



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
CURRENT PLANNING ACTIVITY
123 W. Indiana Avenue, Room 202, DeLand, FL 32720
(386) 736-5959

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

CASE NO: V-16-056

SUBJECT: Variance to the minimum front yard requirements for a proposed single-family dwelling on Transitional Agriculture (A-3) zoned property.

LOCATION: 213 Vista Della Toscana, Ormond Beach

APPLICANT: Eric Olsen, Olsen Custom Homes, agent for owners

OWNERS: Terry and Kathleen Schrum

STAFF: Danalee Petyk, Planner II

I. SUMMARY OF REQUEST

The applicant is requesting a variance to the front yard to construct a proposed one-story single-family dwelling.

Specifically, the applicant is requesting: a variance to the minimum front yard from the required 40 feet to 30 feet for a proposed single-family dwelling on Transitional Agriculture (A-3) zoned property.

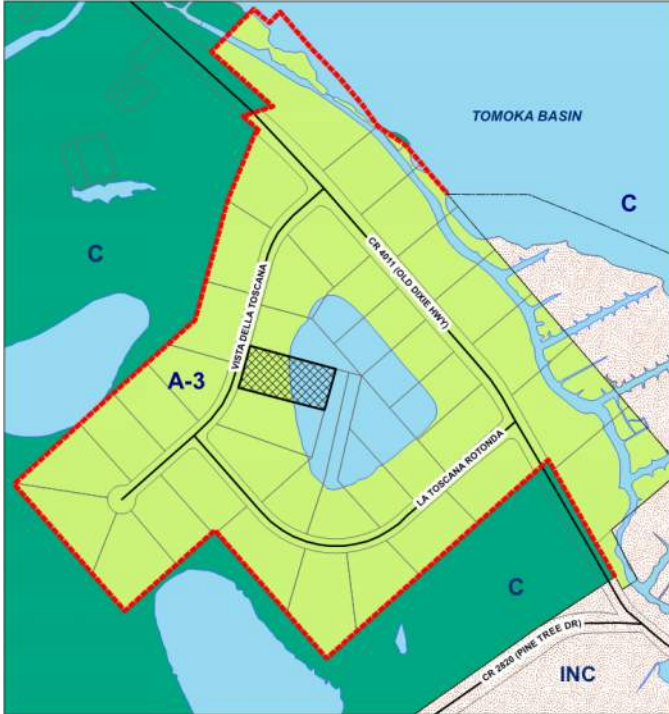
Staff Recommendation: Denial, as the application does not meet all five criteria for granting a variance under Section 72-379 of the zoning code.

II. SITE INFORMATION

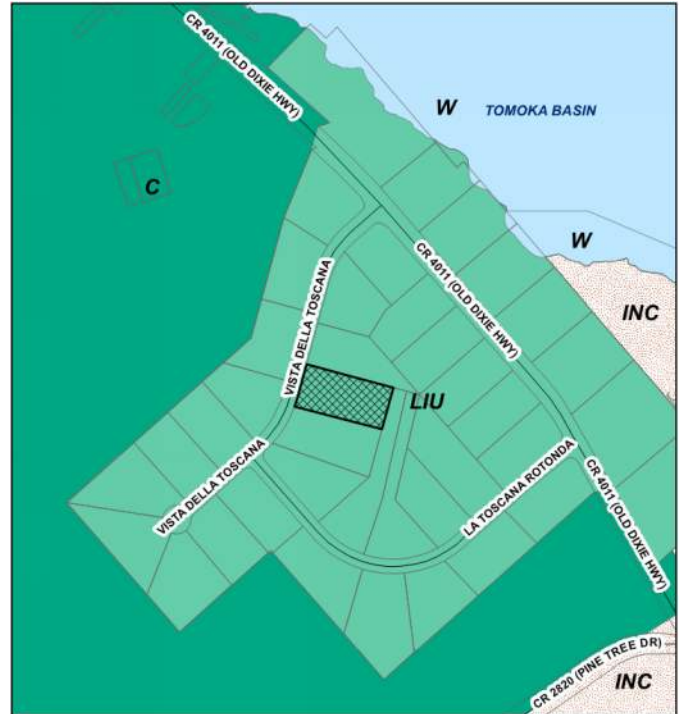
- 1. Location: The property is located on the south side of Vista Della Toscana, approximately 660 feet west of County Road 4011 (Old Dixie Highway), Ormond Beach
- 2. Parcel Number: 3240-04-00-0250
- 3. Property Size: ± 1.08 acres
- 4. Council District: 4
- 5. Zoning: Transitional Agriculture (A-3)
- 6. Future Land Use: Low Impact Urban (LIU)
- 7. ECO Map: No
- 8. NRMA Overlay: Yes
- 9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North	A-3	LIU	Vacant Residential
East	A-3	LIU	Vacant Residential
South	A-3	LIU	Vacant Residential
West	A-3	LIU	Vacant Residential

10. Location Maps



ZONING MAP



FUTURE LAND USE MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The vacant lot is part of the platted Sanctuary Subdivision, Phase II recorded in 1990. The applicants purchased the property in 2005. The subdivision is in the A-3 zoning classification which requires a minimum lot size of one acre with the following minimum yard sizes:

- Front yard: 40 feet.
- Rear yard: 40 feet.
- Side yard: 25 feet.
- Waterfront yard: 40 feet.

The vacant lot, Lot 25 of Sanctuary Subdivision, is ± 1.08 acres with an overall depth of approximately 316 feet. The back portion of the lot consists of a lake (drainage retention area) as indicated on the attached survey. The waterfront yard line is

thus measured from the ordinary high-water mark, indicated on the survey as the approximate edge of water. The existing lake covers a larger portion of the lot than indicated on the plat. According to the applicant, this is the cause of the variance request as the proposed home must be shifted forward to accommodate the requirements of the subdivision and the design of the home.

