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-16-057

SUBJECT: Variance to minimum yard requirements for a single-family dwelling on Urban Single-Family Residential (R-5) zoned property.

LOCATION: 1206 Olen Drive, Daytona Beach

APPLICANT/OWNER: Michael L. Anderson

STAFF: Danalee Petyk, Planner II

I. SUMMARY OF REQUEST

The applicant is requesting variances to bring the existing single-family dwelling into compliance with applicable minimum yard size requirements of the R-5 zoning classification of Section 72-241.

The variance case originated from a Notice of Violation from the Code Enforcement Board (20140306014) for work without a permit. The applicant filed for a building permit (Permit 20160412018), and during the zoning staff review, it was determined that two accessory structures (a front porch and a rear porch) did not meet the building setbacks. The permit and the code enforcement action was placed on hold pending the variance process.

Specifically, the applicant is requesting the following:

1. A variance to the minimum front yard from the required 25 feet to 15 feet for an existing front porch; and

2. A variance to the minimum rear yard from the required 20 feet to 7.5 feet for an existing rear porch on Urban Single-Family Residential (R-5) zoned property.

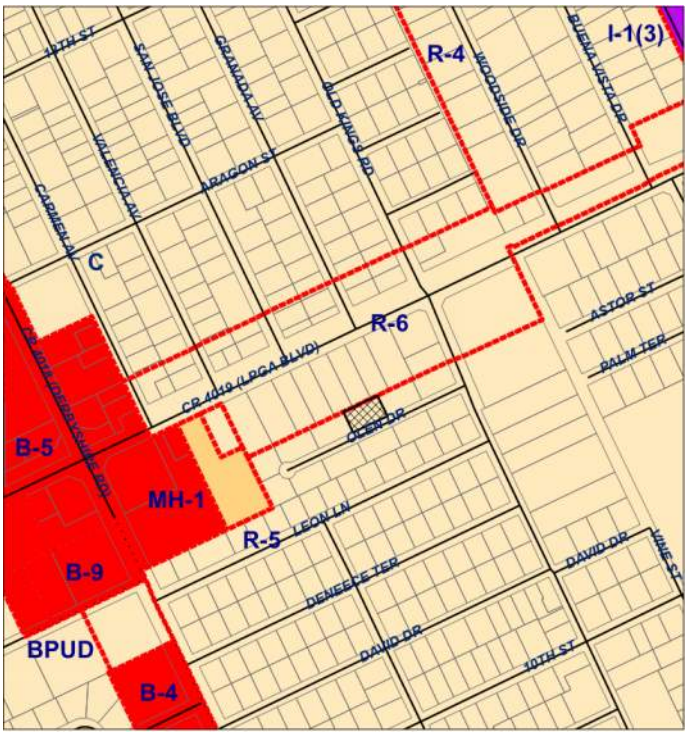
Staff Recommendation: Denial, as the application does not meet all five criteria for granting a variance under Section 72-379 of the zoning code.

II. SITE INFORMATION

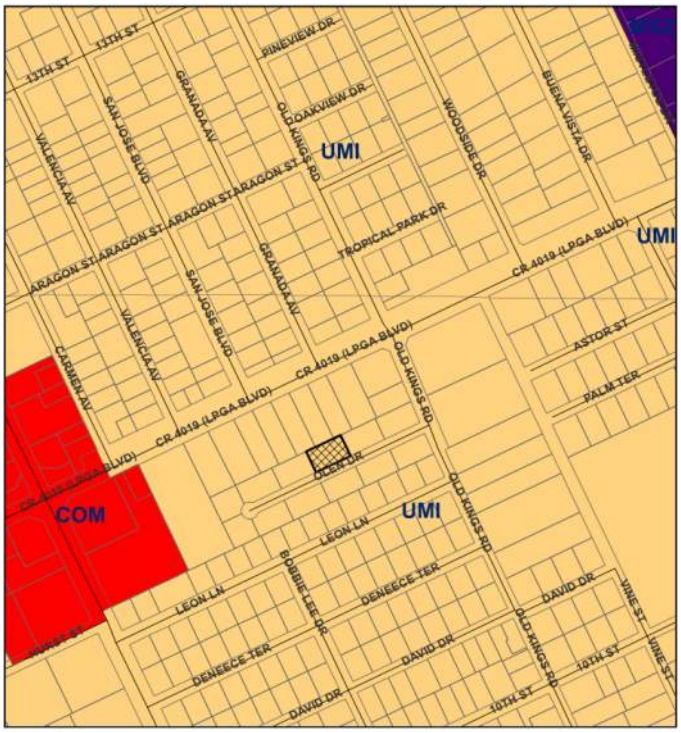
1. Location: The property is located north of Olen Drive approximately 300 feet west of its intersection with Old Kings Road, Daytona Beach.
2. Parcel Number: 5237-01-00-0030
3. Property Size: ± 10,428 square feet
4. Council District: 4
5. Zoning: Urban Single-Family Residential (R-5)
6. Future Land Use: Urban Medium Intensity (UMI)
7. ECO Map: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North	R-6	UMI	Single-family dwelling
East	R-5	UMI	Single-family dwelling
South	R-5	UMI	Single-family dwelling
West	R-5	UMI	Single-family dwelling

10. Location Maps

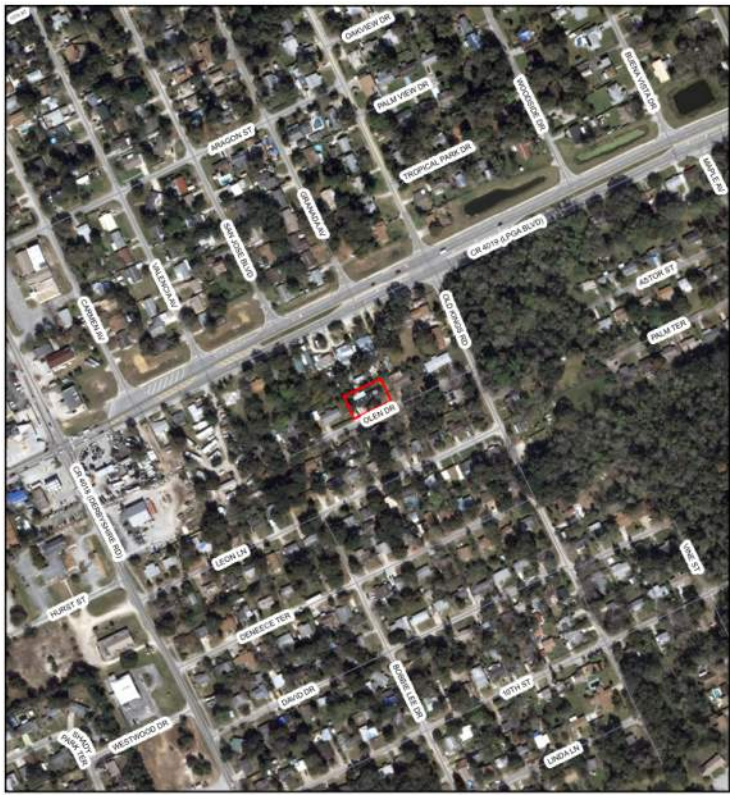


ZONING MAP



FUTURE LAND USE MAP

III. BACKGROUND AND PREVIOUS ACTIONS



The subject property is part of the platted Hart Subdivision. The property conforms to the minimum lot size requirements of the R-5 zoning classification. The property is approximately 131 feet wide and 70 feet deep. The R-5 zoning classification requires a minimum front yard of 25 feet and a minimum rear yard of 20 feet.

