

**BALDWIN COUNTY COMMISSION DISTRICT 2
BOARD OF ADJUSTMENT**

AGENDA

November 5, 2018

Regular Meeting

4:00 p.m.

Central Annex Auditorium

22251 Palmer Street

Robertsdale, Alabama

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes (September 10, 2018)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. V-180033 Altamirano Property

Request: Approval of variances from the front and side setback requirements and the jurisdictional wetlands setback requirement to allow for the construction of a single-family dwelling

Location: The subject property is located at Bay Haven Circle in Planning District 26

Attachments: Within Report

6. Old Business
7. New Business
 - a.) Approval of 2019 Deadline and Meeting Calendar
8. Adjournment

Baldwin County Commission District 2, Board of Adjustment

September 10, 2018

Regular Meeting Minutes

Central Annex

Conference Room

The Board of Adjustment for Baldwin County Commission District 2 met in a regular session on September 10, 2018 at 4:00 p.m., in the Baldwin County Central Annex Auditorium. Chairman Brandon Bias called the meeting to order. Members present included: Michael Cochran, Blayne Pierce and Gary Cowles. Staff member present was Linda Lee, Planner.

Approval of Previous Meeting Minutes

A motion to approve the meeting transcript from the July 9, 2018 meeting was made by Mr. Cochran with a second by Mr. Pierce and carried unanimously.

V-180027, Johnson Property

Mrs. Linda Lee presented the applicant's request for a variance from the jurisdictional wetlands setback requirement to allow for the construction of a new single-family dwelling. Staff recommended approval of the variance request.

Board Member Michael Cochran made a motion to approve the variance request. The motion received a second from Board Member Blayne Pierce and carried unanimously.

Adjournment

There being no further business to come before the board the chairman adjourned the meeting at 4:05 p.m.

Respectfully Submitted

Linda Lee, Planner

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2018.

Brandon Bias, Chairman



Baldwin County Planning & Zoning Department

County Commission District #2

Board of Adjustment Staff Report

V-180033

Altamirano Property

Variances from Side Setback Requirements and Jurisdictional Wetlands Setback Requirements

November 5, 2018

Subject Property Information

Planning District: 26
General Location: Lots A and 117 of Bay Haven Subdivision and adjacent parcel to the north of lot A
Physical Address: Bay Haven Circle
PID: 05-56-07-38-0-000-013.000 and 05-56-07-38-0-000-013.001
Zoning: RSF-2, Single Family Residential
Acreage: 2.49± acres
Applicant: Marvin Frank Hennington
1621 McRaven Road
Clinton, MS 39056
Owner: Norma L. Altamirano
10082 Bay Haven Circle
Lead Staff: Linda Lee, Planner
Attachments: Within Report

