



**BALDWIN COUNTY
PLANNING AND ZONING
BOARD OF ADJUSTMENT NUMBER 2**

WORK SESSION AGENDA

May 11, 2023

Work Session 2:00 p.m.

Baldwin County Satellite Courthouse

Large Meeting Hall

201 East Section Avenue

Foley, Alabama

[Email-.planning.baldwincountyal.gov](mailto:planning.baldwincountyal.gov)

1. Call to Order.
2. Roll Call.
3. Training.
4. Discussion of items related to the upcoming agenda and any other necessary items related to the Board of Adjustment Number 2.
5. Questions and Concerns.
6. Adjournment.

To view maps/plats in higher resolution please visit the 'Upcoming Items' Planning and Zoning webpage."

<https://baldwincountyal.gov/departments/planning-zoning/meeting-agenda>



**BALDWIN COUNTY
PLANNING AND ZONING
BOARD OF ADJUSTMENT NUMBER 2**

AGENDA

May 11, 2023

Regular Meeting 3:00 p.m.

Baldwin County Satellite Courthouse

Large Meeting Hall

201 East Section Avenue

Foley, Alabama

[Email-planning.baldwincountyal.gov](mailto:planning.baldwincountyal.gov)

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes (April 13, 2023)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. ZVA23-17, Finlay & Company LLC Property

Request: Approval of a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback buffer for the construction of a single-family dwelling.

Location: The subject property is located at 6078 South Breeze Drive in Planning District 25.

Attachments: Within Report and Attached

b.) Case No. ZVA23-20, Trademark Properties & Investments LLC Property

Request: Approval of a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback buffer for the construction of a single-family dwelling.

Location: The subject property is located at 6802 Lake Shore Drive in Planning District 25.

Attachments: Within Report and Attached

c.) Case No. ZVA23-21, Wade Property

Request: Approval of a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback buffer for the construction of a single-family dwelling.

Location: The subject property is located at 2011 State Highway 180 in Planning District 25.

Attachments: Within Report and Attached

d.) Case No. ZVA23-22, Scalata & Anecchiarico Property

Request: Approval of a variance from Section 15.3.9(a)2 of the Baldwin County Zoning Ordinance as it pertains to the location of a parked recreational vehicle within a front yard.

Location: The subject property is located at 613 Bonita Court in Planning District 25.

Attachments: Within Report and Attached

e.) Case No. ZVA23-23, Nazzareno Property

Request: Approval of a variance from Section 4.6.5 of the Baldwin County Zoning Ordinance as it pertains to the rear yard setback for the construction of a single-family dwelling.

Location: The subject property is located at 2330 Ponce de Leon Court in Planning District 25.

Attachments: Within Report and Attached

6. Old Business
7. New Business
8. Adjournment

To view maps/plats in higher resolution please visit the 'Upcoming Items' Planning and Zoning webpage."

<https://baldwincountyal.gov/departments/planning-zoning/meeting-agenda>



**Baldwin County Planning and Zoning
Board of Adjustment Number 2
Work Session Minutes
Thursday, April 12, 2023**

I. OPENING

Chairman David Brown opened the Baldwin County Planning and Zoning Commission Board of Adjustment Number 2 at 2:01p.m. April 13, 2023, at the Foley Satellite Courthouse Large Meeting Room located at 201 East Section Avenue, Foley, Alabama.

II. ATTENDANCE

The following board members were present: Samuel Mitchell, Michael Swansburg, John Slaats, Mackie Ray, Tracey Gambill, and Chairman David Brown.

Staff present included Buford King, Cory Rhodes, and Ashley Campbell.

III. DISCUSSION ITEMS – review of the items from the agenda

1. ZVA22-90, Cronen Property – Discussion only.
2. ZVA23-4, Ammons Property – Discussion only.

IV. TRAINING

1. Mr. King presented a tutorial on the Baldwin County parcel viewer and discussed CAPZO training.

V. ADJOURNMENT

As there were no further items to discuss, the work session adjourned at 2:59 p.m.

Respectfully Submitted,

Paula S. Bonner, Planning Technician

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2023.

David P. Brown, Chairman



**Baldwin County Planning and Zoning
Board of Adjustment Number 2
Regular Meeting Minutes
Thursday, April 13, 2023**

I. Call To Order

Chairman David Brown opened the Baldwin County Board of Adjustment Number 2 at 3:08 p.m. April 13, 2023, at the Foley Satellite Courthouse Large Meeting Room located at 201 East Section Avenue, Foley, Alabama.

II. Opening

Chairman Brown opened the meeting with an invocation and the pledge of allegiance.

III. Roll Call

The following board members were present: Samuel Mitchell, Michael Swansburg, Noreen Kendal, John Slaats, Mackie Ray, Tracey Gambill, and Chairman David Brown.

Staff present included Buford King, Corey Rhodes, and Ashley Campbell.

IV. Approval of Minutes

Mr. Mitchell made a motion to approve the March 9, 2023, meeting minutes. Mr. Slaats seconded the motion. All members voted aye. **Motion to approve the March 9, 2023, minutes carried unanimously.**

V. Consideration of Applications and Requests

1) ZVA22-90 Cronen Property

Ms. Rhodes presented the applicant's request for approval of a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback buffer for the construction of a single-family dwelling. Staff recommended the variance request be approved.

Aubrey Bennett spoke in favor of the request. No one spoke in opposition.

After discussion Mr. Ray made a motion to approve the request with conditions recommended by staff. Ms. Kendle seconded the motion. All members voted aye. **Motion to approve case ZVA22-90 variance request with the conditions listed below carried.**

- 1. Wetland setback encroachment is limited to the area shown within the Nationwide permit dated February 13, 2023, as provided by the U.S. Army Corps of Engineers Mobile District, Nationwide permit number SAM-2022-01073-LML as issued to Giles Cronen.**

2. **This variance relieves subject property of no other requirements of the Baldwin County Zoning Ordinance, Baldwin County Subdivision Regulations, or requirements of other agencies.**

2) ZVA23-4 Ammon Property

Mr. King presented the applicant's request for approval of a variance from Section 2.3.25.3(f)3.B of the Baldwin County Zoning Ordinance as it pertains to the requirement for a dune walkover to begin at the existing ground level elevation of the principal landward structure, and Section 2.3.25.3(f)3.G of the Baldwin County Zoning Ordinance as it pertains to the requirement for a dune walkover to terminate ten (10) feet seaward of the vegetative line to allow for a dune walkover to remain.

Randy Ammon spoke in favor of the request. No one spoke in opposition.

After discussion Mr. Mitchell made a motion to approve the variance request with conditions recommended by staff. Mr. Slaats seconded the motion. Mr. Brown, Ms. Kendall, and Mr. Ray voted nay. Mr. Mitchell, Mr. Swansburg, Mr. Slaats, and Mrs. Gambill voted aye. **Motion to approve case ZVA23-4 variance request with the conditions listed below carried.**

1. **The variance approval is limited to the existing dune walkover depicted within Case number ZVA23-4 and this variance relieves subject property of no other requirements of the Baldwin County Zoning Ordinance, Baldwin County Subdivision Regulations, or requirements of other agencies.**

VI. Old Business

There was no old business.

VII. New Business

There was discussion regarding extending the time frame for application submittals and staff reports.

There was also discussion regarding clarification of the dune walkover regulations.

VIII. Adjournment

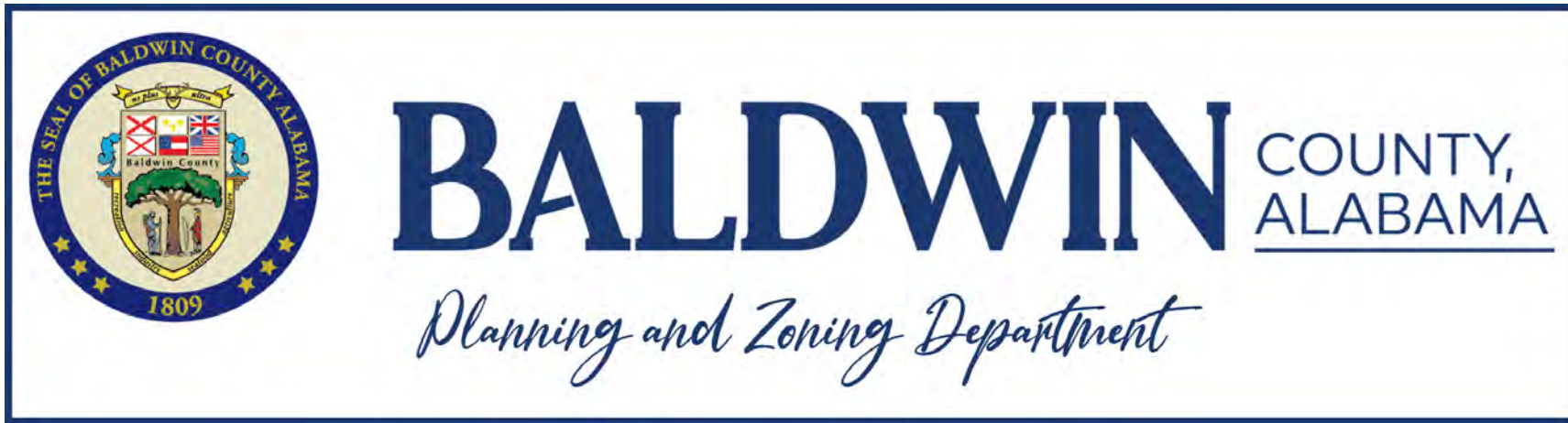
As there were no further items to discuss the meeting adjourned at 4:57 p.m.

Respectfully Submitted,

Paula S. Bonner, Planning Technician

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2023.

David P. Brown, Chairman



BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

MAY 11, 2023

BALDWIN COUNTY SATELLITE COURTHOUSE

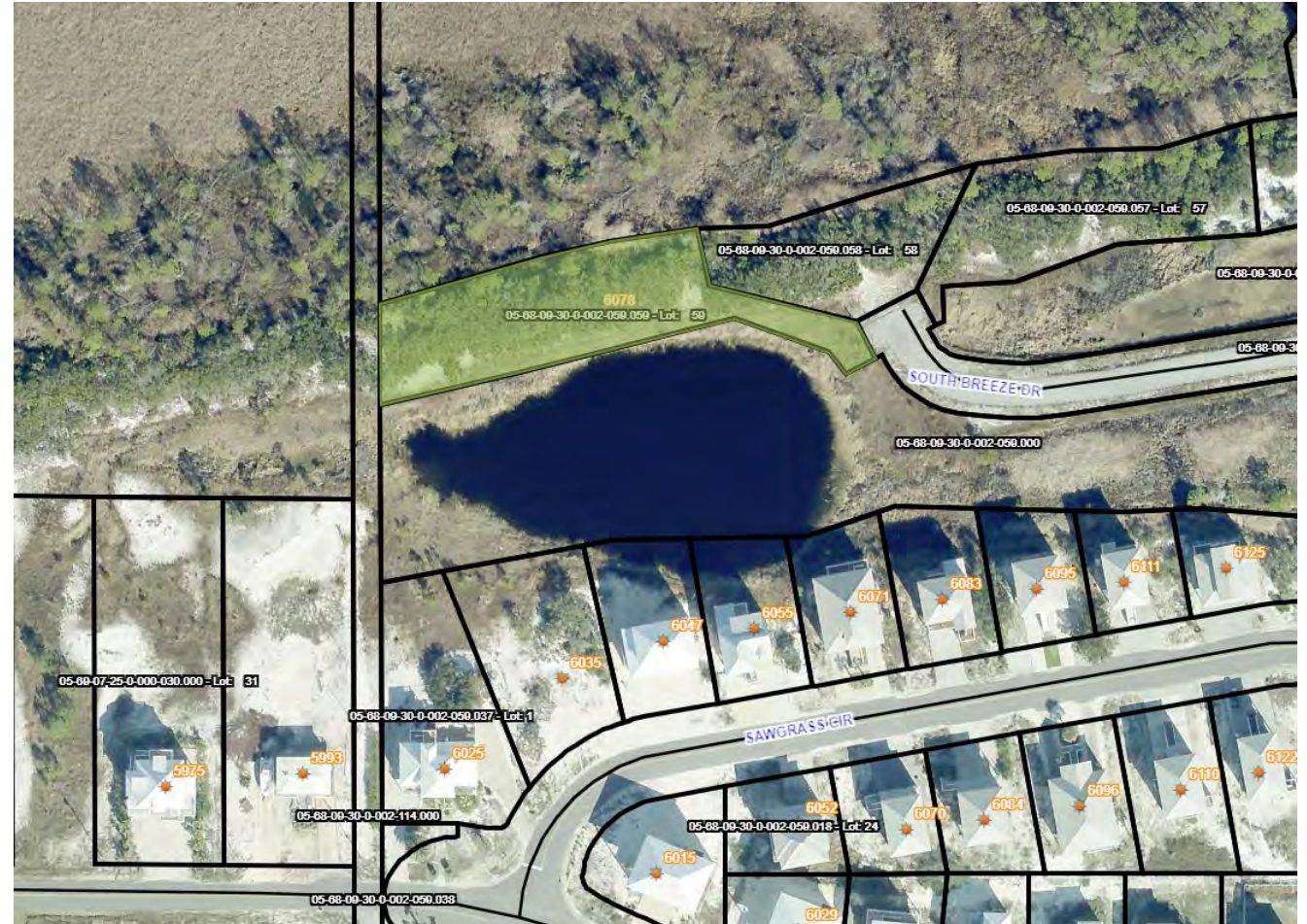
FOLEY, AL

ZVA23-17 FINLAY & COMPANY

VARIANCE REQUEST

Lead Staff: Cory Rhodes, Planner

- **Planning District:** 25 **Zoned:** RSF-2
- **Location:** Subject property is located west of Morgantown Blvd in the Morgantown subdivision
- **PID:** 05-68-09-30-0-002-059.059
- **PPIN:** 272106
- **Acreage:** +/- 0.47 acres
- **Physical Address:** 6078 South Breeze Drive, Gulf Shores, AL 36542
- **Applicant:** Mark Frost
- **Owner:** Finlay & Company, LLC



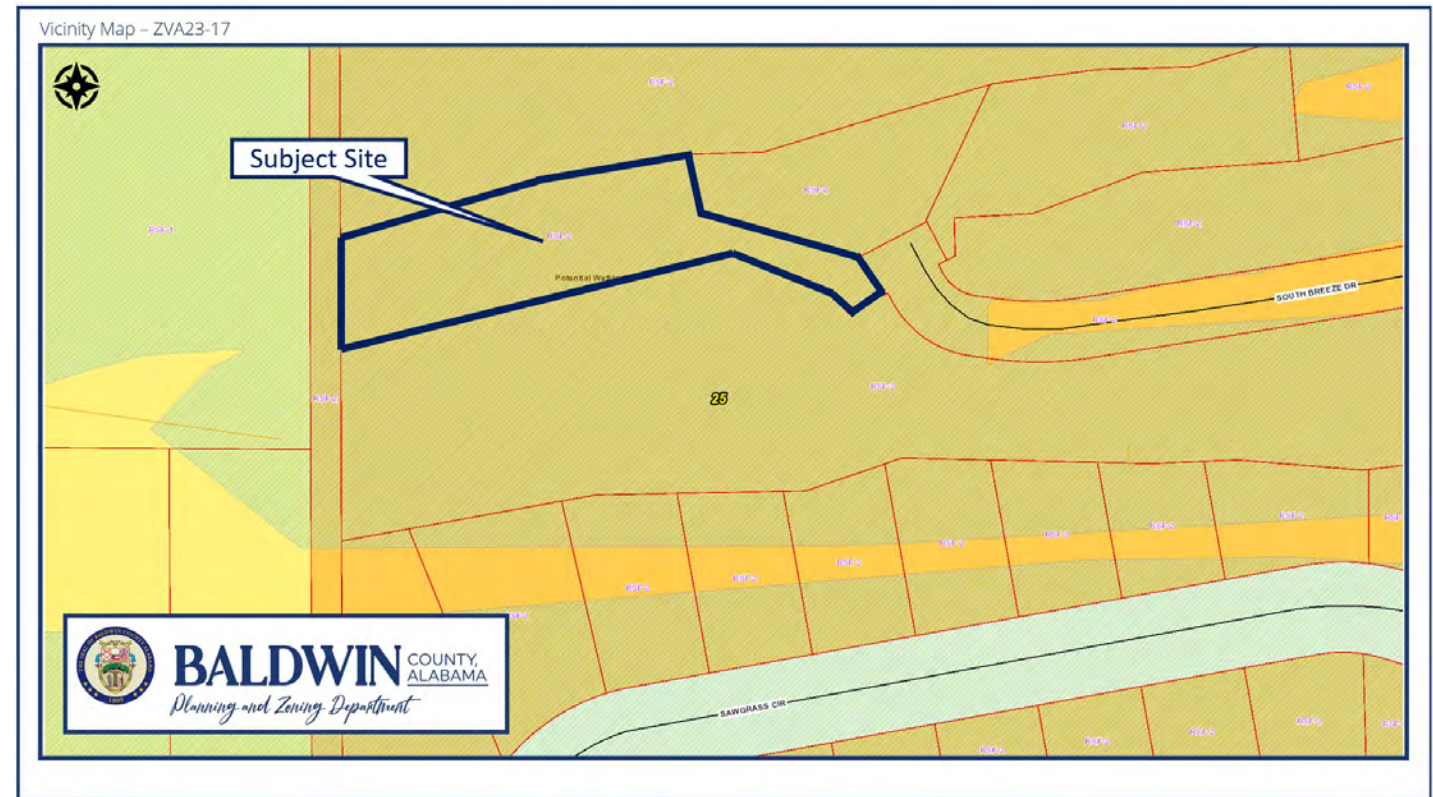
ZVA23-17 FINLAY & COMPANY

VARIANCE REQUEST

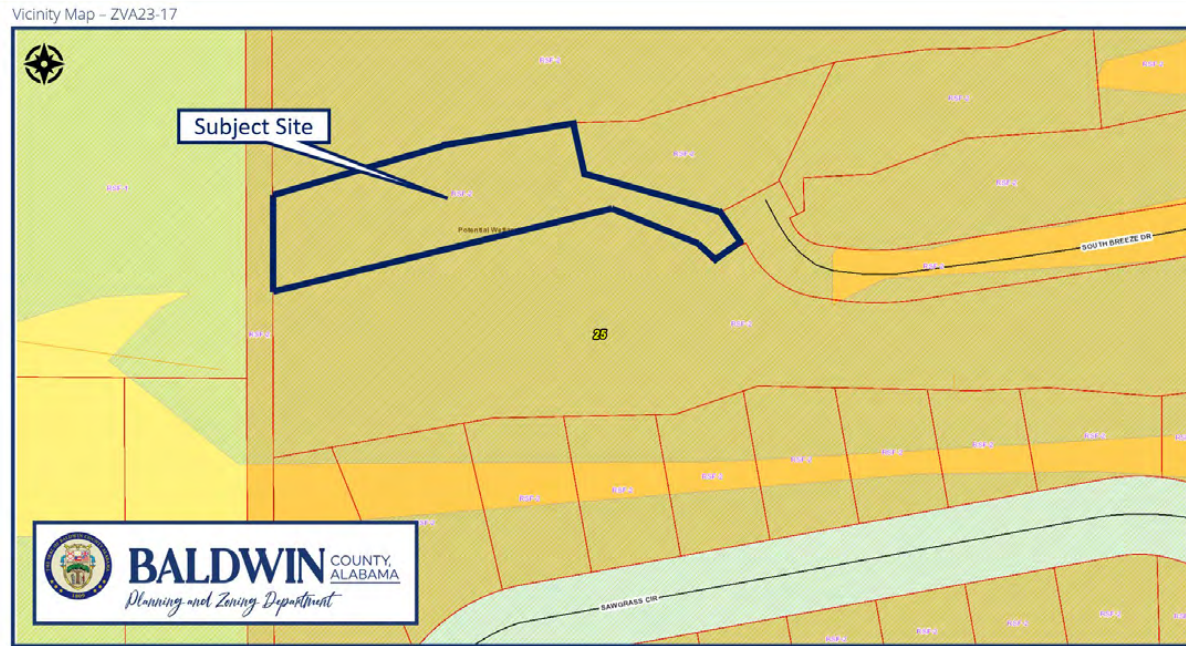
Lead Staff: Cory Rhodes, Planner

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to [encroaching into] the 30' non-disturbed wetland setback to allow for the construction of a single-family dwelling.

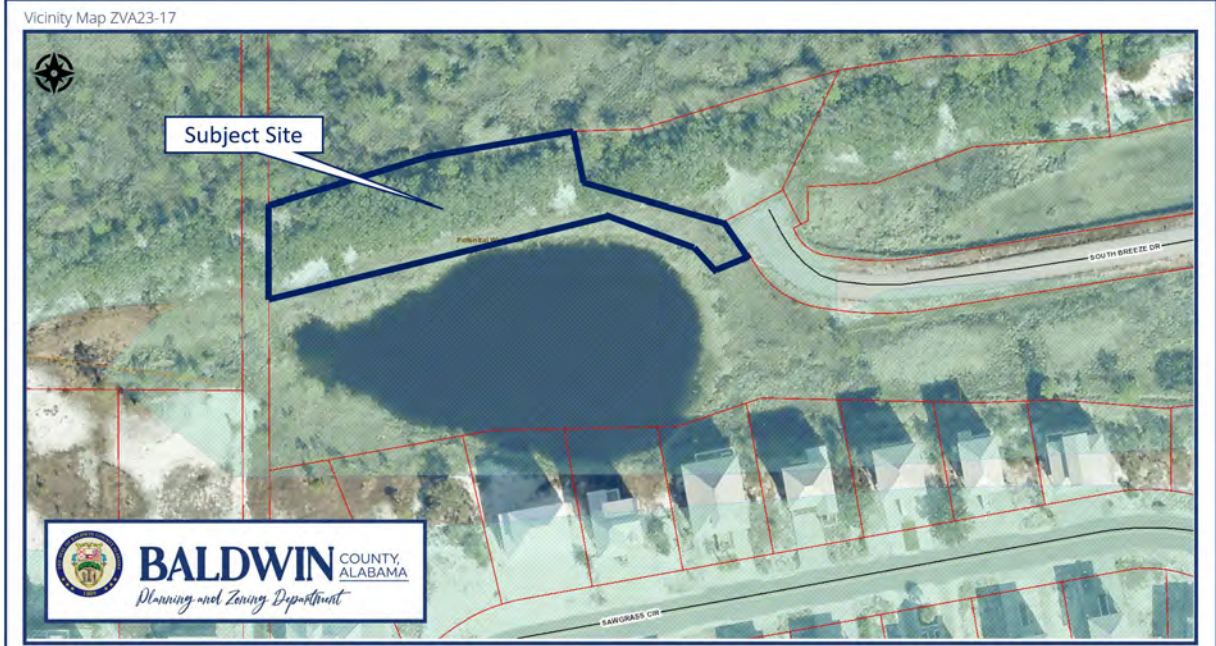
At the time this staff report was written an Incidental Take Permit (ITP) was not provided. Until this document can be provided, staff recommends this case be **tabled** until further notice.