The original single-family dwelling was constructed in 1962. Per the applicant's survey, the existing home has nonconforming setbacks, with a 24.9-foot front yard setback and a 17.4-foot rear yard setback. A 4-foot by 20-foot front porch, as shown on the 2010 property appraiser building sketch, was constructed with the single-family dwelling in 1962. A 9-foot by 22-foot rear porch was constructed without a permit in 1990 within the required rear yard setback prior to the applicant's purchase of the property. The front porch was torn down and a new, larger 10-foot by 24-foot front porch was constructed without a permit within the required front yard setback. Both of the porches increase the nonconformity of the existing home.

A code violation (20140306014) was issued on March 26, 2014, for constructing the front porch without a permit. The notice required the owner to obtain the required permits and inspection approvals. A second notice was sent on March 28, 2016, after which the applicant applied for a residential permit (20160412018) and staff review of the building plans and the survey revealed that the accessory structures did not meet the minimum required setbacks.

IV. REVIEW CRITERIA AND ANALYSIS

<u>Variance Site Plan:</u>

Variance 1: The existing front porch is a 24.1-foot wide by 9.8-foot long structure. The front yard requirement for the R-5 zoning classification is 25 feet. The front porch is located approximately 15 feet off the southerly front lot line. No permit or inspection was approved for this structure. The structure replaced a 20-foot wide by 4-foot long front porch that was constructed with the home in 1962, thus increasing the nonconformity.

Variance 2: The existing metal rear porch is a 22-foot wide by 9.9-foot long structure. The rear yard requirement is 20 feet whereas this structure is located 7.5 feet from the northerly rear lot line. This porch was constructed without a permit prior to the applicant's purchase of the property.

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.

Variance 1: The 24.1-foot by 9.8-foot front porch was erected without a permit and replaced a smaller existing porch. The only unique circumstance is that the accessory structure already exists approximately 15 feet off the south front property line. The applicant replaced a previously nonconforming porch with a larger porch, bringing it further into nonconformance with the front yard requirement.

Variance 2: The 22-foot by 9.9-foot rear porch was erected without a permit and appeared on the property record card in 1990 prior to the applicant's purchase of the property. The only unique circumstance is that the accessory structure already exists 7.5 from the north rear property line.

Staff finds these variances do not meet this criterion.

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

Variance 1: The applicant replaced the previously existing front porch with a larger front porch increasing the nonconformity of the dwelling and resulting in this variance request.

Variance 2: The rear porch was constructed prior to the applicant's purchase of the property; however, the applicant wishes to maintain this nonconforming porch in its current location.

Staff finds these variances do 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.

Variance 1: The front porch is located 15 feet from the front property line and is located wholly within the required 25-foot front yard. The porch could be reduced to match the dimensions of the previous front porch that appeared on the property record card with a

build date of 1962. The applicant would enjoy rights not common to others if the larger porch were allowed to remain. However, literal interpretation would result in undue hardship on the applicant as they would be required to rebuild and already existing structure.

Variance 2: The rear porch is located 7.5-feet from the rear property line and is located wholly within the required 20-foot rear yard. This porch is not the result of the applicant, as it was constructed prior to the applicant's purchase of the property, so requiring them to reduce the deck or relocate the deck would be an unnecessary hardship on the owner.

Staff finds Variance 1 does not meet this criterion and Variance 2 could 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 requested 15-foot front yard variance would be the minimum required for the front porch to remain at its present location on the lot. However, staff does not find that the variance will make reasonable use of the land. The structure was erected on the property without permit, thus contributing to the front yard encroachment.

Variance 2: The requested 7.5-foot rear yard variance would be the minimum required for the rear porch to remain at its present location on the lot. The structure was erected on the property without a permit prior to the applicant's purchase of the property. Removal and relocation of this porch would eliminate the rear yard encroachment.

Staff finds these variances do 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.

Variances 1 and 2: The requested variances are unlikely to be injurious to the immediate area, with the appropriate conditions, but it is not in harmony with the general intent and purpose of this ordinance since no permits were issued for the accessory structures.

Staff finds these variances do not 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 following variances:

Variance 1: A variance to the front yard from the minimum required 25 feet to 15 feet for an existing front porch; and

Variance 2: A variance to the rear yard from the minimum required 20 feet to 7.5 feet for an existing rear porch on Urban Single-Family Residential (R-5) zoned property.

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

1. The variance is limited to a front porch with a front yard adjacent to Olen Drive of 15 feet and a rear porch with a rear yard of 7.5 feet, as depicted on the variance site plan/survey prepared by J.J. Matejka & Associates, Inc., dated April 14, 2014. The accessory structures subject to this variance application shall not be enlarged, increased, or extended further to encroach or occupy any greater area of the property without approval of a separate variance.

2. The applicant, or their assignees, shall obtain required building permits and inspections for the front porch accessory structure, which shall be completed within three (3) months from the date of variance rendition, unless the Zoning Enforcement Official grants an extension.

3. Should any of the referenced structures be demolished or destroyed by more than 50%, the variance approvals would be deemed invalid and any new construction or rebuild would have to meet all applicable zoning code requirements, including setbacks.

VI. ATTACHMENTS

- Written Petition
- Survey
- Variance Site Plan
- Reviewer Comments
- Photographs
- Property Appraiser Building Sketch and Photographs
- 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.

Volusia County
FLORIDA

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?

IRRegulns lot SIZE ONly 78.5' DEEP 131.67 long
MY ACCUAl HOUSE DOES NOT MEET CURRENT SET BACKS - Built 1962,
THE deck ITNS ns 15' SET BACK to PROPERTY LINE BUT 25' to STREET

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?

"All" SEPTIC, POWER, PHONE, and CABLE LINES ARE AT
the BACK OF the PROPERTY -

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.