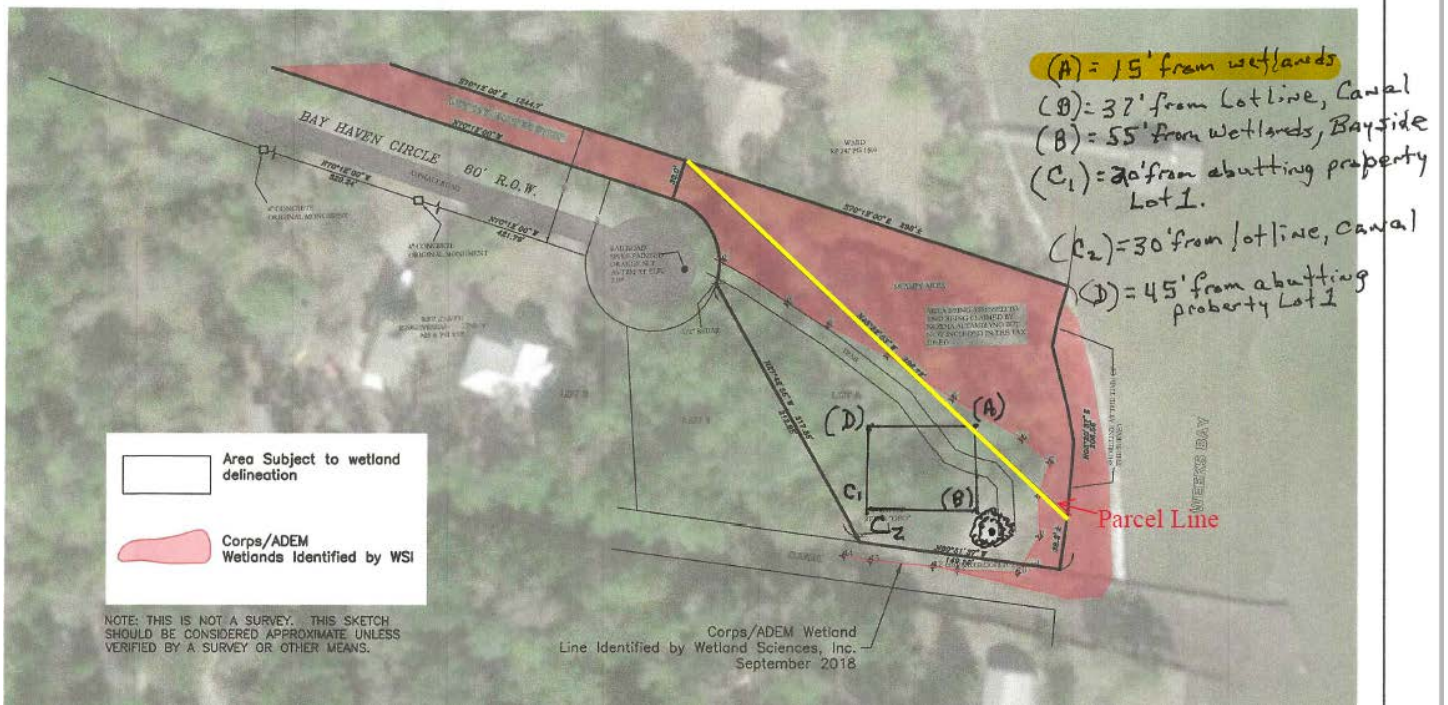
	Adjacent Land Use	Adjacent Zoning
North	Vacant	RA
South	Residential	RSF-2
East	Mobile Bay	N/A
West	Residential	RSF-2 and RA

Summary and Recommendation

The applicant is requesting variances from the side setback requirements and the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling. Staff recommends that Case V-180033 Altamirano Property, be **APPROVED**, based on the comments contained herein.

Variance Request

The applicant is requesting variances from the side setback requirements and the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling. Due to parcel 05-56-07-38-0-000-013.001 not being a part of the Bay Haven Subdivision the parcels can't be combined, therefore a variance from the shared property line will be required.



Additional Information

The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

Section 4.3 RSF-2, Single Family District

4.3.1 Generally. This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

4.3.2 Permitted uses. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.

4.3.3 Conditional uses. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

4.3.4 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 13.11: Bed and Breakfast Establishments*).

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 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
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

Section 10.4 Wetland Protection Overlay District

10.4.1 *Purpose.* The wetlands within Baldwin County, Alabama are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, wise use of forested wetlands is essential to the economic well-being of Baldwin County. A considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare. **It is therefore necessary for Baldwin County to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.**

The purpose of the wetland protection overlay district is to promote wetland protection, while taking into account varying ecological, economic development, recreational and aesthetic values and to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge and wildlife habitat.

10.4.2 *Area of application.* The wetland protection overlay district applies to wetlands under the planning and zoning jurisdiction of Baldwin County. The Generalized Wetland Map adopted as part of these zoning ordinances shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of these zoning ordinances. The Generalized Wetland Map shall be kept on file in the offices of the Planning & Zoning Department.

10.4.3 *Wetland protection district boundaries.* The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 permit will be required prior to any activity. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within the

jurisdiction of Baldwin County and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this section does not relieve the land owner from federal or state permitting requirements.

10.4.4 Permit requirements. A U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed planned development contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map as defined herein, or through a site visit by County Staff. **The setback for development from a wetland must be a minimum of 30 feet.**

If the area proposed for development is located in or within the wetland protection district boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers jurisdictional determination shall be required prior to the issuance of a Land Use Certificate. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or Letter of Permission is required, a Land Use Certificate will be issued only following issuance of the Section 404 Permit or Letter of Permission. Any application for subdivision approval on property which contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map defined herein through a site visit by County Staff, will have to obtain a U.S. Army Corps of Engineers wetlands jurisdictional determination. If the Corps determines that wetlands are present and that a Section 404 Permit or Letter of Permission is required, development may not proceed until the Section 404 Permit or Letter of Permission is issued.

10.4.5 Subdivisions in the Wetland Protection Overlay District. Where a parcel of land proposed to be subdivided contains an area of wetlands delineated as jurisdictional by the Army Corps of Engineers, said wetlands shall be subject to Section 404(b)(1) guidelines concerning fill material disposal into wetlands. Lots may be platted where sufficient upland areas exist to provide a building site for the principal structure and necessary ancillary facilities. Fill may be used where necessary to provide access to lots where approval for such fill has been received from the Army Corps of Engineers and other appropriate governmental agencies.

Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of 30-feet beyond the limits of the wetland. Maintenance responsibility shall be vested in the trustees of the subdivision, by virtue of the trust indenture.

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

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 lots A and 117 of the Bay Haven Subdivision platted in 1960 and the adjacent parcel north of lot A. The property has a very irregular shape.

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

According to information submitted by the applicant jurisdictional wetlands cover most of the subject property.

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 was platted prior to the enactment of zoning in planning district 26. The purpose of this variance request is to allow for a single-family dwelling to be constructed on the lot with no disturbance to the jurisdictional wetlands.

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.

No adverse impacts.

5.) Other matters which may be appropriate.

Per the applicant there is not an active property owners association for Bay Haven Subdivision.

Parcel ID# 05-56-07-38-0-000-013.000
Bay Haven Circle
Fairhope, AL.
Lot A

Per your request I contacted another current residence of Bay Haven Cr. (Hollie Tew) and she also said there is not an active Home Owners Association and no dues are being collected.

On the attached drawing I've noted the distances from the house foot print to adjacent property lines or wetlands. I gave each corner of the house a letter designation as follows.

(A)= Northeast corner, 15 feet from wetlands

(B)= South East corner, 37 feet from lot line on canal and 55 feet from wetlands on Bay side

(C1)= South West corner, 20 feet from abutting property Lot 1 and (C2) 30 feet from lot line canal side

(D)= North West corner, 45 feet from abutting property Lot 1

If I understood you correctly, the setback variance I should ask for is:

Corner (A) to be 15 feet not 30 feet from wetlands.

Corner (B) to be 37 feet from Canal lot line not 50 feet (because this is considered 'Front' also).

Corner (C2) to be 30 feet from Canal lot line not 50 feet (because this is 'Front' too).

The other corner setbacks are within the given restrictions.

Thanks for your help,
Marvin F. Hennington
1621 McRaven Rd.
Clinton, Ms. 39056
(601) 955-9922

Staff Comments and Recommendation

Staff recommends that Case V-180033 Altamirano Property, be **APPROVED**, based on the comments contained herein.

GENERAL NOTES {By-laws}

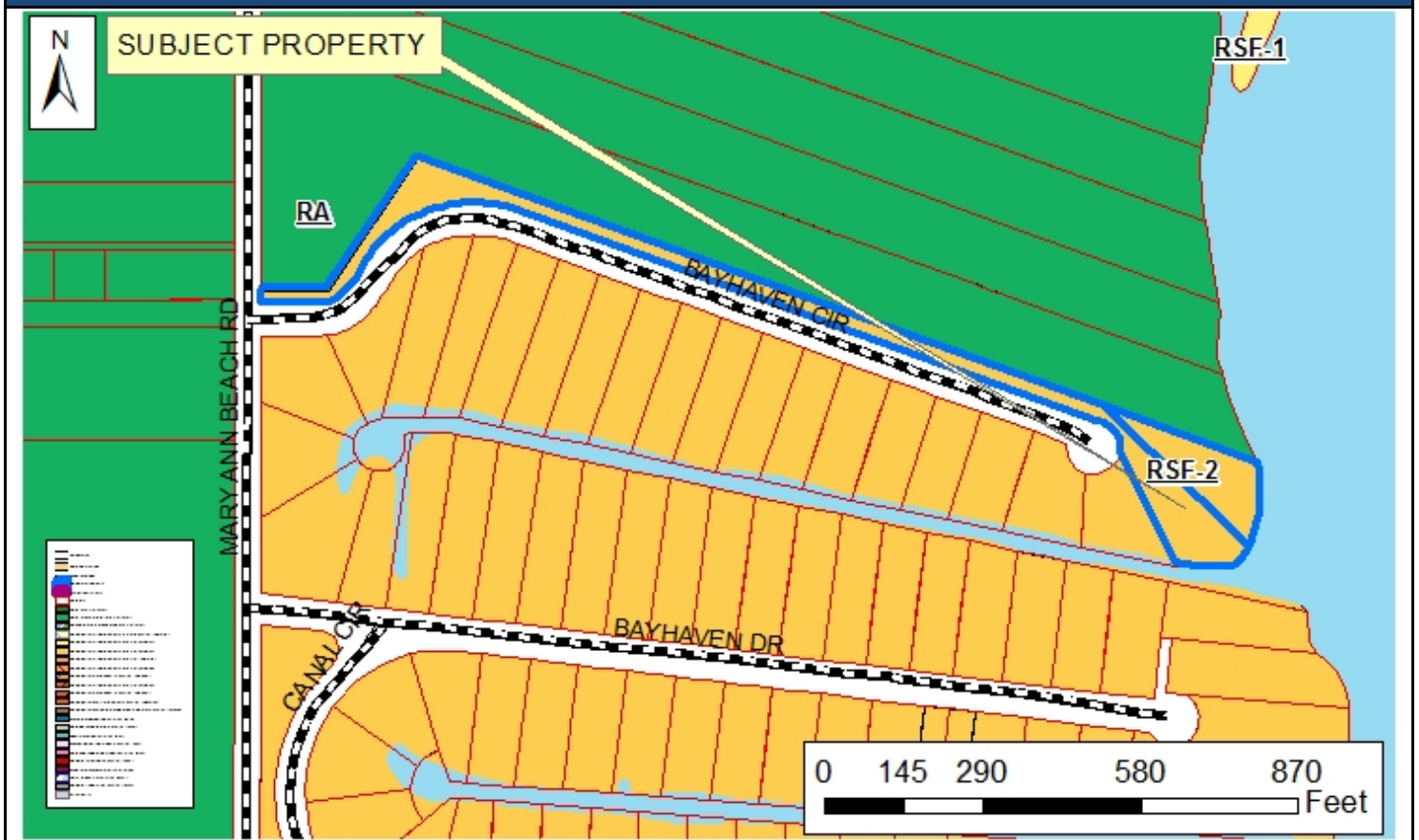
Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board 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 the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.

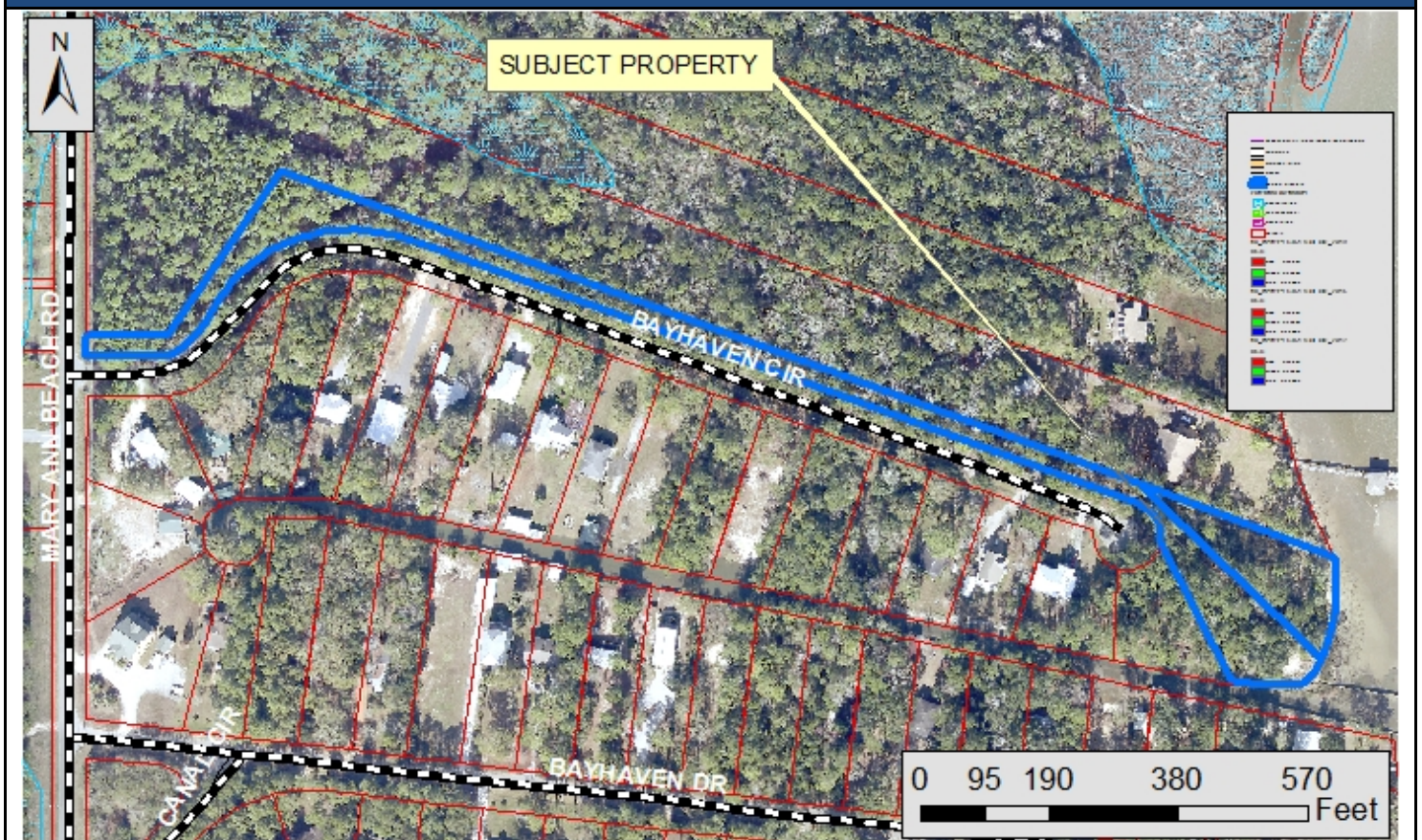
Property Images



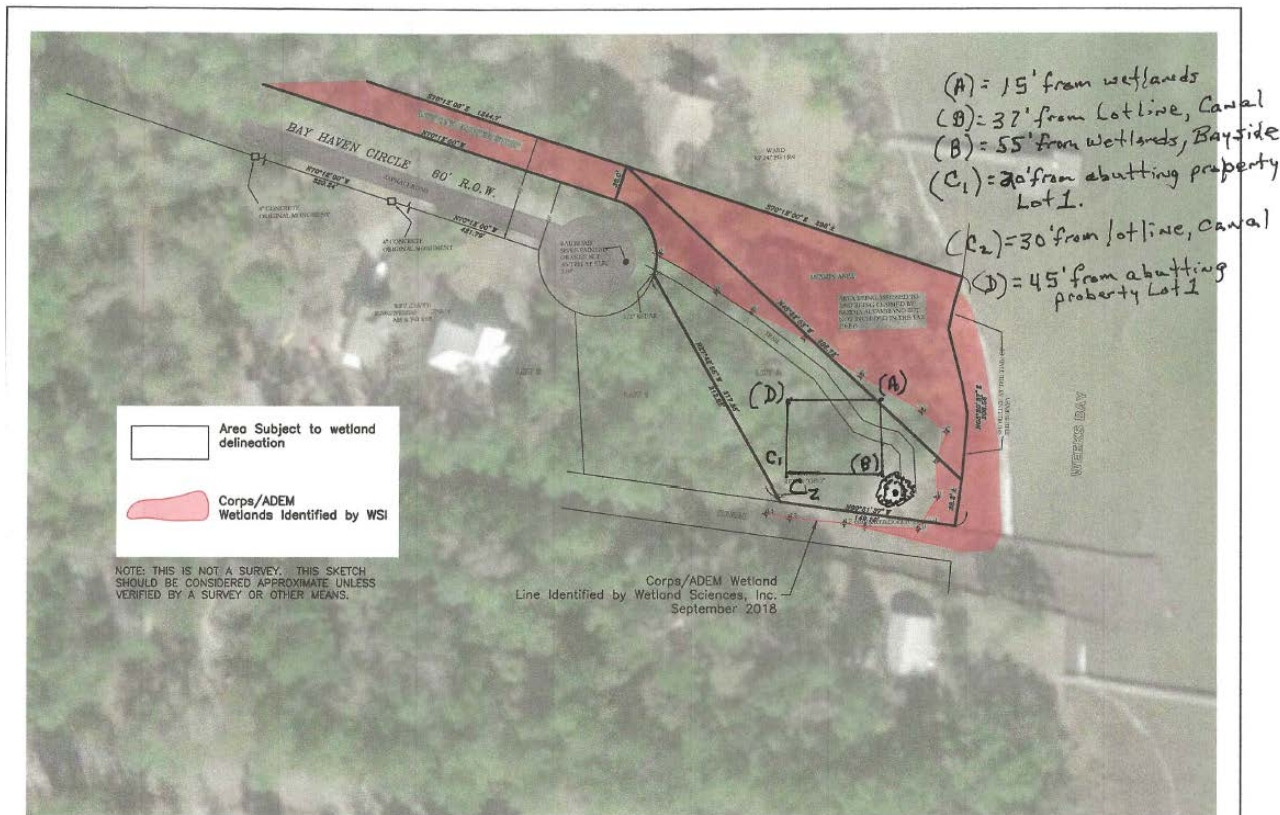
Locator Map



Site Map