Locator Map



Site Map



	Adjacent Zoning	Adjacent Land Use
North	RSF-2, Residential Single-Family District	Vacant
South	RSF-2, Residential Single-Family District	Residential
East	RSF-2, Residential Single-Family District	Vacant
West	RSF-2, Residential Single-Family District	Vacant

Property Images

Apr 19, 2023 at 2:50:45 PM
301° NW

Subject Property



VARIANCE
FOR THE PROPERTY
21423 DOUGLASS
(251) 590-1885



Property Images

Apr 19, 2023 at 2:49:31 PM
343° N

Adjoining Property
to The North
PIN 272105



Property Images

Apr 19, 2023 at 2:49:43 PM
44° NE



Property Images

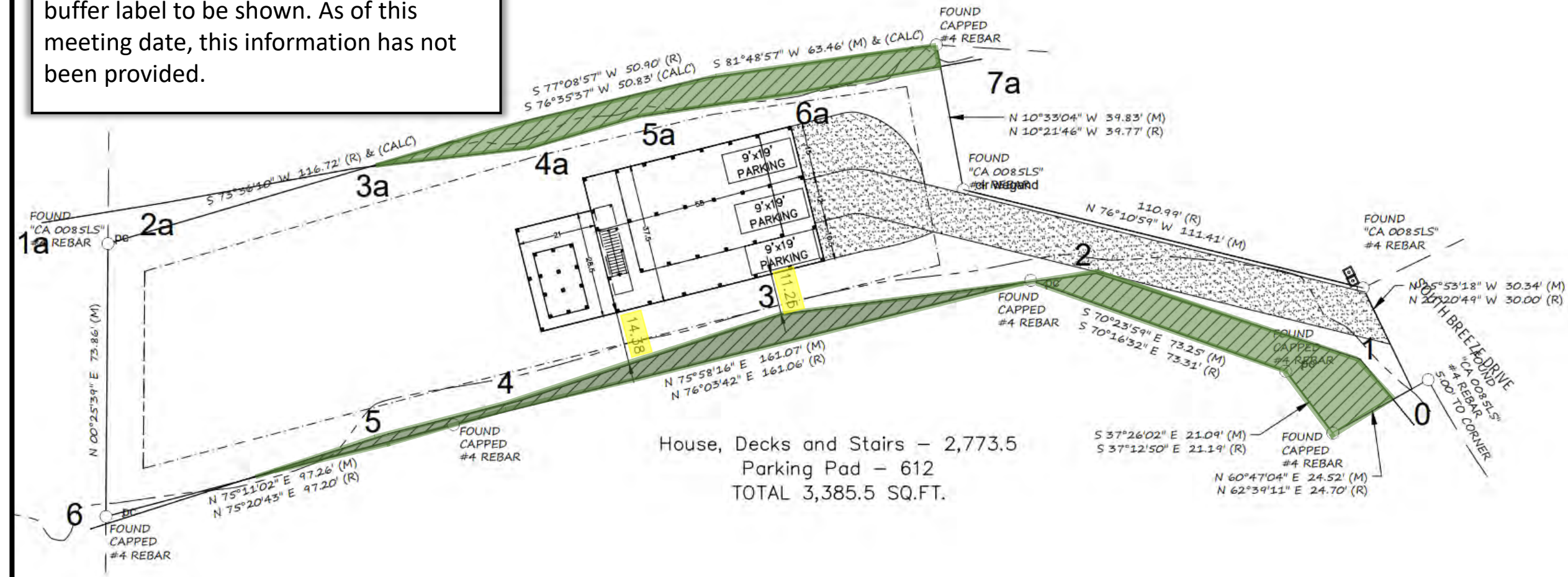
Apr 19, 2023 at 2:49:57 PM
207° SW

Properties to
the South



Site Plan

The Environmental Review Planner reviewed the Site Plan on 4/24/2023 and requested the 30' non-disturbed wetland buffer label to be shown. As of this meeting date, this information has not been provided.



Wetland Delineation



March 3, 2023

Mark Frost
PO Box 4706
Gulf Shores, AL 36547

**Re: Wetland Jurisdictional Assessment
Lot 59 South Breeze Drive, Fort Morgan, Baldwin County, AL
WSI Reference #2023-076**

Dear Mr. Frost,

As requested, Wetland Sciences, Inc. has completed a field wetland assessment of the above-mentioned property located at Lot 59 South Breeze Drive in Section 30, Township 9 South, Range 2 East in Baldwin County, Alabama. The Baldwin County Property Appraiser identifies the subject property by the following property identification number: 272106. This assessment included an analysis of plant communities, soils, and indirect hydrologic indicators. During this determination, Wetland Sciences, identified a wetland complex subject to the regulatory jurisdiction of the US Army Corps of Engineers (Corps), the Alabama Department of Environmental Management (ADEM) and Baldwin County within the subject property (See attached wetland sketch – **Exhibit A**). The following is a summary of our findings.

The purpose of performing the wetland assessment was to assess if wetlands or Waters of the United States (WOTUS) are present and, if so, to identify the boundaries. The wetland delineation was performed in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual, the 2012 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic & Gulf Coast Supplement (2010).

During inspection of the property I used technical criteria, field indicators, historic aerial photographs, and other sources of information to assess the site. Wetlands generally have three essential characteristics: hydrophytic vegetation, hydric soils, and wetland hydrology. The techniques for evaluating the plant community, soils, and hydrology are described in the following sections.

Hydric Soils Assessment

Several soil test holes were evaluated to identify field indications of hydric soils. WSI utilized the hydric soil definition provided by the National Technical Committee for Hydric Soils and criteria to determine whether soils within the site are considered hydric. It was determined during the desktop review that the property contains hydric soils. A specific area is not necessarily considered to have hydric soils because it is dominated by soils on a hydric soils list. Hydric soils must be identified by verifying the presence of one or more of the hydric soil indicators. During our field inspection, WSI verified the presence of hydric soils within forested wetland complex within the subject property.

Wetland Hydrology Assessment

Visual indicators of wetland hydrology were evaluated. Examples of primary wetland hydrology indicators include, but are not limited to, surface water, high water table, soil saturation, water marks, sediment deposits, drift deposits, iron deposits, inundation visible on aerial imagery, sparsely vegetated concave surface, and water-stained leaves. If at least one primary or two secondary indicators are observed, the wetland location was

3308 Gulf Beach Highway | Pensacola, Florida 32507 | 850.453.4700 | craig@wetlandsciences.com

considered to support wetland hydrology. Several indicators were noted including surface water, water-stained leaves, and aquatic fauna.

Plant Community Structure

A single wetland dependent plant community was identified during the field investigation. The wetland community identified within the subject property could be ecologically classified as emergent marsh.

Emergent Tidal Marsh

Emergent tidal marsh is dominated by black needle rush (*Juncus roemerianus*) and sawgrass (*Cladium jamaicense*).

The assessment was completed by a thorough pedestrian survey covering 100% of the subject property. I personally inspected the property on February 2, 2023. The wetland boundaries shown on the attached sketch were delineated in accordance with the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Federal – Corps). The wetland boundary was identified in the field by progressively locating points along the upland/wetland boundary at 15-20-ft. intervals or corresponding with directional changes with the boundary. Each point was identified and located by an experienced wetland scientist. Pink flags were placed at each point clearly marked "Wetland Delineation". Each flagged point also contains specific alpha numeric designator for later tracking of its location. Wetland Sciences, Inc. used a Trimble Geo7x GNSS system to locate each point. Data was collected using Trimble's TerraSync Professional Software with further data refinement using Trimble's Pathfinder Professional Software. Please keep in mind that there are many variables that affect the accuracy of the GPS data used to generate the attached sketch. This sketch should be considered approximate unless verified by a survey or other appropriate means.

The wetlands identified within the subject property may be subject to the jurisdiction of the Department of the Army Corps of Engineers (Corps), the Alabama Department of Environmental Management (ADEM) and Baldwin County. Please also note that Baldwin County may regulate those lands located 30-ft. upland of the delineated wetland boundary line. This line is depicted on the attached sketch. The boundary of jurisdictional wetland as depicted in the exhibits of this report are not final or "binding" until such time as they are confirmed by the Corps through field inspection. As such, the depicted wetland boundary may be subject to minor changes upon such inspection/approval.

Finally, I have included a statement of our firm for services rendered and expenses incurred associated with this effort. If you find this statement in order, please place it in line for payment. If you have any questions, please do not hesitate to contact me at (850) 453-4700.

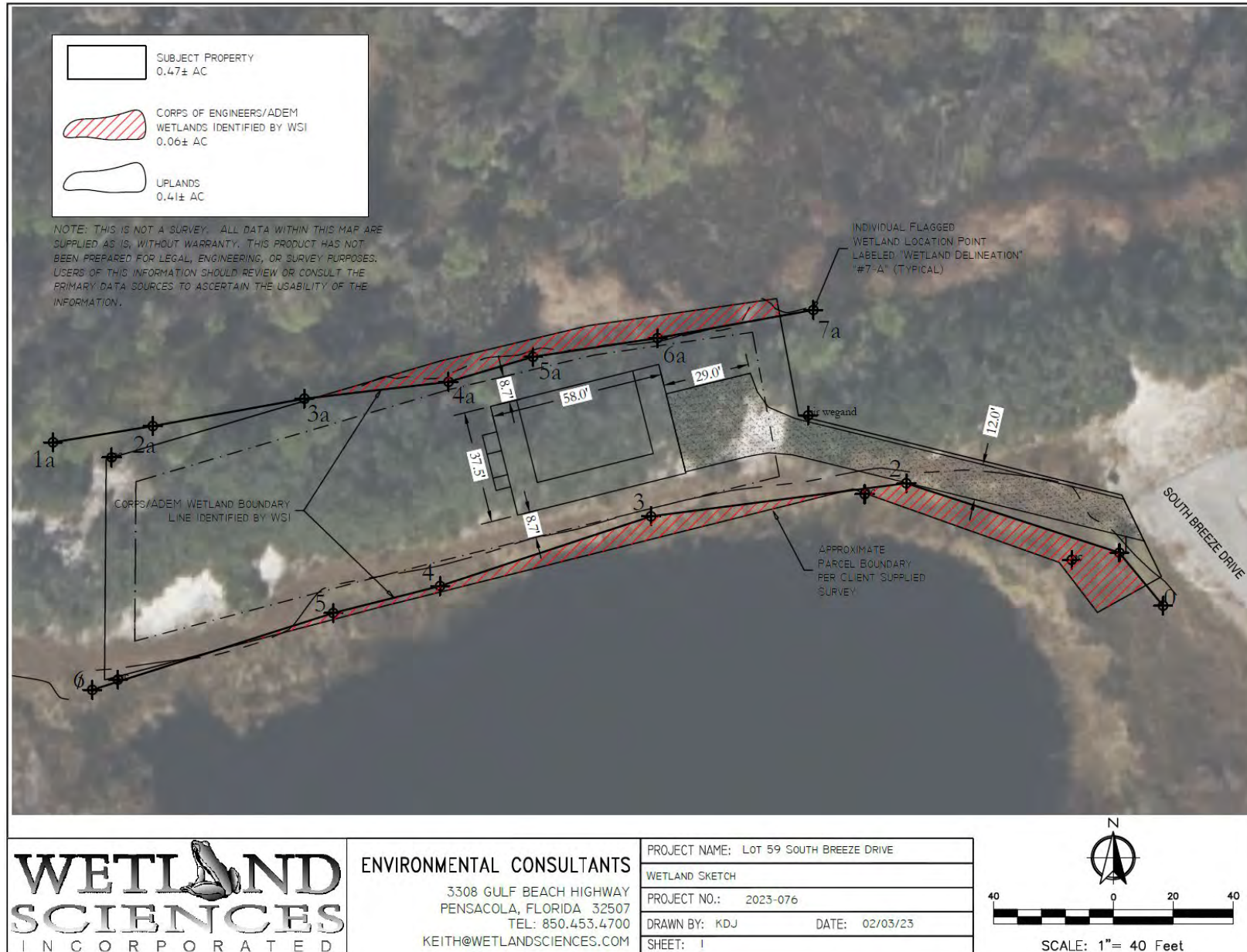
Respectfully,
WETLAND SCIENCES, INC.

A handwritten signature in black ink, appearing to read "Craig D. Martin".

Craig D. Martin
Senior Scientist

3308 Gulf Beach Highway | Pensacola, Florida 32507 | 850.453.4700 | craig@wetlandsciences.com

Wetland Delineation



Incidental Take Permit

At the time this staff report was written an Incidental Take Permit (ITP) was not provided.

Miscellaneous Documents – Morgantown POA Approval

MORGANTOWN POA
PO Box 1626
Gulf Shores, AL 36547

March 20, 2023

To Whom It May Concern:

The Morgantown POA is aware of the variance on Lot 59 South Breeze. We approve of this variance at this time. If you have any further questions, please contact Kevin Knowles, President Morgantown POA, 256-613-0072.

Thank you,

A handwritten signature in blue ink, appearing to read 'Kevin Knowles', is written over a faint, illegible background.

Kevin Knowles
President, POA

Fort Morgan Advisory Committee Recommendation

Paula,

Here is the information from the meeting today

All members were voting

3 members in person

2 via proxy after discussion and review prior to the meeting

Cases reviewed were

ZVA23-20

ZVA23-17

ZVA23-21

ZVA23-22

ZVA23-23

We voted 5-0 to support the variance request on each of these properties

ZVA23-15 was also sent to us but the text indicated no variance was needed

To make certain ,we reviewed it as well and would support a request if pending

Chuck

Staff Analysis and Findings

4.3.5 **Area and dimensional ordinances.** Except as provided by Section 2.3: *Establishment of Zoning in Planning Districts*, Section 12.4: *Height Modifications*, Section 12.5: *Yard Requirements*, Section 12.6: *Coastal Areas*, Section 12.8: *Highway Construction Setbacks*, Section 18.4 *Variances*, and Article 20: *Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

10.4.4 **Permit requirements.** The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a minimum of 30 feet unless exempted by Section 10.4.7 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a gully, the top of bank shall be the top of the bank of the gully.

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Zoning in Planning District 25 came into effect on November 16, 1993. Per Revenue Commission records the parcel consists of approximately 20,473.2 square feet with approximately 231.1' along the north lot line, 381.5' along the south lot line, 180.8' along the east lot line, and 73.8' along the west lot line. The required minimum lot size for RSF-2 is 15,000 square feet with a 80' minimum lot width at building line, and a 40' minimum lot width at street line therefore staff does not perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance and thus **this criteria is not a factor for consideration of this variance request.**

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff perceives the +/- 0.06 acres of wetlands located on the subject property to be an exceptional topographic condition or other extraordinary situation, or condition contained on the subject property which would require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RSF-2, Single Family District which allows for single-family dwellings and accessory uses to that. The request is to allow for the construction of a single-family dwelling. Staff perceives the granting of the application may be a necessity for preservation of a property right that would require a variance due to the wetlands on the subject property.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff does not believe the granting of this application, in general, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. However, staff cannot specifically assure and makes no warranty or guarantee that if granted the resultant variance will or will not diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County because the effect of the variance cannot be quantified at the time of consideration.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

- A wetland delineation has been provided by Wetland Sciences, Inc. showing the approximate amount of wetlands on the subject property (+/- 0.06 acres)
- The applicant has submitted a written document stating the Morgantown POA recommends approval of this request
- The Fort Morgan Advisory Committee has recommended 5-0 in approval of the variance request
- No documentation in favor or opposition of this variance request has been received at the time this staff report was written
- **An Incidental Take Permit (ITP) was not provided at the time this staff report was written**

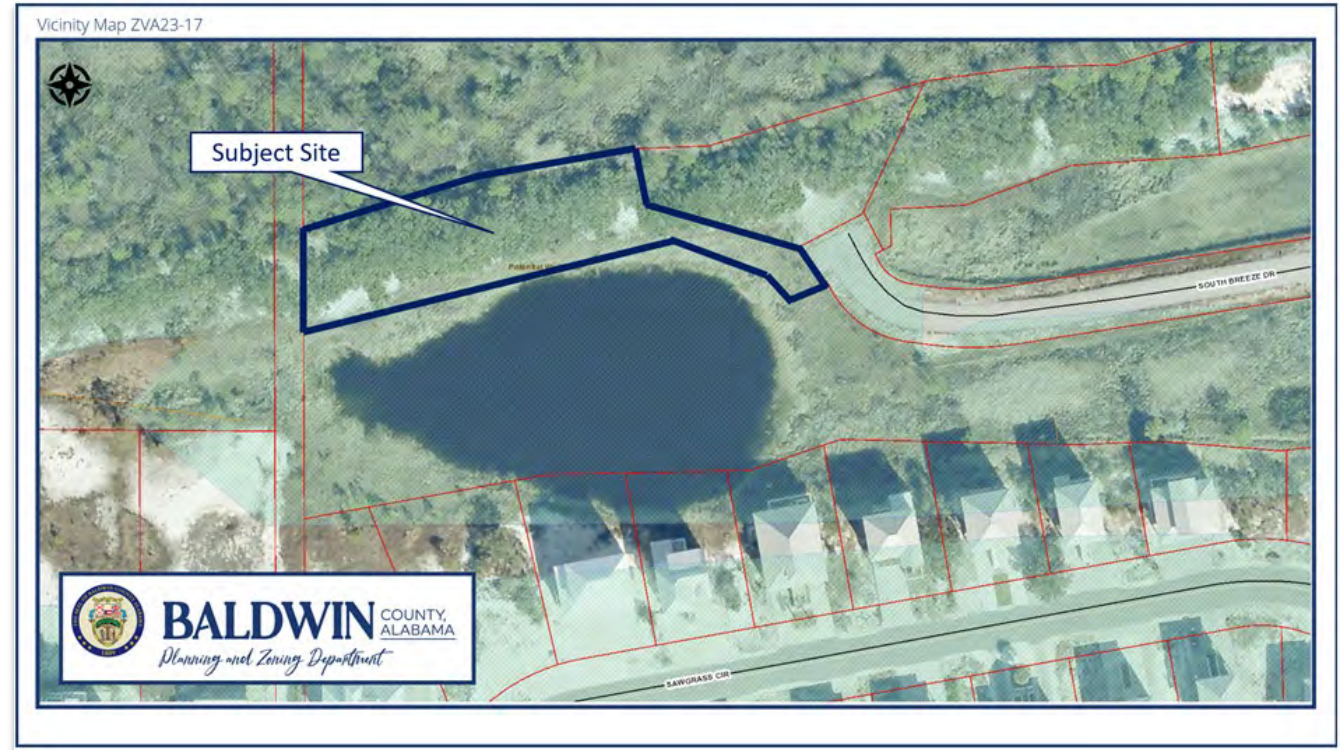
ZVA23-17 FINLAY & COMPANY

VARIANCE REQUEST

Lead Staff: Cory Rhodes, Planner

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to [encroaching into] the 30' non-disturbed wetland setback to allow for the construction of a single-family dwelling.

At the time this staff report was written an Incidental Take Permit (ITP) was not provided. Until this document can be provided, staff recommends this case be **tabled** until further notice.



