

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

AGENDA

May 9, 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 Minutes (April 11, 2019)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. V-190017, Taylor Property

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

Location: The subject property is located at 30781 Harbour Drive in Planning District 24

Attachments: *Within Report*

b.) Case No. AD-19001, Deppe Property

Request: Appealing the issuance of a Cease and Abate Notice for the Operation of a Boat Repair Business on Property Zoned for Residential Use

Location: The subject property is located at 12213 Perdido Street in Planning District 33

Attachments: *Within Report and Attached*

6. Old Business
7. New Business
8. Adjournment

Baldwin County Commission District 4, Board of Adjustment

April 11, 2019

Regular Meeting Minutes

Foley Satellite Courthouse

Conference Room

The Board of Adjustment for Baldwin County Commission District 4 met in a regular session on April 11, 2019 at 3:31 p.m., in the Baldwin County Foley Satellite Courthouse Conference Room. Chairman, Stuart Arnold called the meeting to order. Members present included: Samuel Mitchell, James Koeppen, Jack Danley, Robert Broseus, JoAnn Bodree, Ernie Church, Johanna Moloney, John Hilderbrandt and Younnie Veal. Staff member present was DJ Hart, Planning Technician.

The first order of business was approval of the minutes from the March 14, 2019 meeting. A motion to approve the meeting minutes was made by Mr. Church with a second by Mr. Koeppen and the motion passed unanimously.

V-160013, Jelenko Property

Ms. Hart presented the applicant's request for a rear and west side yard setback variance to allow an existing deck to be enclosed for living area. Staff recommended that the request be approved.

The applicant representative, Tom Martin, was present and explained the addition and location of the stairs. He answered a few questions related to the stairs and there was a brief discussion. There was no one in opposition present.

Mr. Mitchell made a motion to approve the request with a second from Mr. Church. The motion passed unanimously.

V-160015 Brislin Property

Ms. Hart presented the applicant's request for a variance from the jurisdictional wetlands setback requirement and a variance from the VE Flood Zone setback requirement to allow for the construction of a new single-family dwelling. Staff recommended that the request be approved.

The applicant representative, Jerry Hutcherson, was present to answer questions. There were questions about any fill to be placed on the lot. There will be no fill, only pilings and a slab under the house and driveway.

There was no one in opposition present at the meeting but, an email which was received from the adjacent neighbor, who is in opposition, was given to each board member to read.

Mr. Church made a motion to approve the request with a second from Mr. Mitchell. The motion passed unanimously.

Adjournment

There being no further business to come before the board Mr. Mitchell made a motion to adjourn the meeting. The motion received a second from Mr. Church and the meeting was adjourned at 3:57 p.m.

Respectfully Submitted

DJ Hart, Planning Technician

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2019.

Stuart Arnold, Chairman



Baldwin County Planning & Zoning Department

County Commission District #4

Board of Adjustment Staff Report

Case No. V-190017

Taylor Property

Variance from Jurisdictional Wetlands Setback

May 9, 2019

Subject Property Information

Planning District: 24
General Area: Lot 7 Resub of Ono Harbour Unit 2, Block One
Physical Address: 30781 Harbour Drive
PID: 05-64-03-06-0-000-001.044
Zoning: RSF-2, Single Family District
Acreage: 0.90± acres,
Applicant: William G. and Katharine D. Taylor
14100 River Road Unit 226B
Pensacola, FL 32507
Owner: Same
Lead Staff: Linda Lee, Planner
Attachments: *Within Report and Attached*

	Adjacent Land Use	Adjacent Zoning
North	Ono Cove	N/A
South	Residential	RSF-2, Single Family District
East	Residential	RSF-2, Single Family District
West	Residential	RSF-2, Single 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 2971 square feet. Per the survey submitted there are jurisdictional wetlands along the west property line approximately 1-foot deep. The applicant is proposing the dwelling be 21.2 feet from these wetlands. The proposed dwelling meets the wetlands setback requirement from the wetlands on the north side of the property.

Staff recommends that Case No. V-190017, Taaylor 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 2971 square feet.

