



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
123 West Indiana Avenue, DeLand, Florida 32720
(386) 736-5959

PUBLIC HEARING: September 12, 2017 - Planning and Land Development
Regulation Commission (PLDRC)

CASE NO: V-17-061

SUBJECT: Variance to maximum lot coverage on Planned Unit Development
(Spruce Creek PUD) zoned property.

LOCATION: 1815 Lindberg Lane, Port Orange

APPLICANT: Steven Cohen, agent for owner

OWNERS: John Preiss

STAFF: Scott Ashley, AICP, Senior Zoning Manager

I. SUMMARY OF REQUEST

The applicant is requesting a lot coverage variance to construct an addition onto an existing single-family dwelling. The proposed 337 square-foot addition is for a new master bathroom that will connect the dwelling to a detached aircraft hangar. The property fronts a private right-of-way and on an aircraft taxiways (Foxtrot) in the Spruce Creek Subdivision.

The requested variance is:

A variance to maximum lot coverage from the maximum allowed 30 percent to 32 percent for an addition to a single-family dwelling on Planned Unit Development (Spruce Creek PUD) zoned property.

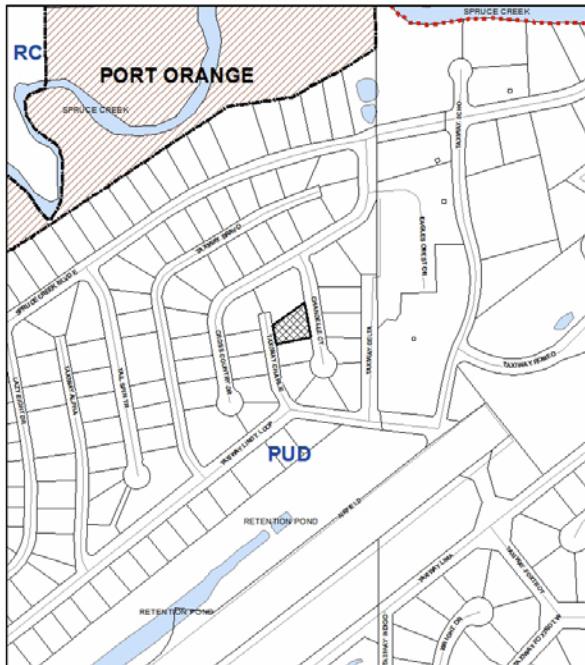
Staff recommendation: Approve, the variance request, V-17-061, as the application does meet the five criteria for granting said variance.

SITE INFORMATION

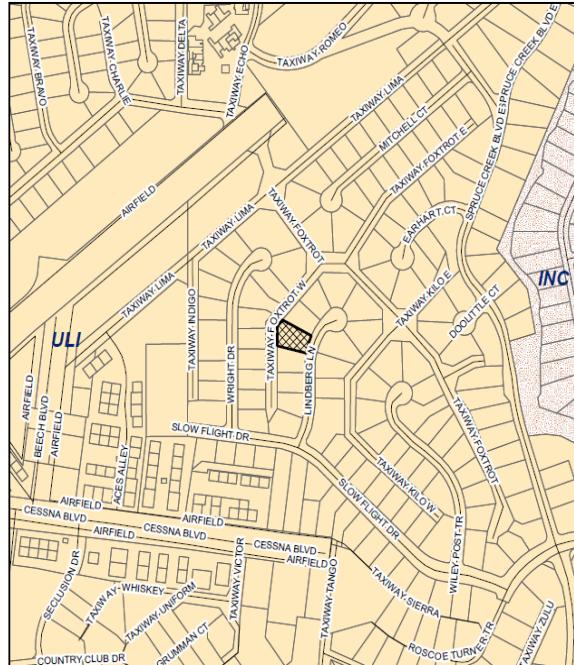
1. Location: West side Lindberg Lane \pm 430 feet north of its intersection with Slow Flight Drive, Port Orange.
2. Parcel No(s): 6330-01-00-1360
3. Property Size: \pm 20,161 square feet
4. Council District: 3
5. Zoning: Spruce Creek Planned Unit Development (PUD)
6. Future Land Use: Urban Low Intensity
7. ECO Overlay: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	Spruce Creek PUD	ULI	Single-family dwelling
East:	Spruce Creek PUD	ULI	Single-family dwellings
South:	Spruce Creek PUD	ULI	Single-family dwellings
West:	Spruce Creek PUD	ULI	Taxiway Charlie then single-family dwellings

10. Location Maps:



ZONING MAP



FUTURE LAND USE MAP

III. BACKGROUND AND PREVIOUS ACTIONS

The property is Lot 136 in the Spruce Creek Subdivision Unit II-B. Per the Development Agreement for the Spruce Creek Planned Unit Development, Section 2(A)(3): *Existing Development Uses and Regulations*, the dimensional requirements for single-family residential allows a maximum lot coverage of 30 percent. The zoning code defines lot coverage as, “that area of a lot from the ground up which is occupied by principal and accessory buildings.” The current single-family dwelling, aircraft hangar, garage, entry and covered patio areas cover 29.7 percent of the lot area, based on the property survey and building plan information. The minimum lot size allowed is 8,000 square feet whereas the subject lot has 20,161 square feet. The minimum required front, rear and side yards have been met.

The applicant previously submitted the architectural constructions plans for a bathroom addition and reconstructed stairs to the Spruce Creek Property Owners Association’s Architectural Review Committee (ARC) and received approval on December 1, 2016. The 377-square foot home addition will occupy an open area between the home and the accessory hangar. The ARC determined that the submitted floor plans met the 30 percent maximum lot coverage as labeled. The residential plans submitted to the county for a building permit included an application from the Spruce Creek ARC identifying approval of a proposed lot coverage of 29.4 percent.