ZVA23-17 FINLAY & COMPANY

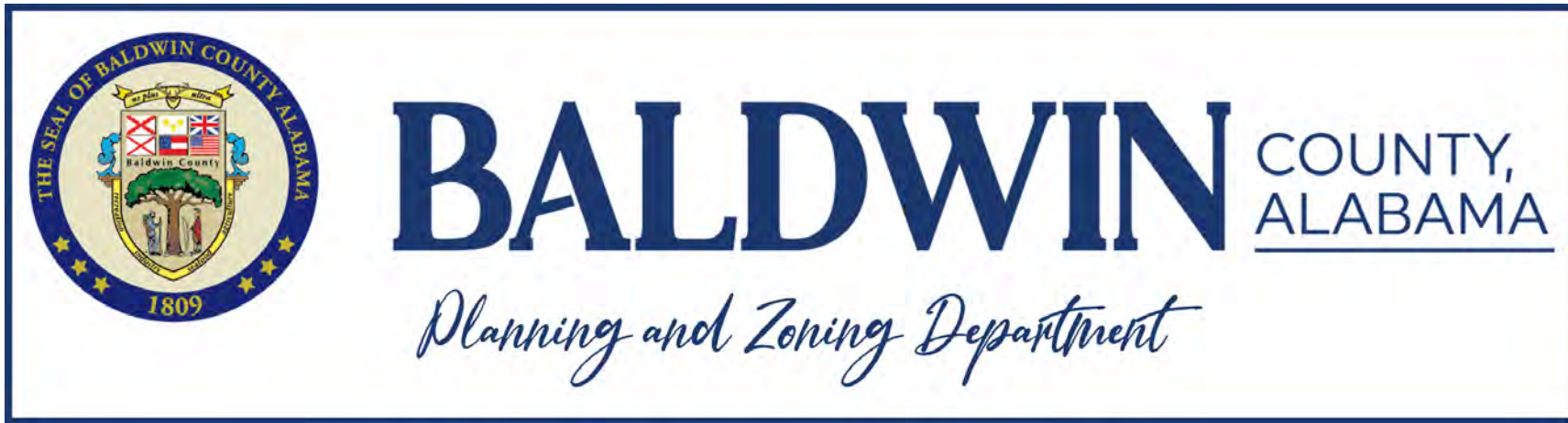
VARIANCE REQUEST

Lead Staff: Cory Rhodes, Planner

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



BALDWIN COUNTY BOARD OF ADJUSTMENT #2

NEXT REGULAR MEETING

JUNE 8, 2023 @ 3:00PM

BALDWIN COUNTY SATELLITE COURTHOUSE

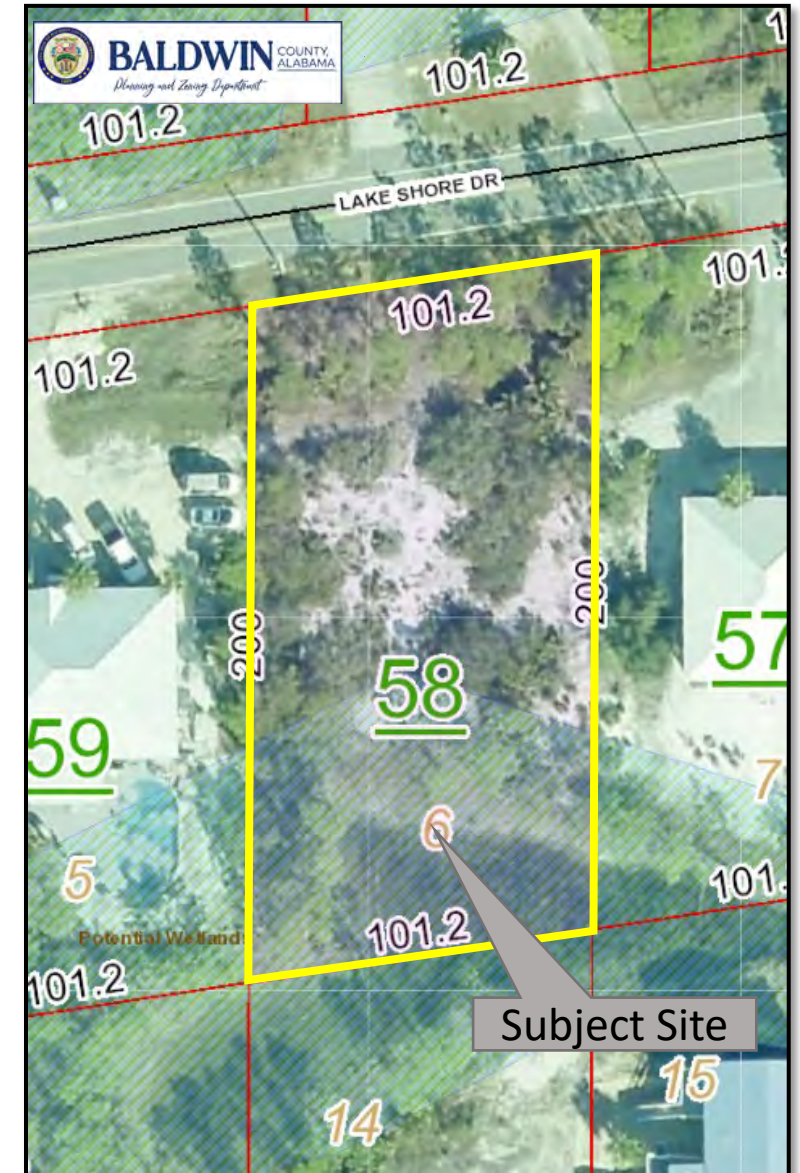
FOLEY, AL

ZVA23-20 TRADEMARK PROPERTIES & INVESTMENT PROPERTY

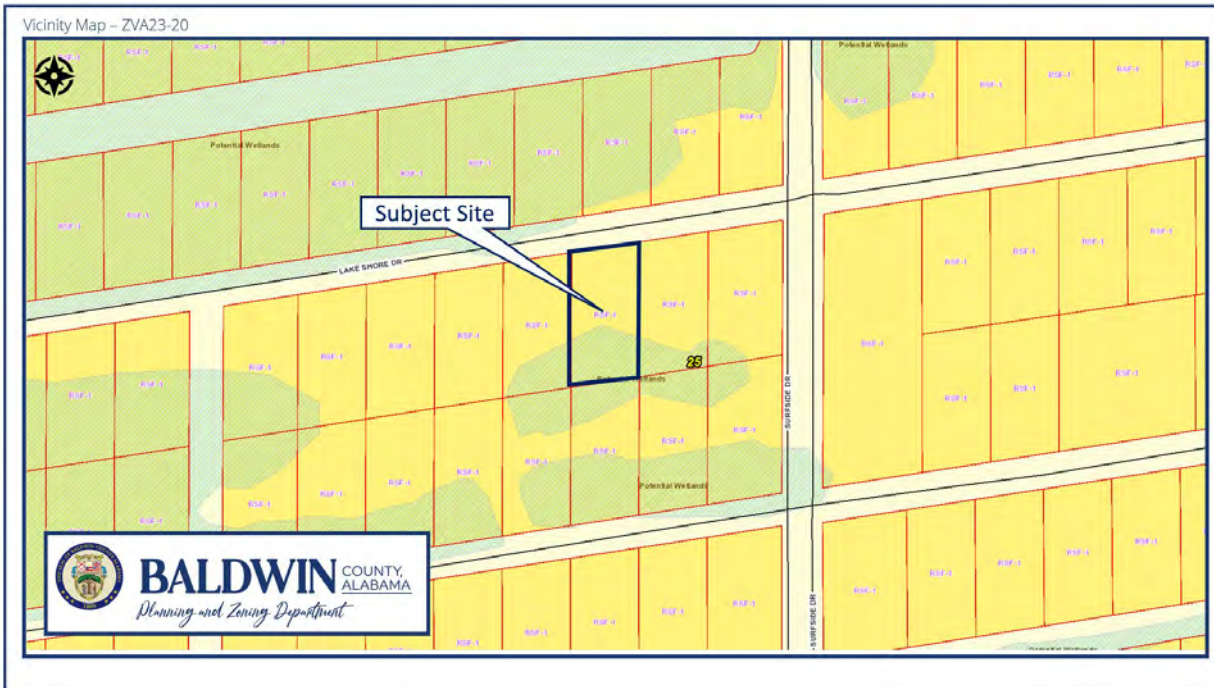
VARIANCE REQUEST

Lead Staff: Fabia Waters, Planning Tech

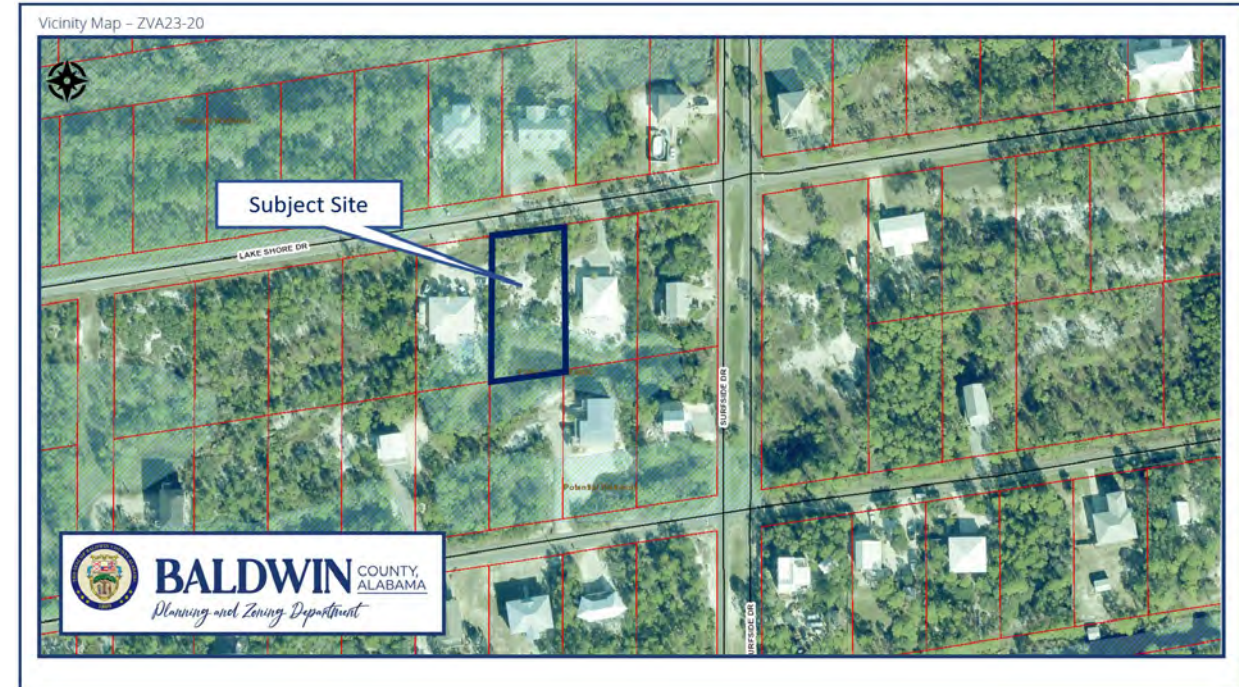
- **Planning District:** 25 **Zoned:** RSF-1
Residential Family District
- **Location:** Lot 8 of Block B- Surfside Shore
- **PID:** 05-68-09-30-0-001-058.000
- **PPIN:** 110153
- **Acreage:** 0.45 +/- acres
- **Physical Address:** 6802 Lake Shore Dr, Gulf Shores
- **Applicant:** Thomas Popee Jr.
- **Owner:** Thomas Popee Jr.



Locator Map



Site Map



Adjacent Zoning

North

RSF1- Single Family District

South

RSF1- Single Family District

East

RSF1- Single Family District

West

RSF1- Single Family District

Adjacent Land Use

Residential

Vacant

Residential

Residential

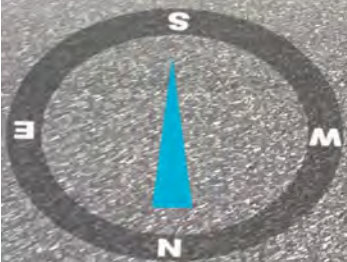
Property Images

Subject Property

Apr 19, 2023 at 2:31:05 PM
178° S



VARIANCE PROPOSED
FOR THIS PROPERTY
ZVA 23-000620



Property Images

Subject Property (Rear)

Apr 19, 2023 at 2:27:41 PM
186° S



Property Images

Adjoining Property to the North

Apr 19, 2023 at 2:31:13 PM
20° N



Property Images

Adjoining Property to the West

Apr 19, 2023 at 2:31:34 PM
190° S



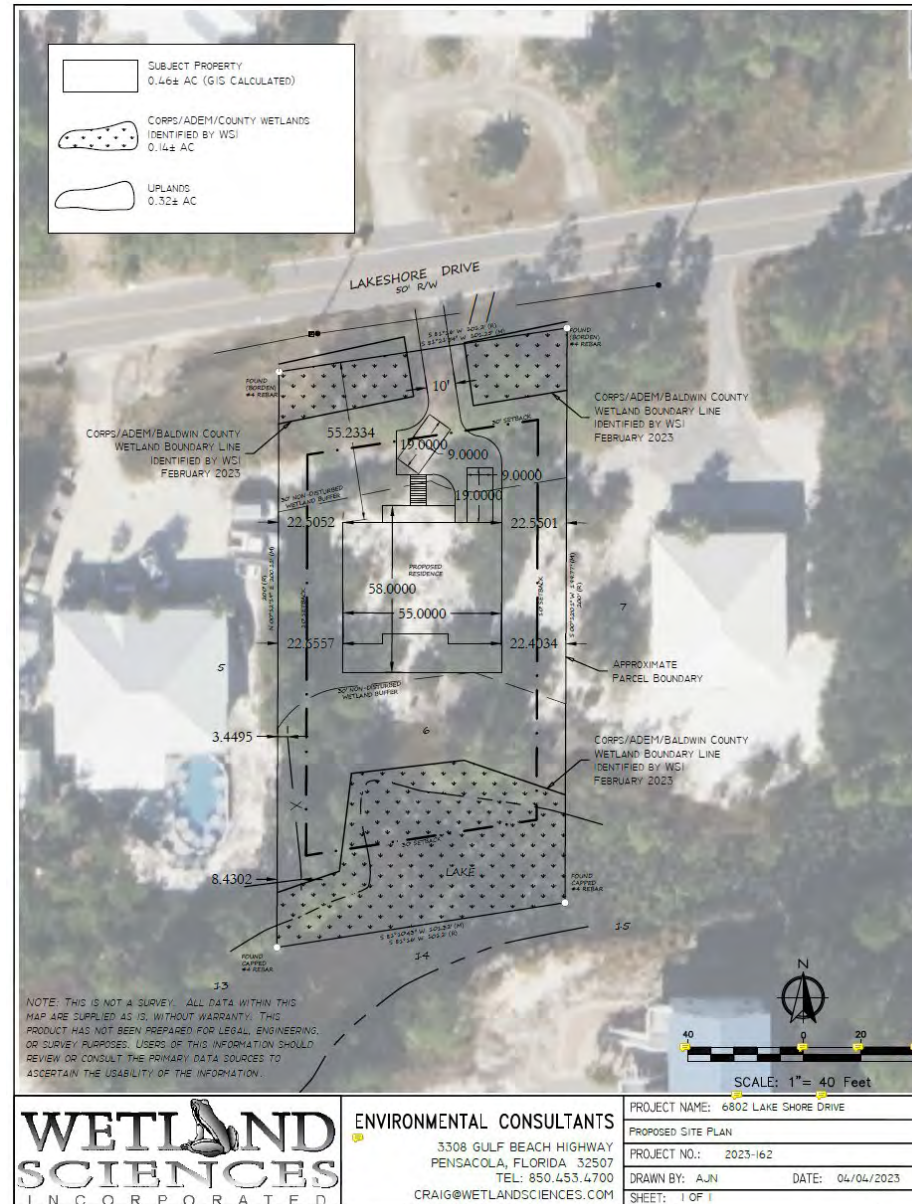
Property Images

Adjoining Property to the East

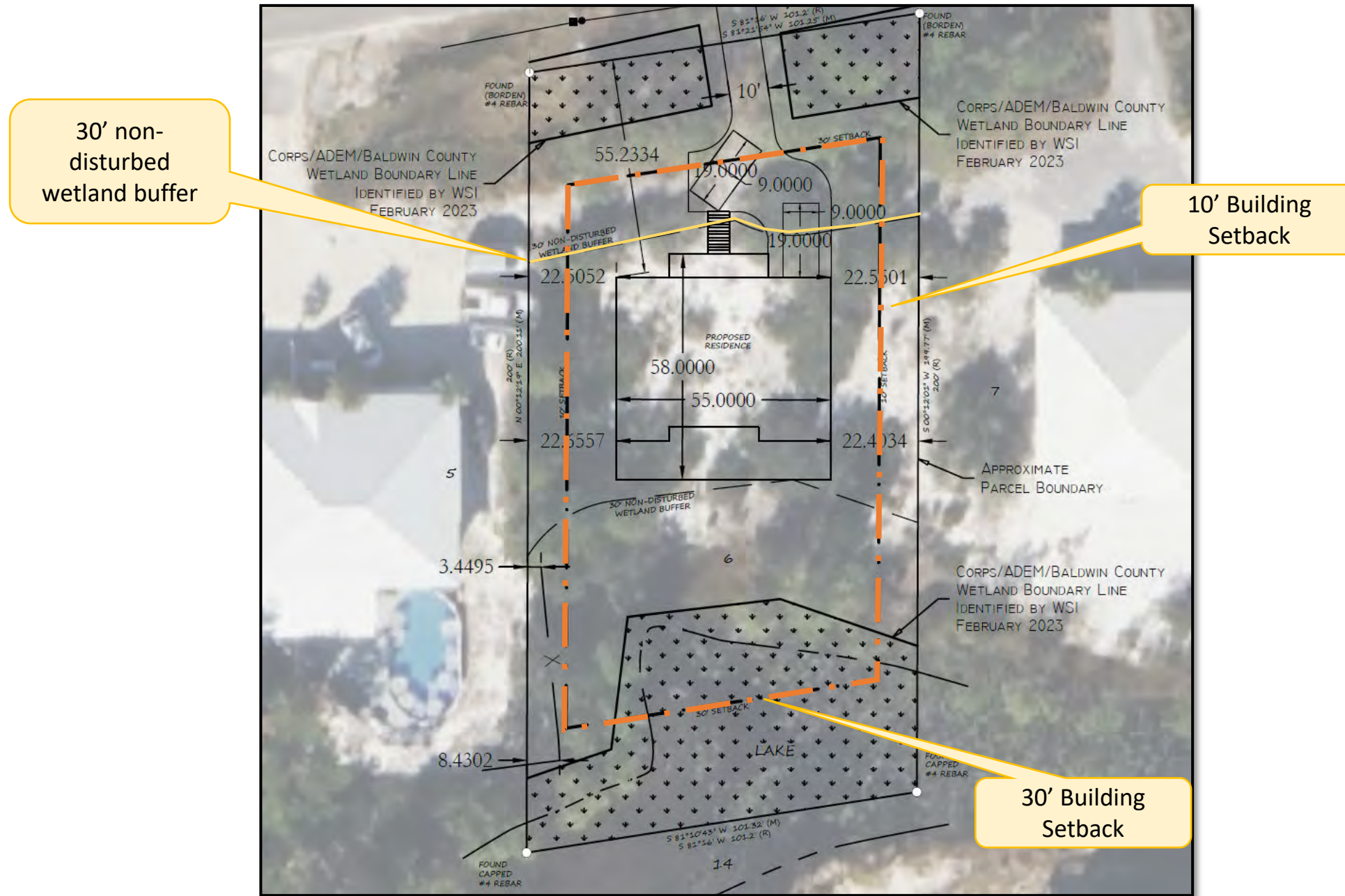
Apr 19, 2023 at 2:32:38 PM
184° S



Site Plan



Site Plan



Statement of Homeowner's Association

PROPERTY OWNERS
OF
SURFSIDE SHORES

April 14, 2023

To whom it may concern,

After reviewing the house plans and site plan for 6802 Lakeshore Drive, the Surfside Shores POA has found nothing that conflicts with our covenants as they are written.

The style and façade of the house will compliment the neighborhood and provide a charming addition to the street. The site plan provides adequate access to the home while preserving the integrity of the lot. Any minor encroachments by access stairs should not be considered a barrier to a variance application.

Please feel free to call if you have any questions.

Dr. Joel Nickles (281) 799-1601



Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

The subject property is zoned RSF1 Single Family District and is located in Fort Morgan. Per Revenue the parcel consists of approximately 0.45+- acres with 101.2' x 200' approximately 20,240sf lot 6 Block J, Unit 2 . Planning District 25 came into effect on November 16, 1993. The required minimum lot size for RSF1 zoning is 30,000sf, and thus subject property does not meet the minimum required lot size. Therefore, staff does perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff established that the parcel is exceptionally narrow with the presence of wetlands that would prove to be a hardship to the land with exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RSF1, Single Family District which allows accessory structures. The use of the property has been established with the single-family dwelling. The applicant **has submitted a wetlands delineation** supporting a hardship on the land therefore staff feels the granting of this variance would be a necessity for preservation of a property right that would require a variance.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff anticipates no major impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

10.4.4 *Permit requirements.* The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a minimum of 30 feet unless exempted by Section 10.4.7 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a gully, the top of bank shall be the top of the bank of the gully.

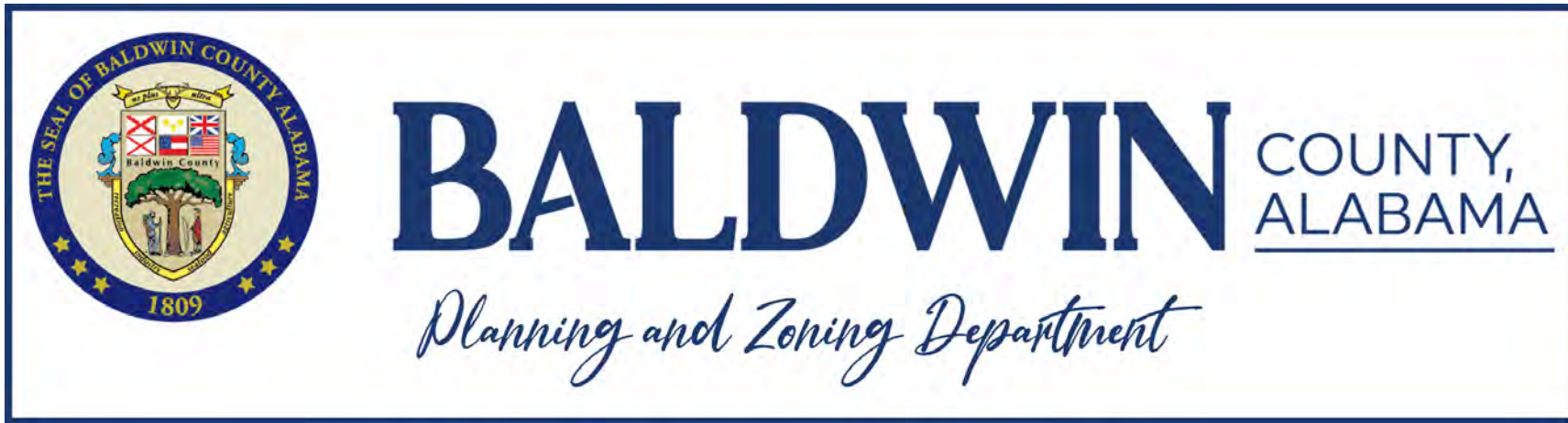
VARIANCE REQUEST

Lead Staff: Fabia Waters, Planning Tech

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non disturbed wetland setback buffer to allow for the construction of a swimming pool which extends past the front yard setback.

Staff has established the wetlands to be a hardship on the property therefore recommends **Approval** of Case ZVA23-20 unless information to the contrary is revealed at the public hearing.





BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

MAY 11, 2023

BALDWIN COUNTY CENTRAL ANNEX

FOLEY, AL

ZVA23-21 WADE PROPERTY

VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

- **Planning District:** 25 **Zoned:** RTF-4
- **PID:** 05-69-08-02-0-005-087.001
- **Location:** Lot 37 Gulf Beach Subdivision
- **Acreage:** 1.17 ac
- **Physical Address:** 2011 State Hwy 180
- **Applicant:** Alabama Coastal Homes LLC,
John Herron
- **Owner:** Christi Lee, Bobby Lee Wade



ZVA23-21 WADE PROPERTY

VARIANCE REQUEST

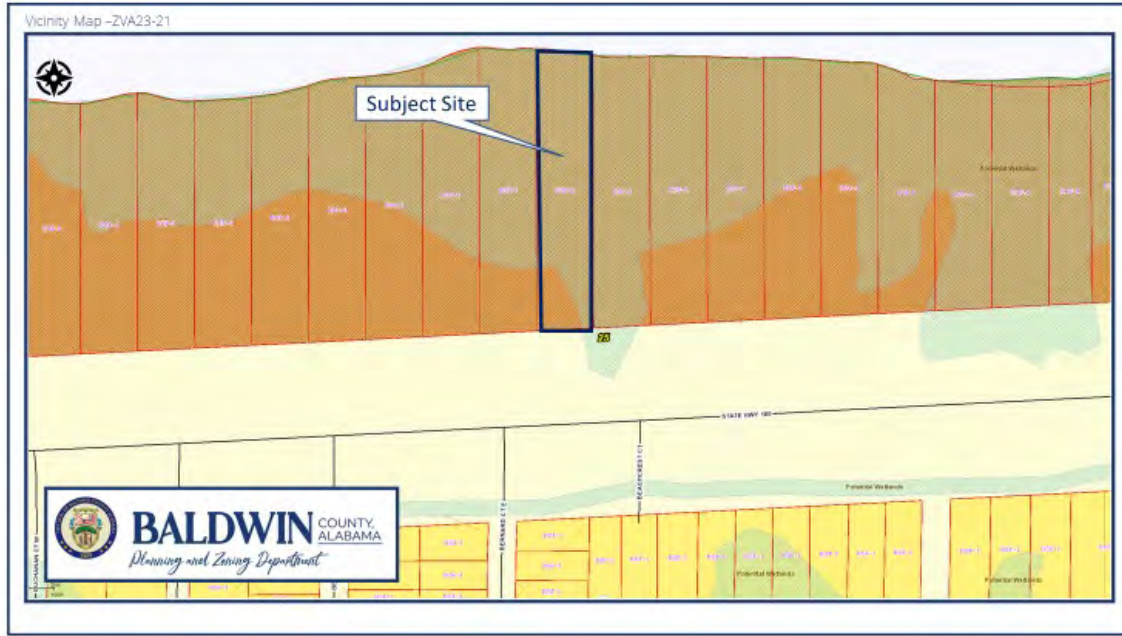
Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 10.4.4 of the *Baldwin County Zoning Ordinance* as it pertains to the 30' wetland setback buffer to allow for a residence. The future residence will not be closer than 1'6" to the closest side of the wetlands.