The Declaration of Covenants, Conditions and Restrictions of Toscana, A Community Located In Sanctuary Subdivision, Phase II, Article VI Design Review, has a provision stating that "no Home may be constructed on a Lot having a value less than \$430,000 Dollars or consist of living area of less than Three Thousand (3,000) square feet." The proposed home is 3,323 square feet in living area with 4,755 square feet under roof. Volusia County does not enforce private subdivision requirements that the lot owners accepted when purchasing the subject property. Under the A-3 zoning classification, the minimum floor area requirement is 1,000 square feet.

IV. REVIEW CRITERIA AND ANALYSIS

Variance Site Plan:

Per the applicant's plans, the proposed home is 30.9 feet at its closest point from the southerly front property line. The required front yard setback is 40 feet. The rear of the home is 45.6 feet from the approximate edge of water.



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. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

The property is part of a platted subdivision under the A-3 zoning classification. All lots within the subdivision must conform to the minimum lot area and yard sizes. A special condition of the subject property is the location of the drainage retention area lake, which is slightly larger than indicated on the plat. However, the proposed home design could potentially be reconfigured and/or reduced in size to meet the minimum setback requirements and the minimum design requirements of the Toscana Covenants.

Staff finds this variance does not meet this criterion.

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

The location of the lake, the larger size of the lake, and the setback requirements are not the result of the actions of the applicant; however, the proposed home design placement and size are. It is the applicant's home design and proposed location that generated this request for a variance.

Staff finds this variance does not meet 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 would not deprive the applicant of rights commonly enjoyed by others in the A-3 zoning classification within the Sanctuary Subdivision, Phase II plat. The proposed home could be reconfigured or relocated to conform to the 40-foot front yard setback. The minimum front yard requirement would not cause an undue hardship on the applicant.

Staff finds this variance does not 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.

Per the applicant, a variance from 40 feet to 30 feet is the minimum required to allow the home to be constructed as proposed. However, staff does not find the variance to be the minimum request to make reasonable use of the land. The variance site plan shows there is adequate buildable area within the required setbacks to accommodate the home, as the

only portion of the proposed home within the required front yard is the garage. Additionally, the house design can be modified to reduce the home's overall in size and still meet private restriction and covenants of the subdivision and county code.

Staff finds 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.

The requested variance is unlikely to be injurious to the immediate area, with the appropriate conditions.

Staff finds this variance does meet this criterion.

V. STAFF RECOMMENDATION

Staff finds the applicant has not met all five criteria for granting the variances. Therefore, staff recommends to the Planning and Land Development Regulation Commission (PLDRC) denial of the variance to the minimum front yard requirements for a proposed single-family dwelling on Transitional Agriculture (A-3) zoned property.

However, if the PLDRC finds that the requested variance application does meet all five of the criteria to grant a variance, staff has provided the following conditions for consideration:

1. The variance is limited to the proposed footprint of the one-story single-family dwelling as depicted on the variance site plan prepared by A1A East Coast Land Surveying, LLC dated April 22, 2016. The principal structure shall not be enlarged, increased, or extended further to encroach or occupy any greater area of the property, except in compliance with the A-3 zoning dimensional requirements only, without approval of a separate variance. The variance does not include any future accessory structures.
2. The property owner or authorized agents shall obtain and complete all required building permits and inspections for the single-family dwelling.

VI. ATTACHMENTS

- Written Petition
- Letter from Applicant
- Survey
- Variance Site Plan
- Declaration of Covenants, Conditions and Restrictions of Toscana (Official Record Book 5336, Page 4952)
- Plat
- Map Exhibits

VII. AUTHORITY AND PROCEDURE

Pursuant to Section 72-415, the County Council shall hold a public hearing after due public notice on all recommendations from the commission. It may accept, reject, modify, return, or seek additional information on those recommendations. No approval of a special exception application shall be made unless, upon motion, four members of the county council concur. The county council will thereafter forward its decision to the applicant.

Any new information to be presented at the planning and land development regulation commission for any application will be grounds to continue an application to the next planning and land development regulation commission. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission.

Any new information to be presented at the county council meeting that was not previously presented to the planning and land development regulation commission for any application will be grounds to return an application to the planning and land development regulation commission for further review. Applicants shall inform and provide staff with the new information prior to the council meeting.



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.

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.)**

1. What special conditions and circumstances exist which are peculiar to your land, structure, building or sign that are not applicable to other lands, structures, buildings or signs in the same zoning classification. Are these special conditions and circumstances the result of actions by you?

no not by us. lake boundary is larger than specified on plat. reducing buildable area

2. How would literal interpretation of the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification? How would this interpretation be an unnecessary and undue hardship on you?

other homes - Approved variance specified in this subdivision - we have to meet min. sq. footage and standards and this variance would allow us to meet those requirements.

3. Explain how the variance you are requesting is the minimum variance that will make possible the reasonable use of your land, building, structure, or sign.

Able to move home forward to allow it to fit properly

4. How is your request consistent with the general intent and purpose of the Volusia County Zoning Ordinance and Comprehensive Plan, which are to promote public health, safety, morals, and the general welfare; and to preserve the character, appearance and aesthetic qualities of Volusia County?

Allows homes originally intended at property in question to be utilized on property

5. Explain how your request for a variance will not be injurious to the surrounding area.

most if not all will be requesting same variance no harm to any other property





May 13, 2016

County of Volusia
123 W. Indiana Avenue
Room 202
DeLand, FL 32720

Re: Variance request for parcel# 3240-04-00-0250

To Whom It May Concern:

I would like to request a variance for the property located at 213 Vista Della Toscona in Ormond Beach, Toscona Subdivision. The Zoning front set-back for this property is 40ft and I would like to request for it be 30ft for this property. The rear easement does not leave enough room for us to build a large estate size home that the Toscona community requires. The lake square footage on this property is bigger than the size it states on the proposed plat. In order to build this home to meet community standards and have it fit properly we will need to move the house 10ft forward which in return changes the front set back to 30 instead of 40. If you have any questions please feel free to give me a call at 386-947-4481. I have enclosed a signed and sealed electronic survey of the property as well as a site plan that is to scale.