Site Plan and Survey Submitted by Applicant



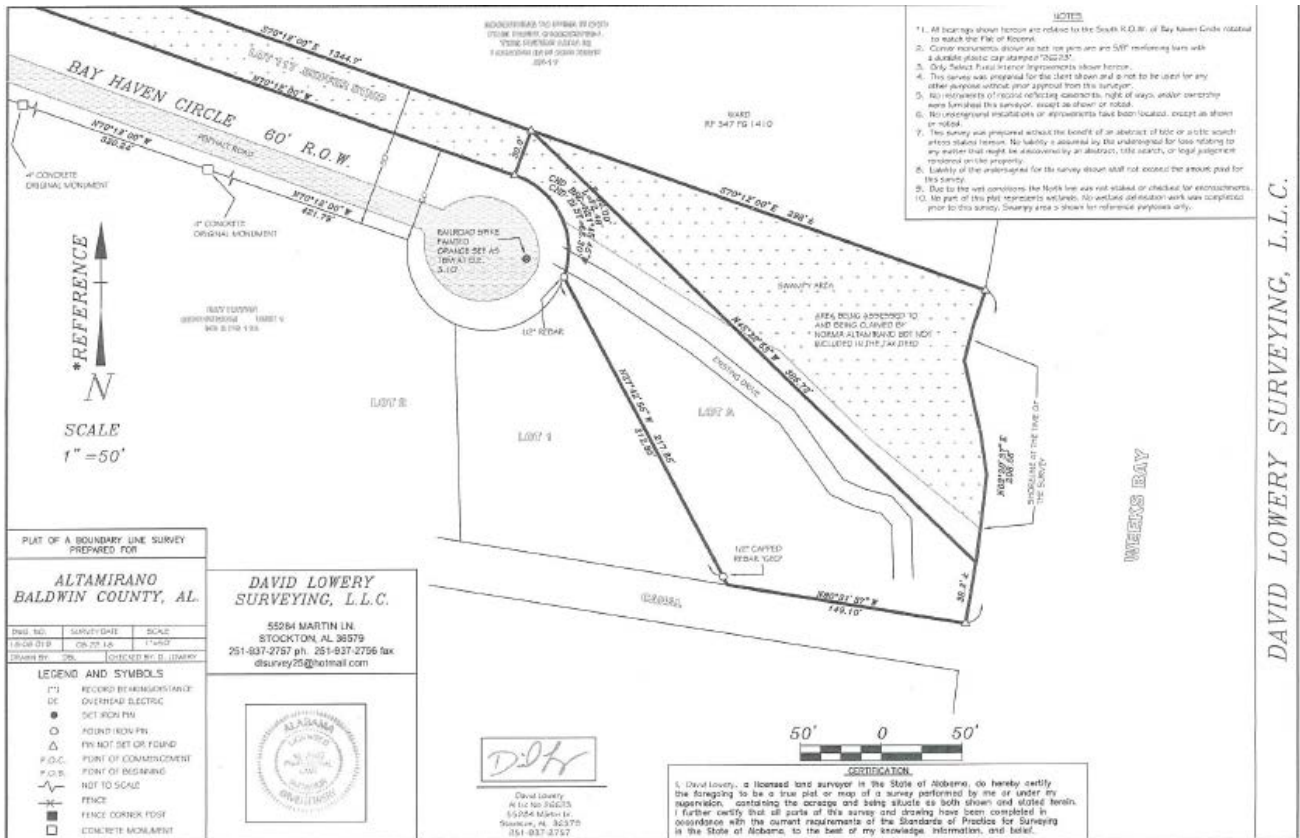
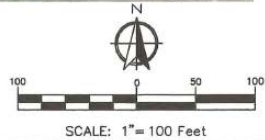
WETLAND SCIENCES INCORPORATED