Staff recommends Case ZVA23-21 be **Approved**.



Locator Map



Site Map



	Adjacent Zoning	Adjacent Land Use
North	Mobile Bay	Water Body
South	RSF-1, Residential Single Family	Residential
East	RSF-3, Residential Single Family	Residential
West	RSF-3, Residential Single Family	Residential

Property Images

Apr 19, 2023 at 3:42:22 PM
359° N

Subject Property



Property Images

Apr 19, 2023 at 3:42:53 PM
0° N



Property Images

Apr 19, 2023 at 3:44:01 PM
2° N

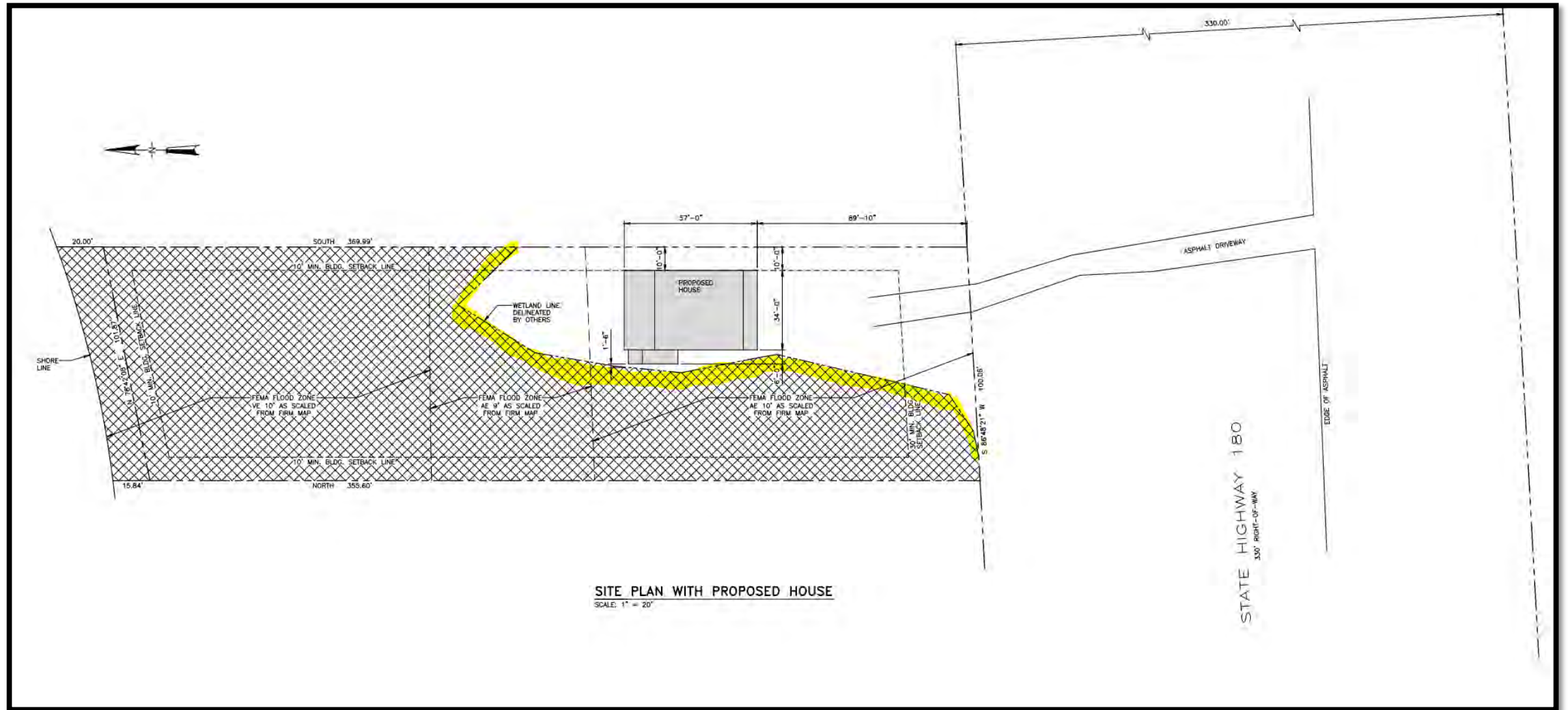
Property to the
East



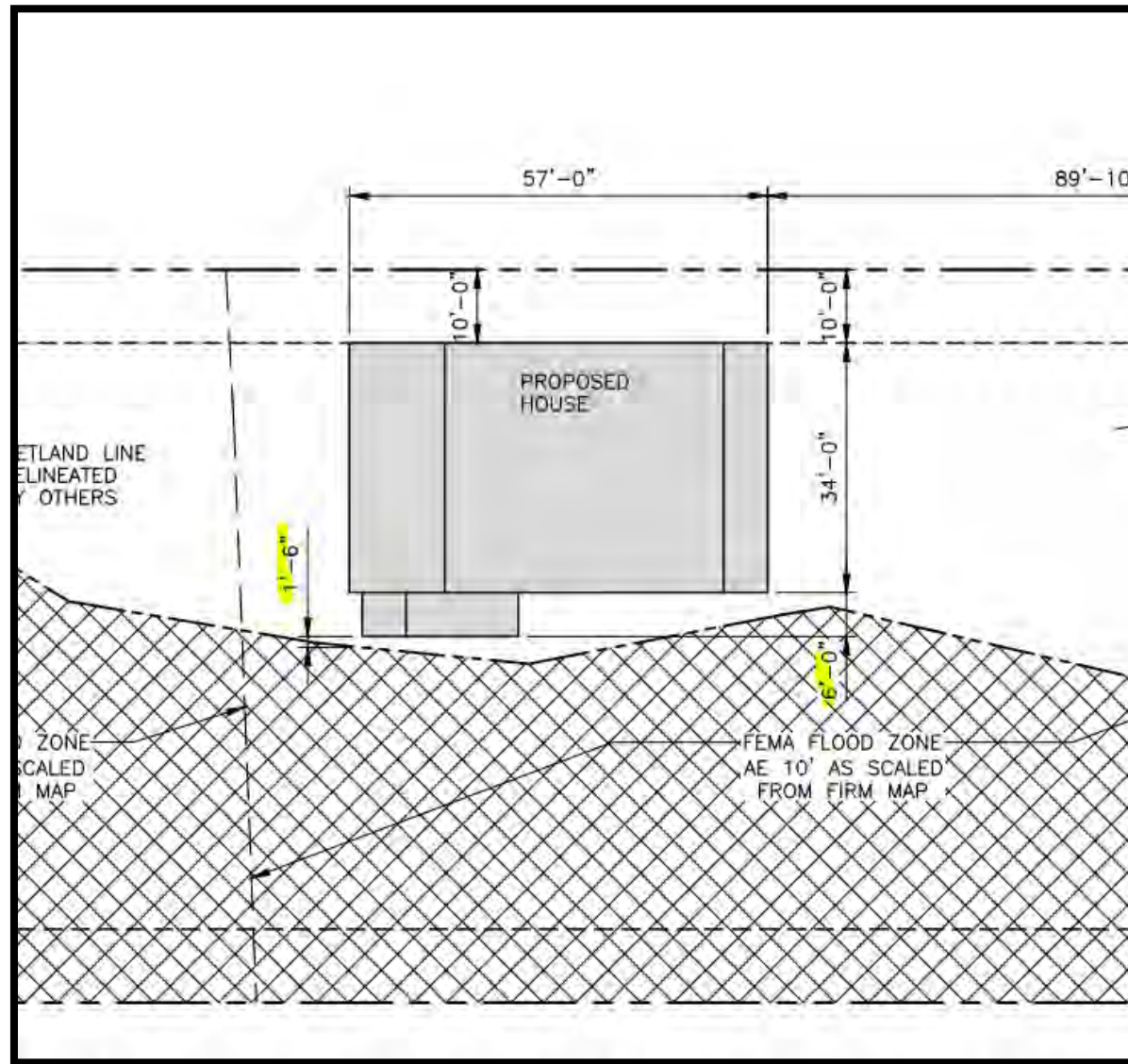
Property Images



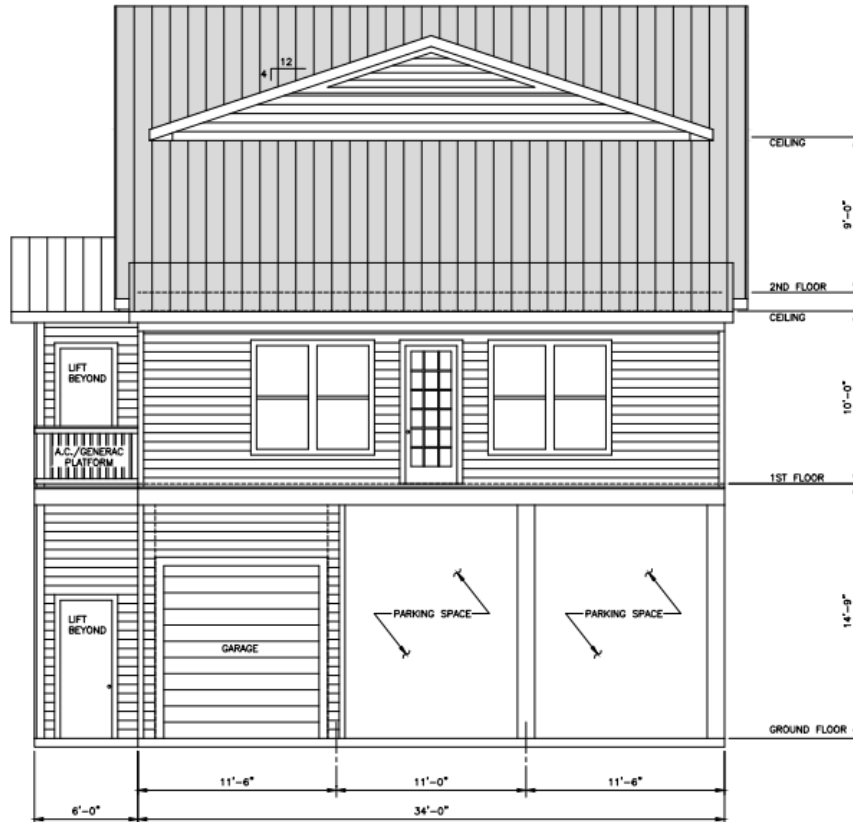
Site Plan



Enlarged Site Plan



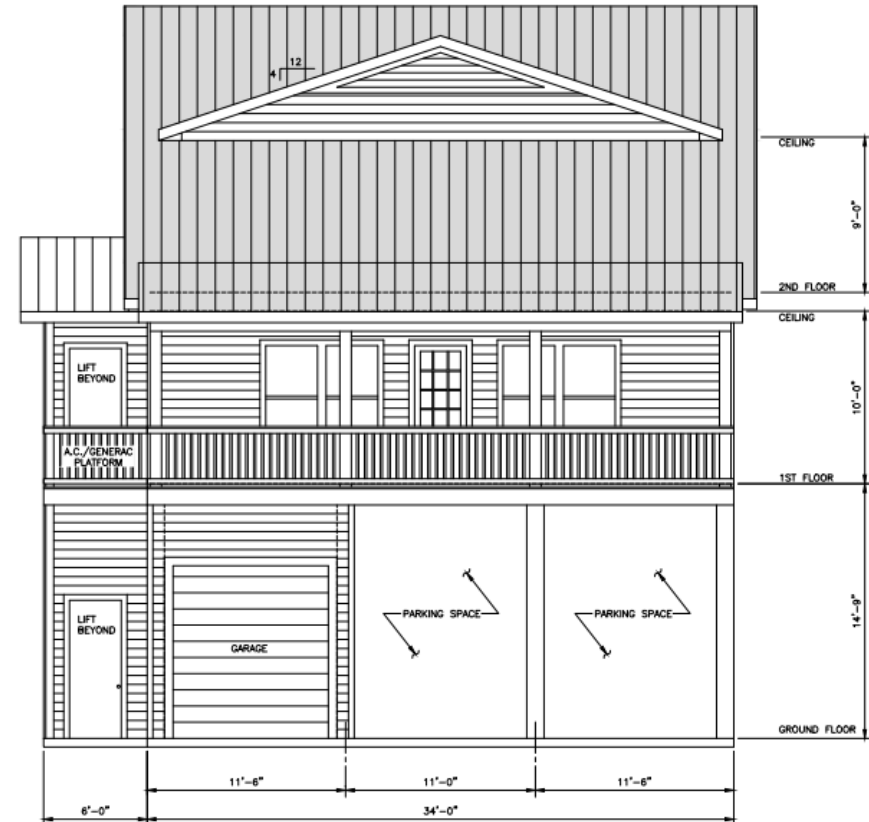
Elevations



FRONT ELEVATION

SCALE: 1/4" = 1'-0"

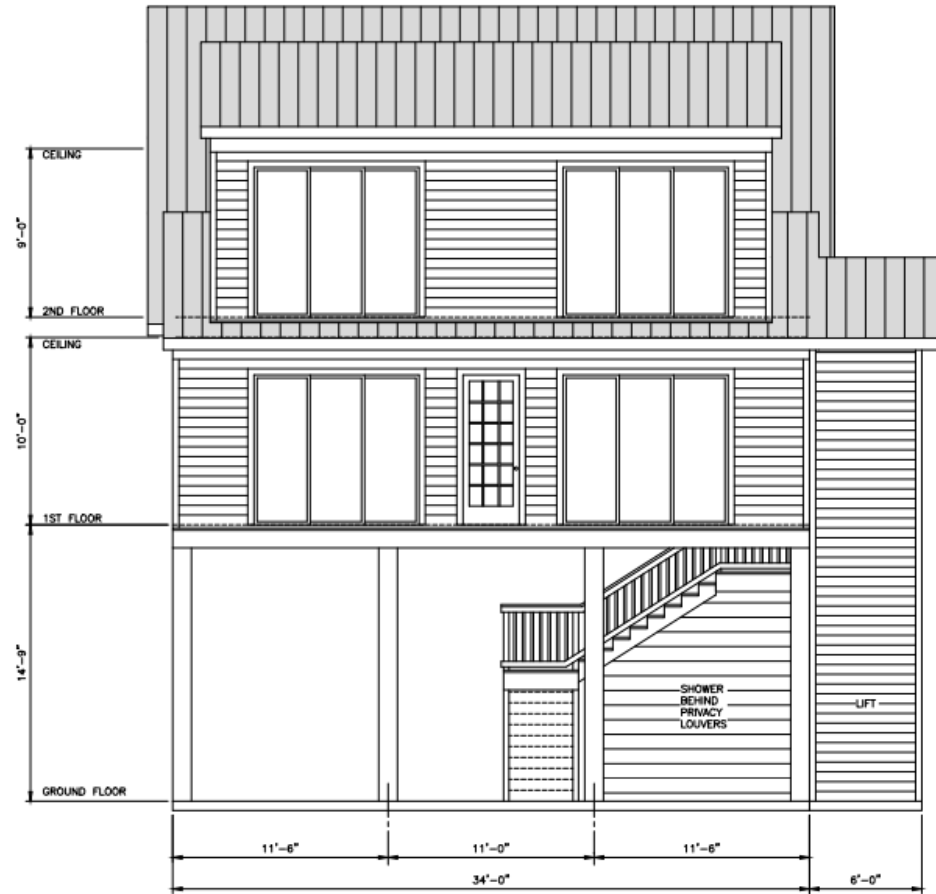
(SHOWN WITH COLUMNS & GUARDRAILS REMOVED FOR CLARITY)



FRONT ELEVATION

SCALE: 1/4" = 1'-0"

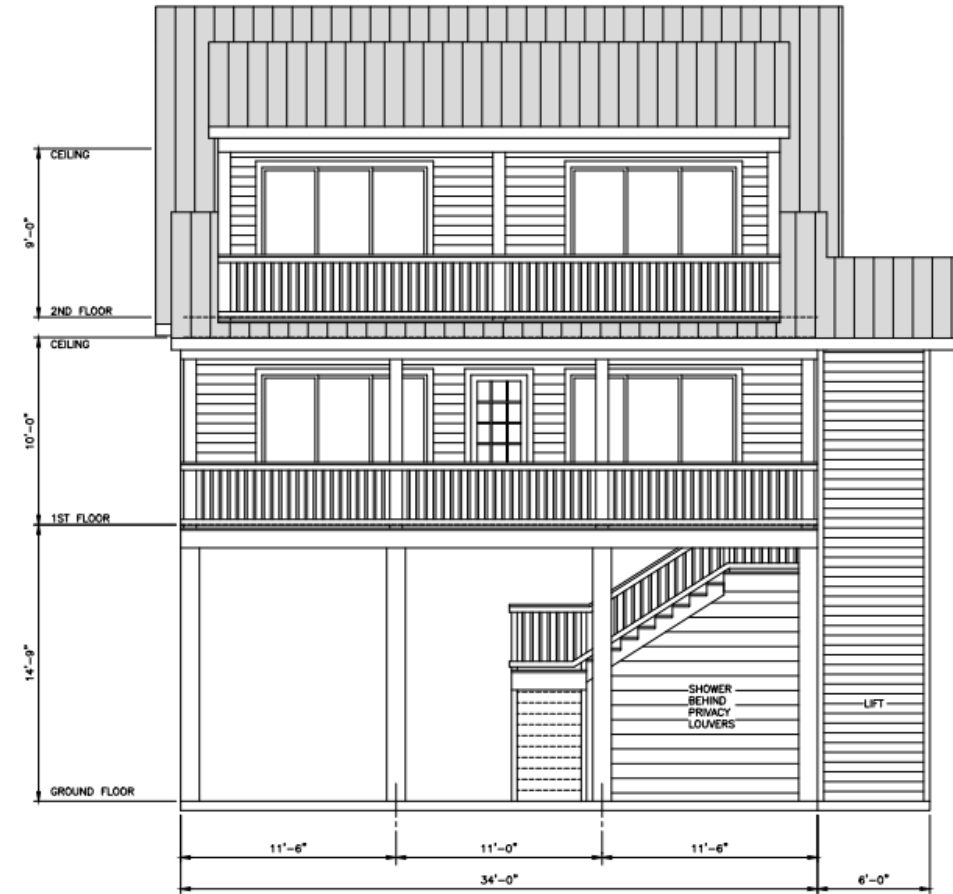
Elevations



REAR ELEVATION

SCALE: 1/4" = 1'-0"

(SHOWN WITH COLUMNS & GUARDRAILS REMOVED FOR CLARITY)



REAR ELEVATION

SCALE: 1/4" = 1'-0"

Wetlands Report



June 8, 2022

Christi & Bobby Wade
233 Quail Creek Dr.
Hartselle, AL 35640
256.226.3735
256.682.5228
bama7911@gmail.com
bob-wade@att.net

RE: Jurisdictional Wetland Assessment – 2005 St. Hwy 180. +/- 1.12 acres
Baldwin County Parcel: 05-69-08-02-0-005-087.001

Dear Christi & Bobby Wade:

Biome Consulting Group, LLC (Biome) has completed a jurisdictional wetlands and waters assessment of the above referenced property. Our assessment included an analysis of vegetative cover and composition, wetland hydrology indicators and hydric soil indicators in accordance with state and federal procedural guidelines. The following is a brief summary of the regulatory agencies' potential involvement with this property.

Alabama Department of Environmental Management (ADEM)

Projects which include potential impacts to the dredging and/or filling of wetlands will require permits and/or certifications from ADEM, and the U.S. Army Corps of Engineers (COE). The COE will be the lead agency in reviewing the wetland permit submittals and coordinate with ADEM throughout the permitting process

Section 404 Clean Water Act (CWA)

Technical guidelines outlined in the US Army Corps of Engineers Wetlands Delineation Manual (1987), Regional Guidance Letters, and other pertinent sources were applied in the field for determining the presence and location of "Waters of the United States" subject to the protections of Section 404 of the Clean Water Act (CWA). In application of the technical guidelines, on-site reconnaissance was conducted including evaluation of plant communities, soils, and hydrology. **The results of the site visit indicate that the property consists of 0.27 acres of uplands and 0.85 acres of wetlands and other jurisdictional waters.** Technical observations of site conditions relative to the jurisdictional status of the site consisted of the following:

1. **General Observations:** The site is an undeveloped waterfront lot of record located in residential area. Deck debris and detritus deposits were observed on the property;

850.435.9367 | 1300 West Government Street | Pensacola, Florida 32502 | www.biome.co



US Fish and Wildlife Statement

One attachment • Scanned by Gmail ⓘ



Lynn, William <william_lynn@fws.gov>

Aug 3, 2022, 8:52 AM



to me ▾

Jon,

You will not need an ABM permit for this lot if you reuse the existing driveway. Possible wetlands. No alteration to the Right of Way area/vegetation can occur.

Thanks,

Bill

Bill Lynn

Certified Wildlife Biologist

Alabama ES Field Office

1208B Main Street

Daphne, AL 36526

251-331-2920 Cell

251-441-5868 Office

251-441-6222 Fax

<http://www.fws.gov/daphne/>

POA Statement

4/6/23

Bob Wade

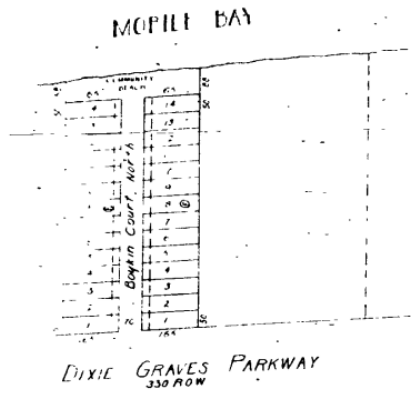
I, Bob Wade confirm that there is no active home owner association.