Sincerely,

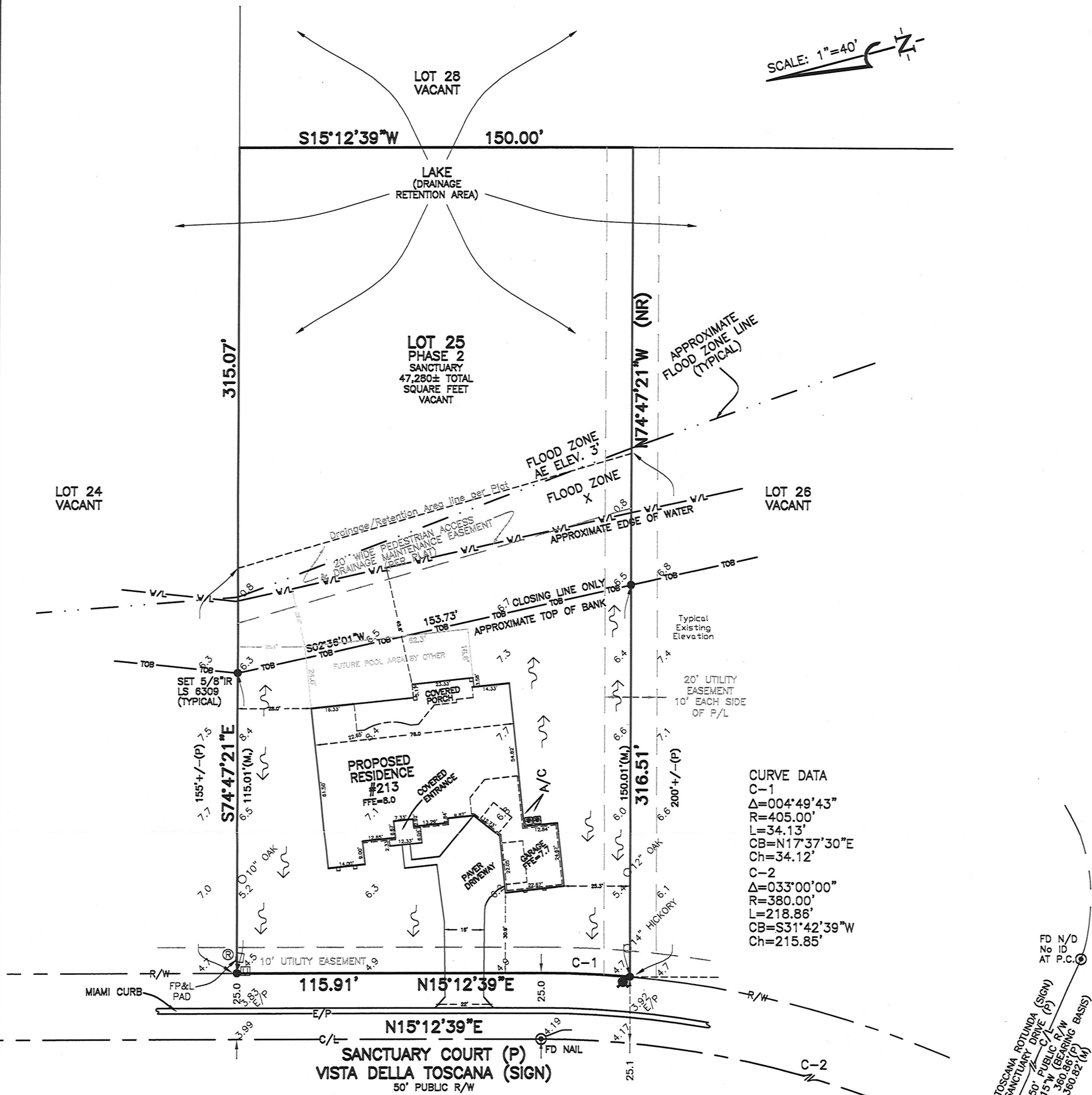


Eric Oslen
President

Olsen Custom Homes and Consulting Inc.
131 Magnolia Ave. Daytona Beach, FL
Phone# 386-947-4481 Fax# 386-947-4484

213 VISTA DELLA TOSCANA

SCALE: 1"=40'



NOTES:

1. Description furnished by client. No title work provided.
2. Underground improvements and utilities are not located.
3. Bearings are assumed and are based on plot datum.
4. Dimension category is shown in parenthesis (), when they differ from record dimensions. Monuments that fall within the suburban closure of 1:7500 [as per 5J-17.051(3)15bii] are not differentiated.
5. Overhead electric not located unless shown.
6. Flood Zone X, Map & Panel No. 12127C 0201H, 2/19/14, as best ascertained from the Flood Insurance Rate Map.
7. Elevations are based on the N.A.V.D. of 1988. Elevations on natural ground have ±0.1' tolerance. C/L elevations shall meet requirement 5J-17.052(3)(c).
8. All improvements shown are proposed at this time.

LEGEND:

- | | | | |
|----------|-------------------------------|---------------------|--------------------------------|
| C/L | Center Line | P.C. | Point of Curvature |
| FD | Found | P.I. | Point of Intersection |
| N/D | Nail and Disk | L.B. | Licensed Business |
| IR | Iron Rod | L.S. | Licensed Surveyor |
| (P) | Plat Bearing & Distance | FNC | Fence or Fence Corner |
| (M) | Measured Bearing & Distance | PSM | Professional Surveyor & Mapper |
| C/S | Concrete Slab | CONC | Concrete |
| R/W | Right of Way | P.C.P. | Permanent Control Point |
| E/P | Edge of Pavement | W/M | Water Meter |
| A/C | Air Conditioner | P/P | Power Pole |
| N.A.V.D. | North American Vertical Datum | Fire Hydrant | Fire Hydrant |
| F.F.E. | Finish Floor Elevation | Underground Utility | Underground Utility |
| Δ | Delta | Utility Riser | Utility Riser |
| R. | Radius | BSM | Bench Mark |
| L. | Length | BSL | Building Setback Line(s) |
| CB. | Chord Bearing | | |
| Ch. | Chord | | |
| (NR) | Non-Radial To Curve | | |