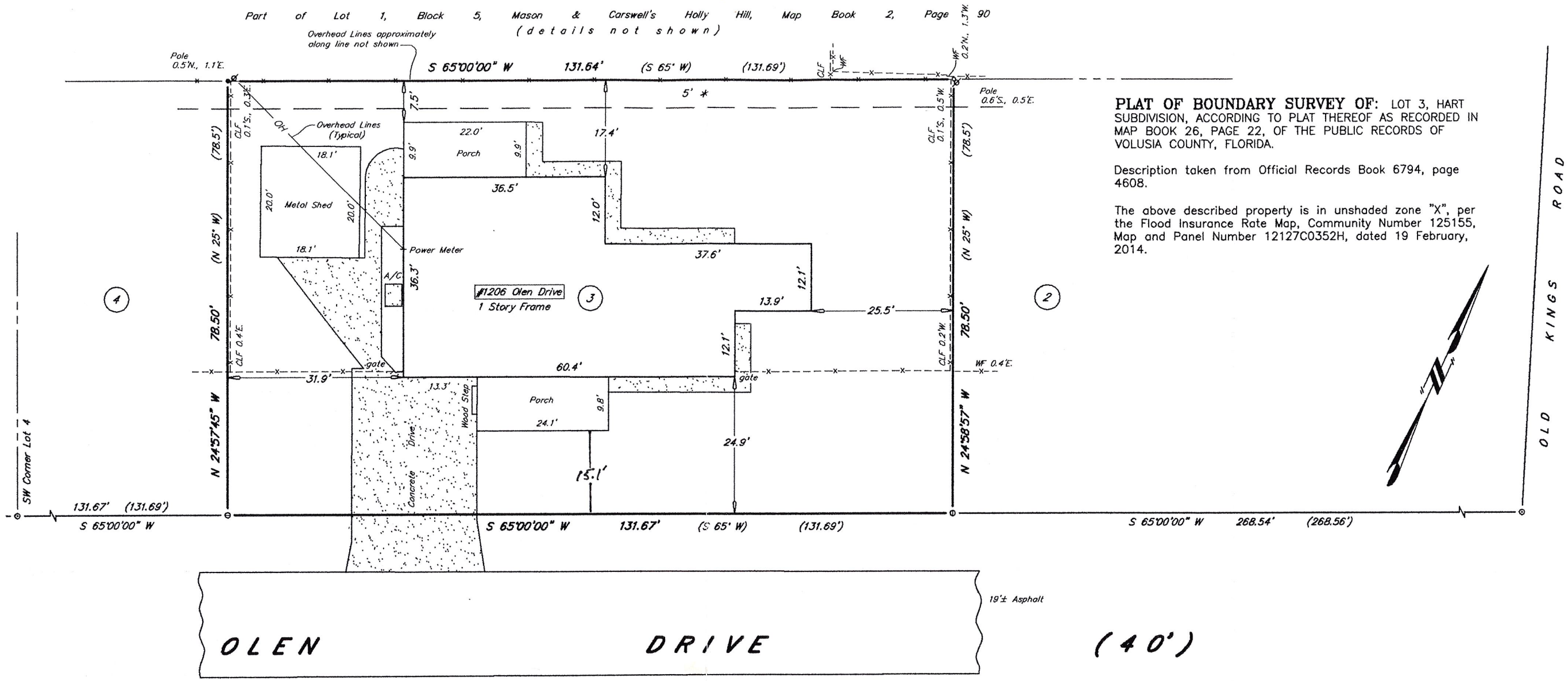
ASKING FOR 15' FRONT SET BACK - NOT the 25' REQUIRED
THE BACK AWNING that WAS MENTIONED BY ZONING WAS
PRESENT WHEN I PURCHASED MY HOME 12-12-12 - NEIGHBORS SAY
ITS BEEN THERE SINCE ABOUT 1990

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?

It IS NOT INTENDED to BE AGAINST ANY SAFETY, MORAl
AND IT IS AESTHETICLY GOOD

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

All OF MY NEIGHBORS SET WITH ME out FRONT UNDER the
DECK - ITS A NEIGHBORHOOD gathering PLACE



PLAT OF BOUNDARY SURVEY OF: LOT 3, HART SUBDIVISION, ACCORDING TO PLAT THEREOF AS RECORDED IN MAP BOOK 26, PAGE 22, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Description taken from Official Records Book 6794, page 4608.

The above described property is in unshaded zone "X", per the Flood Insurance Rate Map, Community Number 125155, Map and Panel Number 12127C0352H, dated 19 February, 2014.

CERTIFICATE: This is to certify that the plat delineated hereon is in compliance with the Minimum Technical Standards per Sections 5J-17.050 to 5J-17.052, Florida Administrative Code, pursuant to Section 472.027 of the Florida Statutes.

14 April, 2014
(field date)

4-23-14

John J. Matejka, III, P.S.M. #4002
Licensed Business #6883

NOTES:

SCALE: 1" = 20'

∘ – 1/2" Iron Rod and Cap #6877 found

⊖ – 5/8" Iron Rod and Cap #6883 set

⊙ – 1/2" Iron Pipe found

• – 1/2" Iron Rod and illegible Cap found on line & 0.16'S – witness corner

⊙ – 1 1/4" Iron Pipe found

ø – Wood Utility Pole

* Denotes Utility Easement per record plat.

No overhead or underground features shown except as noted.

CLF – Chain Link Fence

Record (Plat) dimensions are shown in parenthesis, field measurements are not.

WF – Wood Fence

Bearings are assumed, based on the northerly line of Olen Drive shown hereon, bearing S 65°00'00" W, and are based on the record plat.

This survey and plat not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

There may be additional restrictions and/or other matters not shown hereon that may be found in the public records of this county, Florida.