Bob Wade

Bob Wade

datatop verified
04/06/23 5:44 AM CDT
UDYQ-IVOL-MPZH-E2CY

Survey Plat

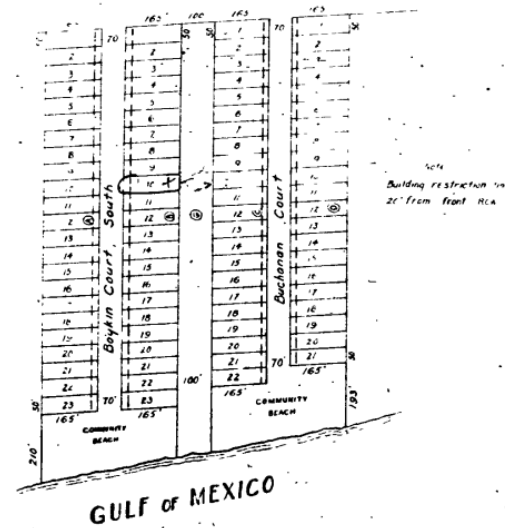


STATE of ALABAMA
COUNTY of MOBILE

I, a Notary Public in and for said State and County, hereby certify that T.J. Resler whose name is signed hereto, as a partner and who is known to me, acknowledged before me on this date that being informed of the contents of this document, he signed the same voluntarily and with full authority to act for the Gulf Beach Land and Development Company, a partnership.

Given under my hand and seal
this 15th day of April 1947

Notary Public,
My commission expires Feb 22, 1948



Mobile, Alabama, April 13, 1947

We hereby certify to the correctness
of this survey and plat

T. J. Resler, Partner
County Surveyor, Baldwin Co., Alabama
Gulf Beach Land and Development, Owners

By T. J. Resler Partner

PLAT of RESURVEY

Gulf Beach Subdivision - A

Lots 18-31 inc. and 32-36 inc.

See Plat Map Book 1, Page 192

Probate Records, Baldwin County, Ala

Survey by

T. Bryers

Drawn by

H. Resler, Jr.

Scale 1"=200'

Date 3-31-47

Zoning Requirements

4.2.5 Area and dimensional ordinances.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

Section 10.4.4 Wetland and Stream Protection Overlay District

10.4.4 Permit requirements. The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a minimum of 30 feet unless exempted by Section 10.4.6 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a gully, the top of bank shall be the top of the bank of the gully.

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Per Revenue Commission records the parcel consists of approximately (100' x 493') 1.17 acres and property fronts on Bon Secour Bay off State Hwy 180. Zoning in Planning District 25 came into effect on November 16, 1993. The required minimum lot size for RTF-4, Two Family District is 7,500 square feet and a minimum lot width of 60' at building line, and a 30' minimum lot width at street line. The subject property is located in Gulf Beach Subdivision which is a recorded survey. Staff perceives the evaluation of this section as not applicable to the requested variance because the requested variance involves a topographical feature of the site and no request related to lot size or lot width was requested.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff perceives the wetlands located on the subject property to be an exceptional topographic condition or other extraordinary situation, or condition contained on the subject property which require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RTF-4, Two Family District which allows for residential uses. The request is to allow for a wetland setback variance in order to build a residence. **Staff perceives the wetlands on the subject property constitutes a necessity for preservation of property right that would require a variance.**

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff anticipates no major impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

- The applicant has submitted written documentation stating there is no POA for the subject property.
- The applicant has a wetland delineation for the subject property.
- Staff perceives the wetlands on the subject property could establish a hardship, therefore staff recommends Case ZVA23-21 be approved.

ZVA23-21 WADE PROPERTY

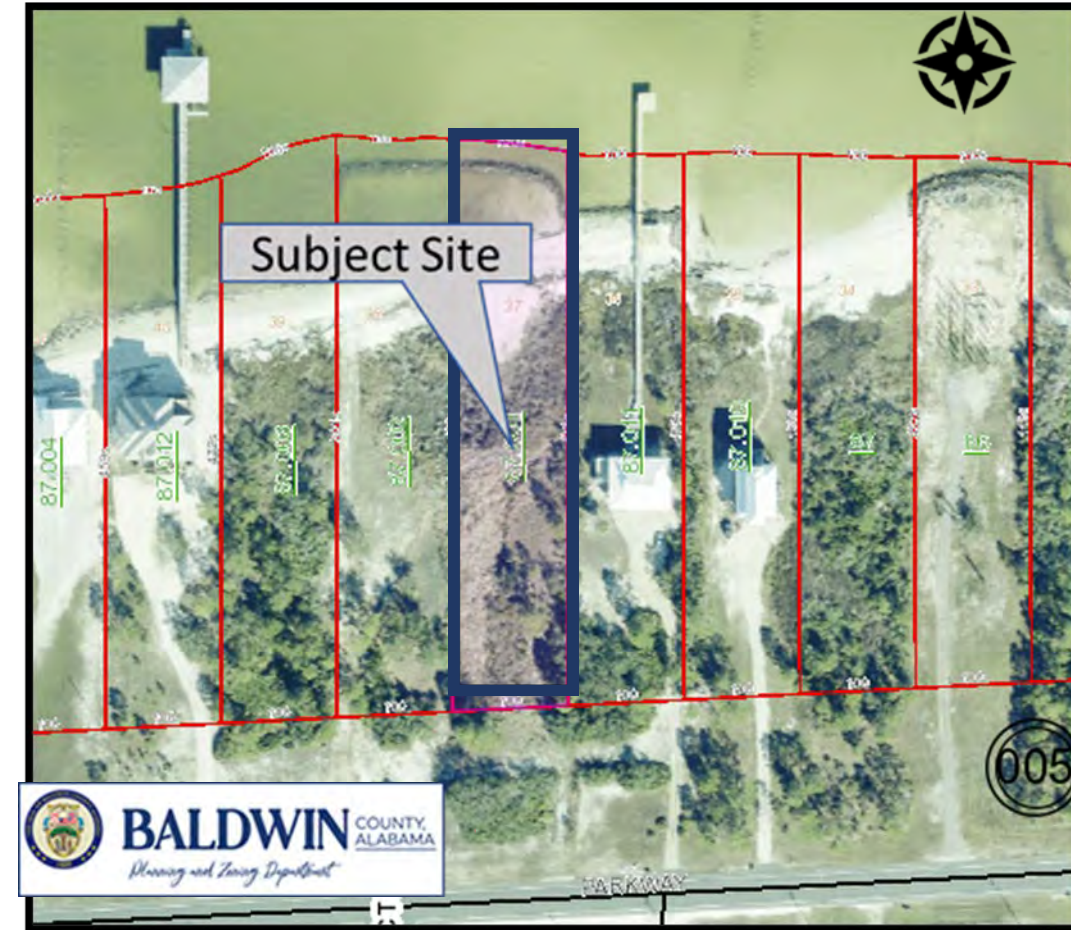
VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



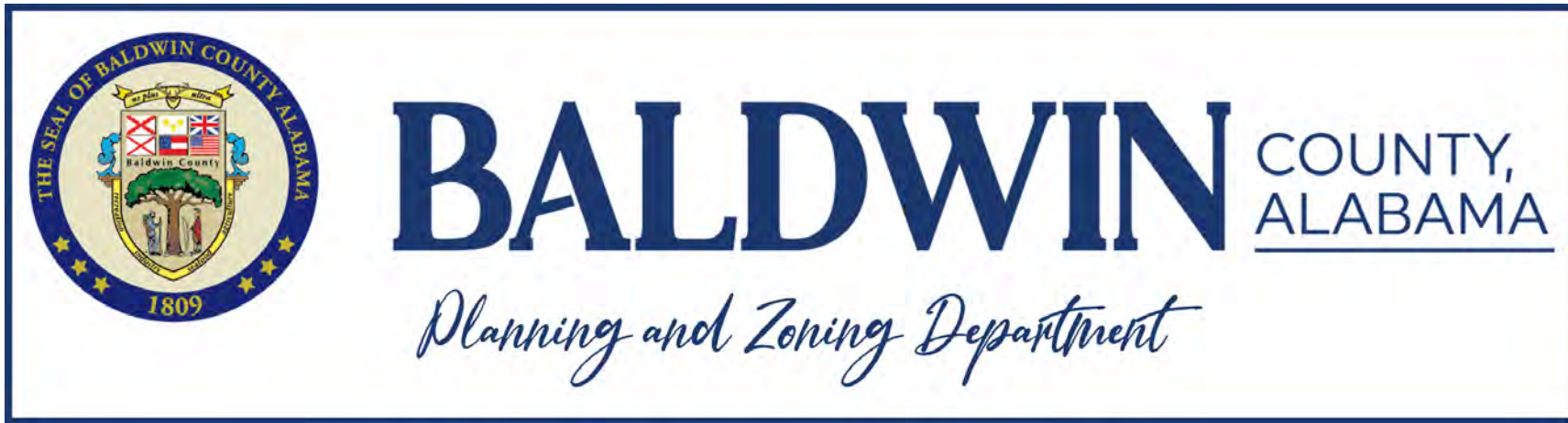
ZVA23-21 WADE PROPERTY

VARIANCE REQUEST

Lead Staff: Crystal Bates, Planning Technician II

The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the wetland buffer setback to allow for the construction of a single family dwelling.

1. If approved, the variance is limited to the requested 1.6' setback to the closest side to the wetlands in lieu of the required 30' wetland buffer setback described herein. The balance of the zoning ordinance not contemplated by case ZVA23-21 remains applicable to the subject property.
2. Memorialize the following: if approval, a variance Notice of Action (NOA) does not grant approval for any permits for construction activities. The applicant shall obtain any and all building permits, site plan approvals, land disturbance permits, and turnout permits, etc., as required.



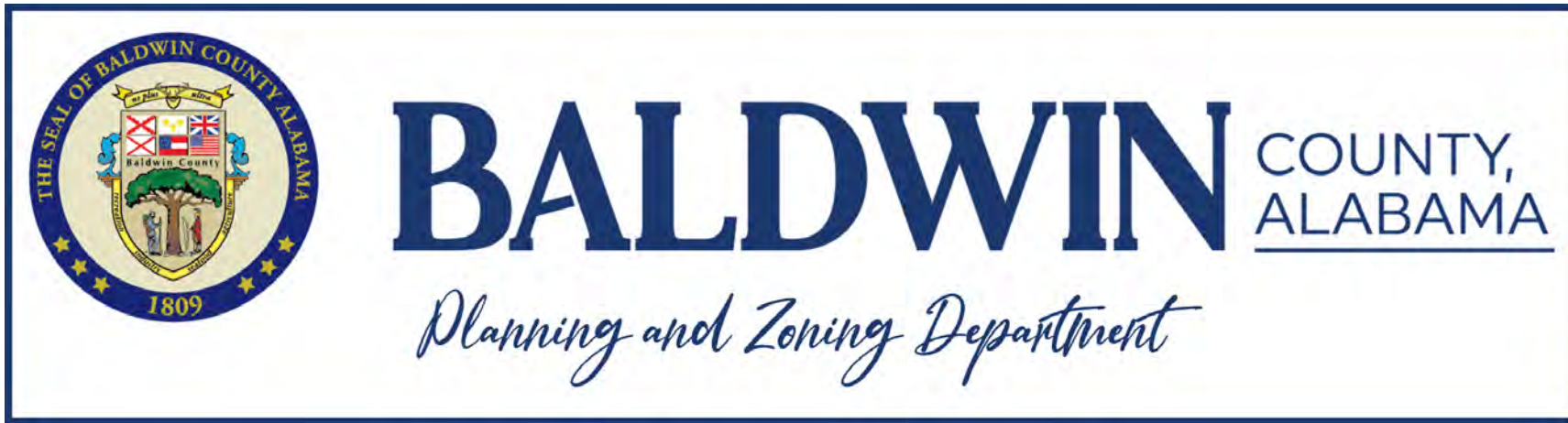
BALDWIN COUNTY BOARD OF ADJUSTMENT # 2

NEXT REGULAR MEETING

JUNE 8, 2023

BALDWIN COUNTY CENTRAL ANNEX

FOLEY, AL



BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

MAY 11, 2023

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL

ZVA23-22 SCALATA & ANNECCHIARICO PROPERTY

VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

- **Planning District: 25 Zoned: RSF-1**
- **Location:** Subject property is located north of State Highway 180 on the southwest side of Bonita Court.
- **PID:** 05-69-08-02-0-005-081.001
- **PPIN:** 119844
- **Acreage:** 0.16+/-
- **Physical Address:** 613 Bonita Court
- **Applicant:** Mark Scalata
- **Owner:** Mark Scalata & Nancy Anniecchiarico



ZVA23-22 SCALATA & ANNECCHIARICO PROPERTY

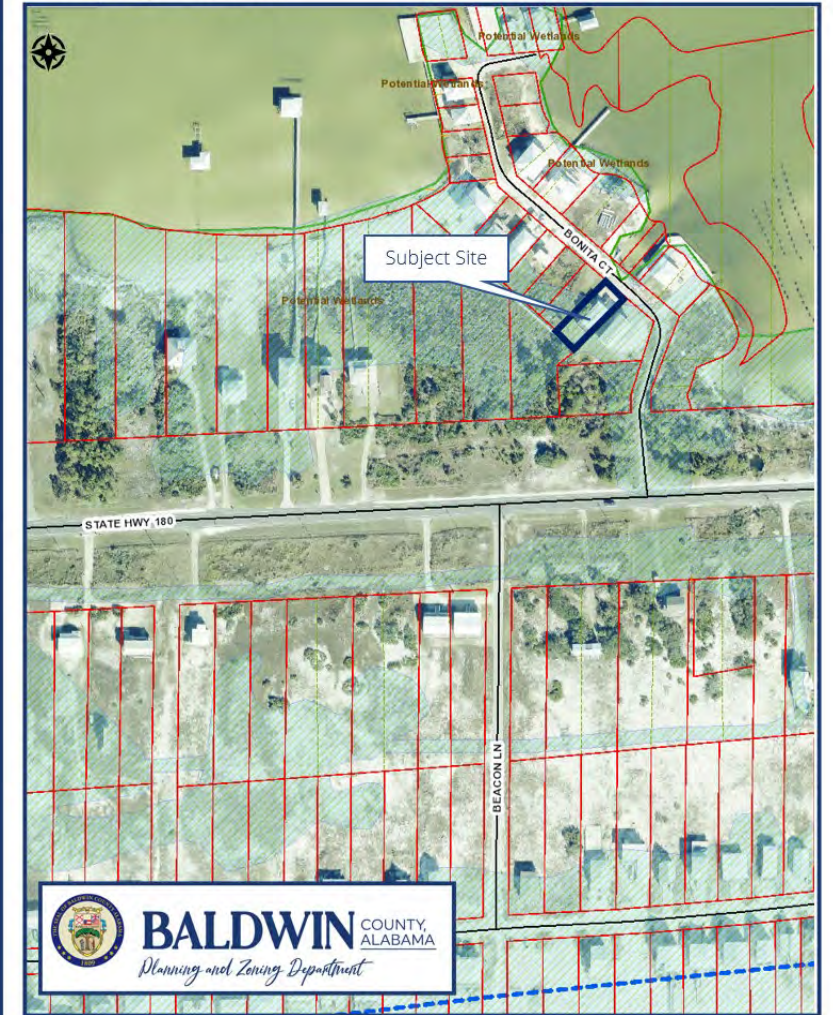
VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

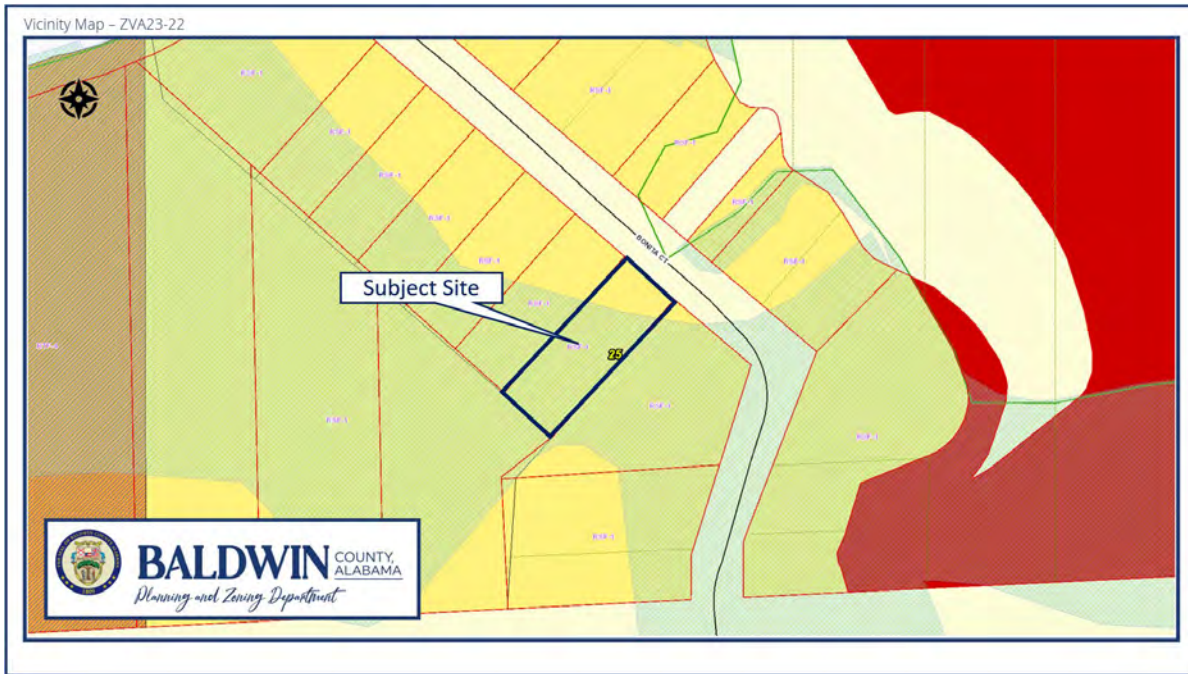
The applicant is requesting a variance from Section 15.3.9(a) of the Baldwin County Zoning Ordinance to allow a parked recreational vehicle located within the front yard to remain.

Staff could not establish a hardship on the subject property, therefore recommends Case ZVA23-22 be **denied** unless information to the contrary is revealed at the public hearing.