Staff discussions with the contractor revealed that the Spruce Creek ARC and surveyor building area calculations did not consider the 511 square feet of labeled covered concrete patio as areas of the lot from the ground up as occupied space under the roof structure. County zoning code review of the 30 percent coverage, and relying on the definition of lot coverage, determined the covered entry and patio areas should be included in the calculation with the dwelling, garage, and hangar structures. Pursuant to that information, staff finds that the total lot coverage, of principal and accessory buildings, is 6,379 square feet, or 31.6 percent of a 20,161 square-foot lot.

Although the development agreement for the Spruce Creek Planned Unit Development does specify the maximum allowed lot coverage at 30 percent, SECTION 1. (I.) DEFINITIONS, does not list or provide a description for lot coverage. The application form approved by the Spruce Creek ARC for the lot coverage is based on the committee’s architectural review experience or understanding of construction plans that apparently does not include entry ways or cover patios or lanais as part of the lot coverage calculations nor is there specific instructions within the development agreement to provide such guidance.

SECTION III. (a) ORDER of the development agreement does provide a resolution to any conflict between the Volusia County Zoning Ordinance 80-8, as amended, and the “Development Agreement.” Ordinance 80-8, as amended, shall govern with respect to any matter not covered by the “Development Agreement.” Staff is relying on the zoning code definition of lot coverage, being, “that area of a lot from the ground up which is occupied by principal and accessory buildings” as the acceptable interpretation method for the building permit.

The proposed master bath addition plans includes an access door to the existing hangar. By allowing this access, there will be internal access between house and hangar making for a large principal structure. However, this new principal structure will become a nonconforming structure as it will not comply with the minimum rear yard requirement for the principal structure. Therefore, staff would suggest that the applicant not provide internal access and maintain two separate structure.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1) a. 4 *Variances* of the zoning code contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

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

There are no special conditions or circumstances which are peculiar to the property to prohibit the reasonable compliance with the required 30 percent lot coverage. The development uses and regulations for the PUD zoning of the Spruce Creek Subdivision, Unit II-B plat, in particular the 30 percent lot coverage, are applicable to all existing platted lots. The parcel is not encumbered by additional easements or unreasonable building setbacks. The buildable land area on Lot 136 amounts to approximately ±20,161 square feet, which exceeds the minimum lot size of 8,000 square feet per development regulations.

According to the applicant's attached petition, the special circumstances and conditions that exist are that the designed, and Spruce Creek approved, residential building is too large for the property using the county code definition of lot coverage. The proposed addition was designed and plans prepared to obtain the required Spruce Creek ARC approval before submitting to the County. The applicant submitted the owners' building plans to the ARC and received ARC approval on December 31, 2016. County permitting staff found the proposed building addition exceeded the applicable PUD lot coverage requirement. The ARC's independent interpretation of county code will require the applicant to write off the current plans and redesign this building, or the applicant must obtain a variance to proceed with the county building permit review process with the prepared plans.

Staff finds the application does not meets this criterion.

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

The applicant is not responsible for the actions of the Spruce Creek ARC and their interpretation of applicable zoning regulations.

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 provisions of the zoning code would not deprive the property owner of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the zoning code. The owner already enjoys reasonable use of the property and home, including an existing detached airplane hangar that meets zoning setback and lot coverage requirements.

Staff finds that the application 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.*

The proposed house design meets the lot coverage requirements as interpreted by the Spruce Creek ARC. The construction plans could be revised to meet the maximum coverage but would cause an unnecessary hardship with additional delay and cost for re-design.

Staff finds that, with conditions, this application can 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.*

Granting the requested variance does not create traffic congestion, fire hazards, or block adequate light or air and would have no significant effect on essential governmental services. The requested variance should not be injurious to the immediate area based on the approval of the proposed bathroom addition by the Architectural Review Committee of the Spruce Creek Property Owners Association. Staff found no specific comprehensive plan policies applicable to this case.

Staff finds that the application meets this criterion.

V. STAFF RECOMMENDATION

Approve variance request, case number V-17-061, as the application meets all five criteria for granting said variance to the maximum lot coverage from the maximum allowed 30 percent to 35.7 percent for principal and accessory buildings on Planned Unit Development (PUD) zoned property, subject to the following conditions.

1. The variance is limited to the building footprint as depicted on the variance boundary survey/site plan prepared by Sliger & Associates, Inc., dated July 17, 2017. The building footprint 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 property owners or authorized agent(s) shall obtain and complete all required building permits and inspections for the proposed property improvements.
3. The existing residence and aircraft hangar shall remain separate structures with no internal access connection.

VI. ATTACHMENTS

- Variance site plan, building permit plans and building elevations
- Survey and Spruce Creek Subdivision Plat excerpts
- Written petition and applicant information
- Architectural Review Committee letter
- 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.



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?

During the design phase of this project, we received approval from the SCHOA ARC according to the way they figure the building to land ratio,

IE: not counting the patios and covered entrance ways, and we were in compliance with the <30% building to lot ratio. Only

after the plans were submitted to the Building Department were we made aware of the situation that exists and the different way the county figures the ratio.

Also, prior to having plans drawn at considerable expense, I went to the survey company and asked them if we had enough room to build this addition. They said I did and provided me with their interpretation of the lot and building coverages with the new addition and the calculations

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?

It would not allow us to have the same variance enjoyed by other residents in this subdivision for any reason

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.

The variance we are requesting is less than 2%, and represents the best use of the existing interior space

including an addition to increase the size of the master bedroom closets and make a suitable master bedroom suite

and also connects the hangar to the home

According to the county, we are currently at the maximum allowed for this subdivision without any addition at all. Any addition would require a variance.

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?

This is in accordance with the appearance and aesthetic qualities of the surrounding homes and hangars and was approved by the SCHOA ARC

It does not impact the values of the comprehensive plan negatively in any manner

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

This variance is well within the setbacks, joining the home to the hangar, and in no way impacts any of the surrounding area.