DESCRIPTION:

LOT 25, SANCTUARY SUBDIVISION, PHASE 2, AS RECORDED IN MAP BOOK 43, PAGES 120-121, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

PREPARED FOR:
--- OLSEN CUSTOM HOMES

A1A EAST COAST LAND SURVEYING, LLC

1366 N US Highway 1, Suite 602, Ormond Beach FL 32174
PHONE (386) 672-3633 FAX (386) 672-3635

THE FOREGOING PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 5J-17.052, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

TYPE SURVEY:	DATE OF FIELD-WORK	OFFICE WORK ORDER#
Boundary	03/24/16	04/07/16 1604029 JMM
Site Plan	04/22/16	1604029 JJD

Anthony Sanzone

04/07/16

ANTHONY SANZONE, PSM# 6309

LB# 8107

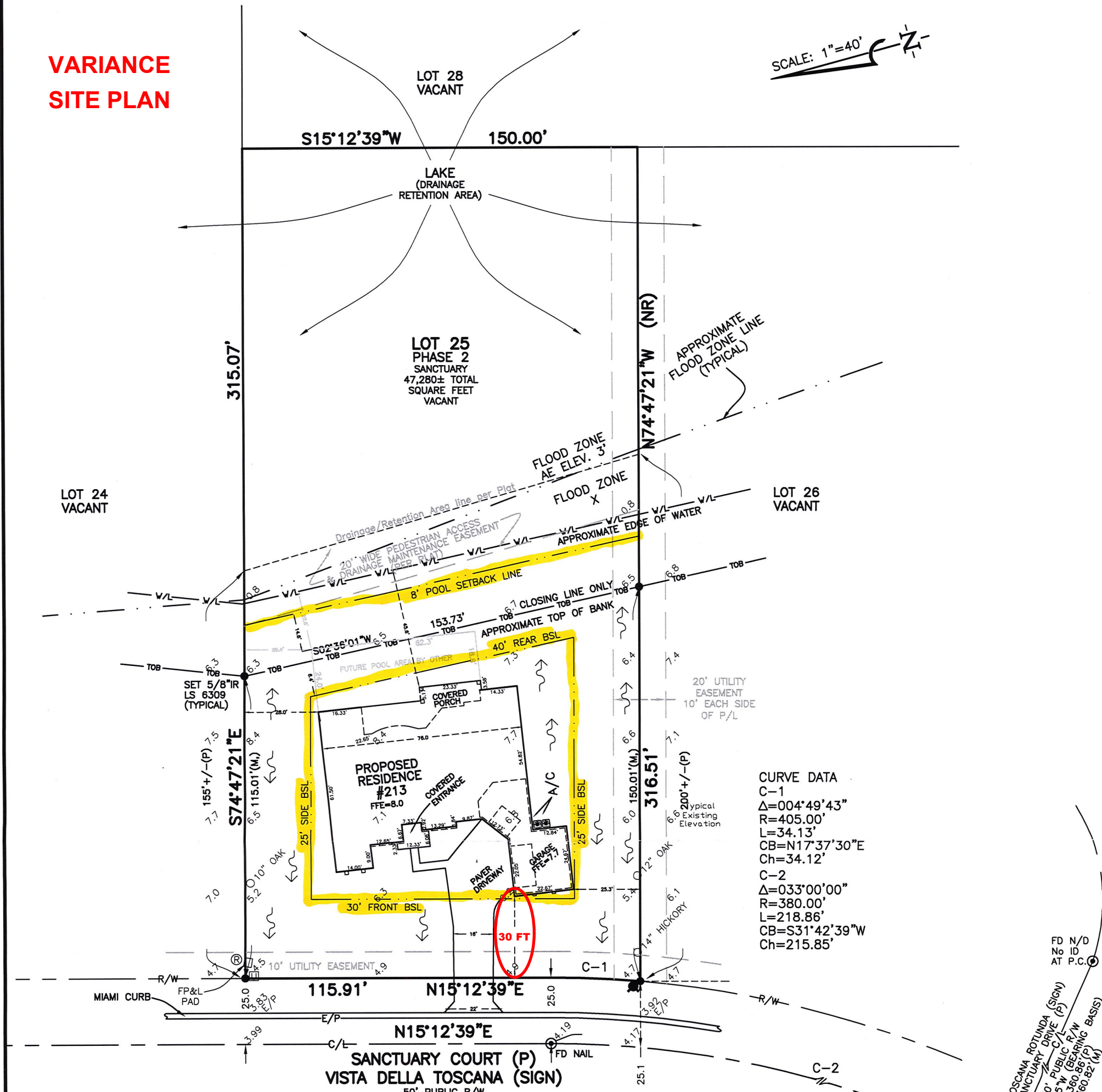
Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.

NOTE:
EAST COAST LAND SURVEYING, INC. WILL TAKE NO RESPONSIBILITY FOR INCORRECTLY POURED BUILDING FOUNDATIONS OR FLOORS IF THE CLIENT FAILS TO HAVE US PERFORM A FORM BOARD ASBUILT BEFORE THE FOUNDATION OR FLOOR IS PLACED.

213 VISTA DELLA TOSCANA

**VARIANCE
SITE PLAN**

SCALE: 1"=40'



CURVE DATA
 C-1
 Δ=004°49'43"
 R=405.00'
 L=34.13'
 CB=N17°37'30"E
 Ch=34.12'
 C-2
 Δ=033°00'00"
 R=380.00'
 L=218.86'
 CB=S31°42'39"W
 Ch=215.85'

NOTES:

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| N.A.V.D. | North American Vertical Datum | ● | Fire Hydrant |
| F.F.E. | Finish Floor Elevation | □ | Underground Utility |
| Δ | Delta | ⊙ | Utility Riser |
| R. | Radius | ● | Bench Mark |
| L | Length | BSL | Building Setback Line(s) |
| CB. | Chord Bearing | | |
| Ch. | Chord | | |
| (NR) | Non-Radial To Curve | | |

Direction of proposed flow (typical)

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TYPE SURVEY:	DATE OF FIELD-OFFICE WORK ORDER#
Boundary	03/24/16 04/07/16 1604029 JMM
Site Plan	04/22/16 1604029 JJD

A Sanzone

04/07/16

ANTHONY SANZONE, PSM# 6309

LB# 8107

Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.