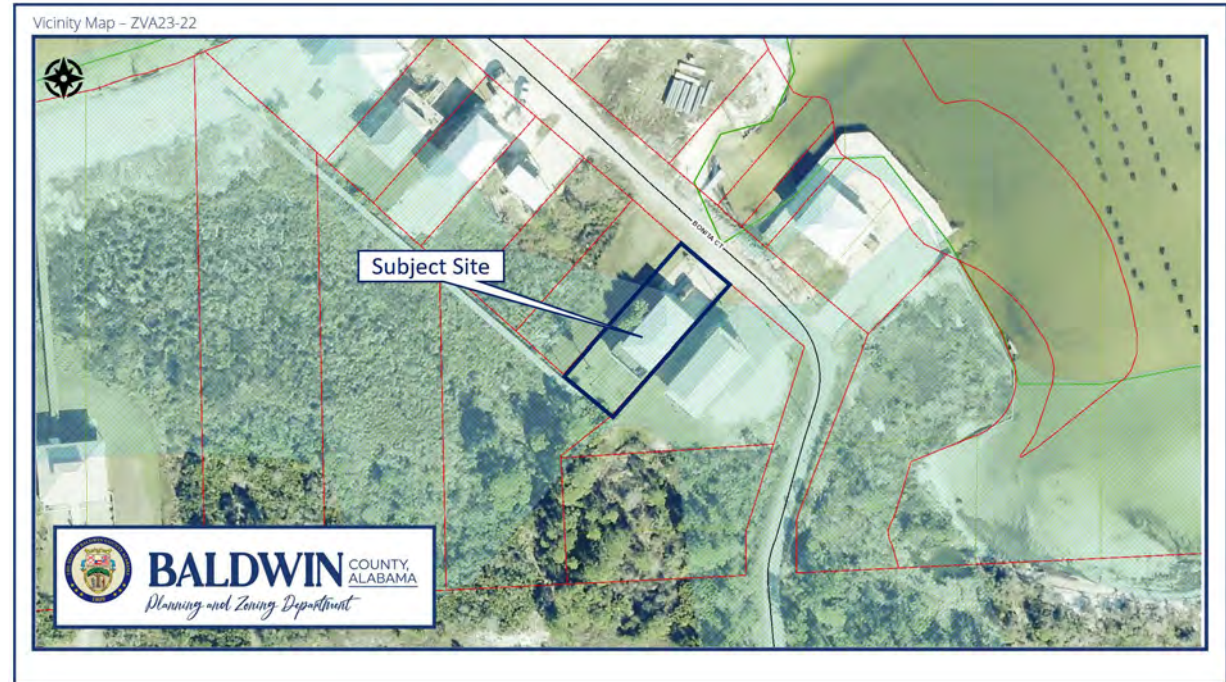
Vicinity Map – ZVA23-22



Locator Map



Site Map



Adjacent Zoning

North

RSF-1 Single Family District

South

RSF-1 Single Family District

East

RSF-1 Single Family District

West

RSF-1 Single Family District

Adjacent Land Use

Vacant

Residential

Residential

Vacant

Property Images

Apr 19, 2023 at 3:16:23 PM
250° W

Subject Property



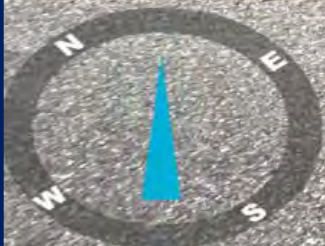
Property Images



Property Images

Apr 19, 2023 at 3:16:55 PM
40° NE

Property to The
Northeast
PIN: 16477

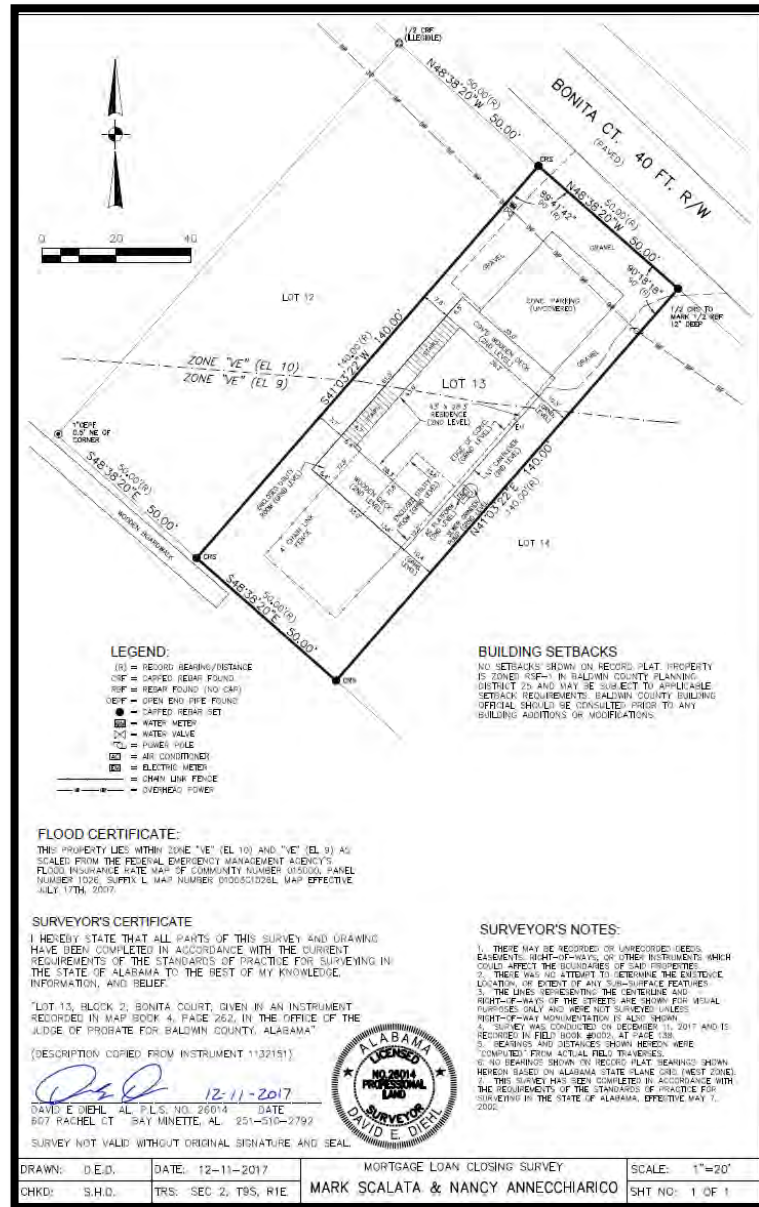


Property Images

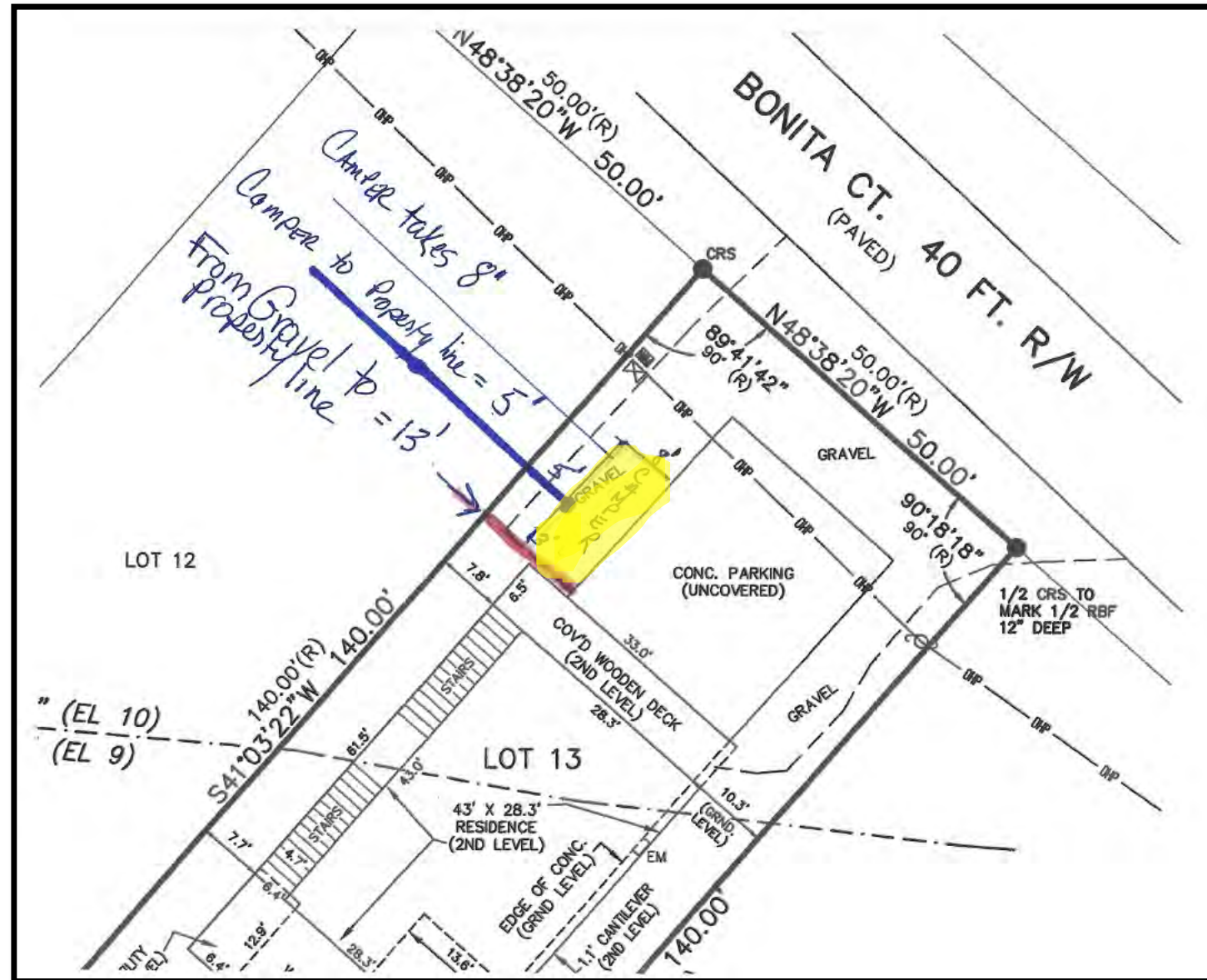


BUILDING SETBACKS

NO SETBACKS SHOWN ON RECORD PLAT. PROPERTY IS ZONED RSF-1 IN BALDWIN COUNTY PLANNING DISTRICT 25 AND MAY BE SUBJECT TO APPLICABLE ORDINANCES.



Site Plan with RV



Picture Submitted by the Applicant



Staff Analysis and Findings

Section 4.2 RSF-1, Single Family District

4.2.5 Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.4 Variances, and Article 20: Nonconformities, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yard	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

Staff Analysis and Findings

15.3.9 Storage and parking of trailers and commercial vehicles.

- (a) Recreational vehicles, trailers and commercial vehicles shall not be parked or stored on any lot in any residential district except in accordance with the following requirements:
 - 1. No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
 - 2. Recreational vehicles, trailers, and commercial vehicles may not be parked within a front yard.
 - 3. Recreational vehicles shall not be occupied either temporarily or permanently while parked or stored in any residential or rural district except as provided by Section 12.2.2.1, Section 12.2.2.2, or Section 13.1.3.2.
 - 4. A recreational vehicle, trailers or commercial vehicle may not be located on a lot in any residential district by itself.

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Revenue Commission records describe the subject property as lot 13 block 2 Bonita Court Gulf Beach Subdivision which was filed with the Baldwin County Judge of Probate April 16, 1967. Planning District 25 was adopted November 16, 1993. Revenue Commission records also describe the subject parcel as approximately 7,000 square feet with approximately 50' along the front (Bonita Court) lot line, approximately 140' along the north lot line, approximately 50' along the west lot line, and approximately 140' along the south lot line. The required minimum lot size for RSF-1 is 30,000 square feet with a 100' minimum lot width at building line and a 50' minimum lot width at street line. The subject property does not meet the minimum lot area or either minimum lot widths, however staff does not perceive the small size of the lot affects the location of a parked recreational vehicle or create a hardship on the land that would require a variance.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff could not establish an exceptional topographic condition or other extraordinary situation, or condition contained on the subject property which would require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RSF-1, Single Family District which allows for single-family dwellings and accessory uses to that. There is currently a single-family dwelling on the subject property which establishes the residential use. The request is to allow a recreational vehicle to remain parked in a required front yard. Staff does not perceive the granting of the application to be a necessity for preservation of a property right that would require a variance because the property is already in use as a single-family residence. **Denial of this variance will not prevent the continued use of the property for single family residential purposes.**

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. Staff does not believe the granting of this application, **in general**, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. However, staff cannot specifically assure and makes no warranty or guarantee that if granted the resultant variance will or will not diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County because the effect of the variance cannot be quantified at the time of consideration.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

The applicant has submitted a written document stating there is **no active homeowner association** for the subject property.

The applicant has submitted documentation from USFW stating the subject parcel **is not in an ABM habitat area**.

The Fort Morgan Advisory Committee has recommended **denial** of the variance request.

ZVA23-22

Please be advised that the FMPZAC has **rescinded our support** for this matter by unanimous vote

Cases reviewed were

ZVA23-20

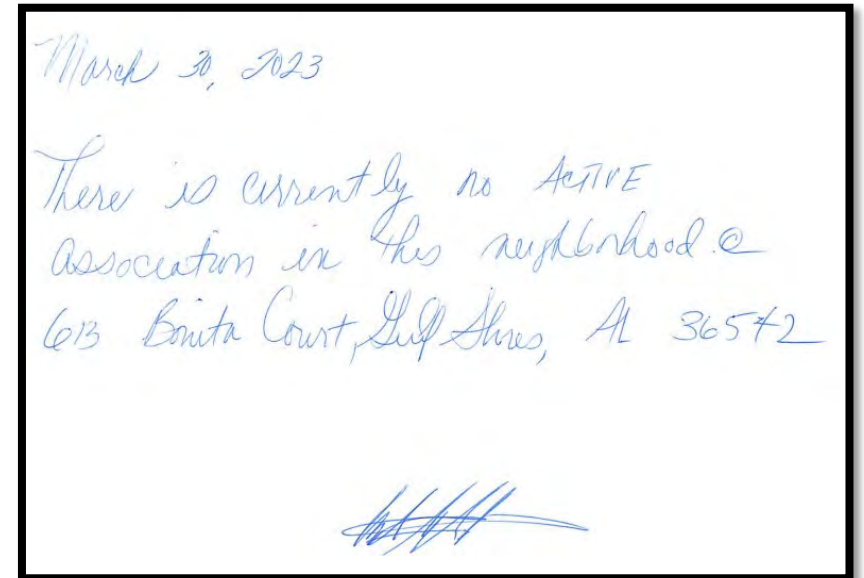
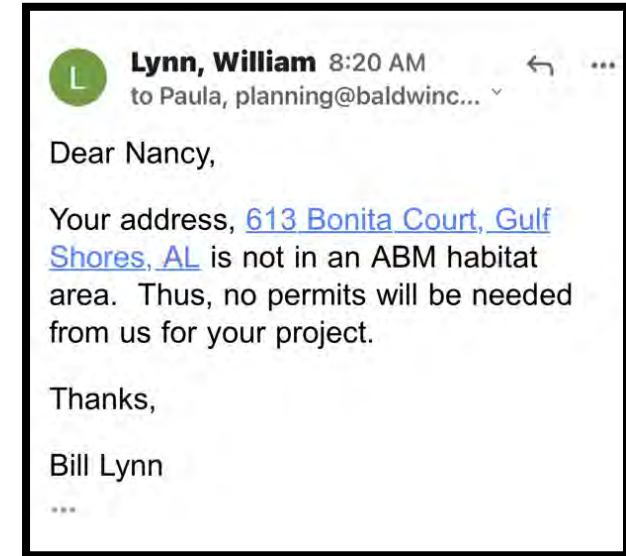
ZVA23-17

ZVA23-21

ZVA23-22

ZVA23-23

We voted 5-0 to support the variance request on each of these properties.



Letters of Opposition

As a 30 year resident on Fort Morgan at 2359 Ponce de Leon Court, we oppose the requested varian to park a camper in front of a residence, or on the residence, for long term living arrangements. This is not what is zoned for the community and would only create unsightly and unsafe living conditions for resident and community. We vote to uphold the current ordinances in place. Rvs belong in an RV park and not in a front yard or for use on a property.

Regards

Larry and Marg Mcallister, and son Kevin Raynor

I would like to request a denial of Case #ZVA23-22, Scalata & Anecchisrico Property, 613 Bonita Ct. the Baldwin County Zoning Ordinance 15.3.9 (a) prohibiting recreational vehicles, trailers and commercial vehicles from being parked in the front yard existed long before the applicants purchased the property. Not being to use the front yard to park a travel trailer does not create an unnecessary hardship. Existing Ordinances strictly prohibit the use of any kind of trailer, camper, motor home in areas marked for residential means.

These items are a safety hazard and float with high water or hurricanes.

These items devalue my property.

Please help us protect the environment and our property values by denying Case # ZVA23-22.

Sincerely,

Les Stiers

703 Chickasaw Rd.

2451 Choctaw Rd.

466 Boykin Court So.

466 Buchanan Court W

Letters of Opposition

To Whom It May Concern:

I am writing to request that Case No: ZVA23-22, concerning Scalata & Anecchiarico Property at 613 Bonita Ct, be denied. The Baldwin County Zoning Ordinance 15.3.9(a) has long prohibited recreational vehicles, trailers, and commercial vehicles from being parked in the front yard, even before the property was purchased by the applicants. The inability to park a travel trailer in the front yard does not constitute an unnecessary hardship.

While this ordinance applies countywide, the lot in question is not unique in terms of its width, as many other lots in Planning District 25 are also fifty feet wide and subject to additional topographical constraints, such as wetlands and critical ABM Habitat. Property owners select these lots based on their location and the views they offer.

Granting variances that allow for recreational vehicles, trailers, or commercial vehicles to be parked in the front yards of these lots would compromise the views and encroach upon the neighboring property owners' right to enjoy their property, as well as create a hazard during storms.

We kindly request that you help us preserve the value and enjoyment of our property by denying Case No: ZVA23-22.

Thank you for your attention to this matter.

Sincerely,

Thomas Ackley
3162 State Highway 180
Gulf Shores, AL 36542

ZVA23-22 SCALATA & ANNECCHIARICO PROPERTY

VARIANCE REQUEST

The applicant is requesting a variance from Section 15.3.9(a) of the Baldwin County Zoning Ordinance to allow a parked recreational vehicle located in the front yard to remain.

Staff recommends **DENIAL** of the variance request with the following conditions:

1. If approved, the recreational vehicle may never be connected to water and sewer and must never be occupied. The balance of the zoning ordinance not contemplated by case ZVA23-22 remains applicable to subject property.
2. Memorialize the following: if approved, a variance Notice of Action (NOA) does not grant approval for any permits for construction activities. The applicant shall obtain any and all building permits, site plan approvals, land disturbance permits, and turnout permits, etc., as required.

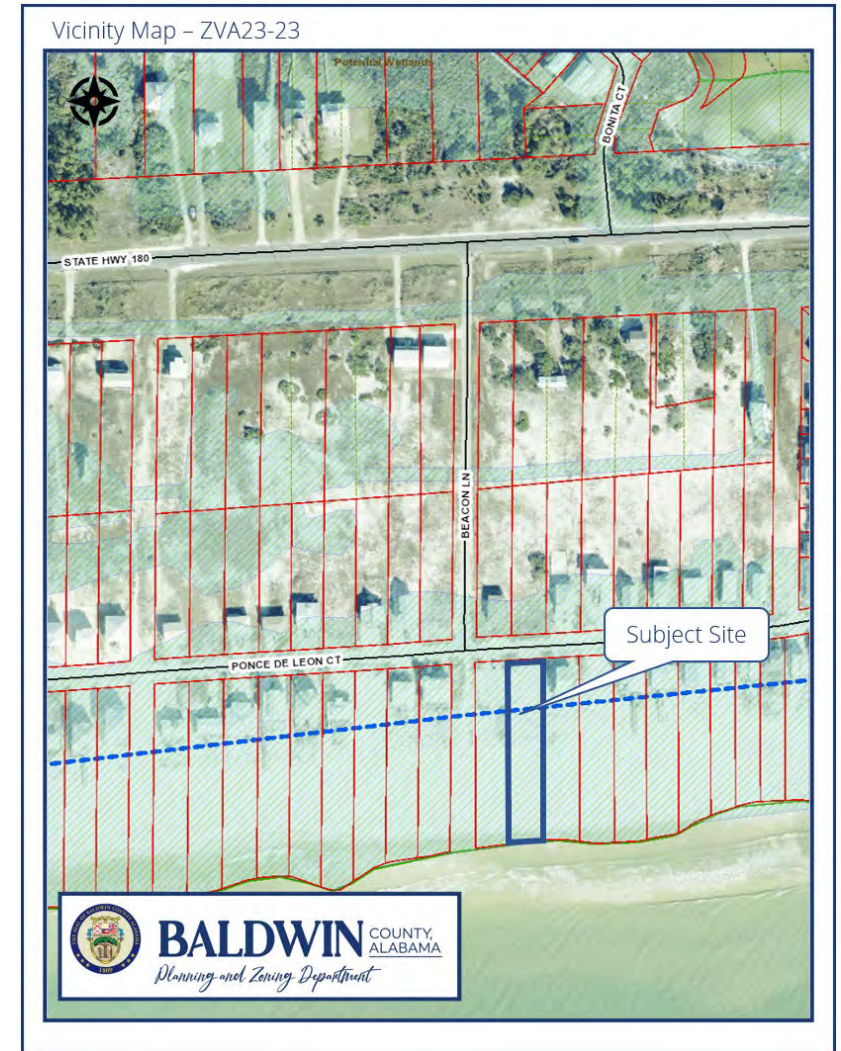
ZVA23-22 SCALATA & ANNECCHIARICO PROPERTY

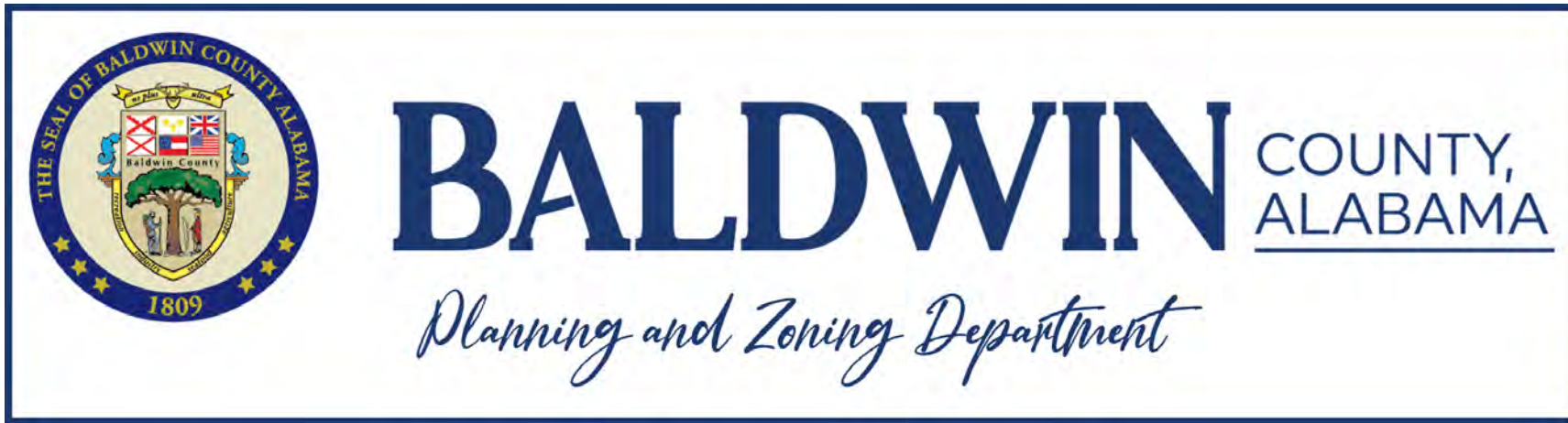
VARIANCE REQUEST

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.