ENVIRONMENTAL CONSULTANTS
3308 GULF BEACH HIGHWAY

PROJECT NAME: Henington Bay Have Circle

Wetland Sketch

PROJECT NO. 2018-704



Statement Submitted by Applicant

Zoning Variance Application attachment
Bay Haven Cir Parcel ID #05-56-07-38-0-000-013-000
Marvin Frank Hennington

Note: Physical stakes on lot represent floor plan layout Not Roof line.

Placement of the residence will have the front facing the Bay and be setback from the wetlands on the Bay about 55 feet.

The large old Oak tree sits 25 feet off of the canal lot line, it is 7 1/2 feet in circumference and I believe it is over 100 years old. The Oak sits back from the Bay wetlands marker about 50 feet.

The front left corner of the house (North East) will need to be off of the wetlands 15 feet or Setback will need to be 15 feet.

For the residence or house,
I meet all other setback requirements but would like clarification on the following:

Set back for canal side lot line.

Bay Haven Cir. Subdivision was designed so that each lot owner would have access to the canal by constructing a boat dock. This is why the "Restrictions" for Bay Haven Cir does not list a set back for the back of the lots. Because my lot faces the Bay and is now considered the 'Front', the canal is now on the side (right or South side). This South side has no abutting property owner. Please clarify set back for boat dock on canal side.

BALDWIN COUNTY COMMISSION #2 PLANNING AND ZONING BOARD OF ADJUSTMENT

2019 MEETING DATES & APPLICATION DEADLINE DATES

Meeting time: 4:00 p.m.
Meeting location: Baldwin County Central Annex Auditorium

All applications to be considered by the Baldwin County Commission #2 Planning and Zoning Board of Adjustment shall be submitted no later than 4:30 p.m. on the deadline date listed below. *There will be no exceptions.*

MEETING DATE	STAFF REPORTS DUE	APPLICATION DEADLINE DATE
January 14, 2019		December 19, 2018
February 11, 2019		January 18, 2019
March 11, 2019		February 14, 2019
April 8, 2019		March 18, 2019
May 13, 2019		April 22, 2019
June 10, 2019		May 17, 2019
July 8, 2019		June 14, 2019
August 12, 2019		July 22, 2019
September 9, 2019		August 16, 2019
October 14, 2019		September 23, 2019
November 4, 2019		October 14, 2019
December 9, 2019		November 14, 2019

Dates may differ from original meeting dates and/or application deadline dates due to holidays, and may be subject to change upon request by the Chairman of the Board.

U:\Zoning\Board of Adjustment - Baldwin County Commission 2 (Eastern Shore)\Deadline and Meeting Calendar 2018