**SPRUCE CREEK SUBDIVISION
UNIT II B**

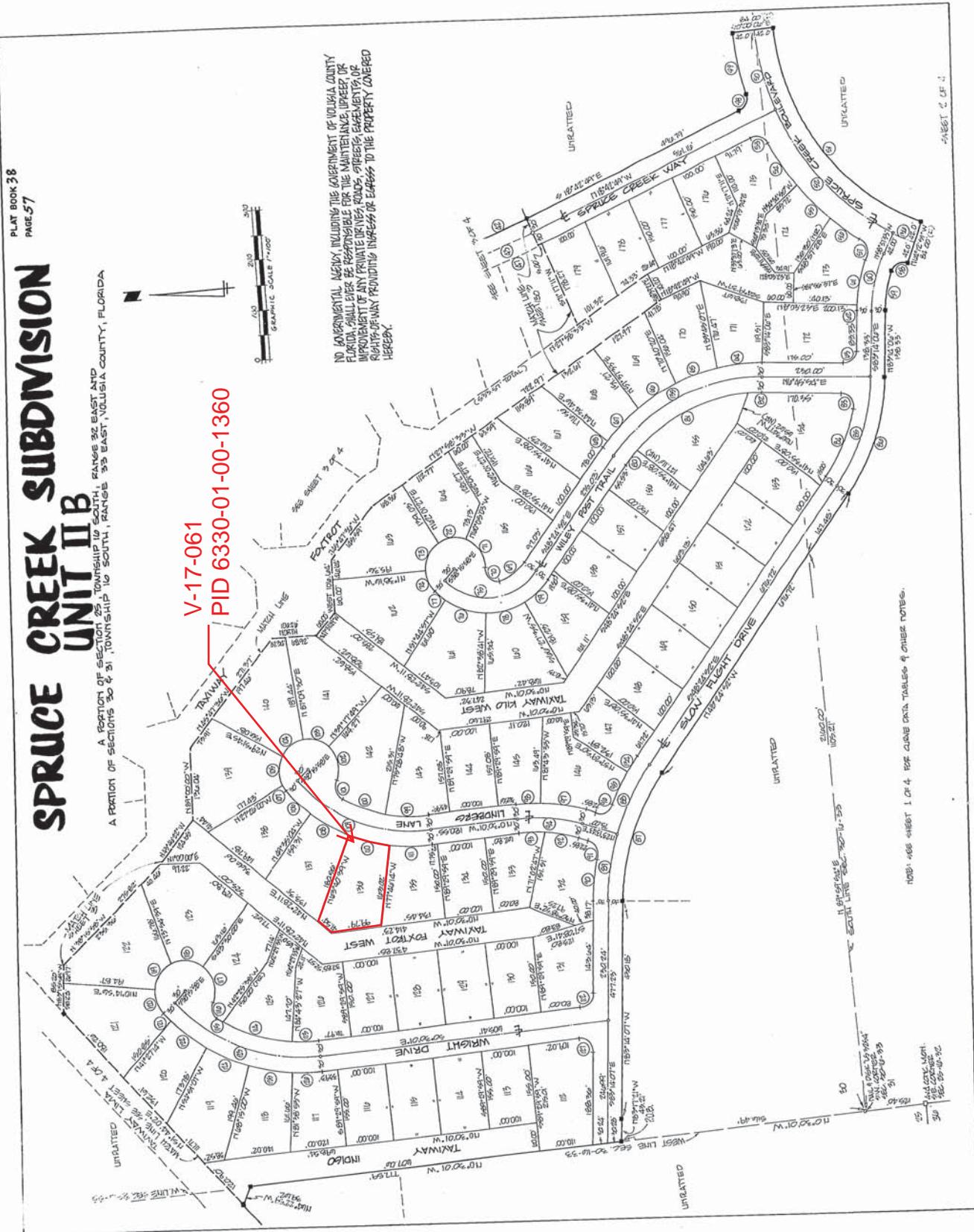
PLAY BOOK 38
PAGE 57

A portion of Section 25, Township 10, South, Range 35, East and Volusia County, Florida.

V-17-061
PID 6330-01-00-1360

102

NO GOVERNMENTAL AGENCY, INCLUDING THE GOVERNMENT OF VOLUSIA COUNTY, FLORIDA, SHALL EVER BE RESPONSIBLE FOR THE MAINTENANCE, UPGRADE, OR IMPROVEMENT OF ANY PRIVATE DRIVEN ROADS, STREETS, ELEMENTS OF RIGHTS OF WAY PROVIDED IN AGREEMENTS OF EASESS TO THE PROPERTY COVERED HEREIN.





SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION # 3019

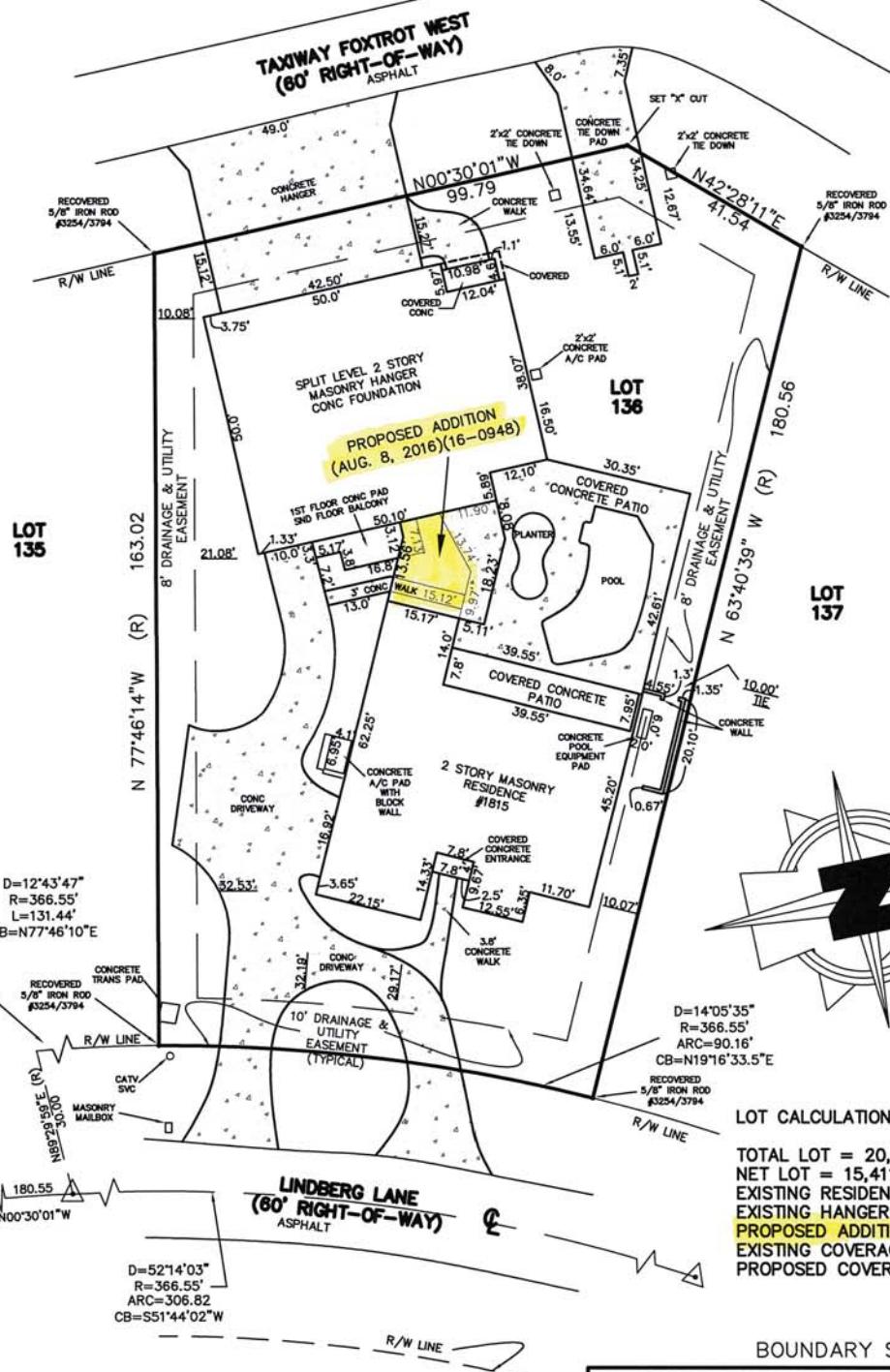
3921 NOVA ROAD

PORT ORANGE, FL 32127

(904) 761-5385

Copyright © 2001 Sliger & Associates, Inc.

www.sligerassociates.com

FOR: **JOHN W. PREISS**

DESCRIPTION: LOT 136, SPRUCE CREEK SUBDIVISION, UNIT IIB AS RECORDED IN PLAT BOOK 38, PAGE(S) 56-59, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

SCALE 1" = 30' FIELD BOOK 38

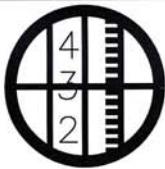
PAGE 56-59

BOUNDARY SURVEY

ABBREVIATIONS		LEGEND
A/C	AIR CONDITIONER	● IRON ROD WITH CAP
R/W	RIGHT OF WAY	○ IRON PIPE
C	CENTERLINE	□ CONCRETE MONUMENT
△	CENTRAL ANGLE	■ PERMANENT MONUMENT
R	RADIUS	△ PERMANENT CONTROL POINT
L	ARC LENGTH	(R) RADIAL LINE
CB	CHORD BEARING	(NR) NON-RADIAL LINE
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM	○ EXISTING ELEVATION
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY	■ PROPOSED ELEVATION

JOB #17-0885

SHEET 1 OF 2



SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(904) 761-5385

Copyright © 2017 Sliger & Associates, Inc.

www.slikerassociates.com

SURVEYOR'S NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/SKETCH PREPARED WITHOUT BENEFIT OF AN ABSTRACT.
2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
3. BEARING STRUCTURE IS BASED UPON THE RECORD PLAT WITH THE BEARING ON THE NORTH LINE OF LOT 136

BEING N63°40'39"W
4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
5. ELEVATIONS REFER TO N.G.V.D. OF 1929, PER U.S.C. & G.S. BENCH MARK _____

HAVING A PUBLISHED ELEVATION OF _____ FEET.
6. THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE X THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M. COMMUNITY PANEL 12127C008 H MAP REVISED FEB. 19, 2014 APPROXIMATE SCALE 1" = 500'
7. FLOOD ZONE CERTIFICATION ADDED TO SURVEY: JULY 27, 2017 (17-0885)
8. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.
9. REVISED AUG. 8, 2016 TO SHOW LOT AREA & COVERAGE CALCULATIONS FOR PROPOSED ADDITION. NO ADDITIONAL FIELD WORK PERFORMED THIS DATE. (16-0948)(JR)

NOTE.