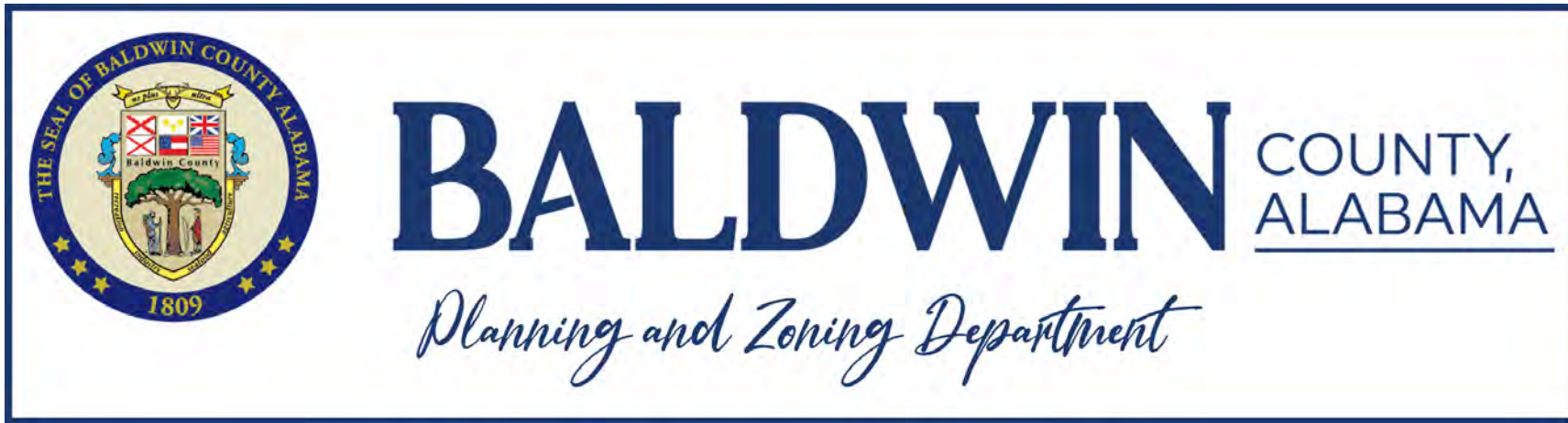
BALDWIN COUNTY BOARD OF ADJUSTMENT #2

NEXT REGULAR MEETING

JUNE 8, 2023 @ 3:00PM

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL



BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

MAY 11, 2023

BALDWIN COUNTY SATELLITE COURTHOUSE

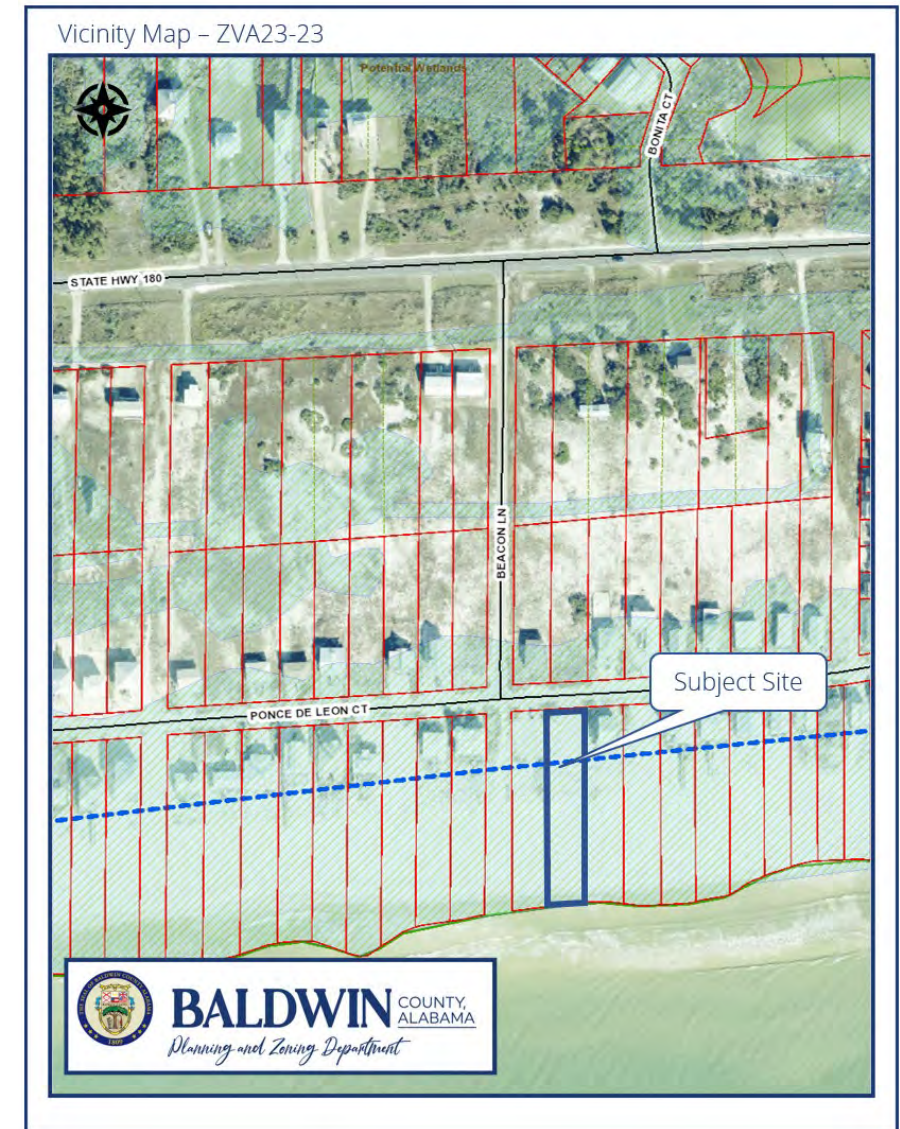
FOLEY, AL

ZVA23-23 NAZZARENO FAMILY TRUST PROPERTY

VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

- **Planning District: 25 Zoned: RTF-4**
- **Location:** Subject property is located south of State Highway 180, southeast of Beacon Lane, on the south side of Ponce de Leon Court.
- **PID:** 05-69-08-01-0-004-058.000
- **PPIN:** 39663
- **Acreage:** 0.63+/-
- **Physical Address:** 2330 Ponce de Leon Court
- **Applicant:** Paul R. Nazzareno
- **Owner:** Nazzareno Family Trust



ZVA23-23 NAZZARENO FAMILY TRUST PROPERTY

VARIANCE REQUEST

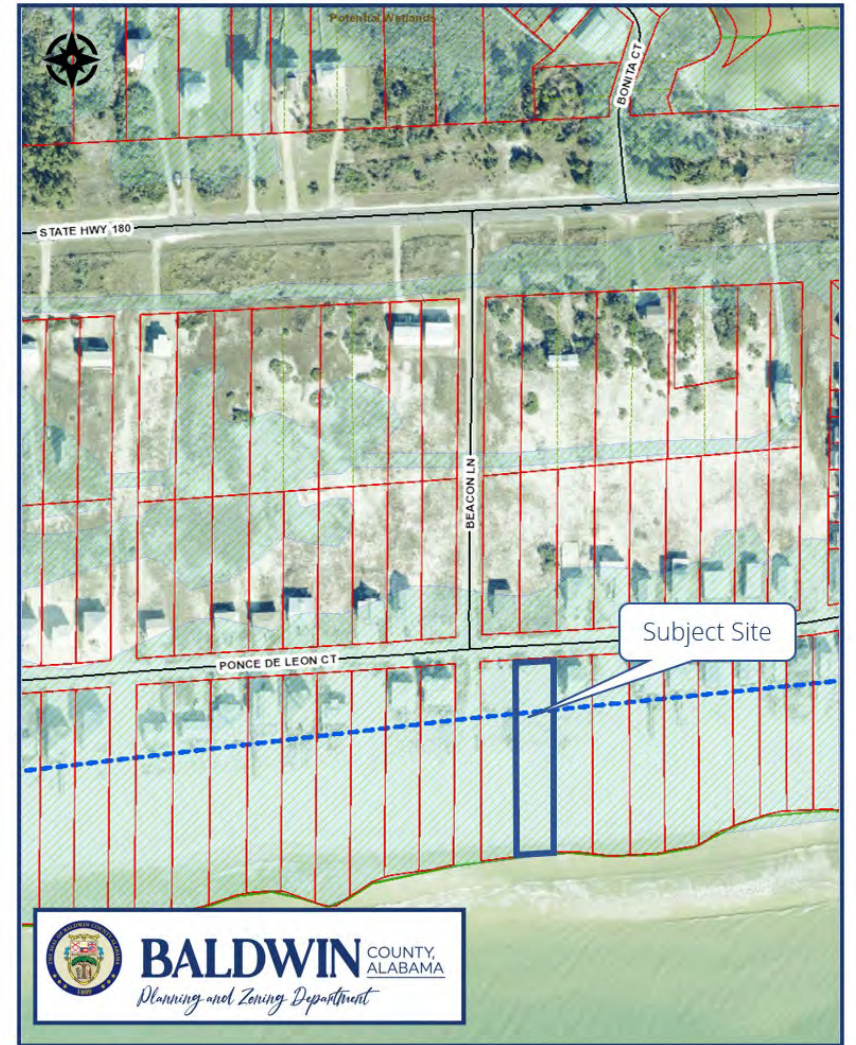
Lead Staff: Paula Bonner, Planning Technician

The applicant is requesting a variance from Section 4.6.5 of the Baldwin County Zoning Ordinance as it pertains to the rear yard setback to allow for the construction of a single-family dwelling.

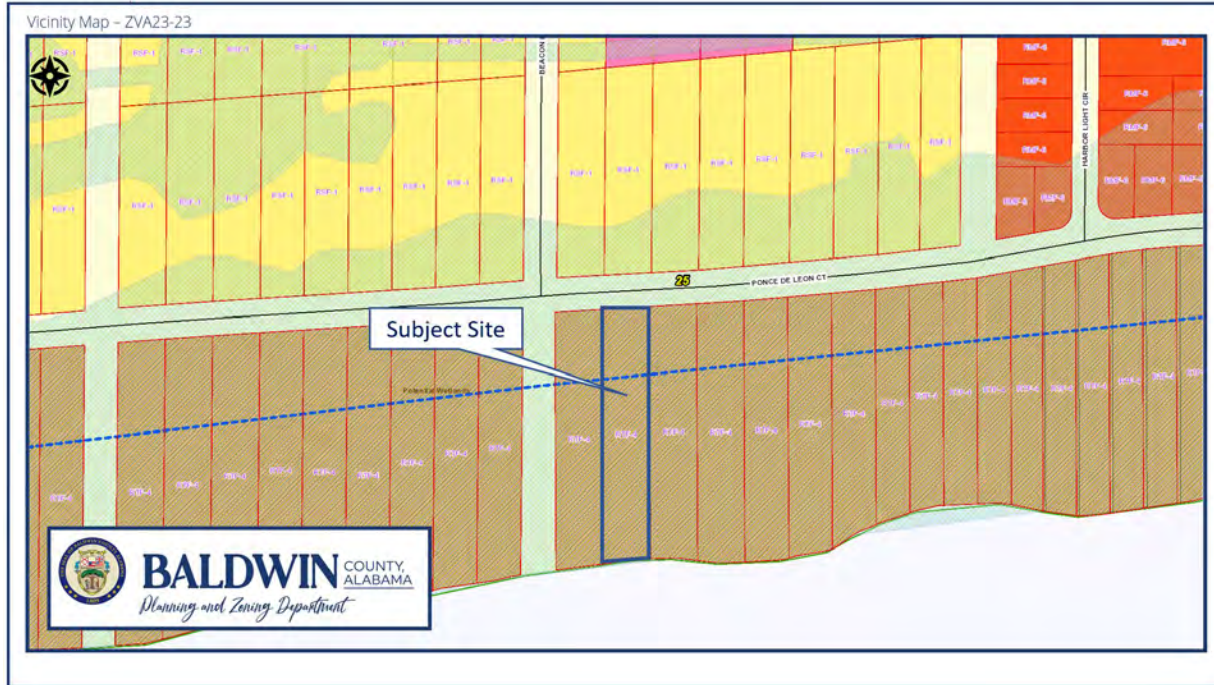
Per Revenue records that structure was built in 1989, which was prior to zoning and did not meet current requirements. January 2020 a fire destroyed the previous structure which dissolve the legal non-conforming status.

The destroyed dwelling was also built prior to the creation of the Coastal Construction Line, which decreases the area which diminishes the buildable lot size.

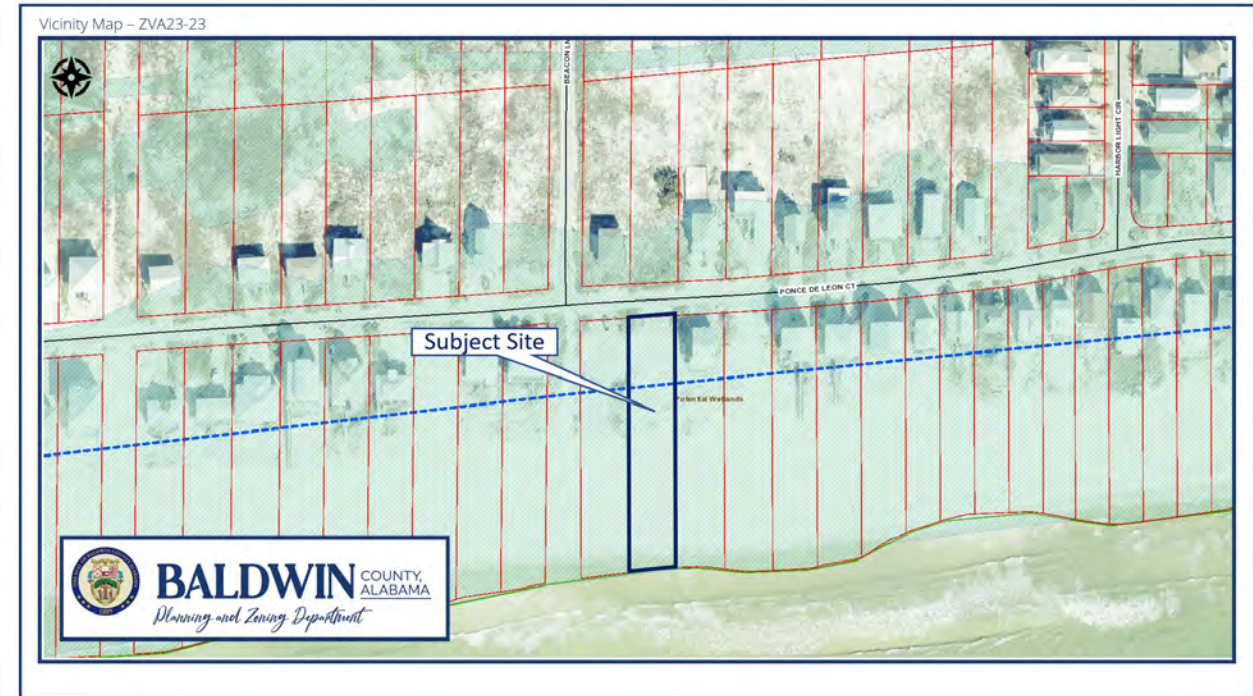
Vicinity Map – ZVA23-23



Locator Map



Site Map



Adjacent Zoning

North

RSF-1 Single Family District

South

N/A

East

RTF-4 Two Family District

West

RTF-4 Two Family District

Adjacent Land Use

Vacant/Residential

Gulf of Mexico

Residential

Vacant

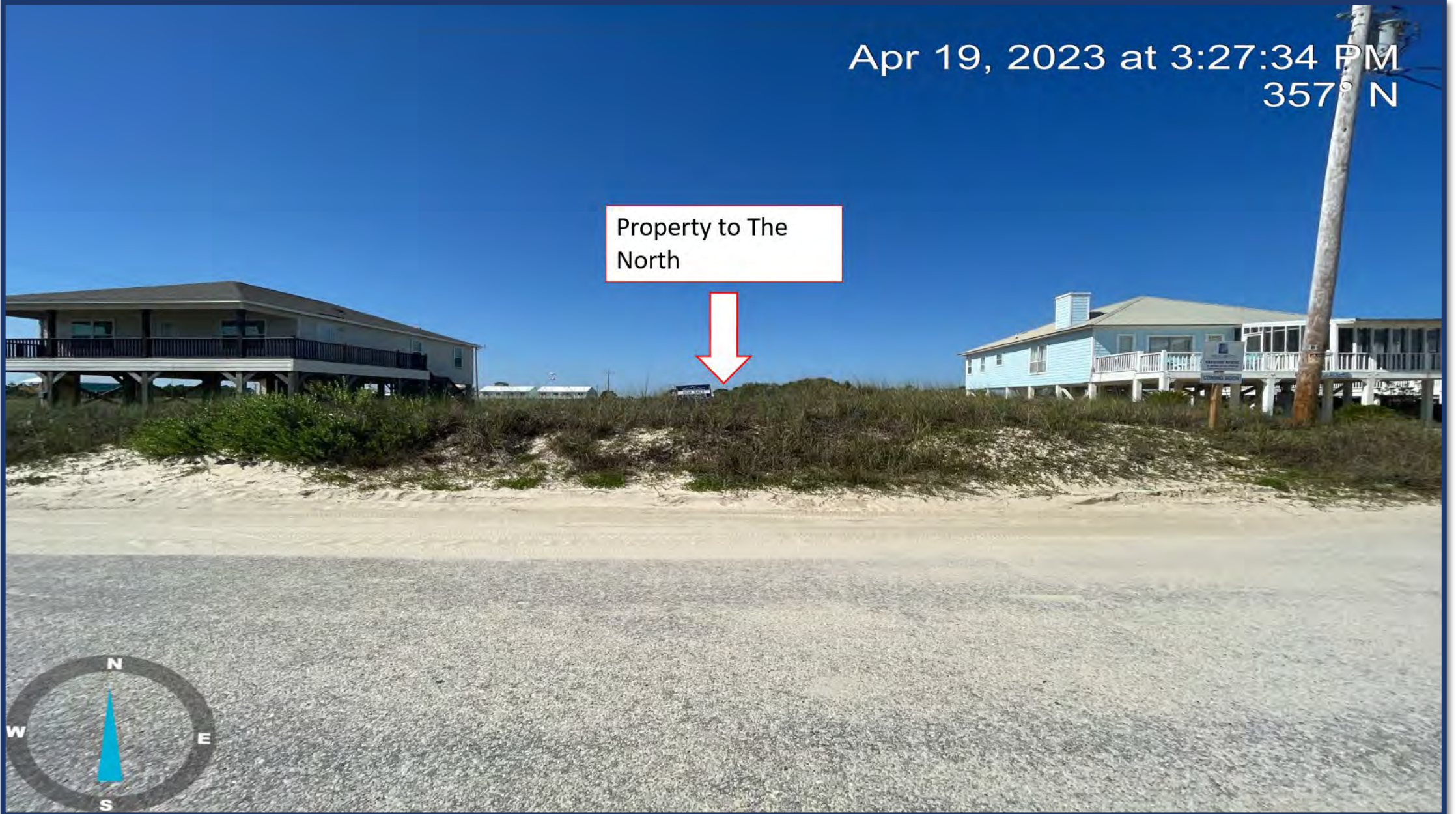
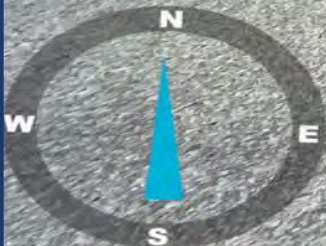
Property Images



Property Images

Apr 19, 2023 at 3:27:34 PM
357° N

Property to The
North



Property Images



[illegible]

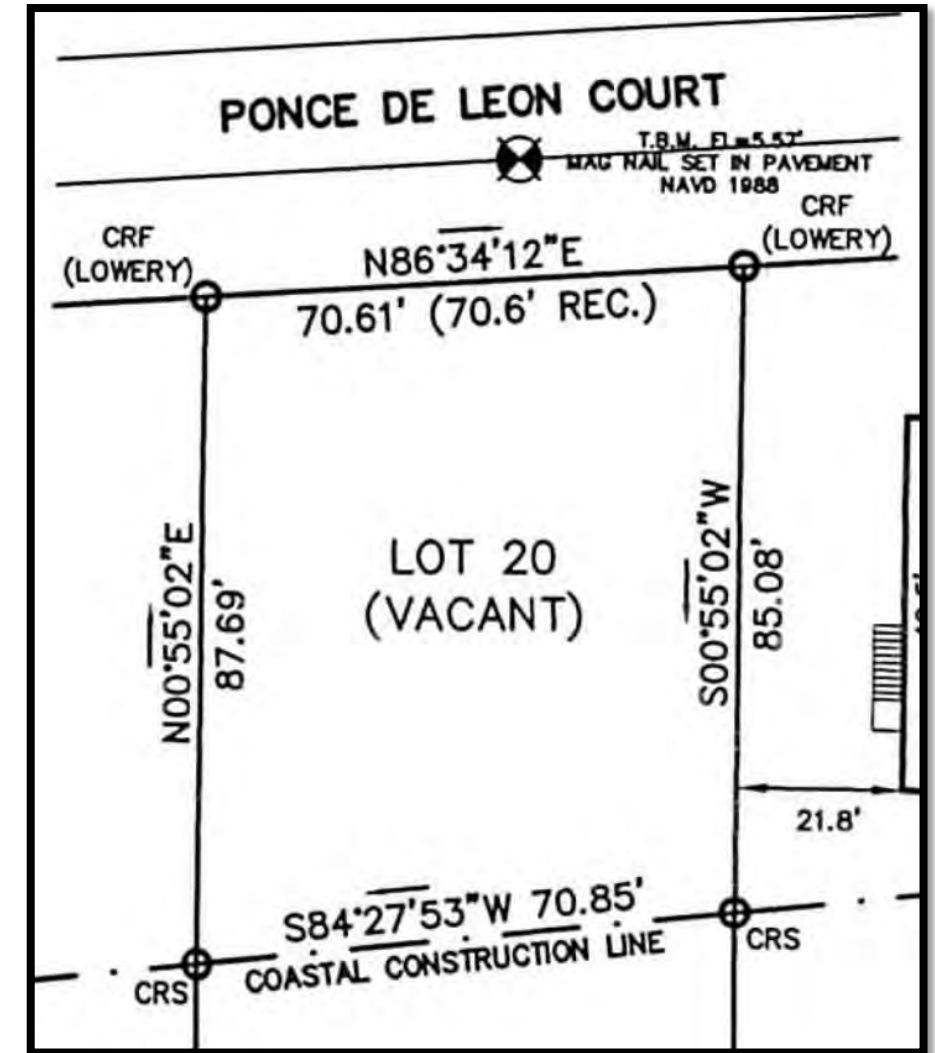
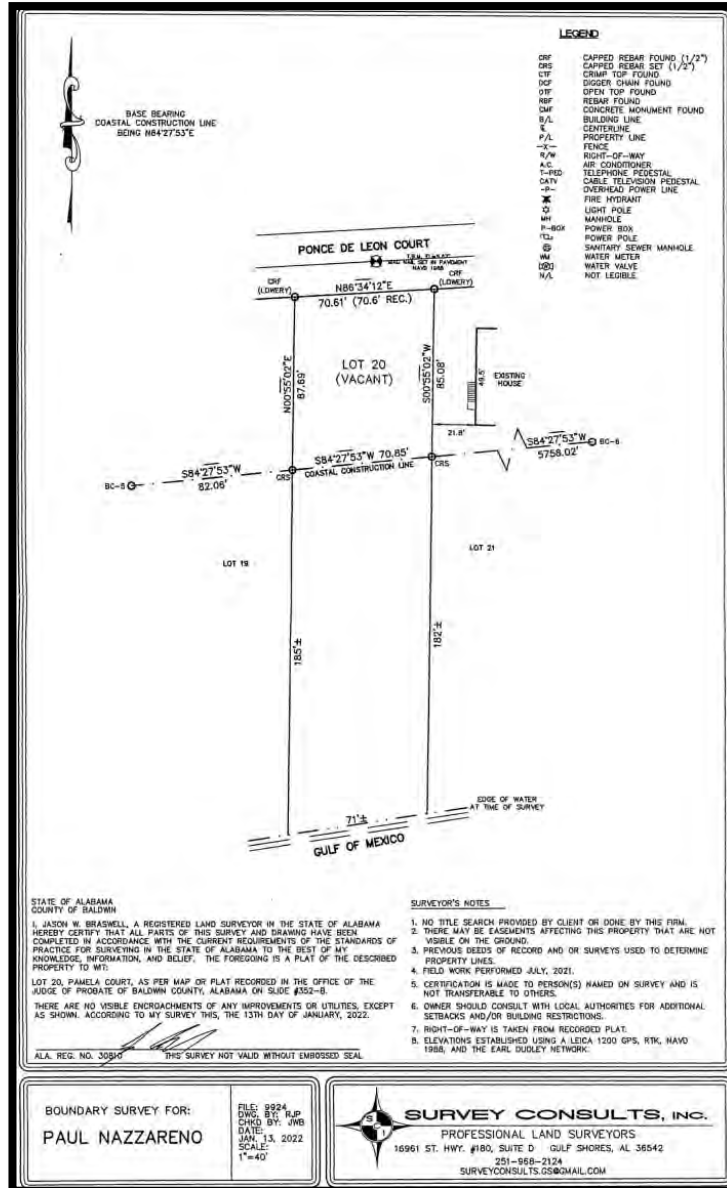
Property to the West