LOT 7 WETLANDS (VACANT)

LOT 8 UPLANDS

PROPOSED HOUSE

UPLANDS

WETLANDS

ONONO HARBOUR

HARBOUR DRIVE 60' R/W

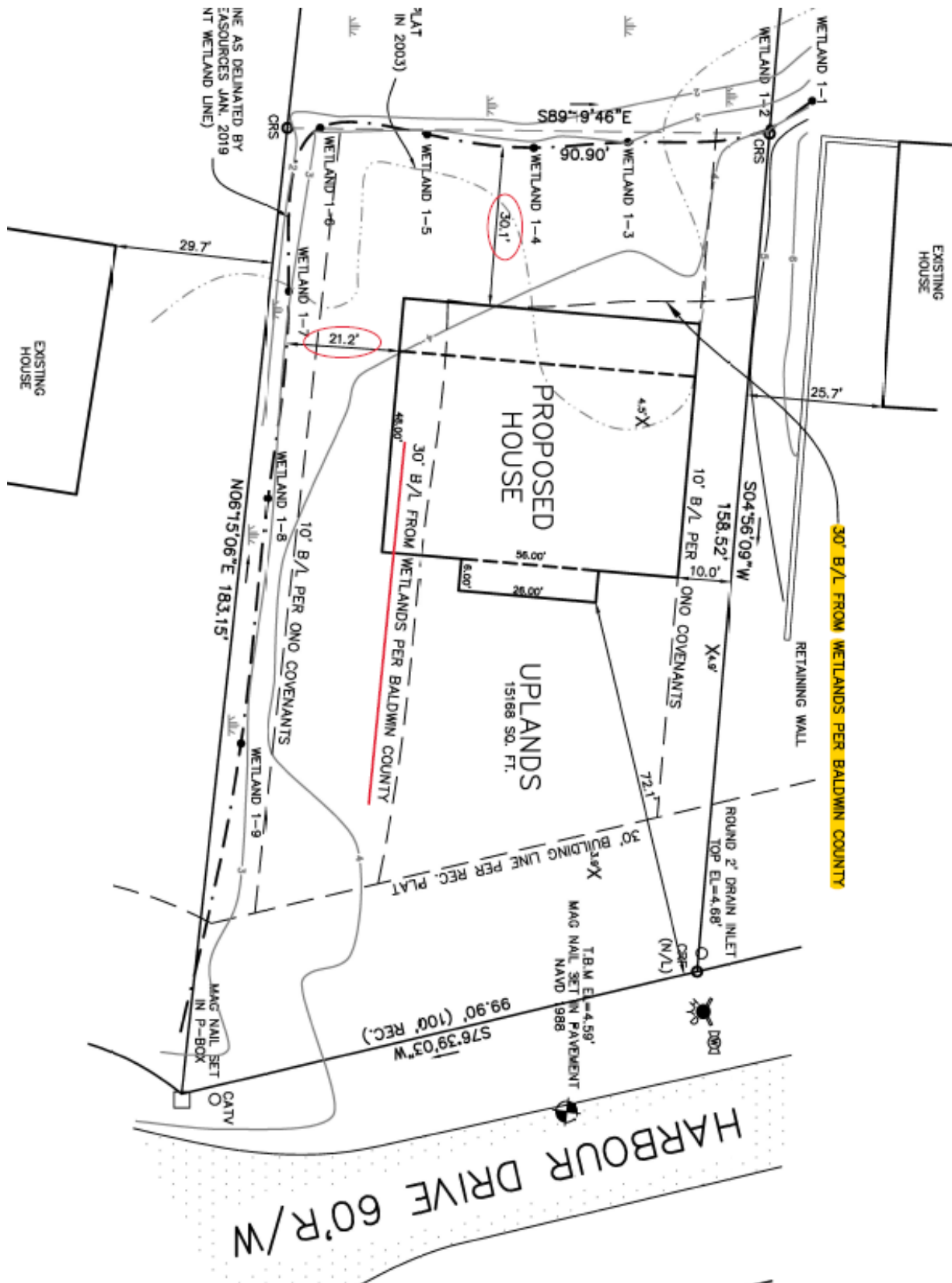
AREA DATA

AREA	AREA (SQ. FT.)
UPLANDS	15,168
WETLANDS	21,991
TOTAL	37,159

NOTES:

1. THE TOTAL AREA OF THE SITE IS 37,159 SQ. FT.
2. THE TOTAL AREA OF THE UPLANDS IS 15,168 SQ. FT.
3. THE TOTAL AREA OF THE WETLANDS IS 21,991 SQ. FT.
4. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
5. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
6. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
7. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
8. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
9. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.
10. THE TOTAL AREA OF THE PROPOSED HOUSE IS 1,200 SQ. FT.

Proposed Site Plan Submitted with Variance Application – Close-up



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.