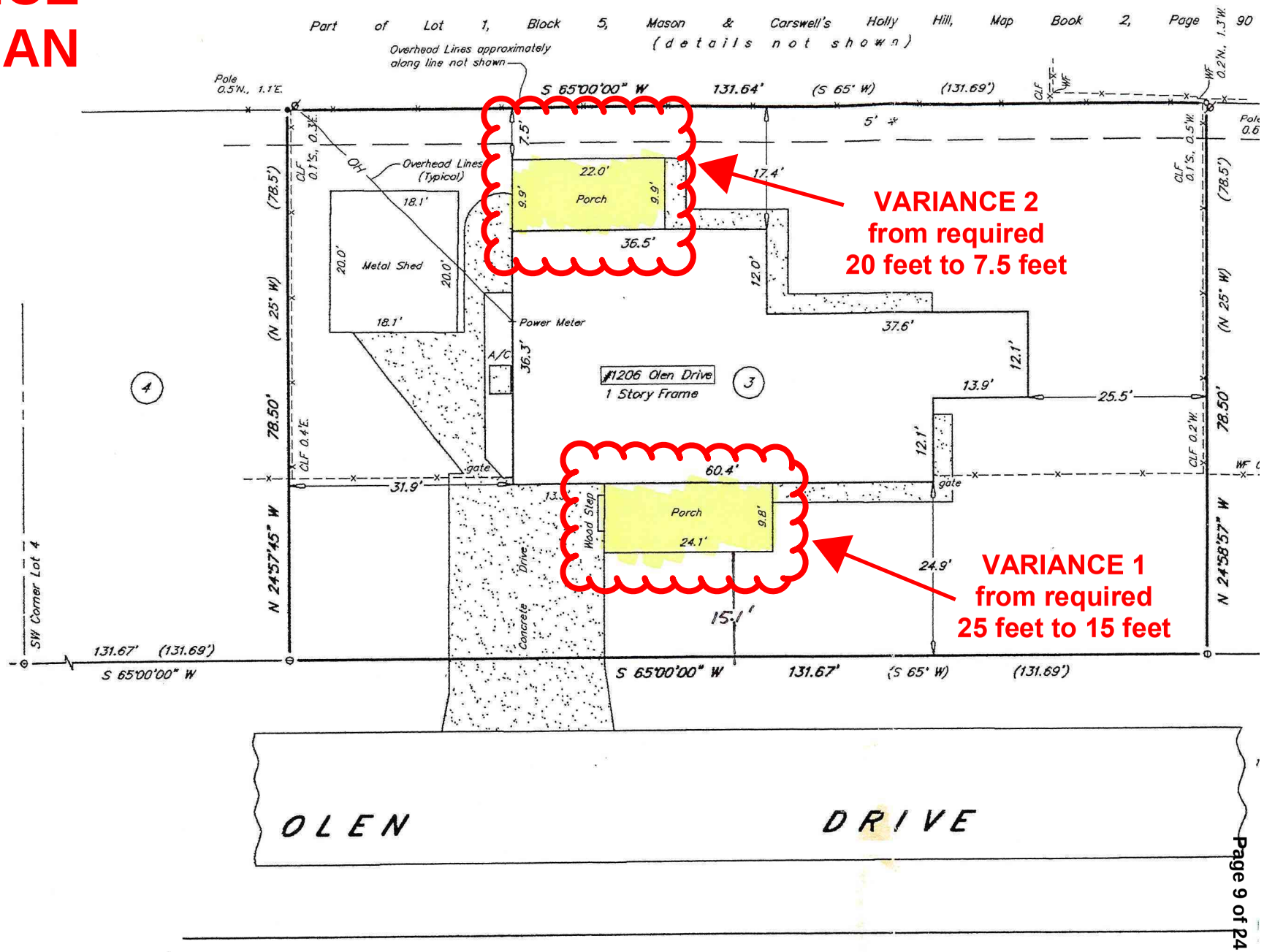
HART SUBDIVISION, LOT 3

FOR: MICHAEL ANDERSON
1206 OLEN DRIVE
DAYTONA BEACH, FLORIDA

BY: J. J. MATEJKA & ASSOCIATES, INC.
PROFESSIONAL SURVEYORS & MAPPERS
408 HARVEY AVENUE
DAYTONA BEACH, FLORIDA
JOB #14 17662 PLAT #14B30

HART SUBDIVISION/1206OLEN

VARIANCE SITE PLAN



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Growth and Resource Management
123 West Indiana Avenue
DeLand, FL 32720

Request for Additional Information
Zoning Review

Permit:	20160412018	April 15, 2016
Type:	Residential Permit - Single Family Residence - Addition	
Applicant:	Michael Anderson	
Address:	1206 Olen Dr Daytona Beach, Fl 32117	
Site Address:	1206 Olen Drive Daytona Beach	
Primary Tax Parcel:	5237-01-00-0030	

Additional information is required to complete the Zoning Review. Please address the following:

Zoning Review

1. Variance

Per the submitted survey the front deck/porch does not meet the 25' front setback and the rear porch does not meet the rear 20' setback. A variance would be required to keep the deck porch in violation. Please contact Sara Payne at 736-5959 ext. 12735 to set up a meeting with one of the Current Planners to discuss the options of a variance.

Please note that the above comments are specific to the Zoning Review only, and may not be all-inclusive. Additional comments may be generated in response to resubmittals, which may be turned in to the Permit Center located at 123 W. Indiana Avenue, Room 203, DeLand, Monday through Friday, or to our Daytona office located at 250 N Beach Street, Room 104, Daytona Beach, on Tuesdays. Please feel free to call the reviewer if there are questions regarding these comments.

Reviewer: Diana Malik (386) 943-7059 Ext. 12026

Below is a list of statuses for all reviews on this permit. You will be notified if additional submittals are required to complete any of these reviews.

Res. Building Review: Open

Code Compliance Review: Complete

Electrical Review: Open

Zoning Review: Additional Information

Gopher Tortoise Review: Open

Many of our services are available online. Registered users can check permit status, make payments, schedule inspections, print permit documents, and apply for certain permits online. Visit us on the web today at ConnectLivePermits.org.

Emailed to beacon33@earthlink.net

STAFF REVIEW COMMENTS

PLDRC Hearing Date: July 12, 2016
Anderson
V-16-057

BUILDING ZONING AND CODE ADMINISTRATION

Beverly Abrahamson, Zoning Compliance Officer

Comments:

Violation number 20140306014 was for Structural, attached wood deck and roof over deck with electric, attached structure on east side of dwelling, pre-fab metal detached structure on west side of dwelling with electric. The pre-fab metal detached structure on the west side of the dwelling with electric was permitted (20150616003) and received final inspection approval on August 10, 2015 and the attached structure on the east side of dwelling was removed. The only thing left of the violation is the attached wood deck with roof over the deck and electric. This violation cannot be resolved unless this variance is approved and the deck with electric and roof is permitted and receives final inspection approval(s).

* * * * * *

DECK FROM OLEN DRIVE

OLD BIKER BLVD
ADT
Deck

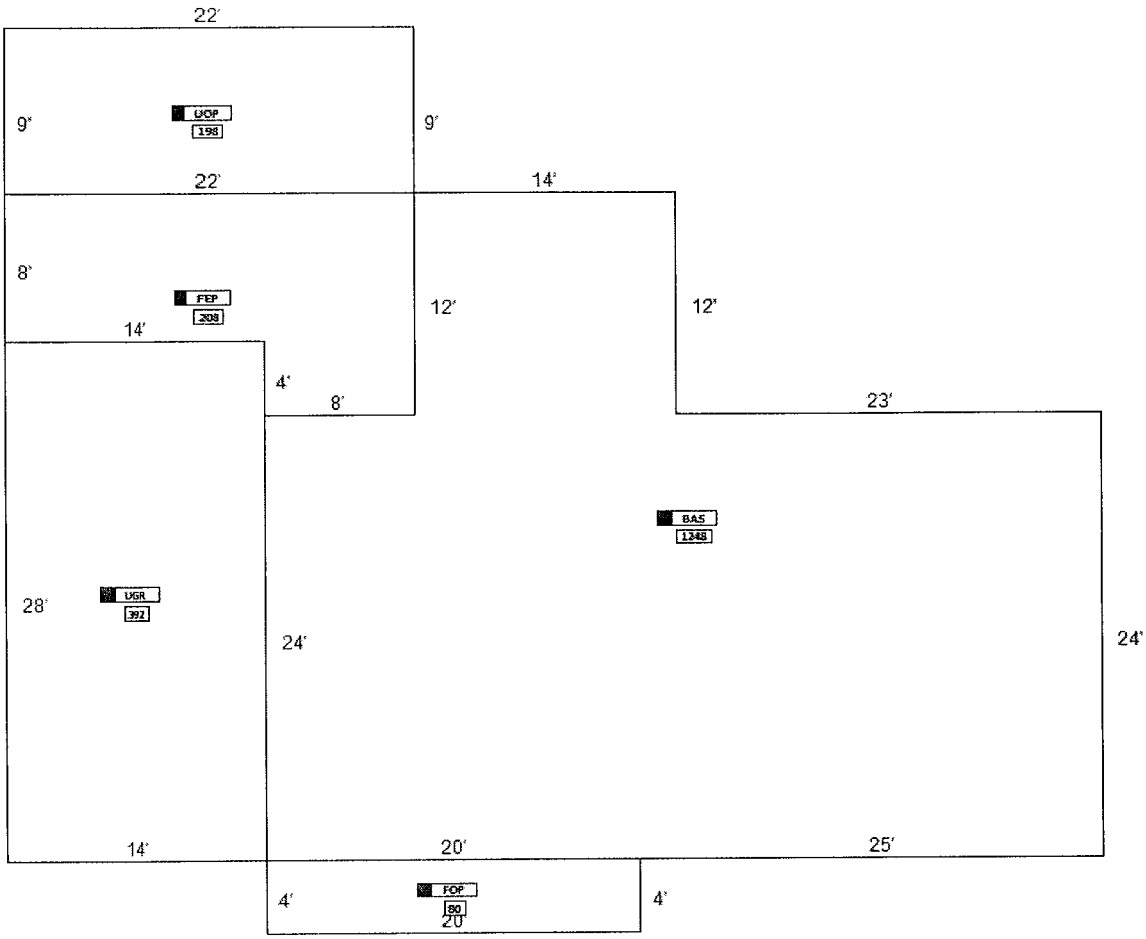
OLD BIKER BLVD
ADT
Deck

DECK

DECK & 4x4 uprights

BUILDING 1 OF 1

2010 BUILDING SKETCH

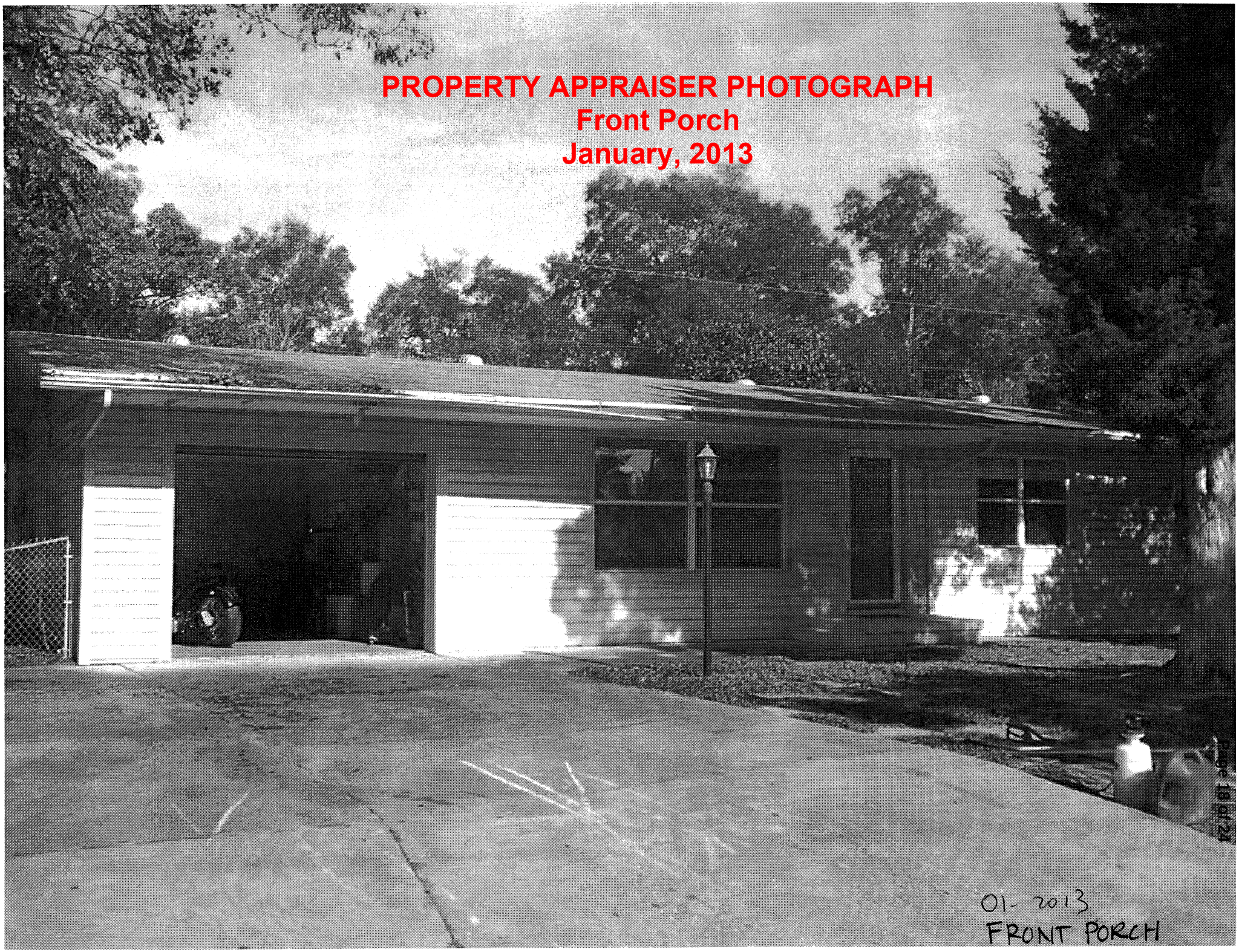


IMPROVEMENT TYPE	R1 Single Family				
PHYSICAL DEPR %	39	NEXT REVIEW	2008	FUNCTIONAL OBSOLESCENC	0%
QUALITY GRADE	300	YEAR BUILT	1962	LOCATIONAL OBSOLESCENCE	0%
APPRAISED BY		SPEC.ARCH.CODE	(NONE)		
		ON	03/28/05		

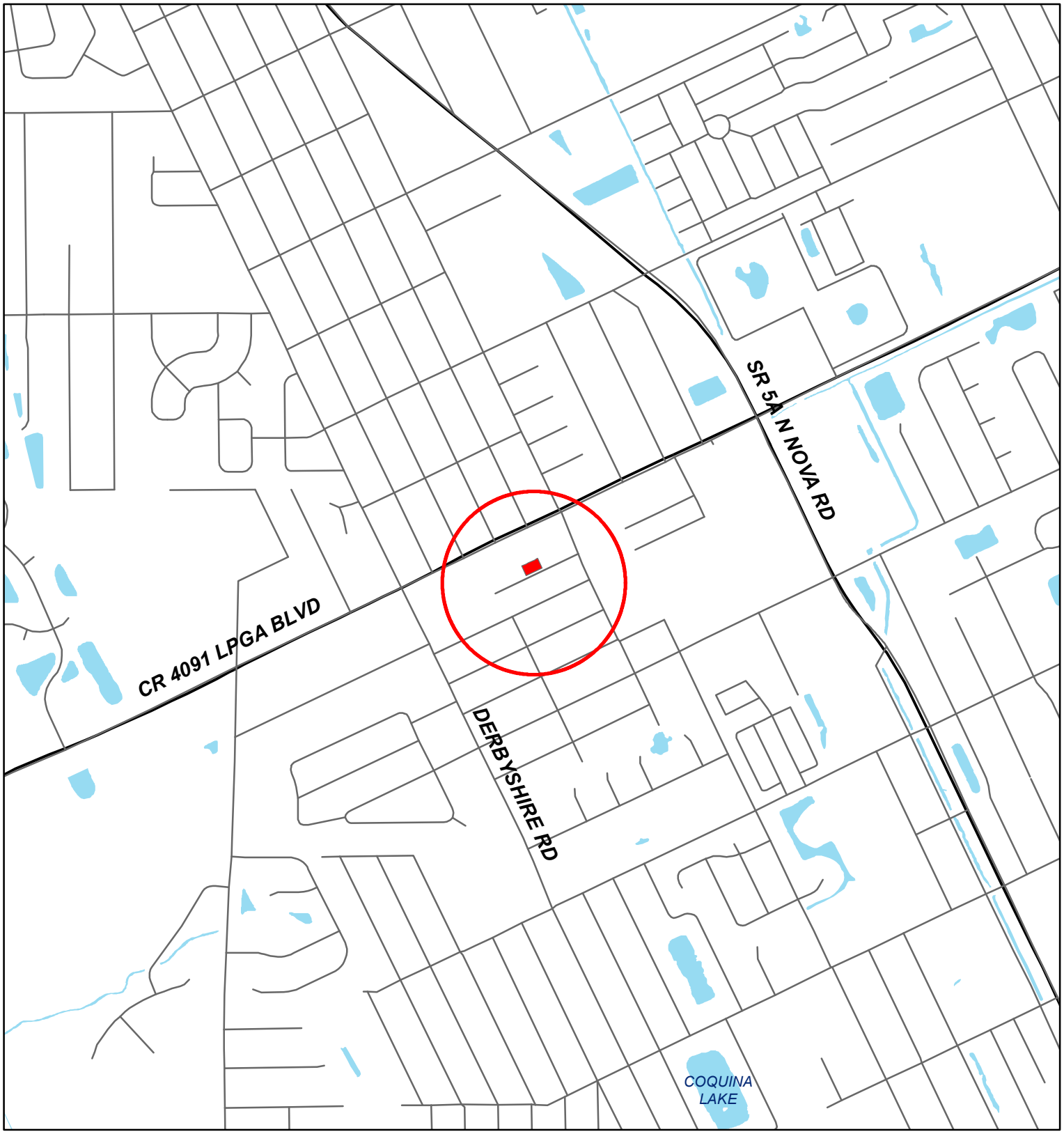
S O H	SECTION TYPE	EXTERIOR WALL TYPE ID	NBR STORIES	YEAR BLT	ATTIC FINISH	BASEMENT %	FINISHED BASEMENT %	GROUND FLOOR AREA	RATE X (SECTION AREA /TOTAL AREA)	CHARACTERISTICS	COST
N	BAS 001	40 VINYL SIDING	1.00	1962	N	0%	0%	1,248SF	36.40	1,248 (BASE AREA)	45,427
									112.33	162 (PERIMETER) 1.000	18,197
									1.41	1,248 (A/C)	1,760
N	FEP 002		1.00	1962	N	0%	0%	208SF	30.16	208 (NON-BASE)	6,273
N	UGR 003		1.00	1962	N	0%	0%	392SF	19.35	392 (NON-BASE)	7,585
N	FOP 004		1.00	1962	N	0%	0%	80SF	11.72	80 (NON-BASE)	938
N	UOP 005		1.00	1990	N	0%	0%	198SF	8.86	198 (NON-BASE)	1,754

ROOF TYPE	3	GABLE	FLOORS	12	Hardwood	BEDROOMS	3		
ROOF COVER	3	ASPHALT SHINGL	WALL/CEILING	3	Plaster	4FIXBATH	0	5FIXBATH	0
HEAT TYPE1	6	Forced Ducted	HEAT SOURCE1	1	Electricity	3FIXBATH	1	6FIXBATH	0
HEAT TYPE2			HEAT SOURCE2			2FIXBATH	1	7FIXBATH	0
FOUNDATION	3	Concrete Slab	FIREPLACES	0		XFIXTURE	0		
A/C	Y								

TOTAL FOR ALL SECTIONS (INCLUDE PENNIES)				81,934	81,934
OCCUPANCY-RELATED COST	R1	Single Family		10,049	
PLUS	1	3-FIXTURE BATHS	AT 2,565	2,565	


PROPERTY APPRAISER PHOTOGRAPH
Front Porch
January, 2013
01- 2013
FRONT PORCH

PROPERTY APPRAISER PHOTOGRAPH
Rear Porch
November 17, 2015

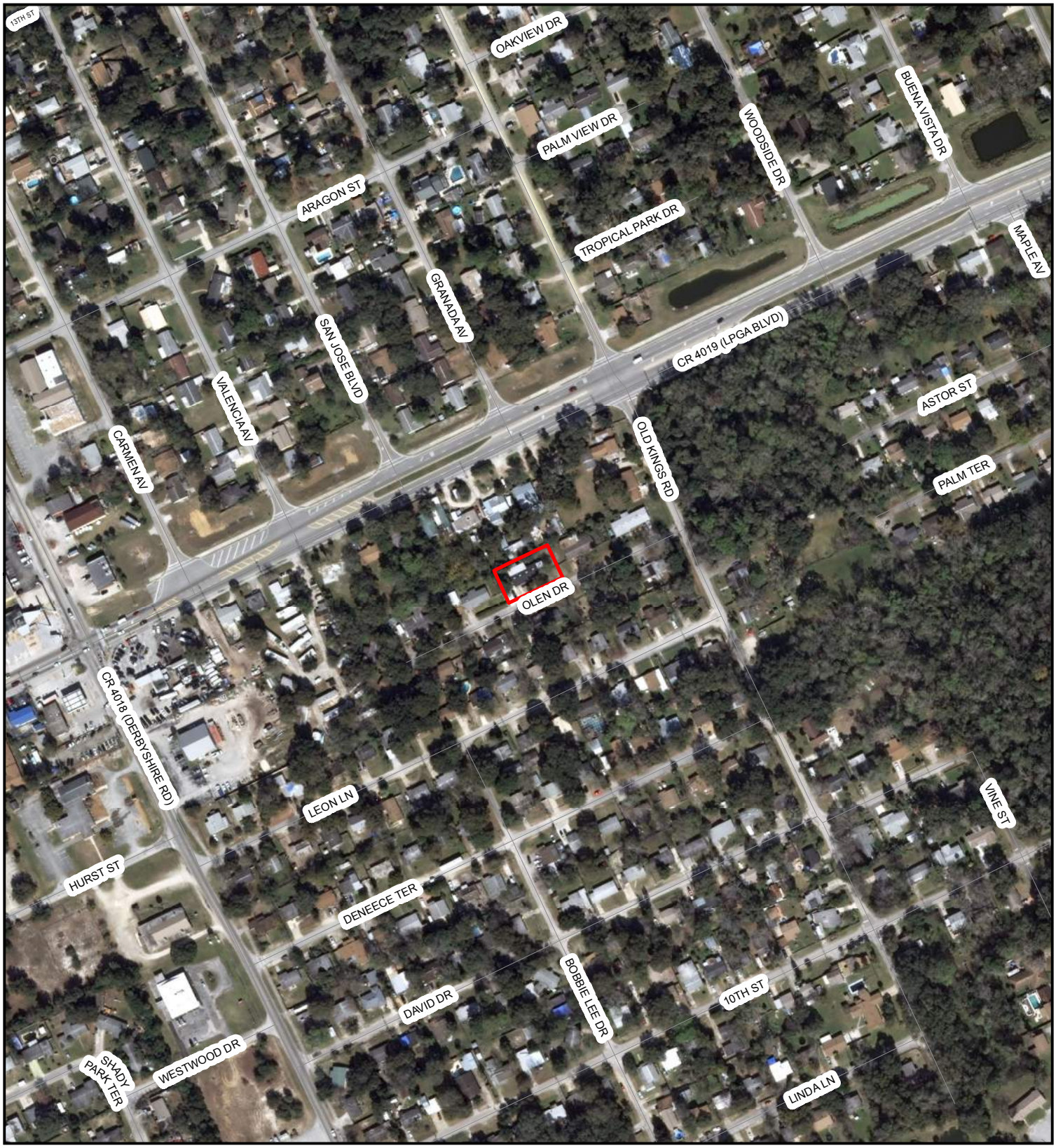


REQUEST AREA LOCATION

1 " = 1000'

VARIANCE

CASE NUMBER
V-16-057



AERIAL 2015

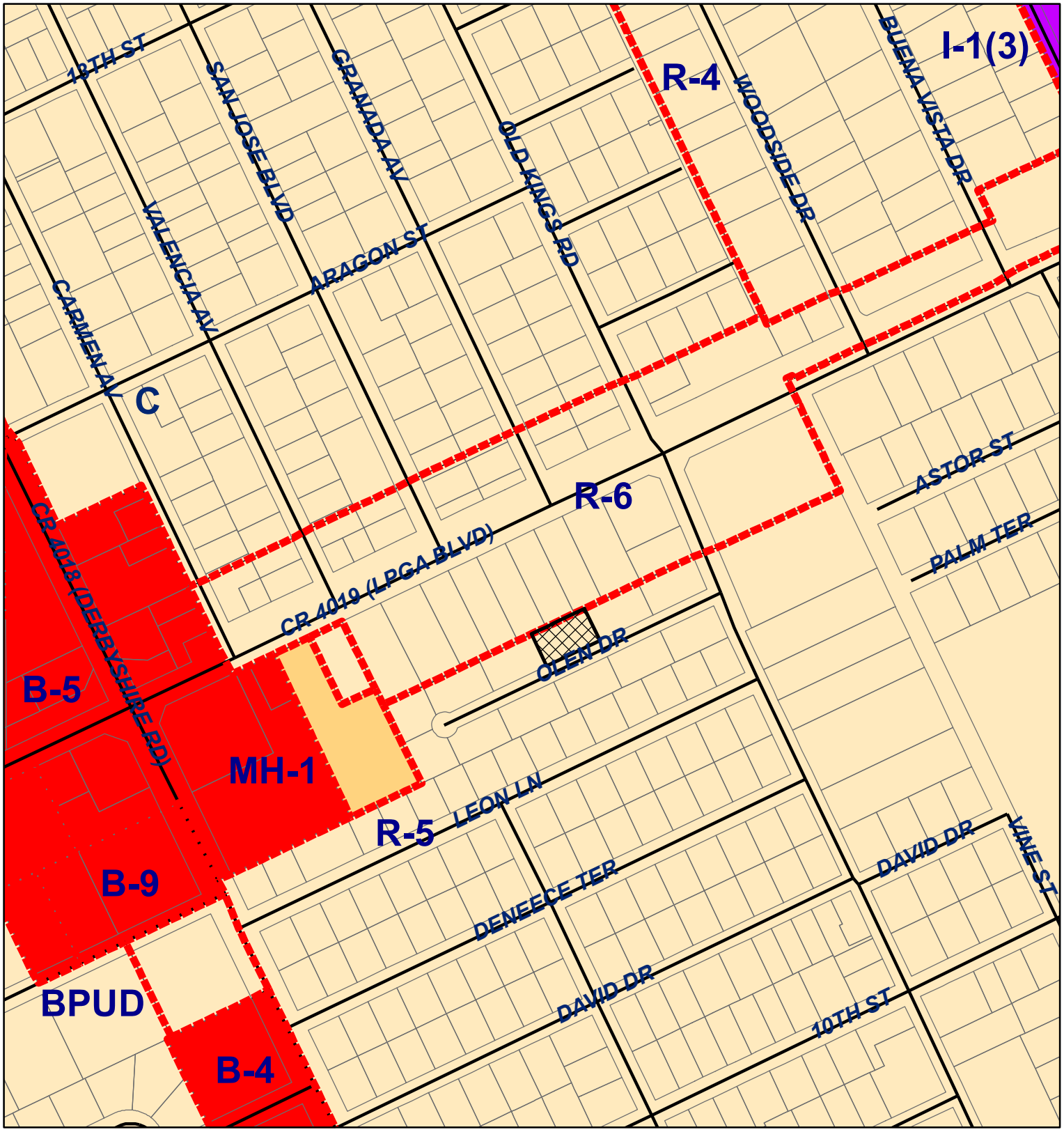
REQUEST AREA

1"= 300'

VARIANCE

CASE NUMBER

V-16-057



ZONING CLASSIFICATION

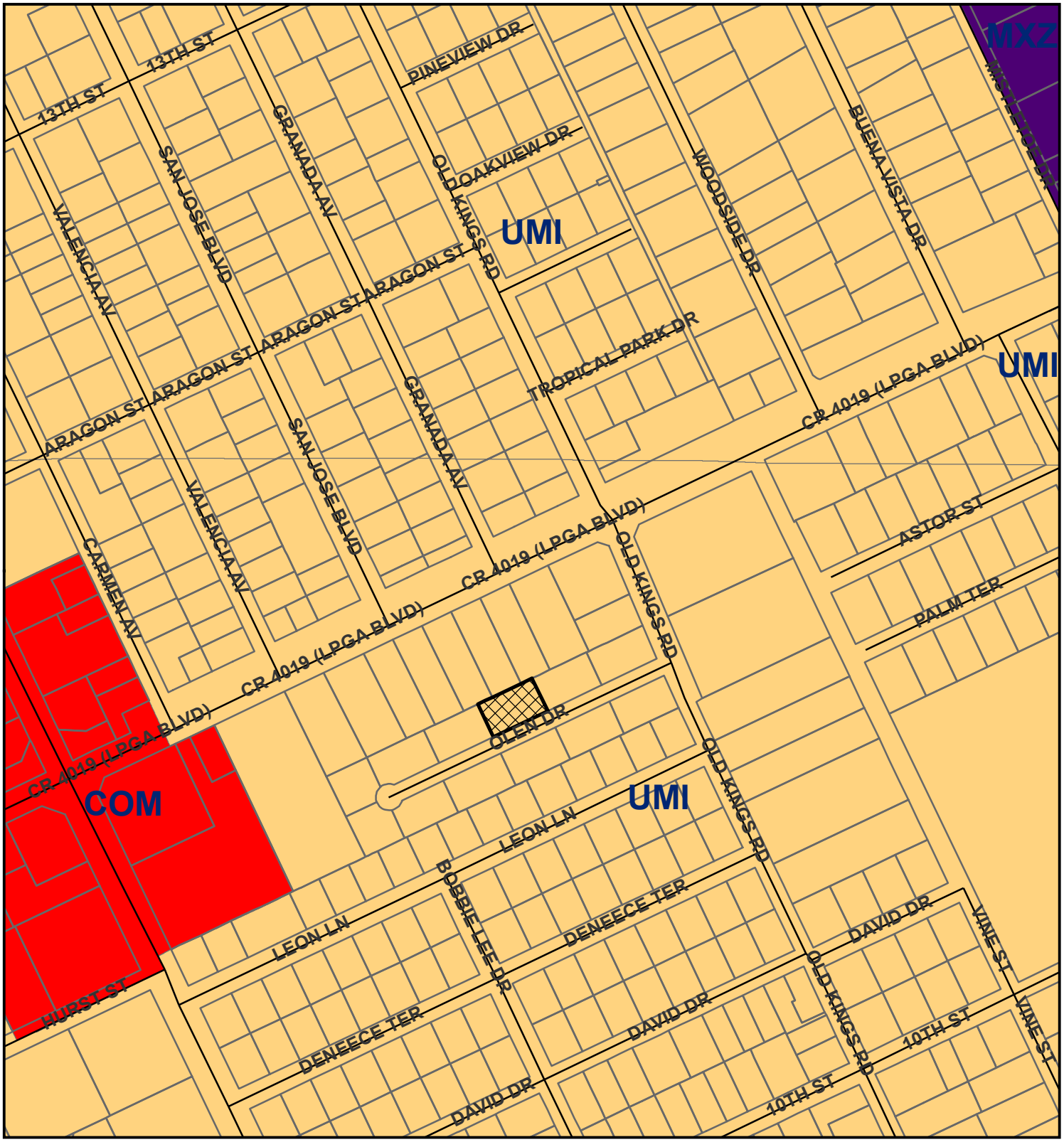
COMMERCIAL
MOBILE HOME
INDUSTRIAL
RESIDENTIAL

1"= 300'

N

REQUEST AREA

VARIANCE CASE NUMBER V-16-057



FUTURE LAND USE DESIGNATION

COMMERCIAL

URBAN MEDIUM INTENSITY

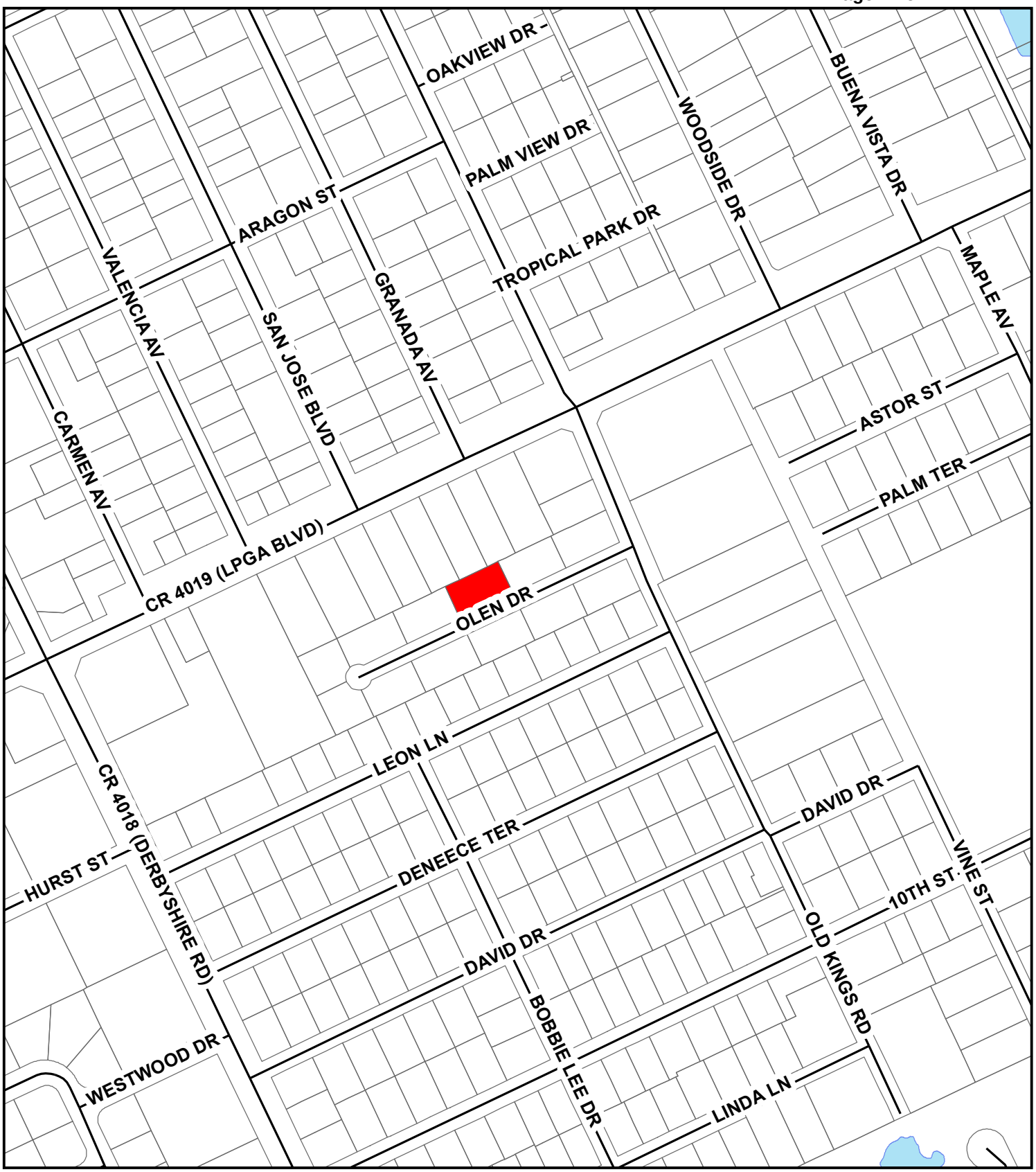
MIXED USE

REQUEST AREA

1"= 300'

N

VARIANCE CASE NUMBER V-16-057



ECO/NRMA

1"= 300'

VARIANCE
CASE NUMBER
V-16-057

ECO NRMA **REQUEST AREA**