-1-A right of way.

2. That attached hereto is an as built survey of the above described property drawn by Daniel W. Cory, P.S.M. No. 2027, dated October 30, 2012, being File No. 2061 and certified to John A. Bollman as the owner.

3. That since the date of the survey, there have been no modifications or additions to the dock improvements shown on the survey.

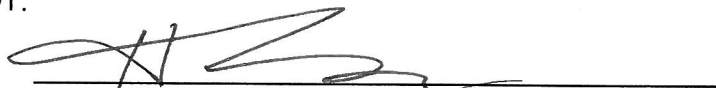
4. That since that date of the survey to the best of affiant's knowledge, there have been no improvements or fences erected on any adjacent property.

5. That since that date of the survey to the best of affiant's knowledge, owner has not granted any easement of any nature across the above described property.

6. That this affidavit is made for the purpose of filing a variance request with the County of Volusia.


7. Affiant further states that Affiant is familiar with the nature of an oath, and with the penalties as provided by the laws of the State of Florida for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read the full facts of this affidavit and understands its context.

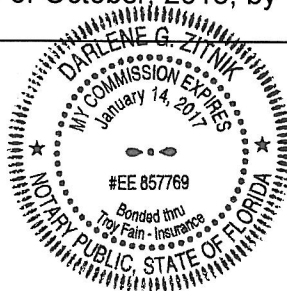
FURTHER AFFIANT SAYETH NOT.


H. Charles Woerner, Jr., as Personal Representative
of the Estate of John A. Bollman, deceased

Sworn to and subscribed before me this 13TH day of October, 2015, by H. Charles Woerner, Jr. who is: [] personally known to me, or [] produced _____, as identification.

NOTARY PUBLIC, STATE OF FLORIDA

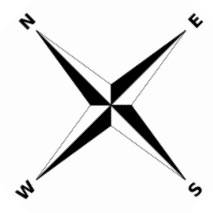
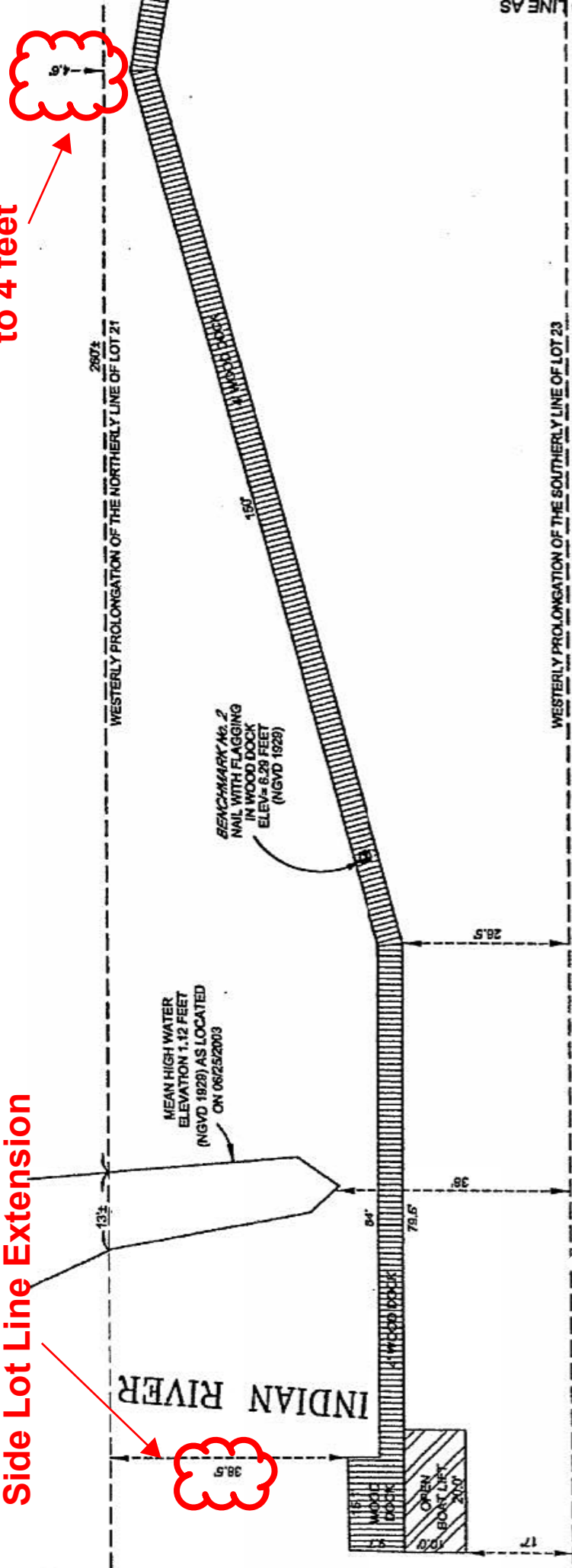

Printed name: DARLENE G. ZITNIK
My commission expires: 01/14/2017



VARIANCE SITE PLAN

VARIANCE 1
Minimum North Side Yard
from the Required 15 feet
to 4 feet

VARIANCE 2
Maintain a North Side Yard
of 38.5 feet from the North
Side Lot Line Extension



BLOW UP (NTS)
from survey/site plan
dated October 30, 2012
prepared by Daniel W. Cory Surveyor, LLC

Inter-Office
Memorandum



TO: Scott Ashley, Planning Manager **DATE:** November 5, 2015

FROM: Danielle Dangleman, Environmental Specialist III

SUBJECT: Planning & Land Development Regulation Commission meeting for
Date: October 13, 2015
Parcel #: 8505-01-49-0210
Case #: V-16-003

Environmental Permitting (EP) has reviewed the variance application. The existing dock has been built within the Indian River Lagoon and is in the Natural Resource Management Area. A wetland alteration permit has been issued and closed for this dock. The wetland final for this dock was passed in 2011. EP has no objection to this request. However, if any future construction is to be done on this dock a new wetland alteration permit will be required.

STAFF REVIEW COMMENTS

**PLDRC Hearing Date: July 12, 2016
Ford-Bollman
V-16-003**

BUILDING ZONING AND CODE ADMINISTRATION

Tom Reynolds, Chief Building Inspector

Comments:

The property owner, Mr. John Bollman, hired a contractor, Hardee Construction, to build a dock at the rear of 6750 Turtlemound Road, New Smyrna Beach, in 2002. The contractor obtained a building permit (20020627003). The permit was issued with conditions detailing method(s) of construction, placement of the structure, and a requirement for a "final inspection" approval.

There is no record of an inspection scheduled by the permit holder, as required. Records show the building permit expired on August 7, 2003, due to a lack of activity. Building permits are typically issued for six (6) months. If there is an inspection approval prior to the end of that six (6) month period, the building permit will remain open an additional six (6) months and that will continue as long as inspection approvals are obtained.

In this case there was only one required inspection, the final. This became an issue in 2012 when a complaint was received and violation cases opened regarding a dock/boathouse built at the end of the dock that had been built in 2002. Mr. Bollman had the dock/boathouse removed but wanted to keep the original dock that had been built in 2002. As it turned out, the original dock had not been built in conformance with the permit conditions. Rather than building the dock straight off the rear of the property as shown on the reviewed plans, the dock had been constructed in a zig zag pattern and a portion of the structure crossed over into a required setback area.

Removing the dock/boathouse located at the end of the original dock had resolved one of the cases opened in 2012, work without a permit. There was a second case for the expired permit. Mr. Bollman wanted to maintain the dock as it had been originally built. The original permit would have to be modified to reflect the change in the configuration and zoning would not authorize the structure in the required setback.

As a result of no activity toward obtaining a resolve to the situation, the case (CEB2012076) was referred to The Code Enforcement Board for hearing. The property owner was first notified of the violation on June 12, 2012. The case was found in non-compliance on June 19, 2013. There have been six amended orders allowing the property owner to work with adjoining property owners and seek legal & administrative remedies. The last hearing on October 21, 2015 continued The Hearing to Fine to December 16, 2015.

* * * * *

Frank & Stephanie Lueptow

W4001 Cty ES

Elkhorn, WI. 53121



Volusia County

RE Variance V -16-003

Attention County Planning and Land Development Regulation

We are contacting you on the Variance for our Next door neighbor. We have lived at 6760 TurtleMound Rd for 18 years. WE have no problem with you granting the variance for 6750 TurtleMound Rd .

Should you like to contact us, feel free to call me at 920.723.8689 or email to

Frank@FranksPigglyWiggly.com

Thank you

Best regards

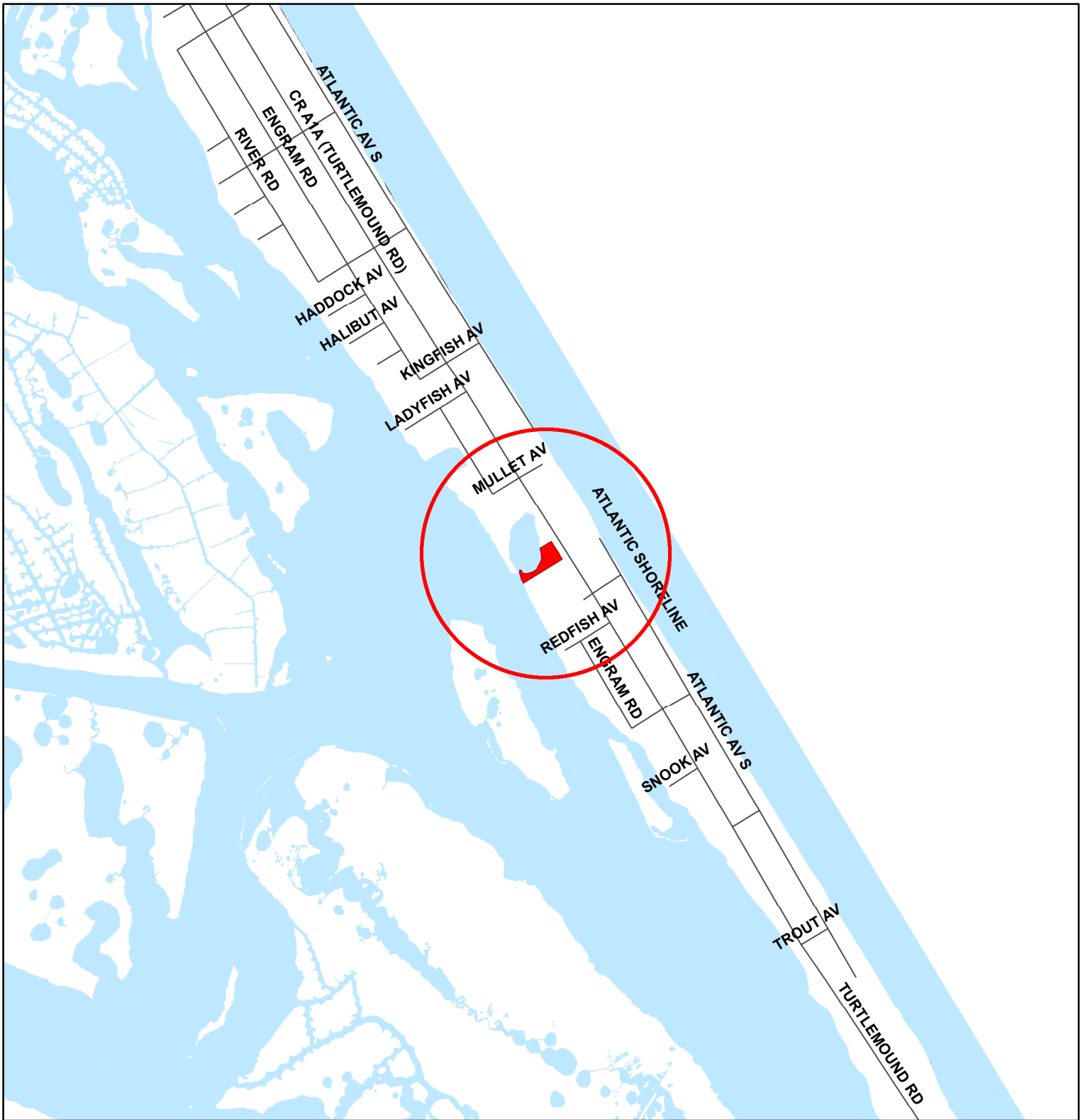
A handwritten signature in black ink, appearing to be "Frank Lueptow", with a long horizontal flourish extending to the right.

Frank Lueptow

A handwritten signature in black ink, appearing to be "Stephanie Lueptow", with a large, stylized initial "S" and a long horizontal flourish extending to the right.