All construction activity must be conducted or supervised by a contractor licensed in the State of Florida. All such contractors must additionally meet the requirement for contractors established by the Design Review Committee, if any. The Unit Owner is responsible to select a contractor who meets the requirements established by the Design Review Committee.

To preserve and maintain proper drainage in the Neighborhood, no changes in grades or elevations of any portion of a Lot (including the swale areas) shall be made without the prior written approval of the Design Review Committee. Final floor elevations and all other applicable grades must be shown on the construction drawings and approved by the Design Review Committee prior to construction, except for construction performed by Declarant.

Upon conveyance of a Lot from Declarant a Home shall be constructed within two (2) years after the conveyance.

No Home may be constructed on a Lot having a value less than \$430,000 Dollars or consist of living area of less than Three Thousand (3,000) square feet.

ARTICLE VII PROTECTION OF INTERESTS

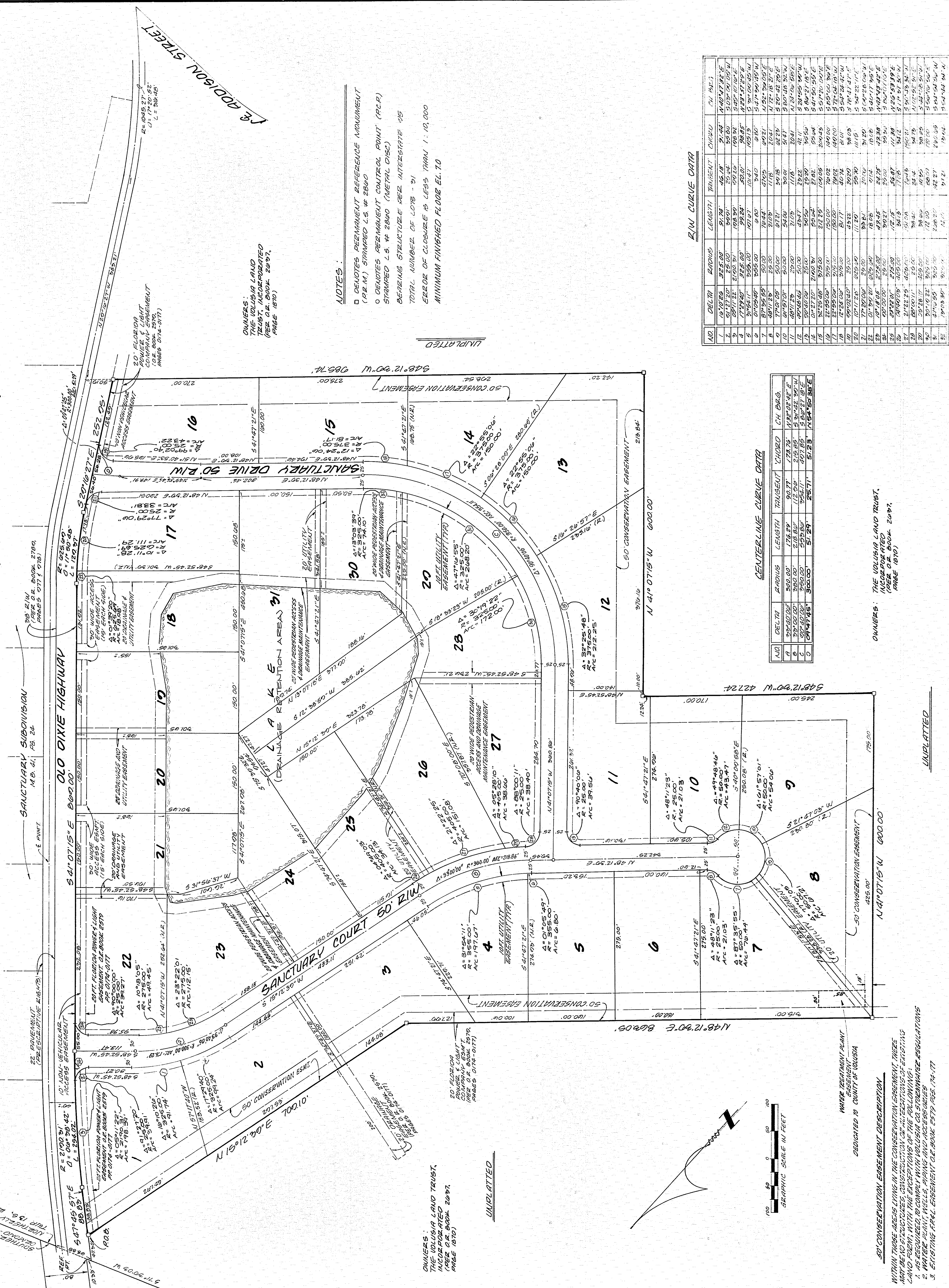
Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure of the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The provisions of this subsection do not apply to the imposition of suspensions or fines upon any Owner because of the failure of the Owner to pay Assessments or other charges when due.

a. Fines. The Association may levy reasonable fines against a Lot for the failure of the Lot Owner, or its guest, occupant, licensee, or invitee, to comply with any provision of the Declaration, the Bylaws, or Rules and Regulations. No such fine may exceed \$100.00 per violation or the highest amount permitted by statute from time to time. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Lot Owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Lot Owners. If the committee does not agree with the fine, the fine may not be levied.

b. Suspension of Rights in Common Areas. The Association may suspend, for a reasonable period of time, the rights of an Owner or Owner's tenants, guests, or invitees, or both, to use the Common Area and facilities (other than the right of ingress and egress), against any Owner or any tenant, guest, or invitee.