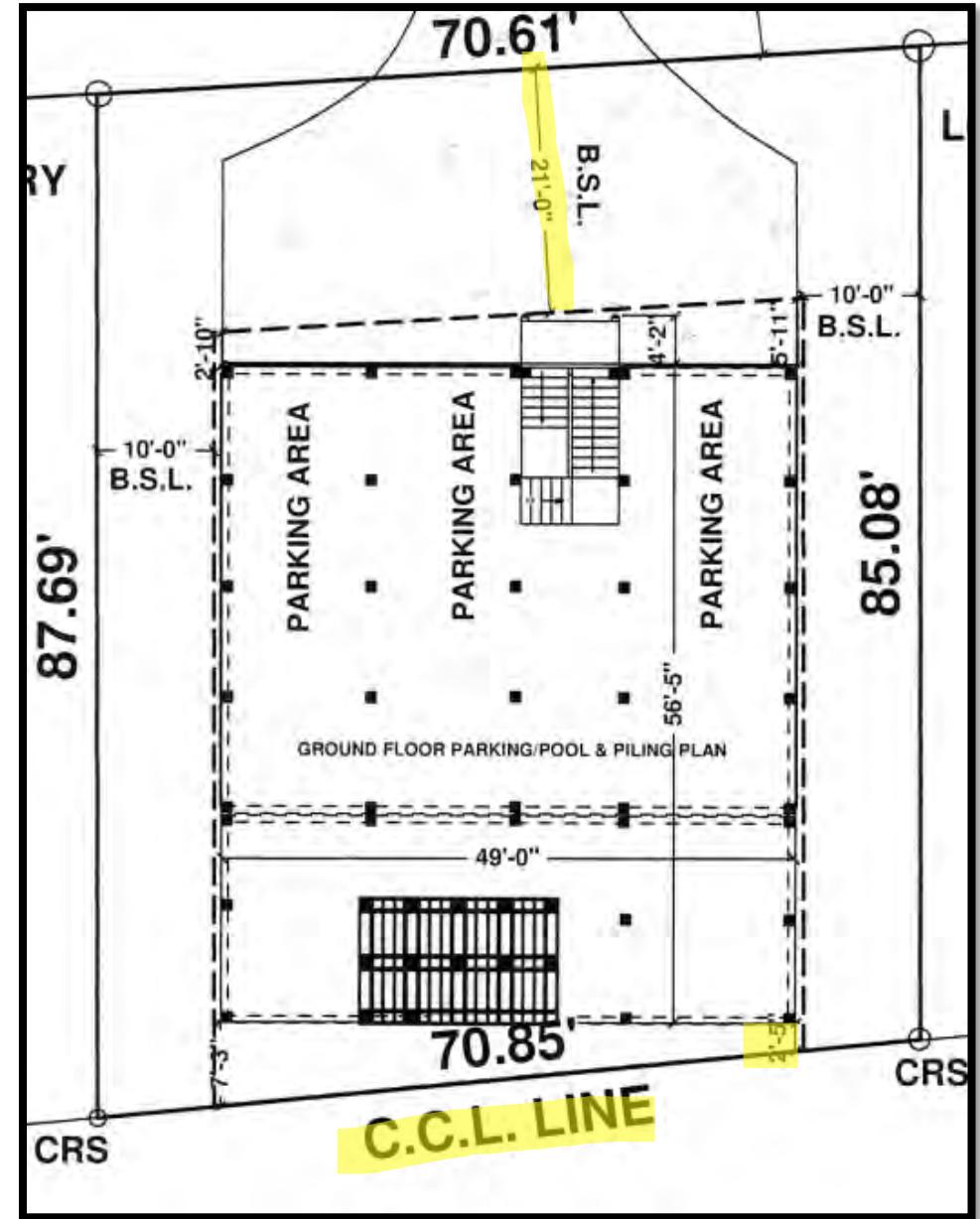
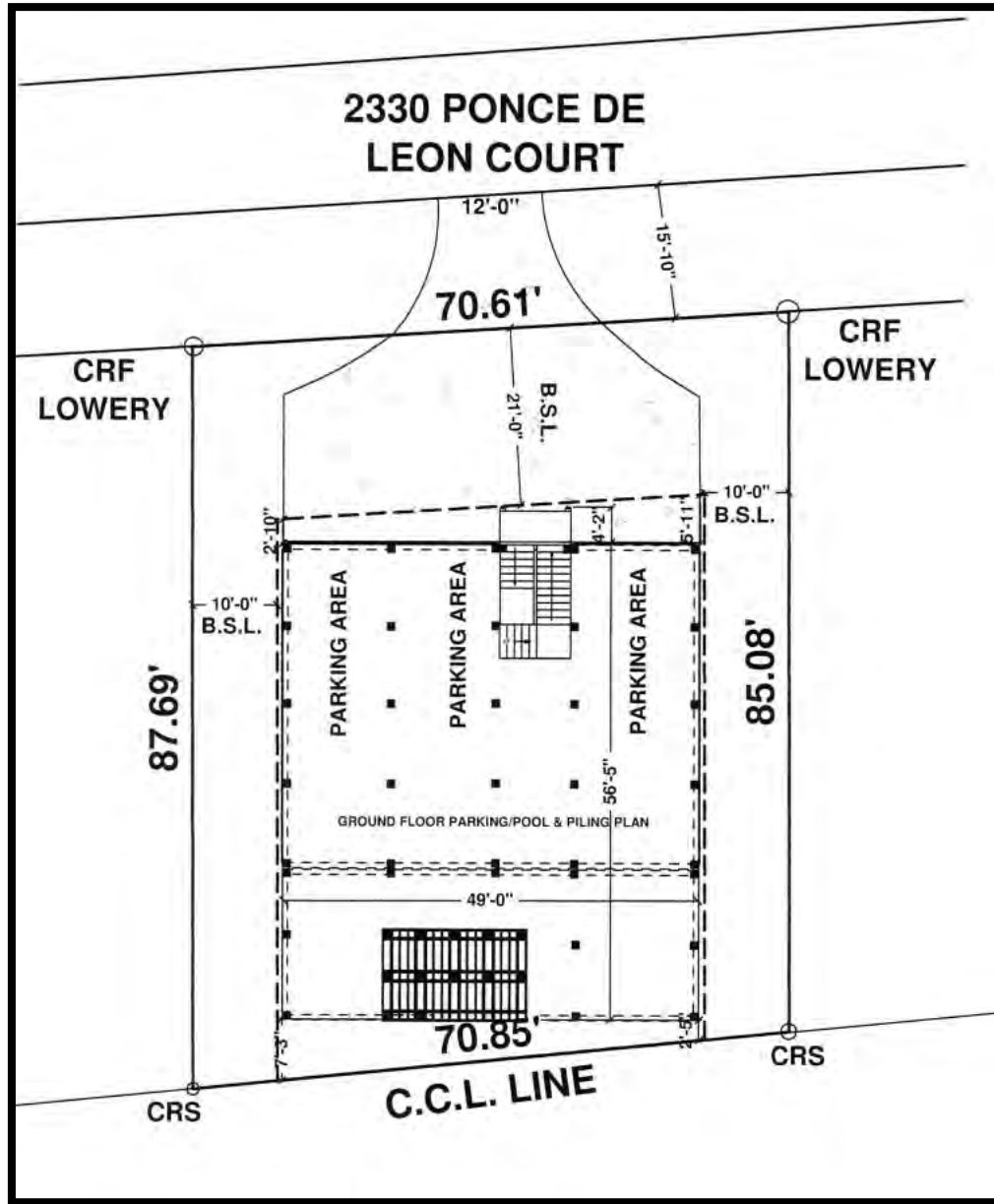
Pamela Court Subdivision



Survey



Site Plan



USFW Documentation



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

(IN REPLY REFER TO)
2023-0006399

NOV 23 2022

Mr. Paul Nazzareno
1250 E. Gene Autry Way
Fairhope, AL 36532

Dear Mr. Nazzareno:

This is the report of the Fish and Wildlife Service (Service) concerning your request for endangered species consultation for a new house. Your property is located at 2330 Ponce de Leon Court (PID# 05-69-08-01-0-004-058.000 or Tax Pin 39663) on the Fort Morgan peninsula, Baldwin County, Alabama. It is prepared in accordance with the requirements of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543).

We have reviewed your request related to the replacement of the house and improvement of the driveway. You stated the existing house has already been removed at the referenced location, which was damaged by Hurricane Sally and a subsequent fire. Your proposal is to replace the house with a house of equal size. The existing driveway is gravel. You stated it will not be widened and will be improved to concrete as part of the project. You also stated you are willing install a boardwalk. We believe Alabama beach mouse (ABM) (*Peromyscus polionotus ammobates*) habitat exists on and in the immediate vicinity of this lot, but not in the immediate footprint of the former residence. If you are willing to keep all work within the existing footprint, without disturbing any area outside of the existing footprint (except for a 10 foot temporary construction buffer), and implement standard ABM conservation measures to minimize indirect effects to the ABM (attached), we do not believe take of the ABM would occur for this project.

For details, questions or further discussion, please contact Mr. Bill Lynn of my staff at (251) 441-5859.

Sincerely,

William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office

cc: Ms. Janie Joiner, Baldwin County, Building Dept., 201 E. Section Ave., Foley, AL 36535

PHONE: 251-441-5181

FAX: 251-441-6222

Mr. Paul Nazzareno

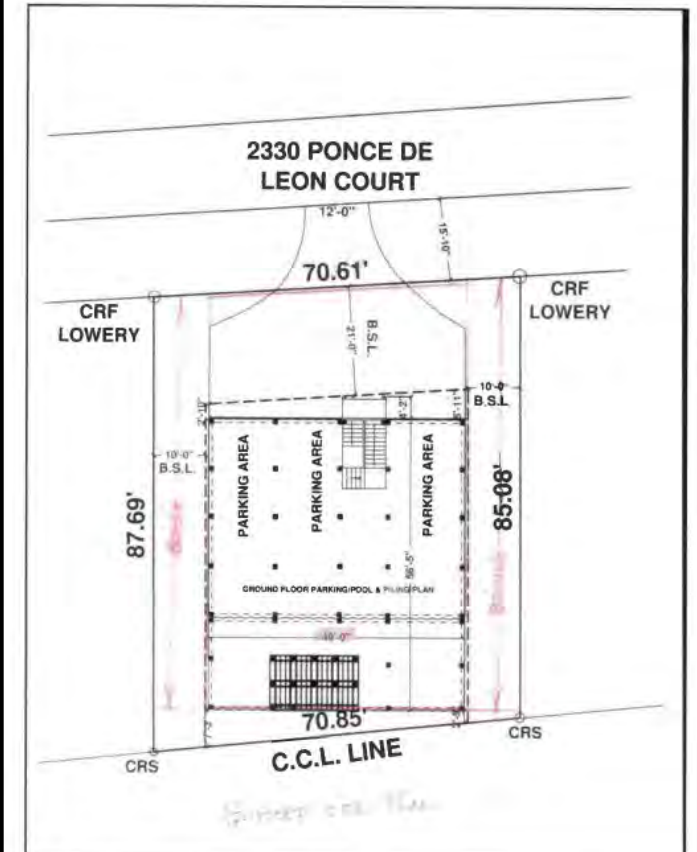
2

Attachment: Proposed site plan

Alabama beach mouse standard conservation measures

- The existing driveway will not be widened and will be improved to concrete.
- A boardwalk meeting Baldwin County regulation will be installed on the property.
- Maintain natural topography and vegetation on undeveloped portions of the lot and restore any temporary disturbed areas to pre-impact conditions.
- Store all lumber, metal, or bulk materials, other than building materials used during construction offsite.
- Place construction debris in approved dumpsters on a daily basis and empty dumpsters often enough to prevent overflow.
- Do not support the presence of free-roaming cats on the property.
- Ensure pets are kept on a leash while outside.
- Use only native dune plants for landscaping (list available from our office).
- All exterior lights must be fully shielded and utilize 8 watt Amber LED bulbs. Do not use exterior lighting for decorative purposes. Floodlights are not allowed.
- If large windows with no blinds or curtains are planned, then those windows must have an 85% inside to outside light transmittance value. Windows with curtains or blinds must have a 45% inside to outside light transmittance value. Dispose of household refuse in containers that are rodent and scavenger-proof.
- Exterior Rodenticide is not allowed.
- Mowing or weedeating of the property is not allowed.
- Contact the Alabama Ecological Services Field Office, Daphne, at (251) 441-5181 if any killed or injured ABM are found on the property.
- Please submit an as-built survey once the project is completed.

Mr. Paul Nazzareno



Coastal Permit Documentation

Rick Nazzareno

From: Rick Nazzareno
Sent: Friday, April 7, 2023 8:55 AM
To: Rick Nazzareno
Subject: 2330 Ponce De Leon Ct.

From: Janie Joiner
Sent: Friday, January 27, 2023 2:37 PM
To: 'Rick Nazzareno' <rick@nazzareno.com>
Subject: RE: ADEM permit application questions

Your application has been received. You should now apply to the Baldwin County Planning and Zoning Department for a Zoning Site Plan Approval. Once the Site Plan Approval is issued, we will need a legal survey showing the exact site plan approved by Planning and Zoning.

Once we have the legal survey of the site plan approved by Planning and Zoning, there will then be a 30-day public notice period to allow for public comments. This part of your review can be 6-8 weeks to allow for review time, preparing/submitting the notice to the newspaper, and the 30-day public notice period. Once the public notice period has expired, we should be able to issue the permit within a few days if no public comments need to be addressed.

Janie Joiner, CFM, Coastal Coordinator
Hazard Mitigation Coordinator
Baldwin County Building Department
201 East Section Avenue
Foley, AL 36535
251-972-6837
Internal Extension 2817



Staff Analysis and Findings

Section 4.6 RTF-4, Two Family District

4.6.5 Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.4 Variances, and Article 20: Nonconformities, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure	35-Feet
Maximum Height in Habitable Stories	2 ½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yard	10-Feet
Maximum Density	4 Dwelling Units per Acre
Minimum Lot Area	7,500 Square Feet
Minimum Lot Width at Building Line	60-Feet
Minimum Lot Width at Street Line	30-Feet
Maximum Ground Coverage Ratio	.35

Staff Analysis and Findings

Section 22.2 Words and Terms Defined

Coastal construction line (CCL). A line in coastal Alabama determined by the Alabama Coastal Area Management Plan (ACAMP) seaward of which no construction is permitted.

Yard, front. An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property line.

Yard, rear. An open space on the same lot with the principal building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot between the rear line of the principal building projected to the side lines of the lot and the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

Staff Analysis and Findings

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

Revenue Commission records describe the subject property as lot 20 Pamela Court Subdivision which was filed with the Baldwin County Judge of Probate December 18, 1958. Planning District 25 was adopted November 16, 1993. Revenue Commission records also describe the subject parcel as approximately 27,443 square feet with approximately 70.6' along the rear (Ponce de Leon Court) lot line, approximately 372' along the west lot line, approximately 70' along the front (south/gulf) lot line, and approximately 368' along the east lot line. The required minimum lot size for RTF-4 is 7,500 square feet with a 60' minimum lot width at building line and a 30' minimum lot width at street line. The ADEM Coastal Construction Line runs parallel across the parcel which shortens the depth of the building area to approximately 87' to 84'+-, therefore staff feels the property could be considered exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff could not establish an exceptional topographic condition or other extraordinary situation, or condition contained on the subject property which would require a variance.

Staff Analysis and Findings

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The subject property is zoned RTF-4, Two Family District which allows for two family dwellings, single-family dwellings, and accessory uses to those. Per the applicant the subject property previously consisted of a dwelling which extended past the rear yard (Ponce de Leon Court) setback. A fire destroyed the structure which dissolved the legal non-conforming status. The owners would like to re-build a dwelling which also extends past the rear yard (Ponce de Leon Court) setback which requires a variance. Staff perceives the coastal construction setback line could establish a hardship on the subject property.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. Staff does not believe the granting of this application, **in general**, will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County. However, staff cannot specifically assure and makes no warranty or guarantee that if granted the resultant variance will or will not diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County because the effect of the variance cannot be quantified at the time of consideration.

Staff Analysis and Findings

5.) Other matters which may be appropriate.

The applicant has submitted a written document stating there is **no active homeowner association** for the subject property.

No documentation in favor or opposition of this variance request has been received at the time this staff report was written.

The Fort Morgan Advisory Committee has recommended **approval** of the variance request.

ZVA23-23

Cases reviewed were

ZVA23-20

ZVA23-17

ZVA23-21

ZVA23-22

ZVA23-23

We voted 5-0 to support the variance request on each of these properties



ZVA23-23 NAZZARENO FAMILY TRUST PROPERTY

VARIANCE REQUEST

The applicant is requesting a variance from Section 4.6.5 of the Baldwin County Zoning Ordinance as it pertains to the rear yard setback to allow for the construction of a single-family dwelling.

Staff recommends **APPROVAL** of the variance request with the following conditions:

1. If approved, the variance is limited to the requested 21' rear building setback line in lieu of the required 30' rear setback described herein. The balance of the zoning ordinance not contemplated by case ZVA23-23 remains applicable to subject property.
2. Memorialize the following: if approved, a variance Notice of Action (NOA) does not grant approval for any permits for construction activities. The applicant shall obtain any and all building permits, site plan approvals, land disturbance permits, and turnout permits, etc., as required.

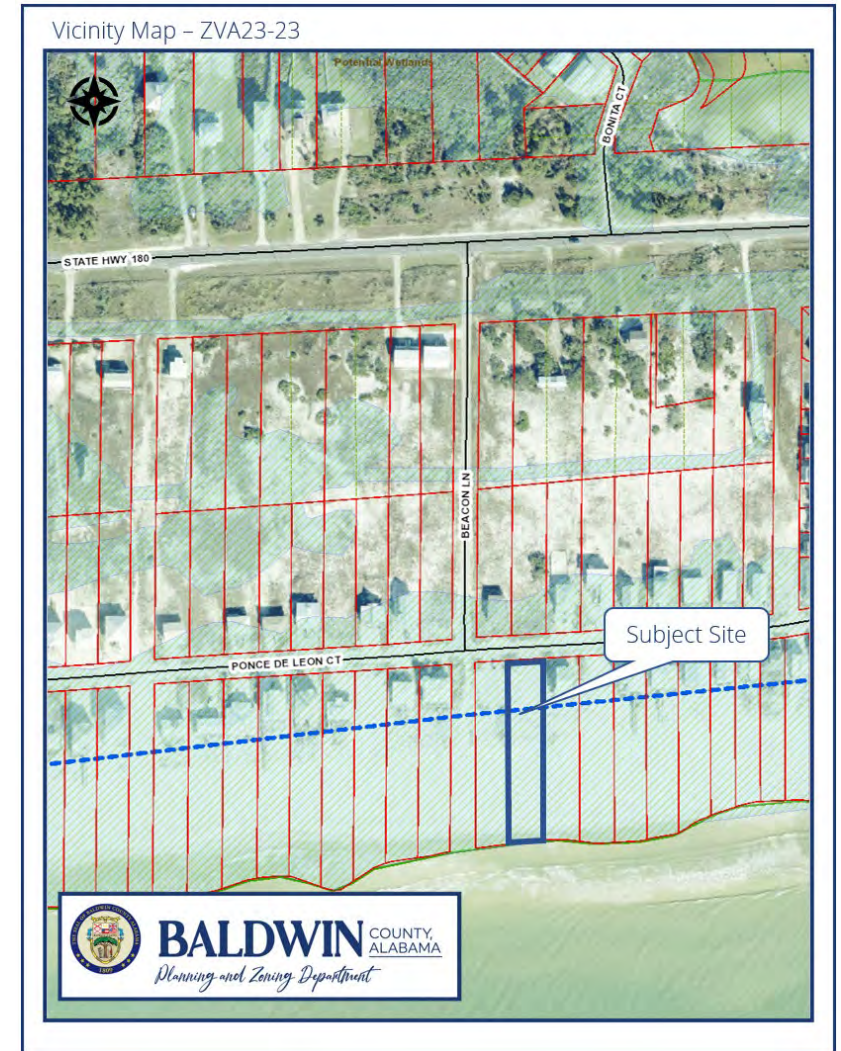
ZVA23-23 NAZZARENO FAMILY TRUST PROPERTY

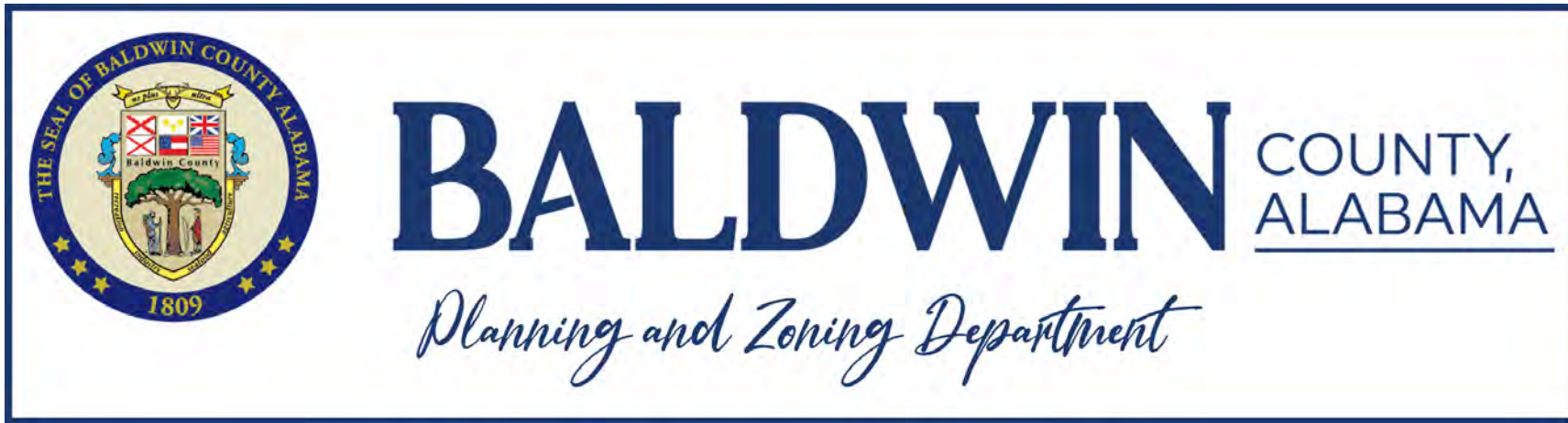
VARIANCE REQUEST

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BALDWIN COUNTY BOARD OF ADJUSTMENT #2

NEXT REGULAR MEETING

JUNE 8, 2023 @ 3:00PM

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL