

**BALDWIN COUNTY COMMISSION DISTRICT 4
BOARD OF ADJUSTMENT**

AGENDA

March 14, 2019

Regular Meeting 3:30 p.m.

Baldwin County Satellite Courthouse

Large Meeting Hall

201 East Section Avenue

Foley, Alabama

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Transcript (February 14, 2019)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. V-190011, Cochran Property

Request: Approval of a variance from the jurisdictional wetlands setback requirement to allow for the construction of a single-family dwelling

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

Attachments: Within Report and Attached

b.) Case No. V-190014, Ryals Property

Request: Approval of a variance from the jurisdictional wetlands setback requirement to allow for the construction of a single-family dwelling

Location: The subject property is located at 20840 County Road 12 S in Planning District 30

Attachments: Within Report

6. Old Business
7. New Business
8. Adjournment



Baldwin County Planning & Zoning Department

County Commission District #4

Board of Adjustment Staff Report

Case No. V-190011

Cochran Property

Variance from Jurisdictional Wetlands Setback

March 14, 2019

Subject Property Information

Planning District: 25
General Area: Lot 35 Gulf Beach Subdivision A
Physical Address: State Highway 180
PID: 05-69-08-02-0-005-087.010
Zoning: RTF-4, Two Family District
Acreage: 1.07± acres,
Applicant: Carey Busbin
PO Box 2633
Huntsville, AL 35804
Owner: Wanda Jane Cochran
465 Dauphin Street
Mobile, AL 36602
Lead Staff: Linda Lee, Planner
Attachments: *Within Report and Attached*

	Adjacent Land Use	Adjacent Zoning
North	Mobile Bay	N/A
South	Residential	RSF-1, Single Family District
East	Vacant	RTF-4, Two Family District
West	Residential	RTF-4, Two Family District

Summary and Recommendation

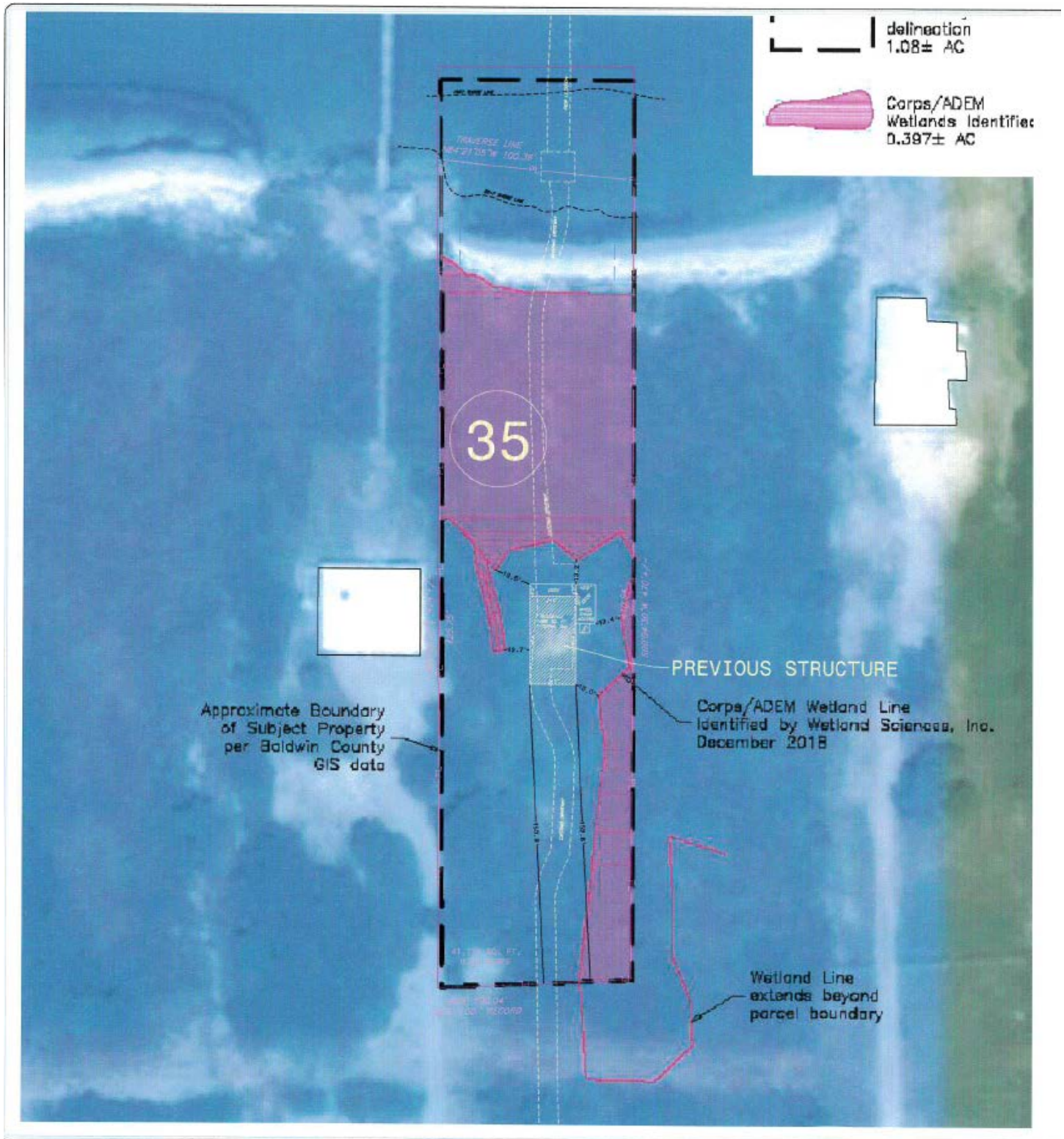
The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a new single family dwelling. The proposed footprint of the new dwelling is approximately 1432 square feet (not including the lift shown on site plan).

Staff recommends that Case No. V-190011, Cochran Property be **APPROVED**, based on comments contained herein.

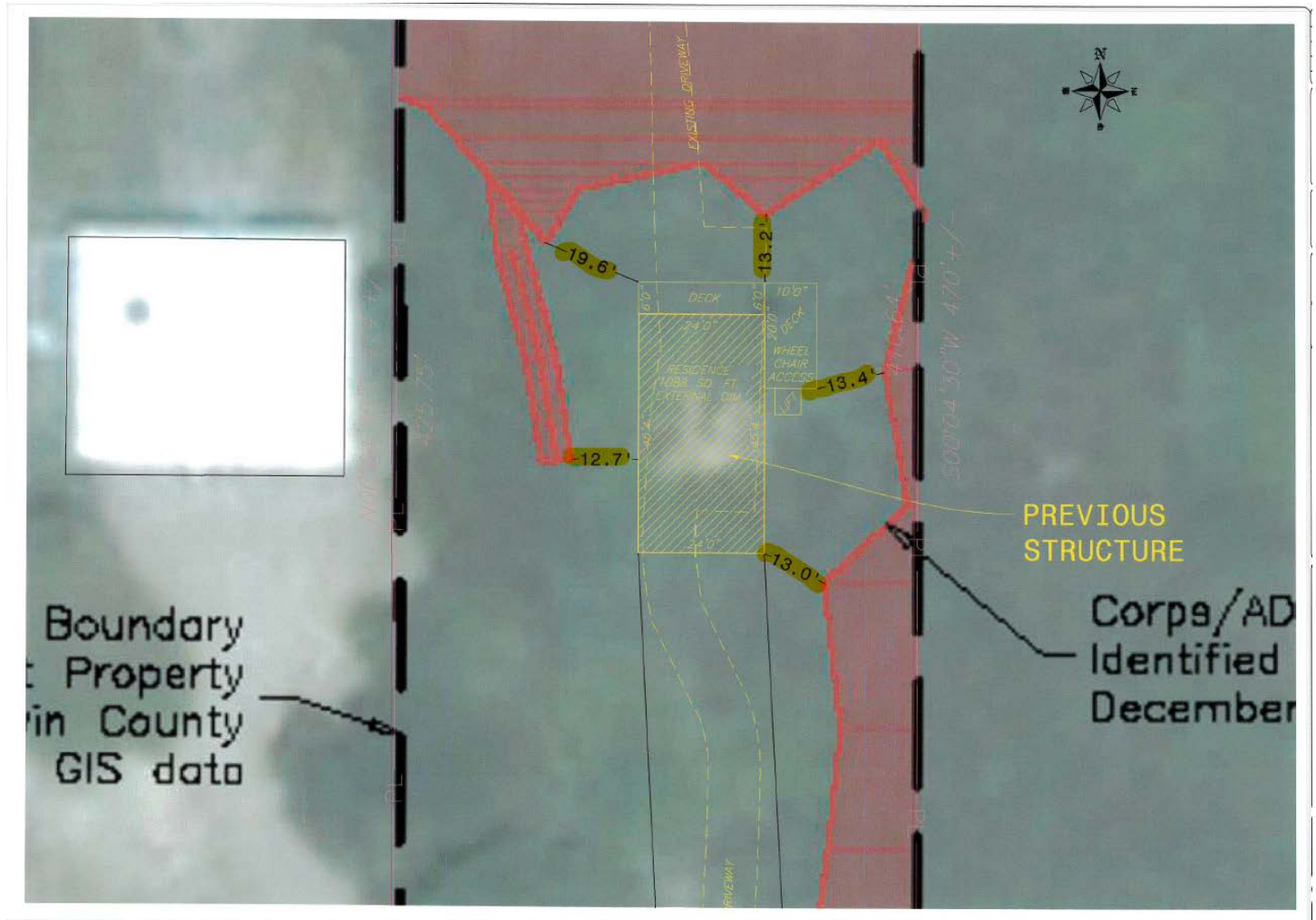
Variance Request

As stated above the applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a new single family dwelling. The proposed footprint of the new dwelling is approximately 1432 square feet (not including the lift shown on site plan).