NOTE: NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

REFERENCE: LOT 136, SPRUCE CREEK SUBDIVISION UNIT 11B

PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)

THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND\OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

SHEET 2 OF 2

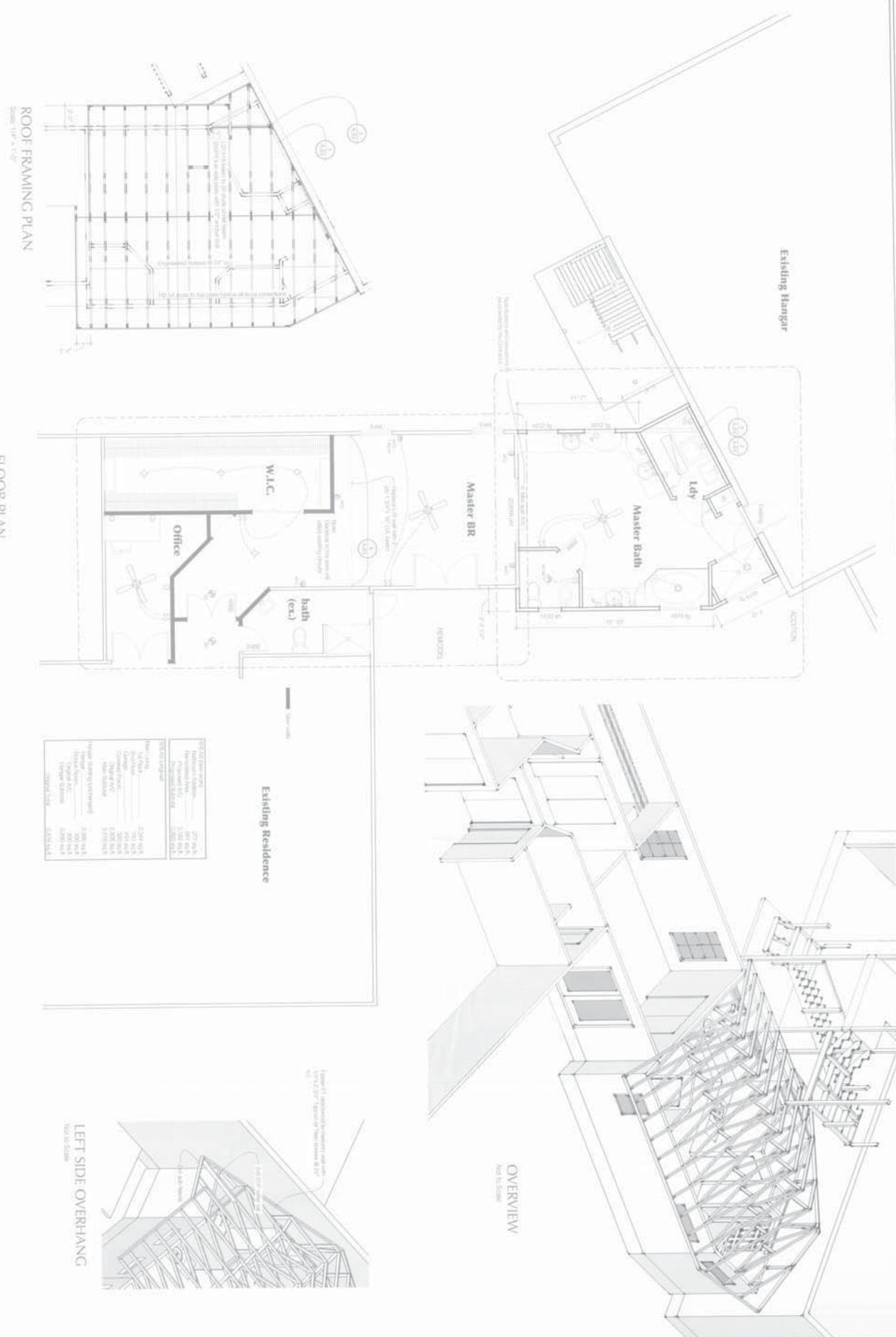
VALID WITH SIGNATURE & EMBOSSED SEAL ONLY

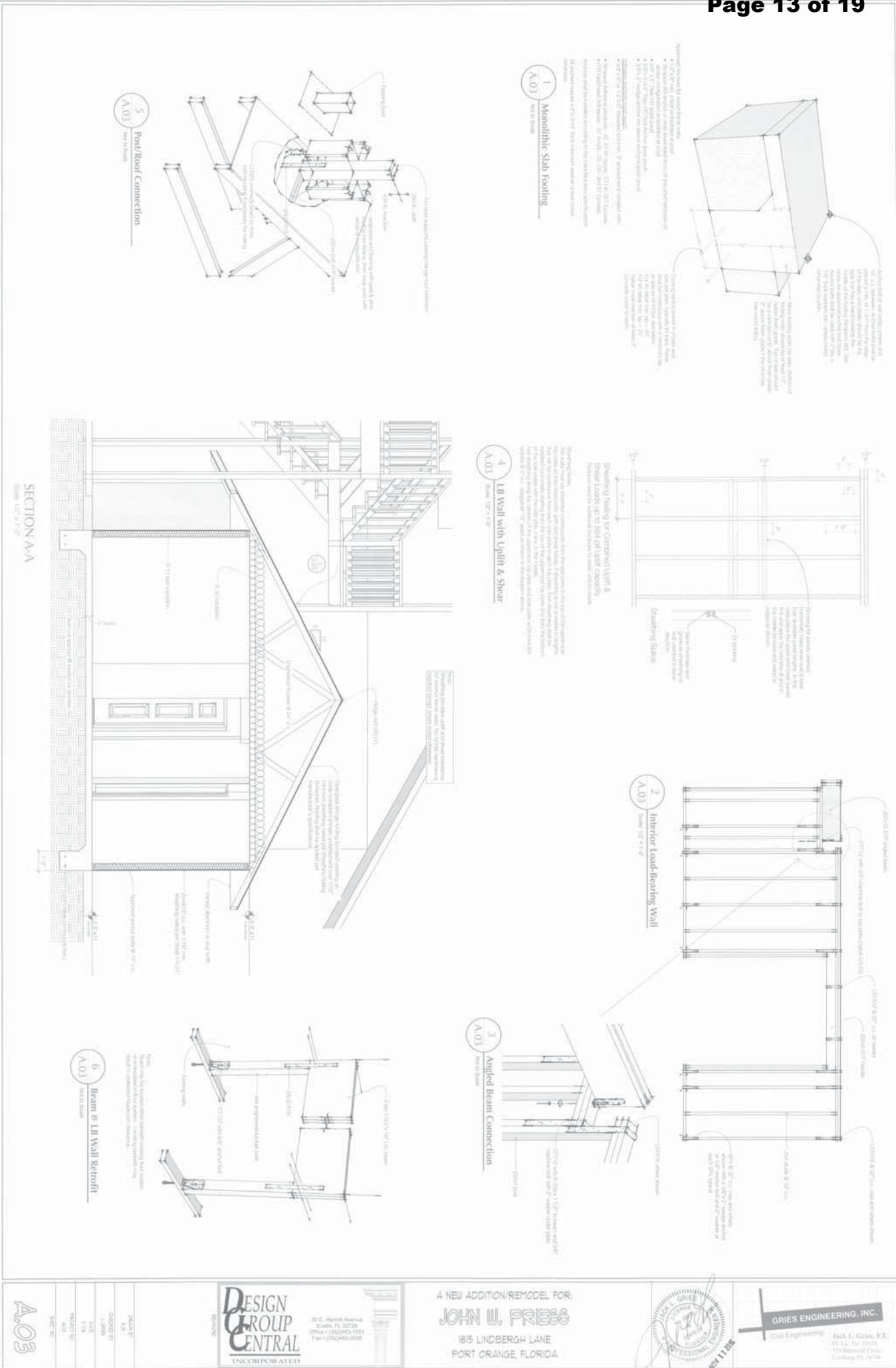
FOR : ***JOHN W. PREISS***

SKETCH OF DESCRIPTION	DATE	JOB NO.	P.C.	DRW.	CHECKED B
VACANT LOT	APRIL 16, 1982	81-223		RW	STK
TOPOGRAPHIC SURVEY					
FOUNDATION LOCATION					
FINAL IMPROVEMENTS	JULY 19, 2001	01-1503	JL	EA	STK
RECERTIFICATION	JULY 27, 2017	17-0885	JL	STK	STK
PROPOSED HOUSE LOCATION					

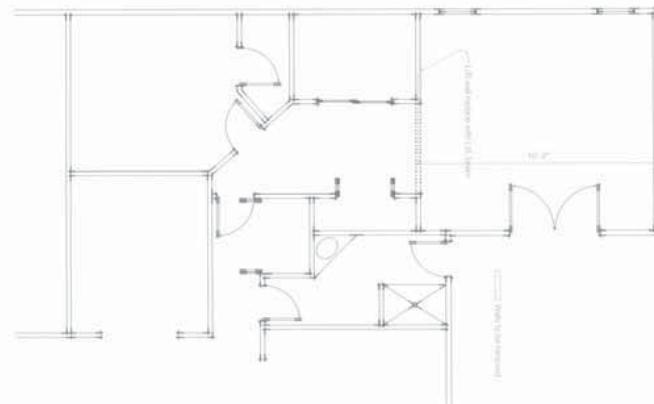
I HEREBY CERTIFY THAT THIS PLAT MEETS THE MINIMUM
TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF
PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05,
FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027,
FLORIDA STATUTES.

STEPHEN B. SLIGER, P.L.S. NO. 3794
J.E. ZAPERT, P.L.S. NO. 4046
STEVEN T. KRUGER, P.L.S. NO. 4722

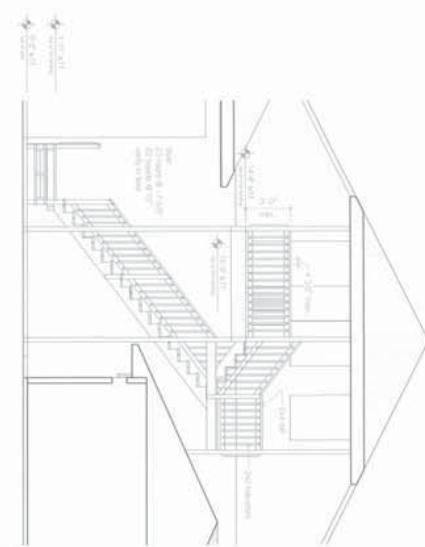




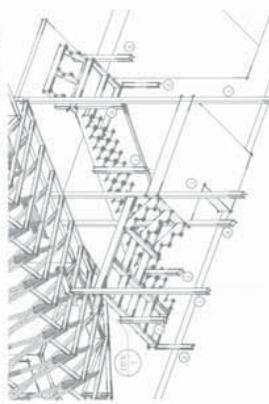
FLOOR PLAN (EXISTING) & DEMOLITION



STAIR ELEVATION



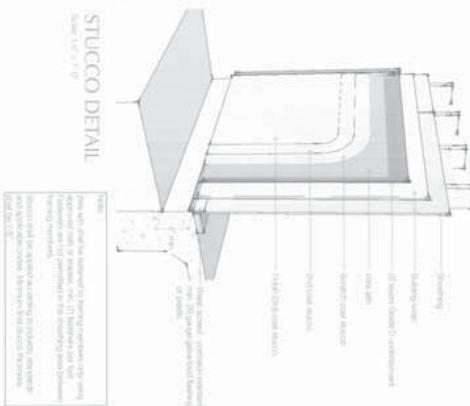
SIAM J. COMPUT.