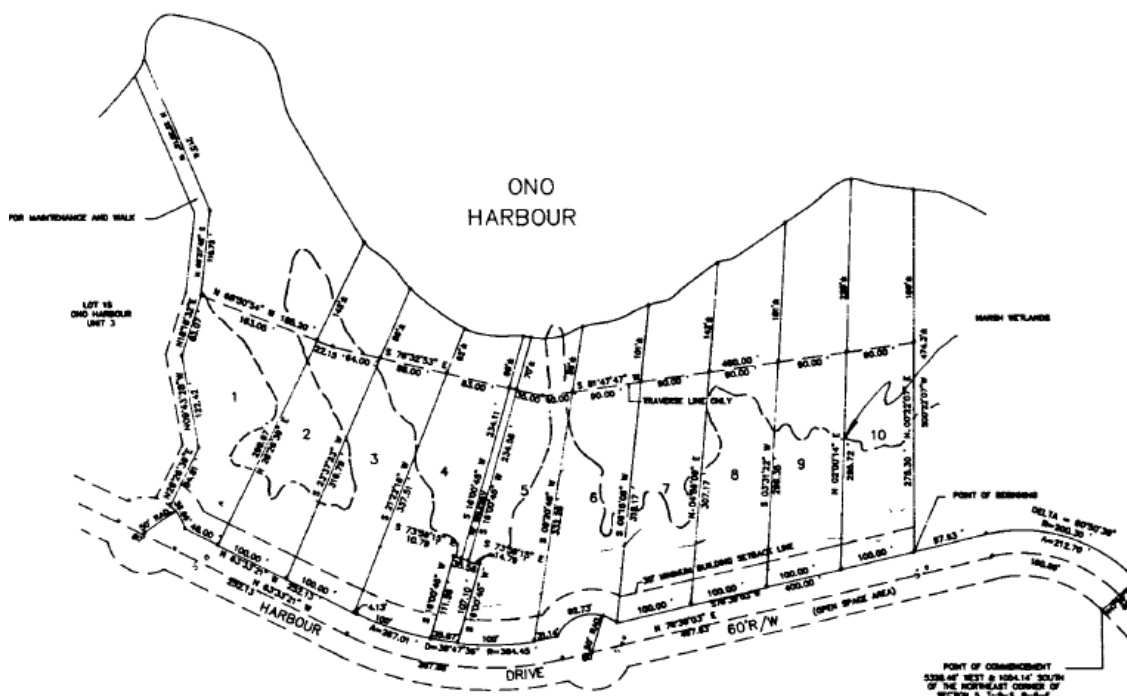
Staff Analysis and Findings

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 adjoins Harbour Drive to the south. The adjoining properties are residential. The subject property is identified as lot 7 of Ono Harbour Unit 2, Block One which was recorded in 1992 prior to the enactment of zoning in Planning District 24 in April 1993. Wetlands along west property line shown on current survey does not appear to be delineated on subdivision survey.

Re-Subdivision Ono Harbor Unit Two Block One



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, 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 21.2 feet on the west side.

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 24. 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.

Applicant's Statement

Taylor Variance Request, Ono Harbour, Unit 2, Lot 7

The purpose of this Variance:

To allow the building of a single-family residential home 21 feet, as opposed to 30 feet (Baldwin County Wetland Setback), from a narrow stormwater runoff wetland approximately 1 foot wide on the west side of the property.

What are the conditions which prevent you from using this property in accordance with its current zoning classification?

The wetlands along the west side of the lot have been mostly cleared and are frequently mowed by the adjacent neighbor. The area consists of lawn grass and other low growing herbaceous plants that can tolerate mowing. Several landscaping plants have also been installed by the neighbor. The primary functions provided by this area of wetlands is filtration of stormwater runoff from the street and adjacent higher ground and limited wildlife habitat. These functions will not be altered by situating the house 21 feet from the wetland rather than 30 feet from it. Together with Ono Harbour's setback requirements and minimum square footage requirements for the house, the proposed site plan is the only practical alternative.

Wetlands Determination From USACOE



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

April 15, 2019

South Alabama Branch
Regulatory Division

Subject: Department of the Army Jurisdictional Determination, File Number SAM-2019-00180-CDJ, William G. & Katharine Taylor, Orange Beach, Baldwin County, Alabama

Mr. William G. & Ms. Katharine Taylor
Email Address: Ktaylor1000@aol.com
4121 Harbor Road
Orange Beach, Alabama 36561

Dear Mr. and Ms. Taylor:

Reference is made to the request, submitted on your behalf by Wetland Resources Environmental Consulting, for a Department of the Army (DA) Jurisdictional Determination (JD) for Lot 7, Unit 2, / 30781 Harbour Drive in the Ono Island Subdivision (Baldwin County Parcel PIN: 102835). The request has been assigned file number SAM-2019-00180-CDJ, which should be referred to in all future correspondence with this office concerning this project area. The project area is located on Ono Harbour, north of Harbour Drive; at Latitude 30.295539° North, Longitude -87.501164° West; within Section 6, Township 9 South, Range 6 East; in Orange Beach, Baldwin County, Alabama.