Proposed Site Plan Submitted with Variance Application



Proposed Site Plan Submitted with Variance Application - Detail



Additional Information

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.

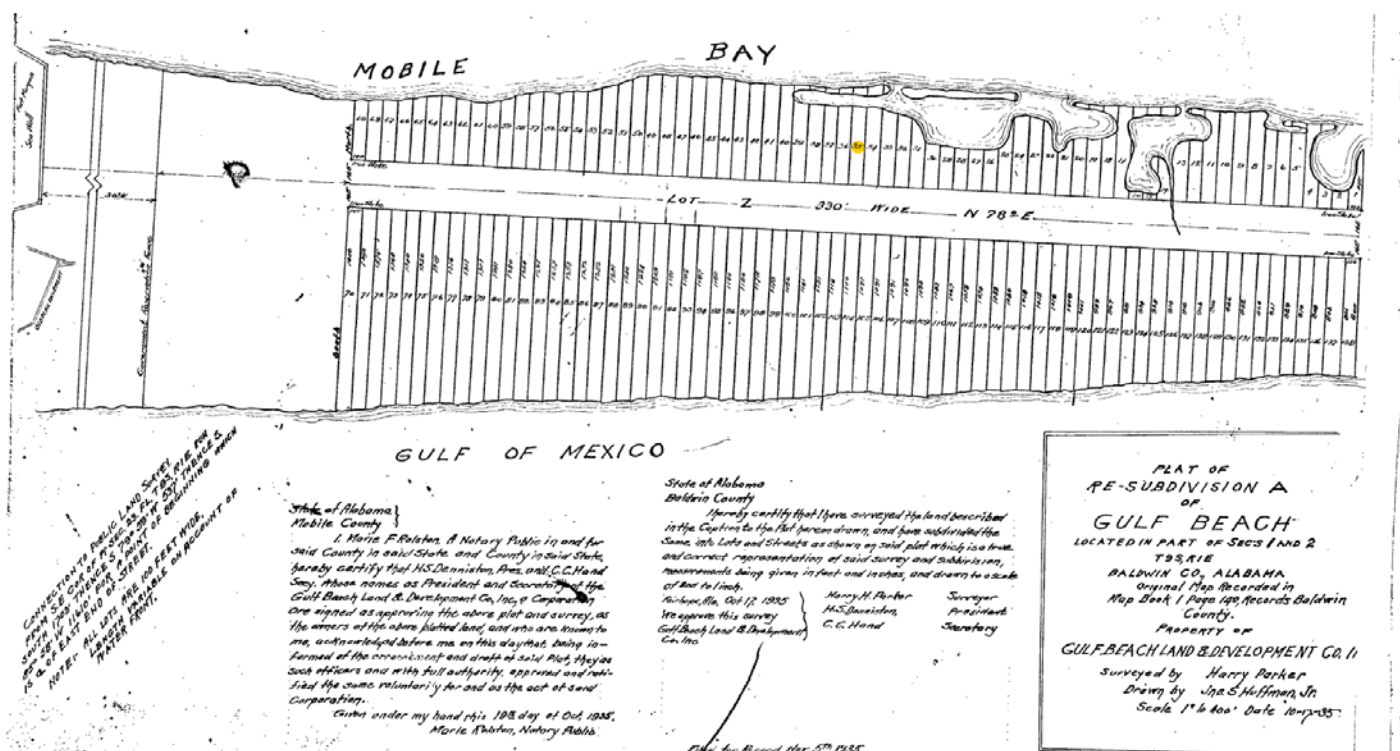
Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of 30-feet beyond the limits of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

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 currently vacant. The property adjoins State Hwy 180 to the south. The adjoining properties to the east and west are residential and vacant. The subject property is identified as lot 35 of Gulf Beach Subdivision A which was platted in 1935 prior to the enactment of zoning in Planning District 25 in November 1993.

Re-Subdivision A of Gulf Beach



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

Per the site plan submitted jurisdictional wetlands are on the north, east and west side of the property. The applicant is proposing to build a single family dwelling in the uplands with the closest setback from wetlands being 12.7 feet.

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 25. The applicant is proposing to build a single family dwelling in the uplands.

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.

The granting of this application should not have any impact on adjacent property owners.

5.) Other matters which may be appropriate.

Per the US Fish and Wildlife Service, the property doesn't afford suitable habitat for the Alabama Beach Mouse.



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE
P. O. Drawer 1190
Daphne, Alabama 36526

October 14, 2003

Mr. Arthur J. Madden, III
465 Dauphin Street
Mobile, AL 36602

Dear Mr. Madden:

The U.S. Fish and Wildlife Service (Service) has reviewed your proposal to construct an elevated boardwalk on parcel number 69-08-02-005-087.010 located on the north side of Highway 180 between mile markers two and three on the Fort Morgan Peninsula. We are providing our comments in accordance with the Endangered Species Act of 1973 (87Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Based on a review of our habitat maps and the information you furnished, we have determined that your property does not afford suitable habitat for the ABM. The Service has concluded that no endangered, threatened, or proposed species, or their designated Critical Habitat will be impacted by your project. Therefore, no further endangered species consultation will be required for this portion of the project unless: 1) the identified action is subsequently modified in a manner that causes an effect on listed species or a designated Critical Habitat; 2) new information reveals the identified action may affect Federally protected species or designated Critical Habitat in a manner or to an extent not previously considered; or 3) a new species is listed or Critical Habitat is designated under the Endangered Species Act that may be affected by the identified action.

Sincerely,

Larry Goldman
Field Supervisor

From: [Lynn, William](#)
To: [Linda Lee](#)
Subject: Re: <EXTERNAL> Re: [EXTERNAL] ITP
Date: Tuesday, February 12, 2019 2:38:25 PM

Looks good to me. Appears they are reusing the old driveway. Best regards!

Bill

Bill Lynn
Certified Wildlife Biologist

Per the applicant, there isn't an active Property Owners Association.

February 6, 2019

To whom it may concern:

Please be advised that there is not an active association, board or committee for the property referenced below:

Highway 180, Lot 35 Gulf Beach Subdivision A

Gulf Shores, AL 36542

<i>Wanda Jane Cochran</i>	dotloop verified 02/07/19 9:25 AM CST CTPN-VBLU7-BSEV-0BYV
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Wanda Cochran, Property Owner

Staff Comments and Recommendation

Staff feels this is a reasonable request and recommends that Case No. V-190011, Cochran Property be **APPROVED**.