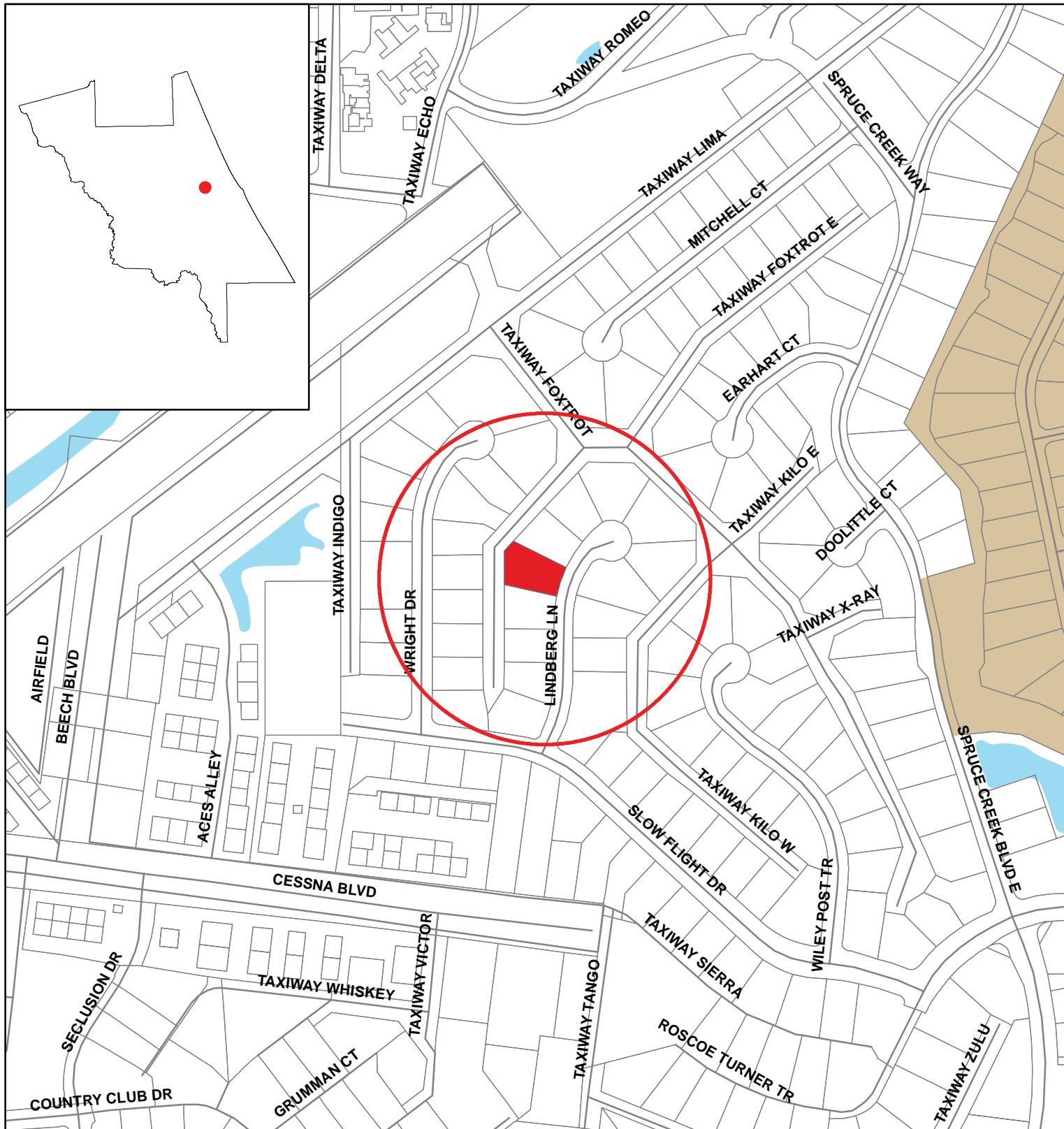


SIKIR KAMING



STUCCO DETAIL





REQUEST AREA LOCATION



1" = 400'