SANCTUARY SUBDIVISION, PHASE II

A PORTION OF THE JOHN ADDISON GRANT, SECTION 40, TOWNSHIP 13 SOUTH, RANGE 32 EAST, VOLUSIA COUNTY, FLORIDA



OWNERS:
THE VOLUSIA LAND TRUST, INCORPORATED
(PER O.G. BOOK 2097, PAGE 1870)

NOTES:
O DENOTES PERMANENT REFERENCE MONUMENT
(P.R.M.) STAMPED L.S. # 2840
O DENOTES PERMANENT CONTROL POINT (P.C.P.)
STAMPED L.S. # 2840 (METAL DISC)
BEARING STRUCTURE PER INTERSTATE 95
TOTAL NUMBER OF LOTS = 31
ERROR OF CLOSURE IS LESS THAN 1:10,000
MINIMUM FINISHED FLOOR EL. 7.0

R/W CURVE DATA

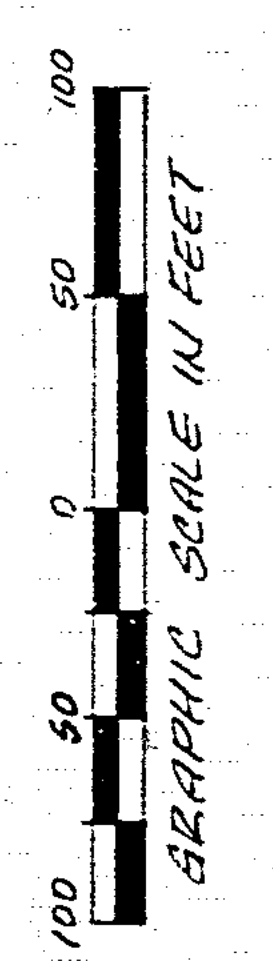
LOT	CHORD	RADIUS	LENGTH	PERCENT	CH. BAL.
1	16.19	235.00	91.74	46.74	11.07
2	20.71	235.00	119.39	62.99	15.00
3	27.94	235.00	159.24	84.24	20.00
4	37.94	235.00	211.53	104.47	27.00
5	51.94	235.00	276.81	144.71	36.00
6	70.94	235.00	354.08	194.95	48.00
7	95.94	235.00	453.24	265.20	63.00
8	127.94	235.00	584.31	365.45	84.00
9	167.94	235.00	757.38	505.70	111.00
10	217.94	235.00	973.45	695.95	144.00
11	277.94	235.00	1231.52	946.20	183.00
12	347.94	235.00	1531.59	1256.45	228.00
13	427.94	235.00	1873.66	1626.70	280.00
14	517.94	235.00	2257.73	2026.95	339.00
15	617.94	235.00	2683.80	2457.20	405.00
16	727.94	235.00	3151.87	2917.45	479.00
17	847.94	235.00	3661.94	3407.70	561.00
18	977.94	235.00	4214.01	3927.95	651.00
19	1117.94	235.00	4818.08	4478.20	749.00
20	1267.94	235.00	5474.15	5058.45	855.00
21	1427.94	235.00	6182.22	5668.70	969.00
22	1597.94	235.00	6942.29	6308.95	1091.00
23	1777.94	235.00	7754.36	6979.20	1221.00
24	1967.94	235.00	8628.43	7679.45	1359.00
25	2167.94	235.00	9564.50	8409.70	1505.00
26	2377.94	235.00	10562.57	9169.95	1659.00
27	2597.94	235.00	11632.64	9950.20	1821.00
28	2827.94	235.00	12774.71	10750.45	1991.00
29	3067.94	235.00	13988.78	11570.70	2169.00
30	3317.94	235.00	15274.85	12410.95	2355.00
31	3587.94	235.00	16642.92	13271.20	2549.00

CENTERLINE CURVE DATA

LOT	CHORD	RADIUS	LENGTH	PERCENT	CH. BAL.
1	16.19	235.00	91.74	46.74	11.07
2	20.71	235.00	119.39	62.99	15.00
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21	1427.94	235.00	6182.22	5668.70	969.00
22	1597.94	235.00	6942.29	6308.95	1091.00
23	1777.94	235.00	7754.36	6979.20	1221.00
24	1967.94	235.00	8628.43	7679.45	1359.00
25	2167.94	235.00	9564.50	8409.70	1505.00
26	2377.94	235.00	10562.57	9169.95	1659.00
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OWNERS: THE VOLUSIA LAND TRUST, INCORPORATED
(PER O.G. BOOK 2097, PAGE 1870)

50' CONSERVATION EASEMENT DESCRIPTION:
WITHIN THESE AREAS LYING IN THE CONSERVATION EASEMENT, THERE SHALL BE NO STRUCTURES, CONSTRUCTION OR ALTERATION OF EXISTING STRUCTURES, INCLUDING BUT NOT LIMITED TO, EXISTING OR FUTURE, EXCEPT AS SHOWN ON THE MAP. THESE AREAS SHALL BE MAINTAINED AS OPEN SPACE AND ACCESSIBLE TO THE PUBLIC. THESE AREAS SHALL BE MAINTAINED AS OPEN SPACE AND ACCESSIBLE TO THE PUBLIC.



UNPLATTED

UNPLATTED



REQUEST AREA LOCATION



1" = 1000'

VARIANCE



CASE NUMBER

V-16-056



**HALIFAX
RIVER**

VISTA DELLA
TOSCANA

CR 401T (OLD DIXIE HWY)

LA TOSCANA
ROTONDA

CR 2820 (PINE
TREE DR)

AERIAL 2015



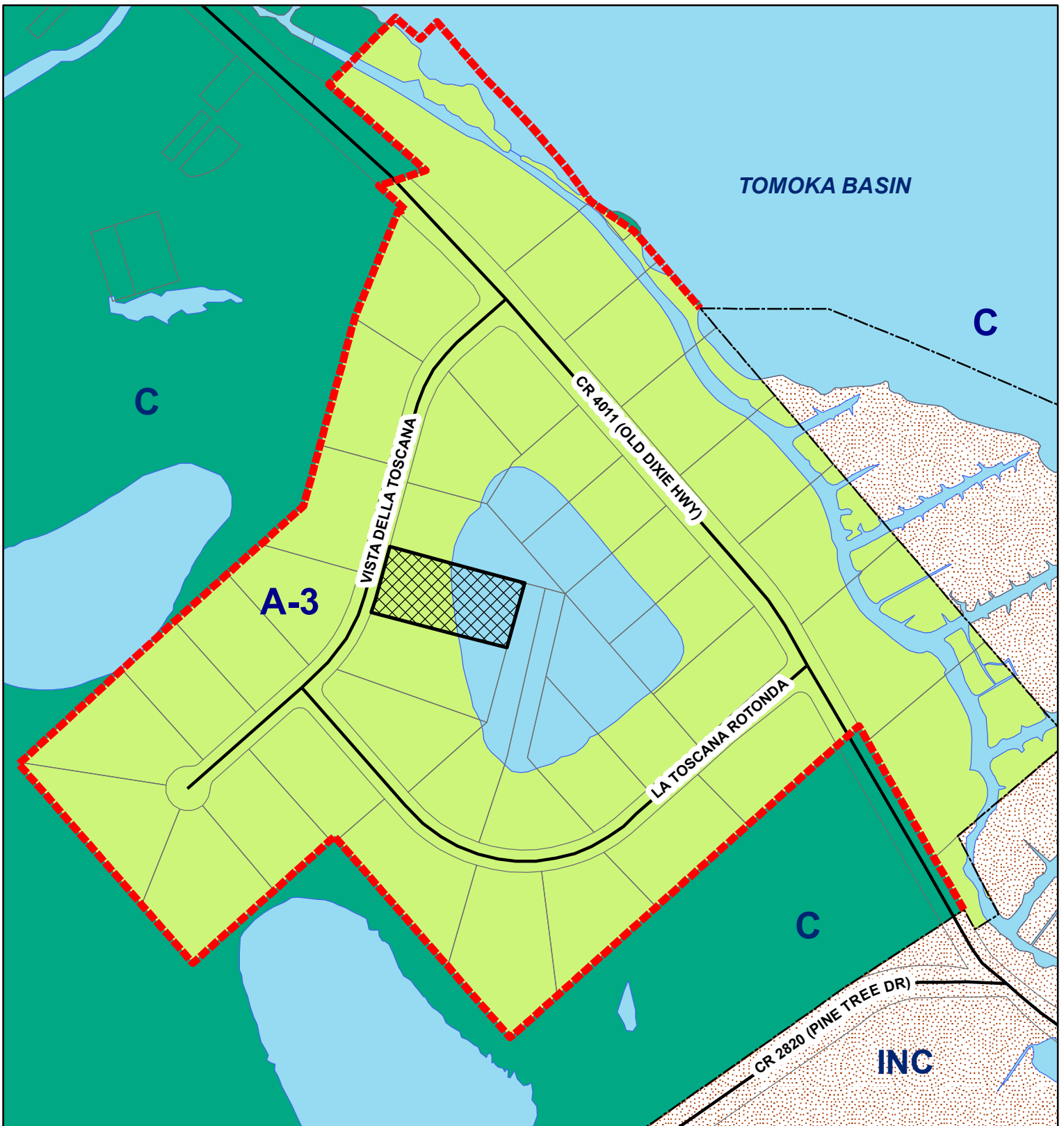
REQUEST AREA

1"= 300'