GENERAL NOTES {By-laws}

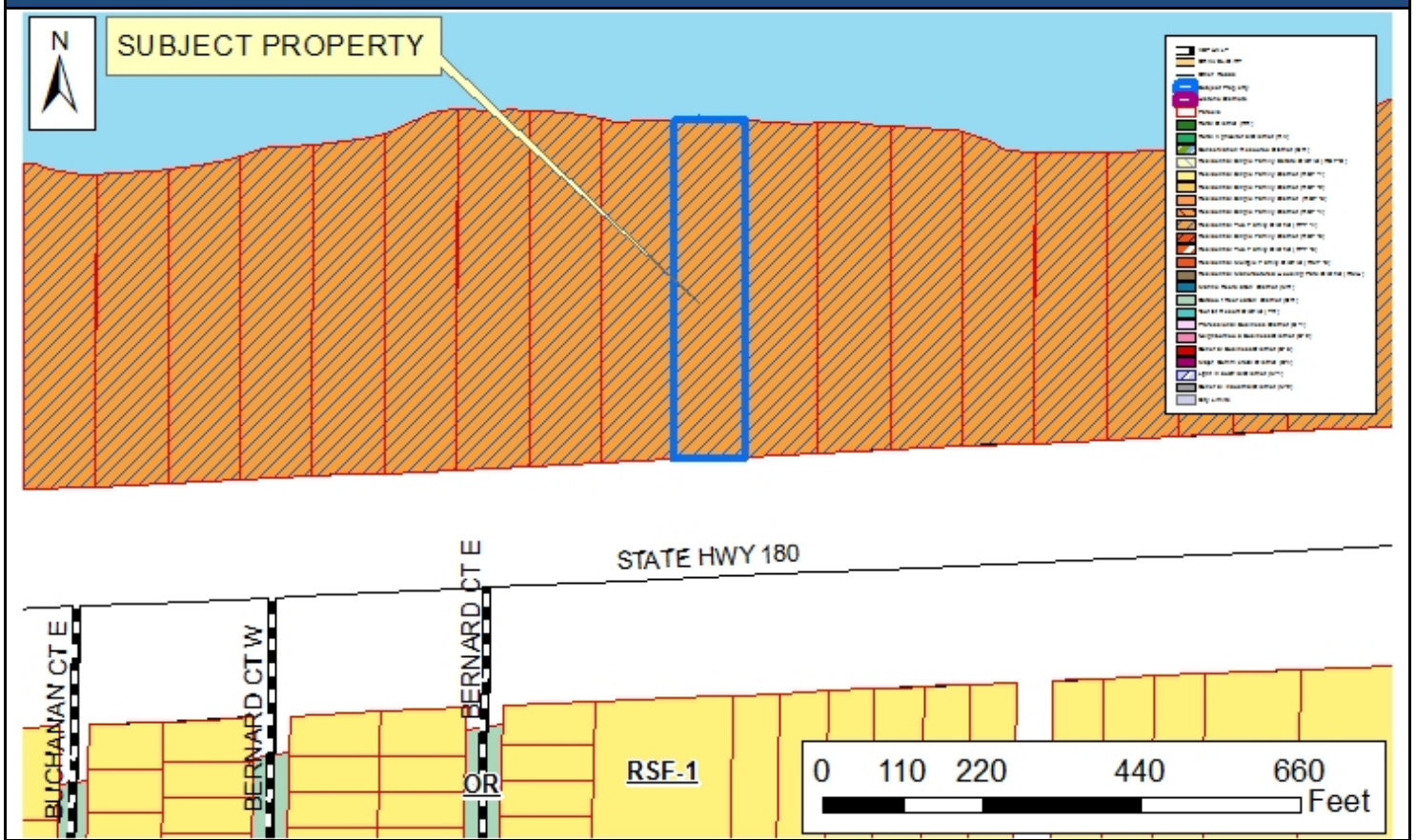
Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board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

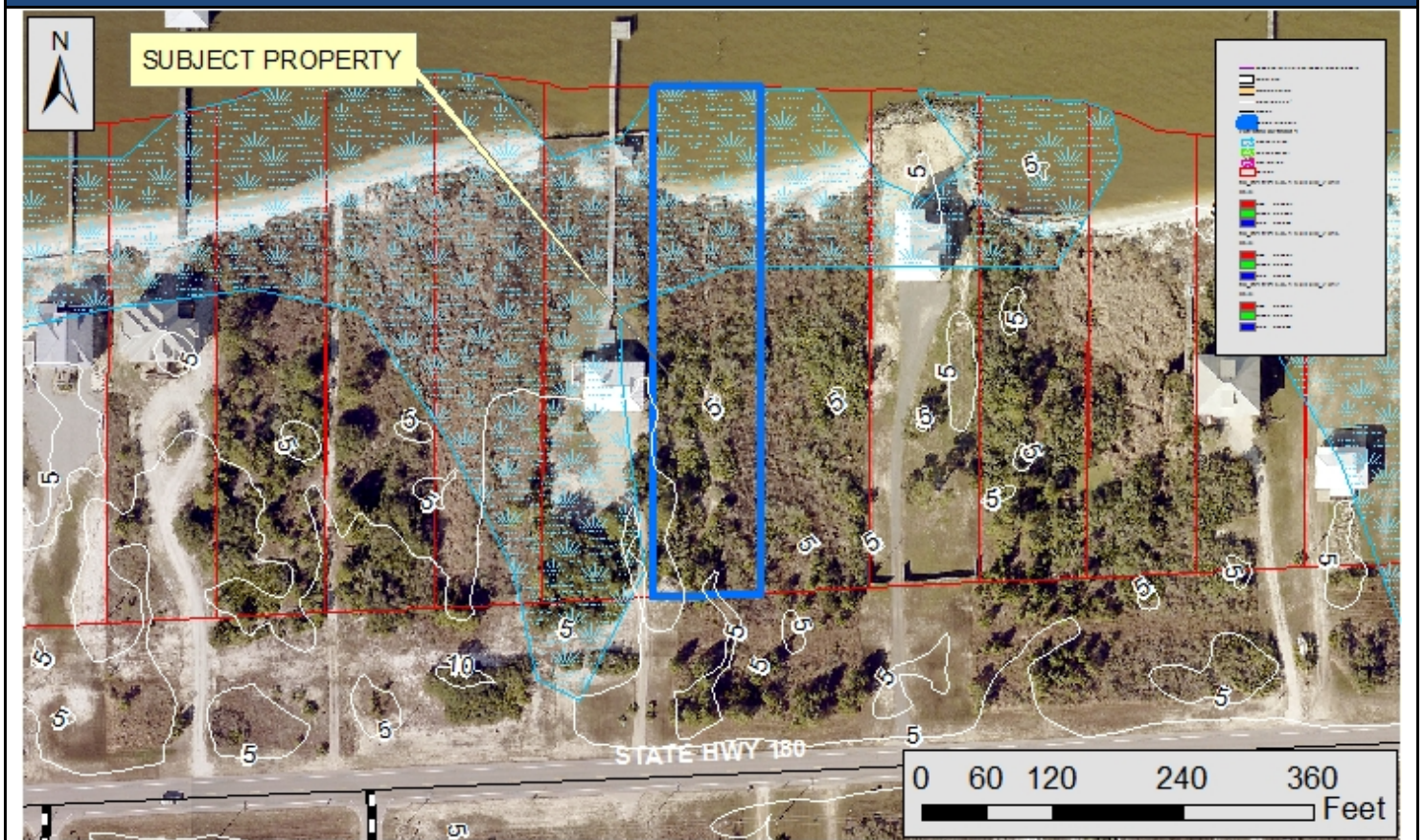




Locator Map



Site Map



Planning District 25 Advisory Committee Recommendation

From: [Chan West](#)
To: [Linda Lee](#)
Cc: ckittrell@southalabama.edu; [Ernie Church \(ecaces4@gmail.com\)](mailto:Ernie.Church(ecaces4@gmail.com)); [Randy Ulrich \(rulrich1982@gmail.com\)](mailto:Randy.Ulrich(rulrich1982@gmail.com)); twstrong@qulftel.com
Subject: <EXTERNAL> V-190011
Date: Wednesday, February 20, 2019 9:49:18 AM

The Fort Morgan Planning and Zoning Advisory Committee met at 9:00, February 20, 2019, at Shell Bank Baptist Church to consider V-190011. Present were Chan West, Bonnie Lowry, Thelma Strong, Ernie Church, Randy Ulrich, Joe Emerson and the applicants Carey and Missi Busbin. The committee unanimously approved the request for a variance from the jurisdictional wetlands setback requirement to allow for the construction of a new single-family dwelling.

Chan West
Chair

Letter from Applicant

Carey Busbin
PO Box 2633
Huntsville, Alabama 35804

Ms. Linda Lee
Baldwin County
201 East Section Road
Foley, Alabama 36532

Dear Ms. Lee:

Ref: Lot 35 Gulf Beach Subdivision A
Parcel ID 05-69-02-02-0-005-087.010

Enclosed is a Zoning Variance Application for Baldwin County. In particular, we are requesting a variance reduction from the 30 foot setback to 12 foot from wetlands. The current Federal Fish and Wildlife maps do not show wetlands on the lot. However, a wetland delineation performed in December 2018 indicated wetlands in several areas on the lot. We have made every effort to avoid disturbing the wetlands on the lot. The lot is only 100' wide with wetlands to the north (toward the bay), east and a small strip to the west. We have reviewed options to construct the 1088 square foot house on the lot and find the optimum placement of the house is on the highest spot elevation which is a non-wetland area. This is adjacent to the existing house to the west. The available Baldwin County information indicates an elevation of 5.0 feet. Elevations to the north (toward the bay) drop to 2.0 feet and elevation to the south (toward Highway 180) drop to 3.0 feet.