VARIANCE

CASE NUMBER

V-17-061

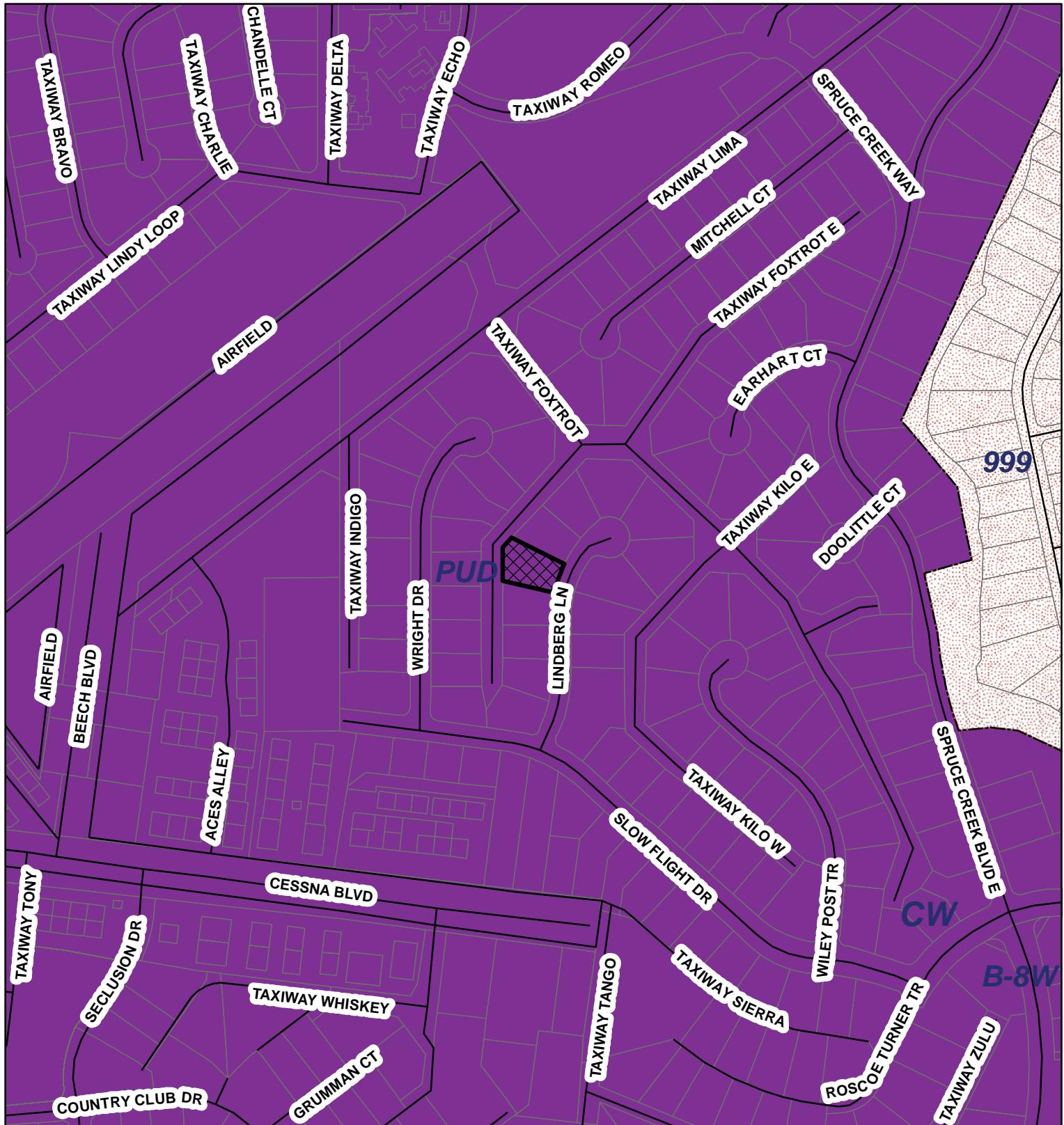


AERIAL 2015

REQUEST AREA



**VARIANCE
CASE NUMBER
V-17-061**

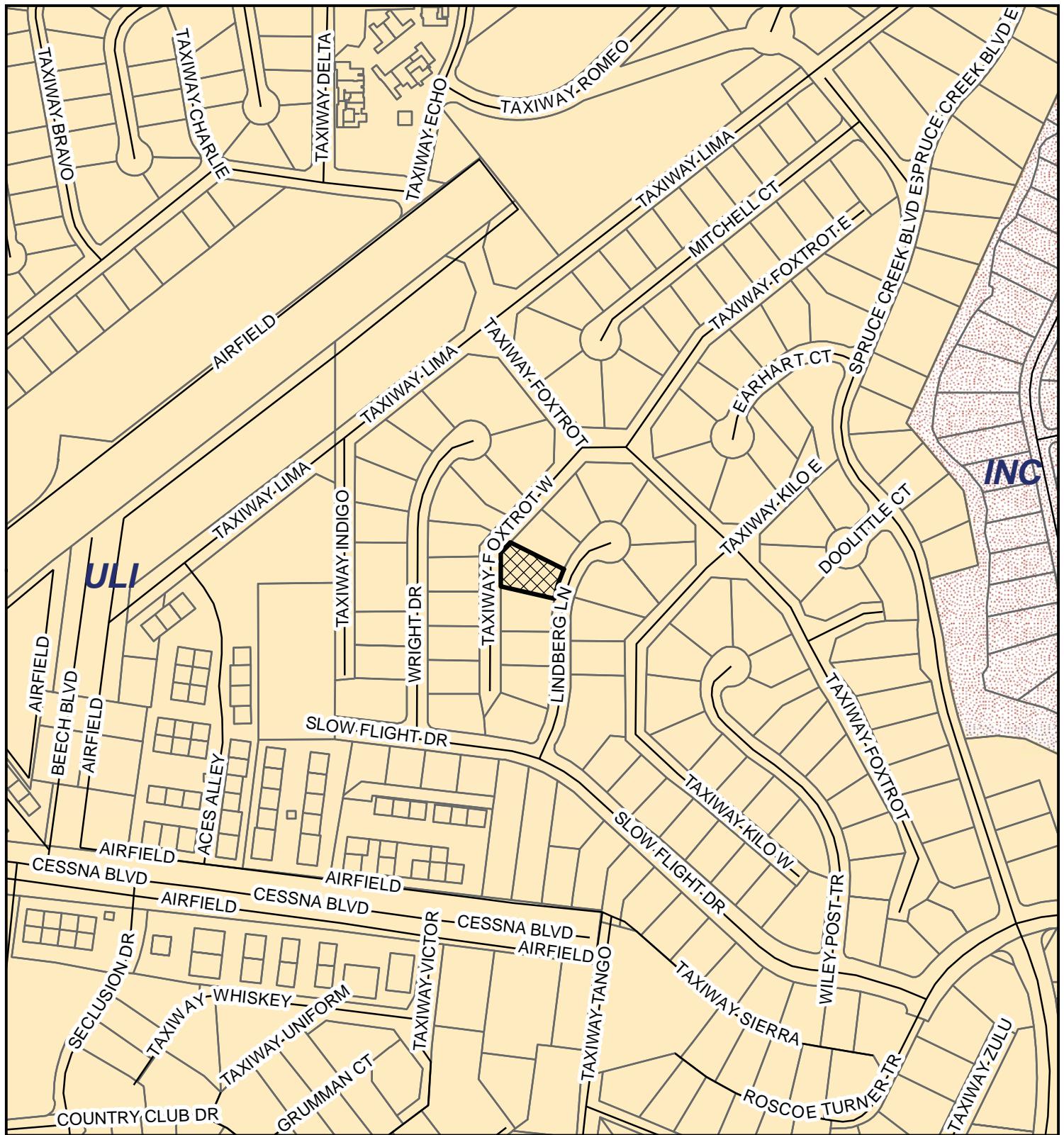


ZONING CLASSIFICATION

- INCORPORATED
- PLANNED UNIT DEVELOPMENT
- REQUEST AREA



VARIANCE
CASE NUMBER
 $1'' = 400'$ **V-17-061**



FUTURE LAND USE



INCORPORATED



URBAN LOW INTENSITY



REQUEST AREA

**VARIANCE
CASE NUMBER
V-17-061**

1" = 400'



ECO/NRMA

1" = 400'

VARIANCE CASE NUMBER

The logo for the Request Area, featuring a green and white striped square followed by the text "REQUEST AREA".