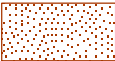




**VARIANCE
CASE NUMBER**

V-16-056



ZONING CLASSIFICATION

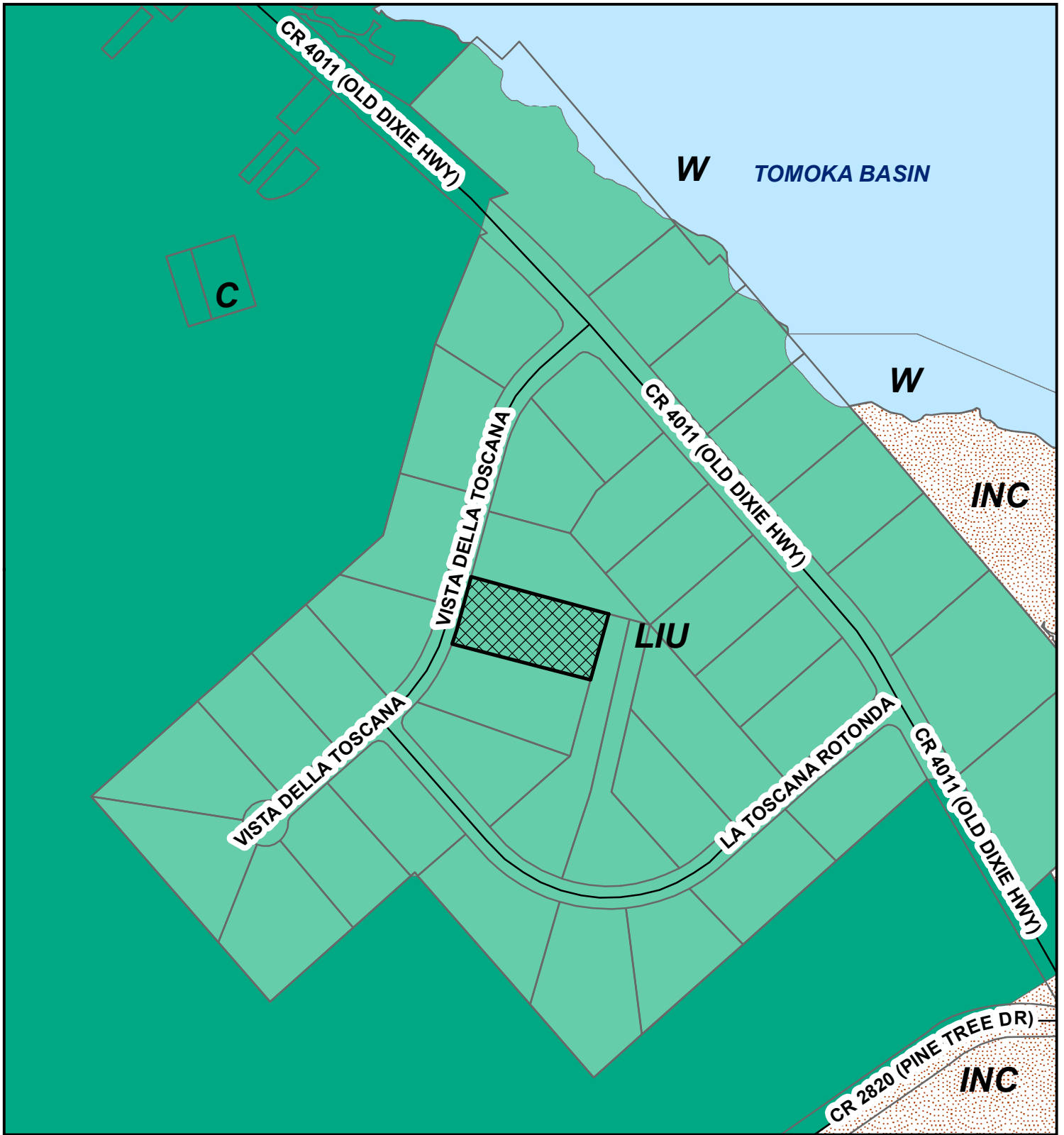
-  INCORPORATED
-  CONSERVATION
-  AGRICULTURAL

1" = 300'



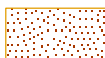



**VARIANCE
CASE NUMBER
V-16-056**

-  REQUEST AREA



FUTURE LAND USE DESIGNATION

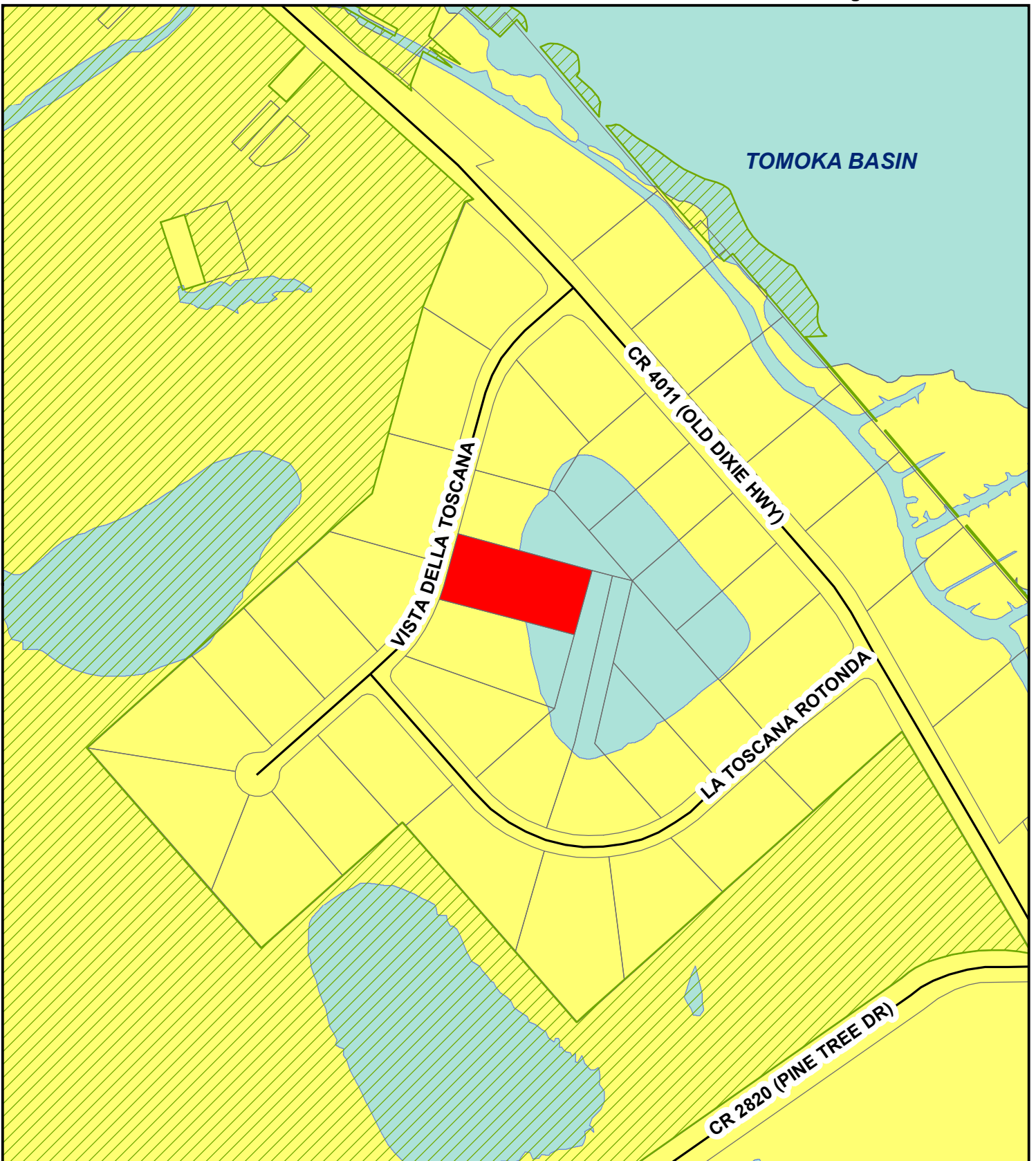
-  CONSERVATION
-  LOW IMPACT URBAN
-  INCORPORATED
-  WATER

 REQUEST AREA

1" = 300'



VARIANCE
CASE NUMBER
V-16-056



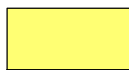
ECO/NRMA

1"= 300'

**VARIANCE
CASE NUMBER**



ECO



NRMA



REQUEST AREA

V-16-056