We believe a variance is justified because of the following:

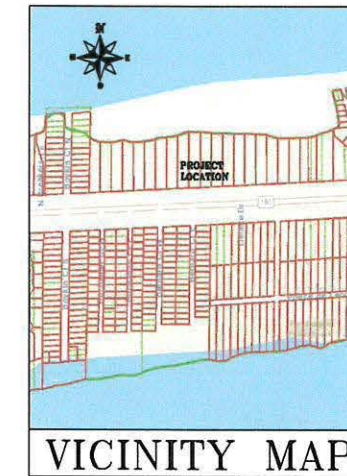
- The proposed house is not in a wetland.
- The lot is 100' wide. With wetlands on 3 sides.
- The location is the highest point on the lot.
- The proposed house is in the same location as a previous structure.
- The proposed house is adjacent to an existing house to the west.

We thank you very much for your consideration.

Sincerely,


Carey Busbin


Missi Busbin



EXISTING SITE NOTES:

1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
2. PARCEL: 66-69-08-02-0-005-087.010
3. DB/PG: 0507/000115
4. ZONING: RTF-4

LOT 35 BALDWIN COUNTY TAX MAP

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
PIP	POWER POLE	■	CONCRETE MONUMENT FOUND
PL	PROPERTY LINE NOT SURVEYED	⊗	TELEPHONE PEDESTAL
— GAS —	GAS LINE	⊕	EXISTING MANHOLE
— SAN —	WATER LINE	⊙	SANITARY SEWER MANHOLE
— ST —	STORM WATER LINE	⊖	EXISTING PAVEMENT
— H2O —	WATER LINE	⊗	CAPPED REBAR FOUND
— UE —	UNDERGROUND ELECTRIC	⊕	CRIMP TOP PIPE
— OHP —	OVERHEAD POWER	⊖	NOT TO SCALE
⊙	BENCHMARK	FO	FIBER OPTIC
— E —	EROSION CONTROL FENCE	⊕	FIRE HYDRANT
○	OPEN TOP PIPE	⊕	TREE OUTLINE
⊗	LIGHT POLE	⊕	FINISHED SPOT ELEVATION
⊕	GAS VALVE	⊕	WATER METER
⊕	WATER VALVE	⊕	GAS METER

REVISIONS

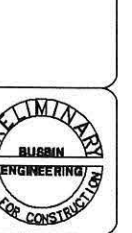


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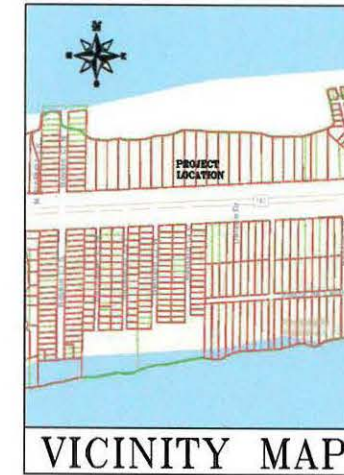
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CHECKED BY:
CPB

Bush Engineering & Surveying
Consulting Engineers
Professional Land Surveyors
924 Harding Street
Mobile, AL 36689
Phone: 251-333-1099
Alabama 36804

BALDWIN COUNTY TAX MAP
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama



DATE: 10-08-2019
SHEET
1 of 1



VICINITY MAP

EXISTING SITE NOTES:

1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
2. PARCEL: 56-69-08-02-0-005-087.010
3. DB/PG: 0507/000115
4. ZONING: RTF-4

1999 HISTORIC AERIAL PHOTO

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
P/P	POWER POLE	■	CONCRETE MONUMENT FOUND
PL	PROPERTY LINE NOT SURVEYED	⊗	TELEPHONE PEDESTAL
—GAS—	GAS LINE	⊗	EXISTING MANHOLE
—SAN—	WATER LINE	⊗	SANITARY SEWER MANHOLE
—ST—	STORM WATER LINE	EP	EXISTING PAVEMENT
—H2O—	WATER LINE	⊗	CAPPED REBAR FOUND
—UE—	UNDERGROUND ELECTRIC	⊗	CRIMP TOP PIPE
—OHP—	OVERHEAD POWER	⊗	NOT TO SCALE
⊗	BENCHMARK	⊗	FIBER OPTIC
⊗	EROSION CONTROL FENCE	⊗	FIRE HYDRANT
⊗	OPEN TOP PIPE	⊗	TREE OUTLINE
⊗	LIGHT POLE	⊗	FINISHED SPOT ELEVATION
⊗	GAS VALVE	⊗	WATER METER
⊗	WATER VALVE	⊗	GAS METER

REVISIONS



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CPB

Busbin Engineering & Surveying
Professional Land Surveyors
P.O. Box 2633
Huntsville, Alabama 35894
Phone: 1-256-533-8098

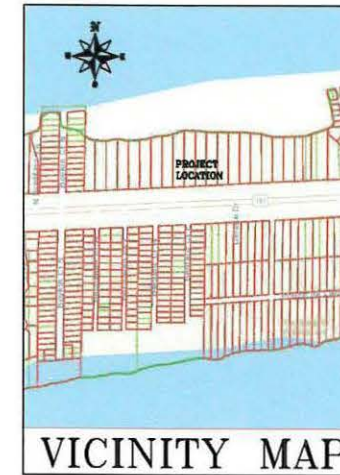


1999 HISTORICAL AERIAL PHOTO
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama



DATE: 02-08-2019

SHEET
1 of 1



EXISTING SITE NOTES:

1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
2. PARCEL: 55-69-08-02-0-005-087.010
3. DB/PG: 0507/000115
4. ZONING: RTF-4

CURRENT GOOGLE EARTH AERIAL PHOTOGRAPH

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
P/P	POWER POLE	■	CONCRETE MONUMENT FOUND
PL	PROPERTY LINE NOT SURVEYED	⊗	TELEPHONE PEDESTAL
— GAS —	GAS LINE	⊗	EXISTING MANHOLE
— SAN —	WATER LINE	⊗	SANITARY SEWER MANHOLE
— ST —	STORM WATER LINE	⊗	EXISTING PAVEMENT
— H2O —	WATER LINE	⊗	CAPPED REBAR FOUND
— UE —	UNDERGROUND ELECTRIC	⊗	CRIMP TOP PIPE
— OHP —	OVERHEAD POWER	⊗	NOT TO SCALE
⊙	BENCHMARK	⊗	FIBER OPTIC
— ECF —	EROSION CONTROL FENCE	⊗	FIRE HYDRANT
○	OPEN TOP PIPE	⊗	TREE OUTLINE
⊗	LIGHT POLE	⊗	FINISHED SPOT ELEVATION
⊗	GAS VALVE	⊗	WATER METER
⊗	WATER VALVE	⊗	GAS METER

REVISIONS



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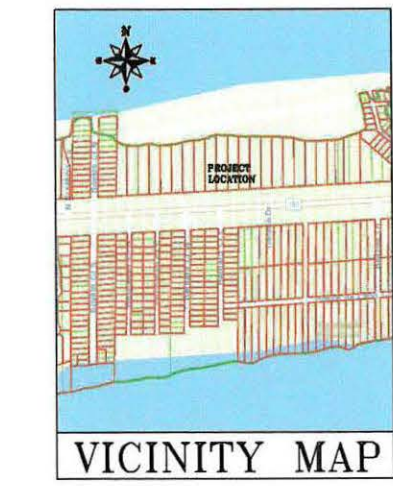
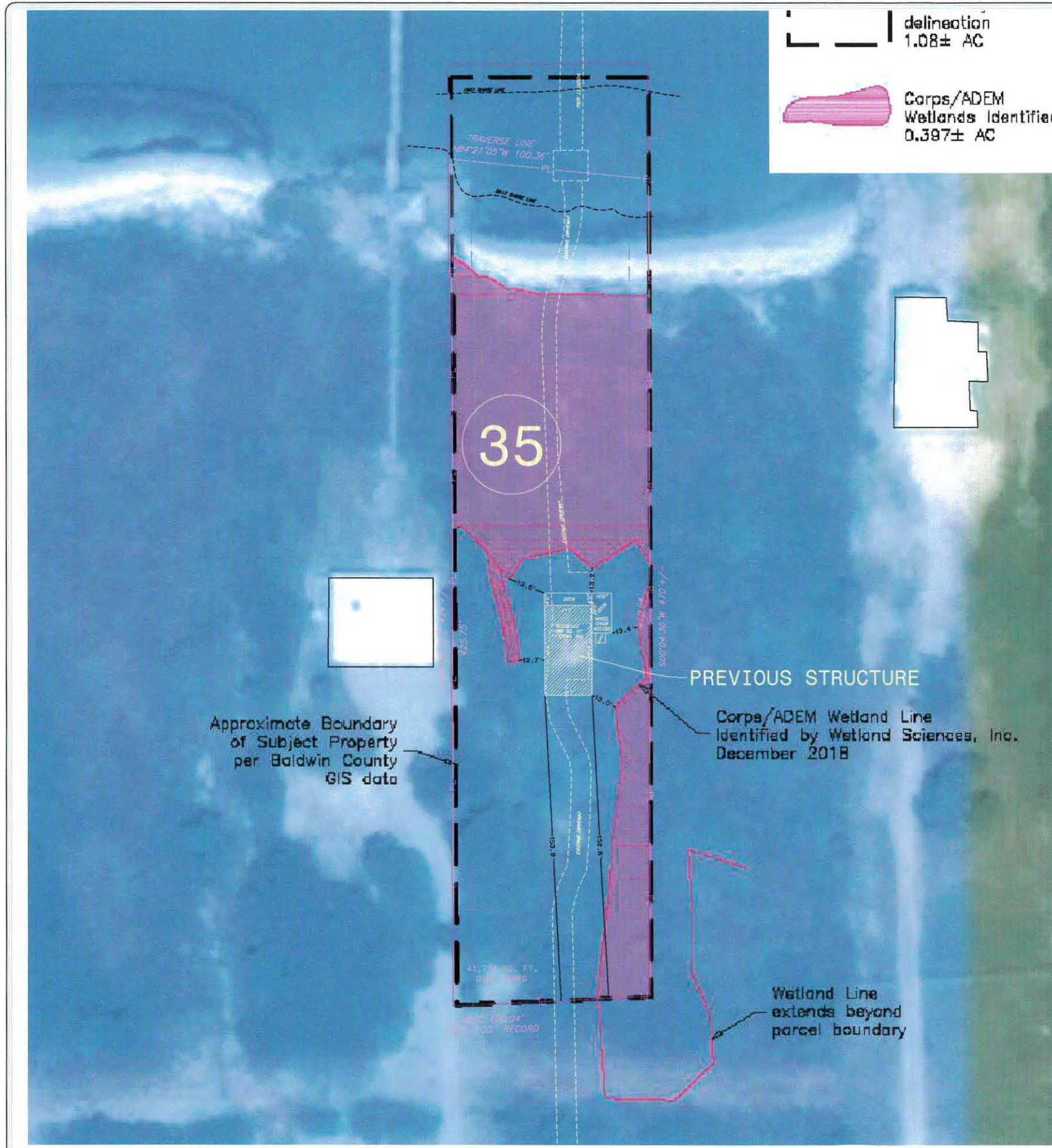
Busbin Engineering & Surveying
Consulting Engineers
Professional Land Surveyors
P.O. Box 2633
824 Marlin Street
Huntsville, AL 35893
Phone: 1-256-533-1999

EXISTING SITE
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama



DATE: 02-08-2019

SHEET
1 of 1



- EXISTING SITE NOTES:**
1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
 2. PARCEL: 66-69-08-02-0-005-087.010
 3. DB/PG: 0507/000115
 4. ZONING: RTF-4

DECEMBER 2018 WETLANDS DELINEATION

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
P/P	POWER POLE	■	CONCRETE MONUMENT FOUND
PL	PROPERTY LINE NOT SURVEYED	⊠	TELEPHONE PEDESTAL
— GAS	GAS LINE	⊙	EXISTING MANHOLE
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— ST	STORM WATER LINE	EP	EXISTING PAVEMENT
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— UE	UNDERGROUND ELECTRIC	⊙	CRIMP TOP PIPE
— OHP	OVERHEAD POWER	⊙	NOT TO SCALE
⊙	BENCHMARK	FO	FIBER OPTIC
—	EROSION CONTROL FENCE	⊙	FIRE HYDRANT
○	OPEN TOP PIPE	⊙	TREE OUTLINE
⊙	LIGHT POLE	⊙	FINISHED SPOT ELEVATION
⊙	GAS VALVE	⊙	WATER METER
⊙	WATER VALVE	⊙	GAS METER

REVISIONS

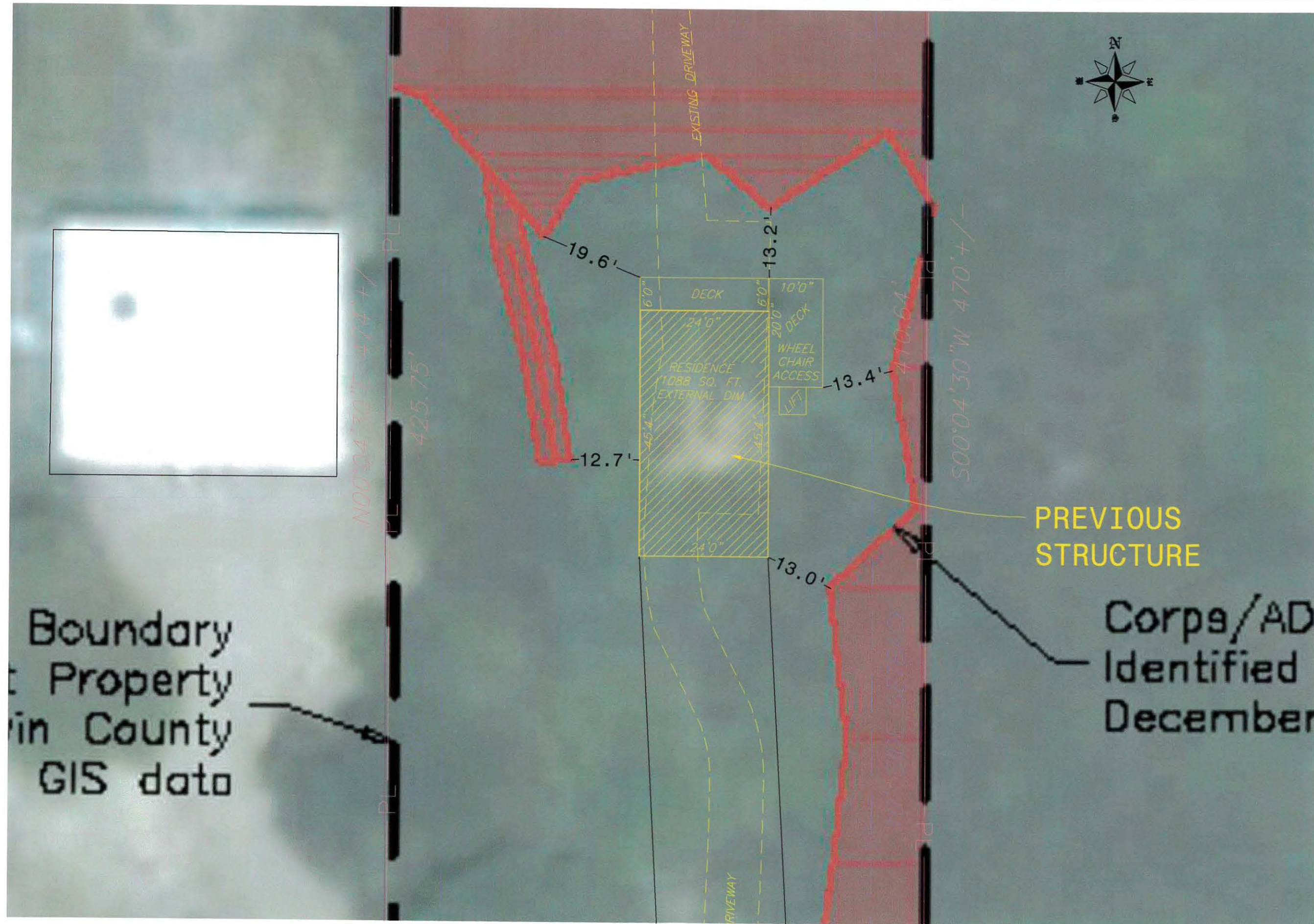
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SITE_PLAN.DWG

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N/A
OFFICE WORK COMPLETED:
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CHECKED BY:
CPB

Busbin Engineering & Surveying
Professional Land Surveyors
824 Madison Street, Suite 200
Mobile, Alabama 36688
Phone 1-256-533-5000

WETLANDS DELINEATION
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama

DATE: 02-08-2019
SHEET
1 of 1



REVISIONS

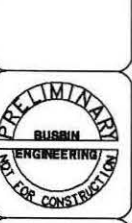


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SITE_PLAN.DWG

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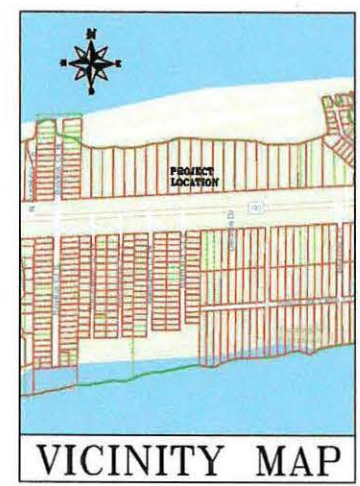
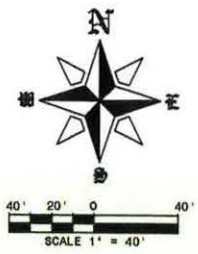
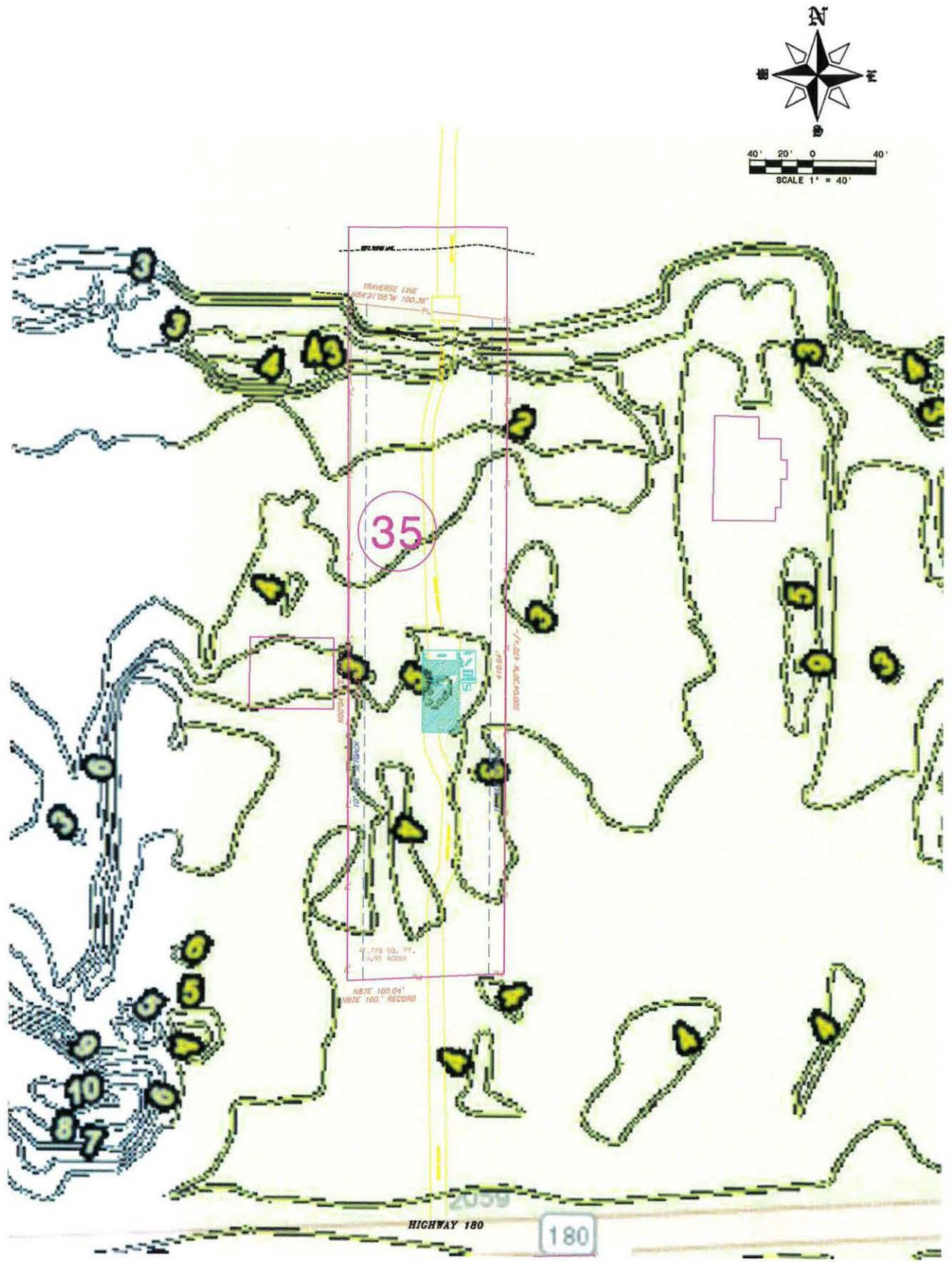
Busbin Engineering & Surveying
 Consulting Engineers
 Professional Land Surveyors
 824 Marlin Street, Suite 200
 Wetumpka, Alabama 36094
 Phone: 1-256-533-1099

WETLANDS DELINEATION DETAIL
 LOT 35
 GULF SHORES SUBDIVISION A
 Baldwin County, Alabama



DATE: 02-08-2019

SHEET
1 of 1



VICINITY MAP

EXISTING SITE NOTES:

1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
2. PARCEL: 66-69-08-02-0-005-087.010
3. DB/PG: 0507/000115
4. ZONING: RTF-4

BALDWIN COUNTY TOPOGRAPHIC MAP

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
P/P	POKER POLE	■	CONCRETE MONUMENT FOUND
PL	PROPERTY LINE NOT SURVEYED	⊗	TELEPHONE PEDESTAL
— GAS —	GAS LINE	⊗	EXISTING MANHOLE
— SAN —	WATER LINE	⊗	SANITARY SEWER MANHOLE
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⊕	BENCHMARK	FO	FIBER OPTIC
— ECF —	EROSION CONTROL FENCE	⊗	FIRE HYDRANT
○	OPEN TOP PIPE	⊗	TREE OUTLINE
⊗	LIGHT POLE	⊗	FINISHED SPOT ELEVATION
⊗	GAS VALVE	⊗	WATER METER
⊗	WATER VALVE	⊗	GAS METER

REVISIONS

SCALE
1" = 40'
DESIGNED BY:
CPB
DRAWN BY:
CPB
DRAWING NAME:
SITE_PLANDWG

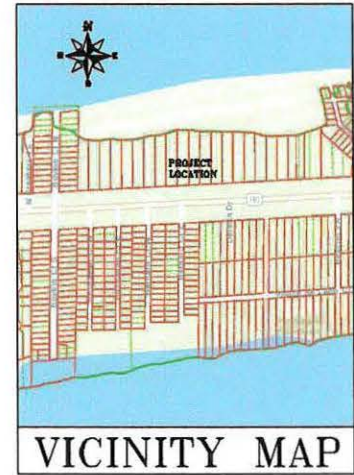
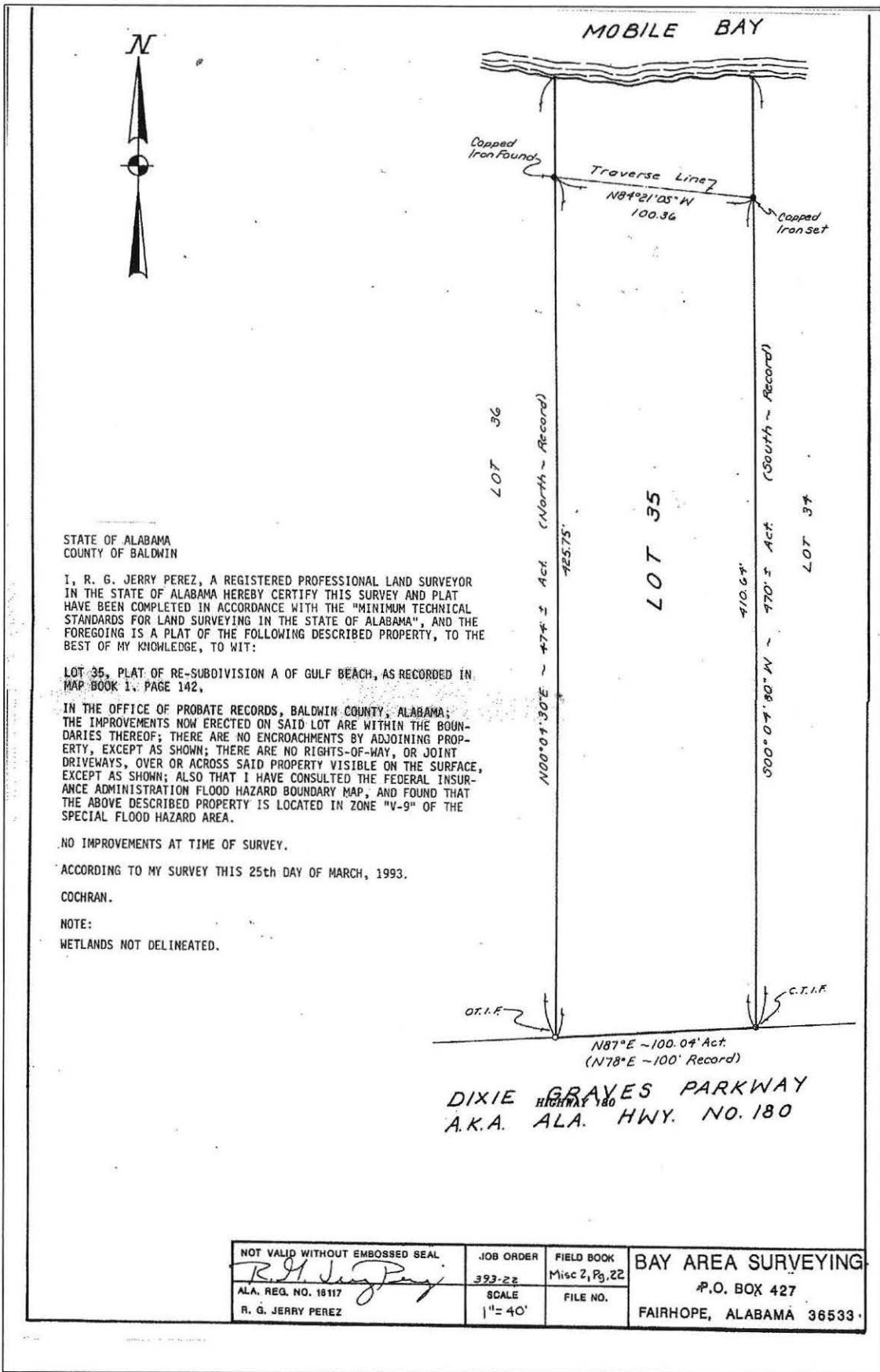
FIELD WORK BY:
N/A
FIELD WORK COMPLETED:
N/A
OFFICE WORK COMPLETED:
N/A
CHECKED BY:
CPB