Stephanie Lueptow

Cc: F.A. Ford Attorney for John Bollman estate



REQUEST AREA LOCATION



1" = 1000'

VARIANCE



CASE NUMBER
V-16-003



AERIAL 2015

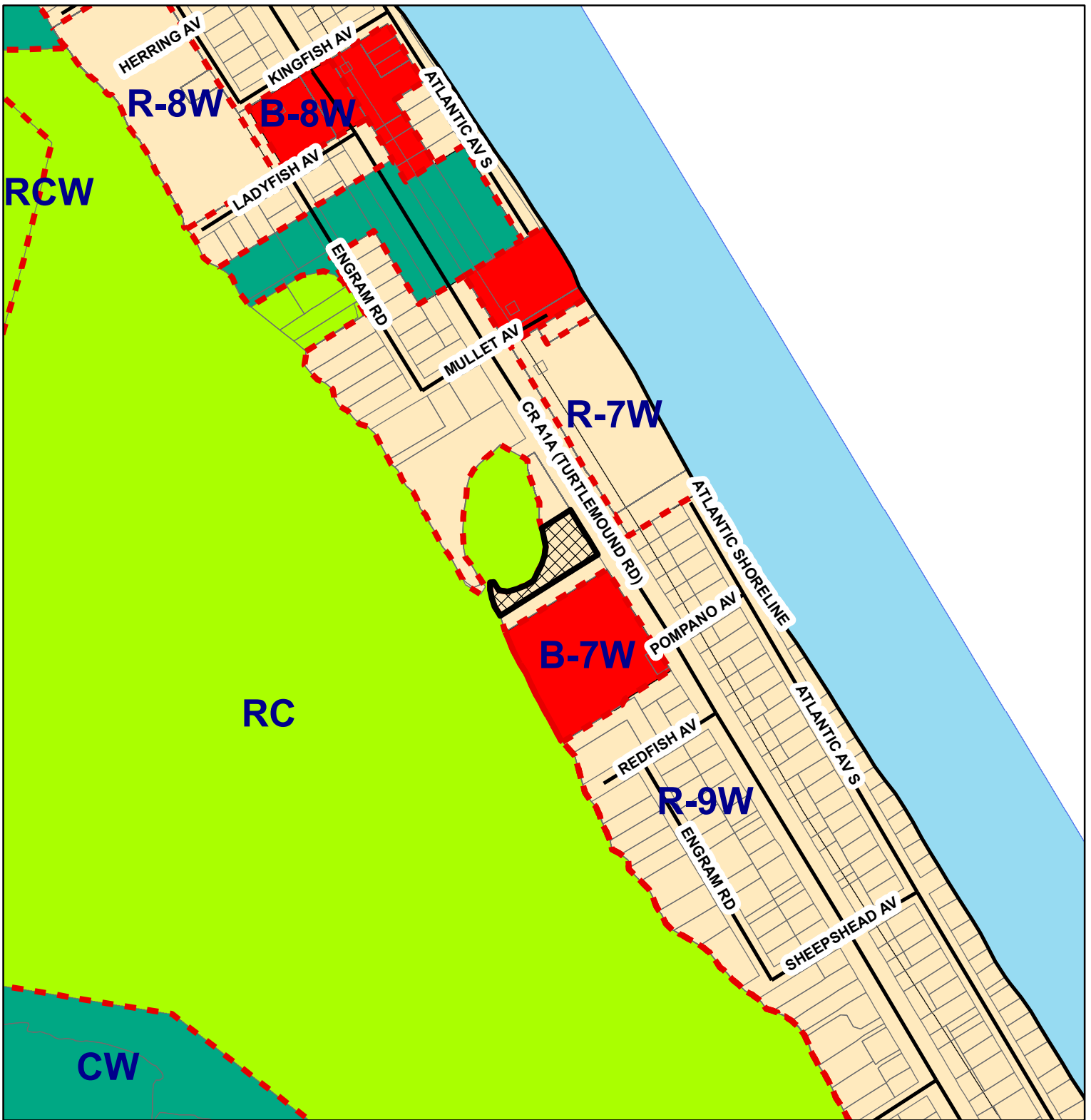


REQUEST AREA

1" = 400'



VARIANCE
CASE NUMBER
V-16-003



ZONING CLASSIFICATION

- COMMERCIAL
- RESIDENTIAL
- CONSERVATION
- RESOURCE CORIDOR

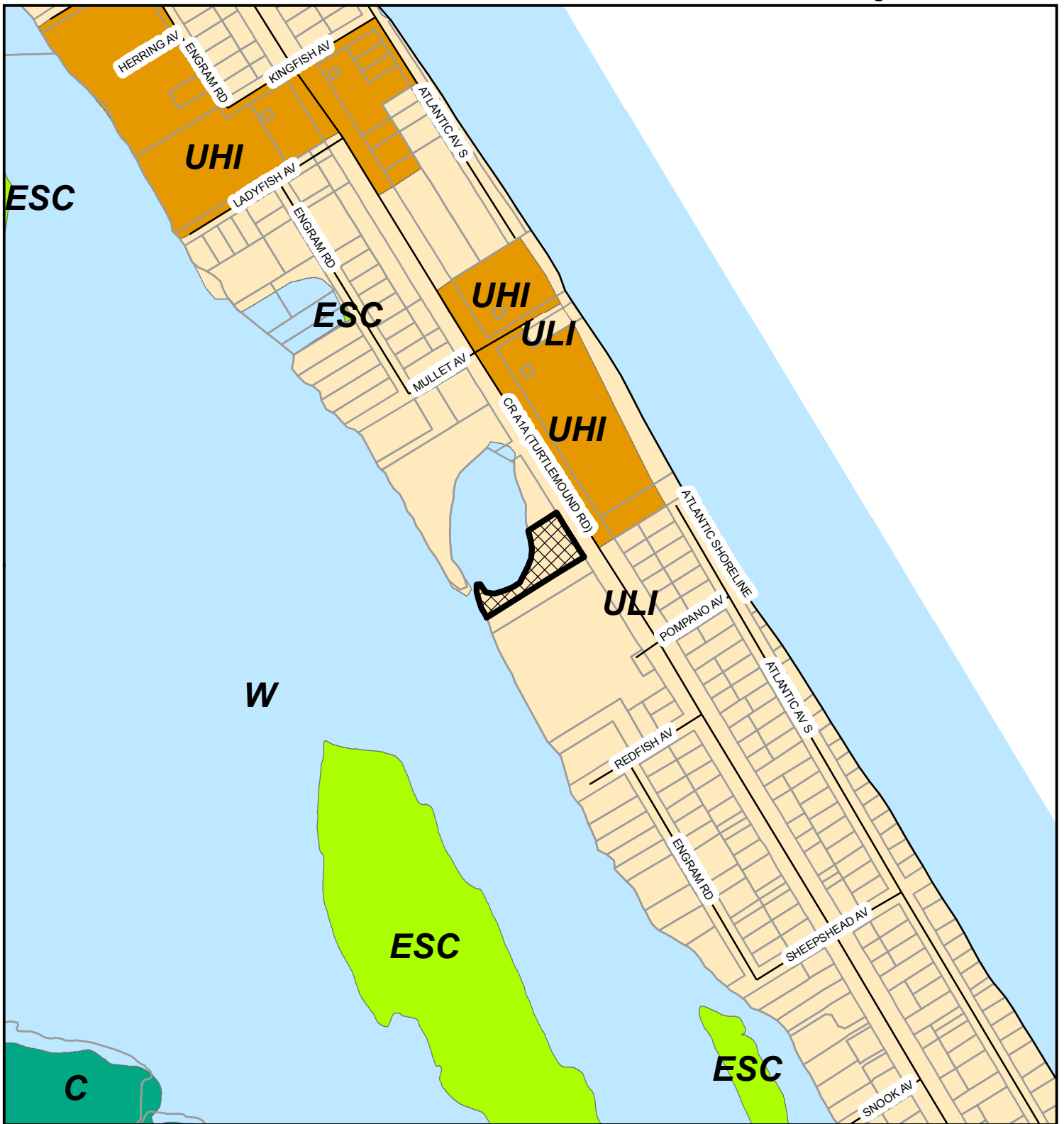
1"= 400'

VARIANCE

CASE NUMBER
V-16-003



REQUEST AREA



FUTURE LAND USE DESIGNATION

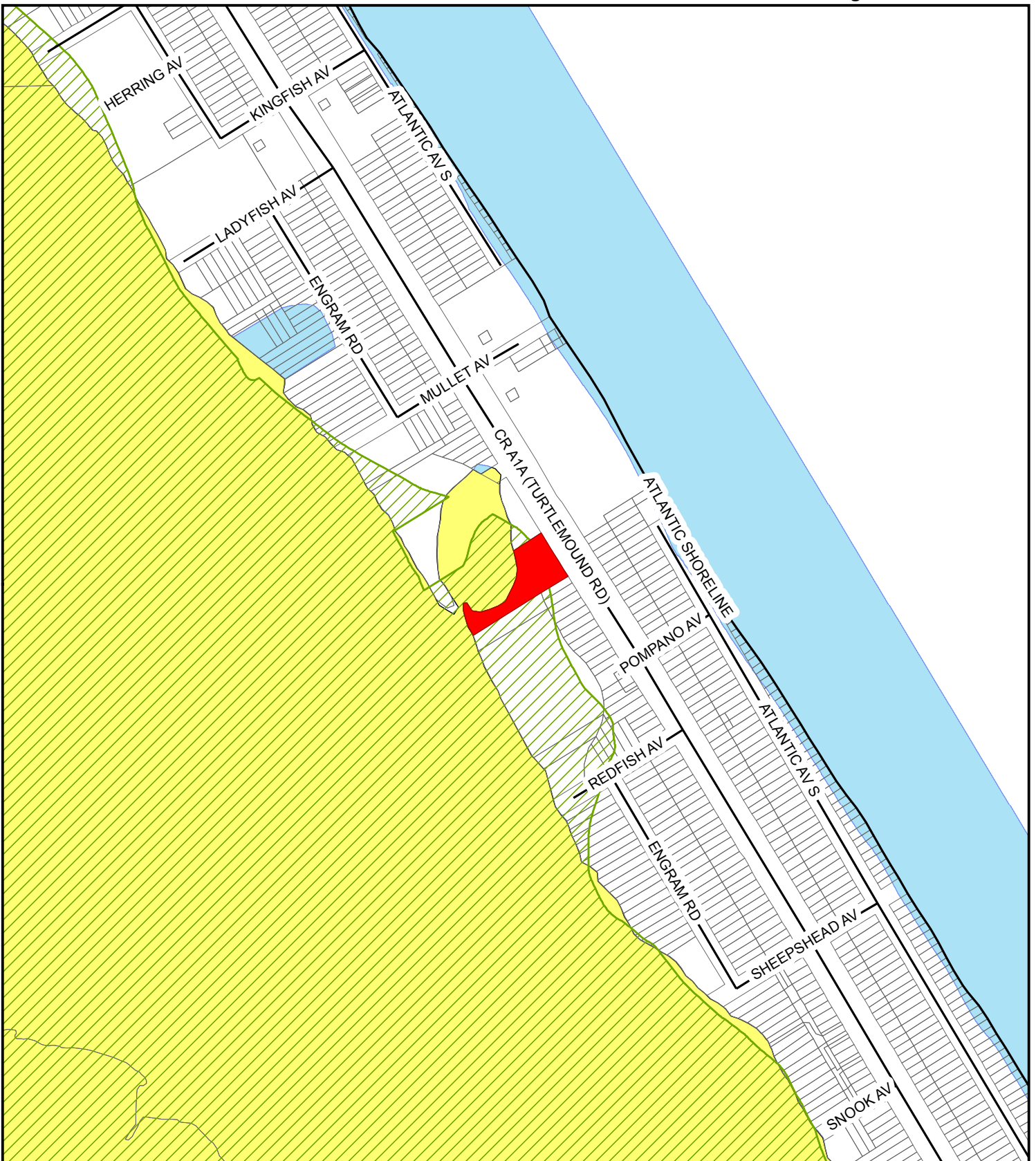
1" = 400'

VARIANCE

- CONSERVATION
- ENVIRONMENTAL SYSTEMS CORRIDOR
- URBAN HIGH INTENSITY
- URBAN LOW INTENSITY
- WATER
- hydrology_poly

**CASE NUMBER
V-16-003**

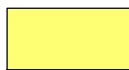
REQUEST AREA



ECO/NRMA



ECO



NRMA



REQUEST AREA

1" = 400'

**VARIANCE
CASE NUMBER**

V-16-003