Busbin Engineering & Surveying
Consulting Engineers
Professional Land Surveyors
824 Marston Street, Suite 300
Huntsville, Alabama 35891
Phone: 256-533-5088

BALDWIN COUNTY TOPOGRAPHIC
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama

PRELIMINARY
BUSBIN
ENGINEERING
NOT FOR CONSTRUCTION

DATE: 02-08-2019
SHEET
1 of 1



EXISTING SITE NOTES:

1. ADDRESS:
LOT 35
GULF BEACH SUBDIVISION A
BALDWIN COUNTY, ALABAMA
2. PARCEL: 56-69-08-02-0-005-087.010
3. DB/PG: 0507/000115
4. ZONING: RTF-4

BOUNDARY SURVEY

LEGEND			
●	IRON PIN	○	CAPPED REBAR SET
P/P	POWER POLE	■	CONCRETE WORKMENT FOUND
— PL —	PROPERTY LINE NOT SURVEYED	⊠	TELEPHONE PEDESTAL
— GAS —	GAS LINE	⊙	EXISTING MANHOLE
— SAN —	WATER LINE	⊙	SANITARY SEWER MANHOLE
— ST —	STORM WATER LINE	⊙	EXISTING PAVEMENT
— H2O —	WATER LINE	⊙	CAPPED REBAR FOUND
— UE —	UNDERGROUND ELECTRIC	⊙	GRIMP TOP PIPE
— OP —	OVERHEAD POWER	⊙	NOT TO SCALE
⊙	BENCHMARK	⊙	FIBER OPTIC
— E —	EROSION CONTROL FENCE	⊙	FIRE HYDRANT
○	OPEN TOP PIPE	⊙	TREE OUTLINE
⊙	LIGHT POLE	⊙	FINISHED SPOT ELEVATION
⊙	GAS VALVE	⊙	WATER METER
⊙	WATER VALVE	⊙	GAS METER

REVISIONS



SCALE:
1" = 40'
DESIGNED BY:
CPB
DRAWN BY:
CPB
DRAWING NAME:
SITE PLANDWG

FIELD WORK BY:
N/A
FIELD WORK COMPLETED:
N/A
OFFICE WORK COMPLETED:
N/A
CHECKED BY:
CPB

Busbin Engineering & Surveying
Professional Land Surveyors
624 Meridian Street, Suite 100
Birmingham, Alabama 35204
Phone 1-256-323-9098

BOUNDARY SURVEY
LOT 35
GULF SHORES SUBDIVISION A
Baldwin County, Alabama



DATE 102-08-2019

SHEET
1 of 1



Baldwin County Planning & Zoning Department

County Commission District #4

Board of Adjustment Staff Report

Case No. V-190014

Ryals Property

Variance from Jurisdictional Wetlands Setback

March 14, 2019

Subject Property Information

Planning District: 30
General Area: South side of County Road 12 west of James Road
Physical Address: 20840 County Road 12 S
PID: 05-61-05-16-0-001-005.003
Zoning: RA, Rural Agricultural District
Acreage: 0.98± acres,
Applicant: Rhett Smith
1356 West Beach Boulevard
Gulf Shores, AL 36542
Owner: Donald C. Ryals
PO Box 4088
Gulf Shores, AL 36547
Lead Staff: Linda Lee, Planner
Attachments: *Within Report and Attached*

	Adjacent Land Use	Adjacent Zoning
North	Vacant	RA, Rural Agricultural District
South	Residential	RA, Rural Agricultural District
East	Residential	City of Foley
West	Residential	RA, Rural Agricultural District

Summary and Recommendation

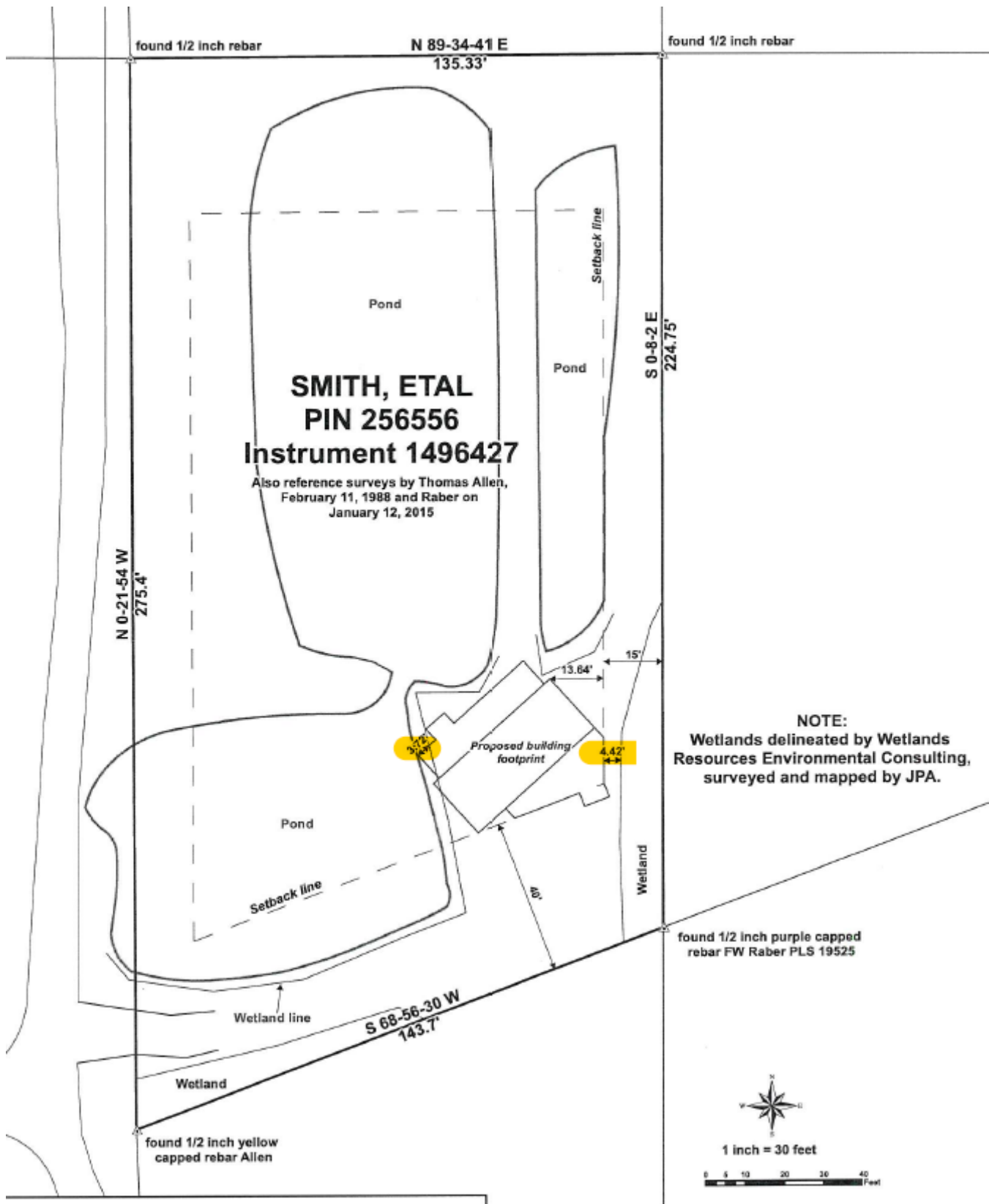
The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a new single family dwelling. The proposed footprint of the new dwelling is approximately 1209 square feet.

Staff recommends that Case No. V-190014, Ryals Property be **APPROVED**, based on comments contained herein.

Variance Request

As stated above the applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a new single family dwelling. The proposed footprint of the new dwelling is approximately 1209 square feet.

Proposed Site Plan Submitted with Variance Application



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 currently vacant. The property is accessed along a dirt road that intersects County Road 12 South. The adjoining properties are vacant and residential. The property is approximately 146.5 feet wide and 240 feet deep on the east side. The property consist of approximately 0.98 acres which is much less than the minimum lot area of 3 acres required for property zoned RA, Rural Agricultural.

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

The property is covered with two ponds and there are jurisdictional wetlands on the south and southeast portions of the property per a wetlands delineation map marked by Wetland Resources Environmental Consulting. The applicant is proposing to build a single family dwelling in an area of uplands.

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.

Single Family dwellings are permitted by right in the RA, Rural Agricultural District. The applicant is proposing to build a single-family dwelling approximately 1209 square feet.

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.

The granting of this application should not have any impact on adjacent property owners.

5.) Other matters which may be appropriate.

Staff Comments and Recommendation

Staff feels this is a reasonable request and recommends that Case No. V-190014, Ryals Property be **APPROVED**.

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.

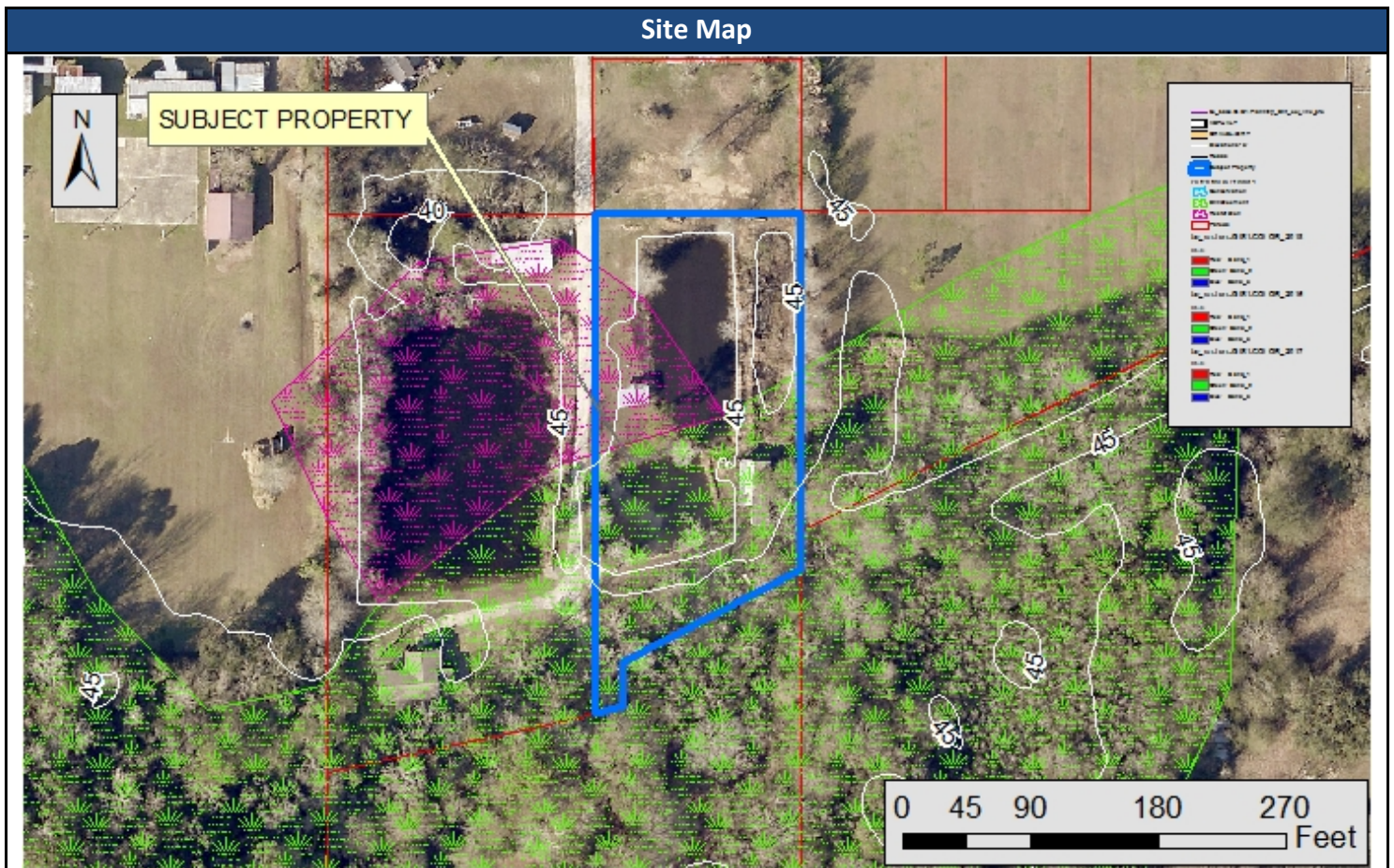
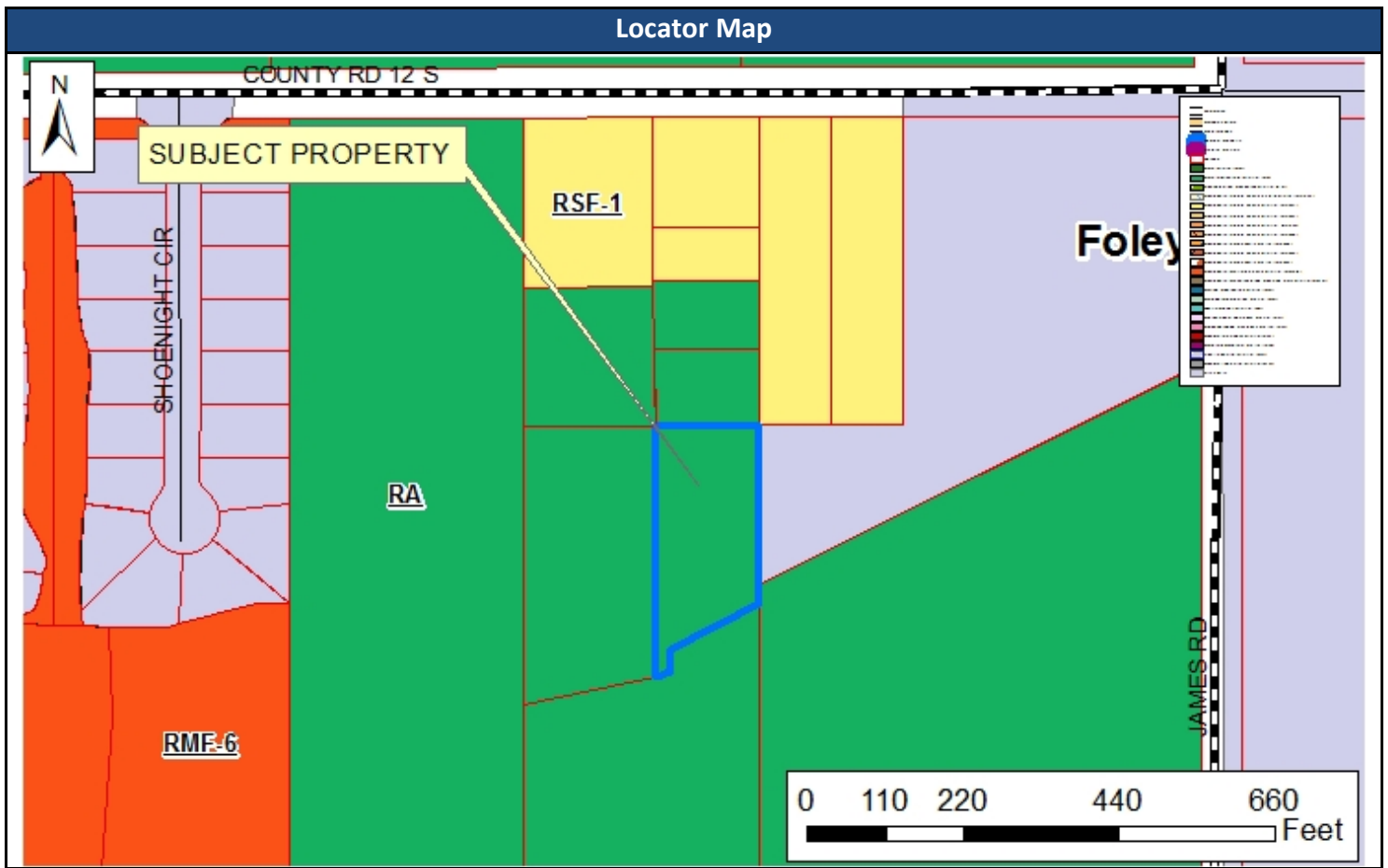
Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions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

Property Images









Wetland Delineation