Based on our review of the information furnished by your agent, publicly available mapping information, and a site visit conducted on February 27, 2019, we have verified the accuracy of the attached wetland delineation boundary map, and determined that the 0.85-acre parcel contains approximately 0.5 acre of jurisdictional wetlands. This determination was based upon criteria contained in the 1987 *Corps of Engineers Wetland Delineation Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)*.

This site was reviewed pursuant to Section 404 of the Clean Water Act, which requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the United States, including wetlands, prior to conducting the work (33 U.S.C. § 1344). For regulatory purposes, the U.S. Army Corps of Engineers (USACE) defines wetlands as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

This letter contains an Approved Jurisdictional Determination (AJD) for your subject site. If you object to this determination, you may request an Administrative Appeal under USACE Regulations at 33 CFR Part 331. Attached you will find a Notification of Appeal

Staff Comments and Recommendation

Staff feels this is a reasonable request and recommends that Case No. V-190017, Taylor 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



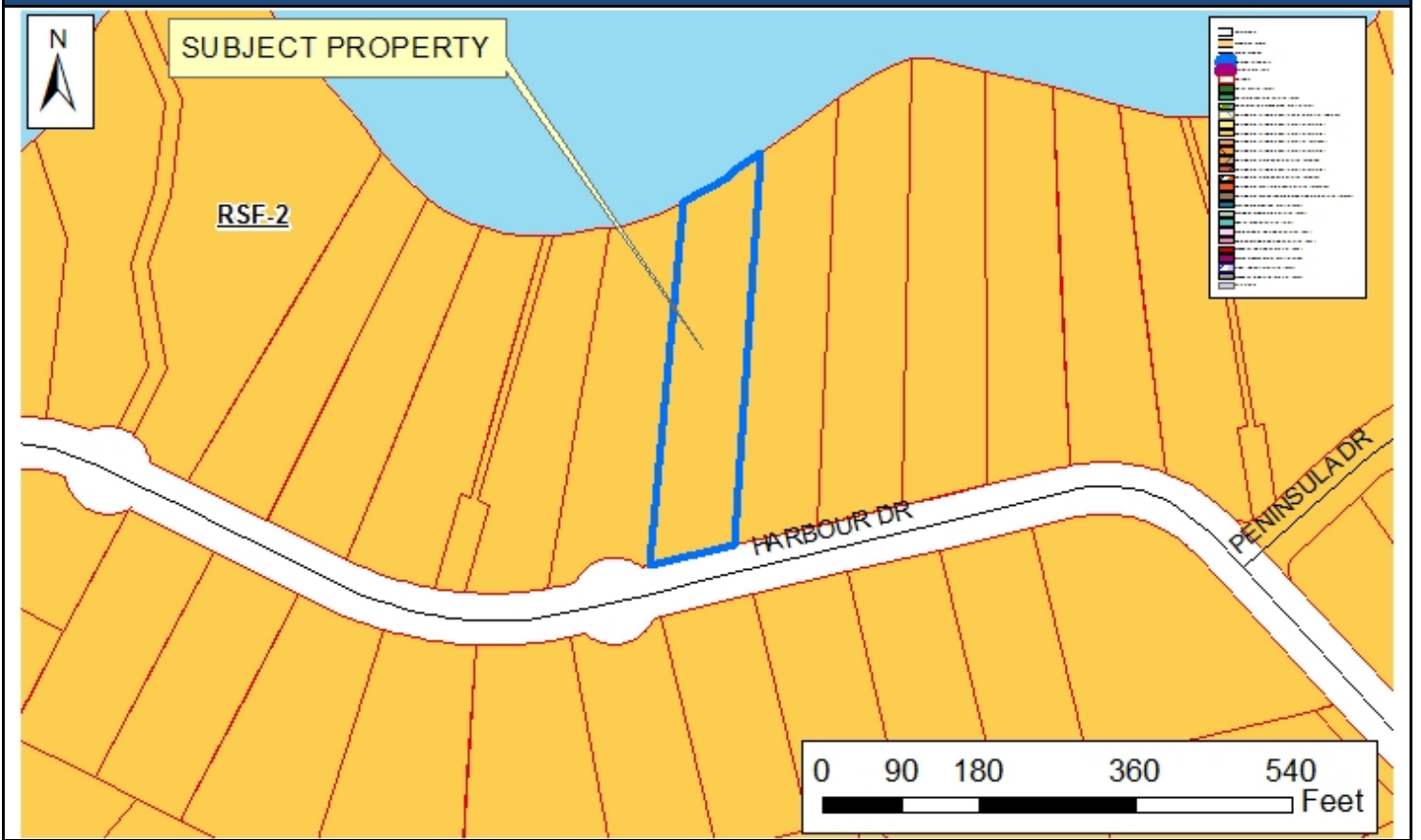




**ADJOINING PROPERTY
TO THE EAST**

04/23/2019

Locator Map



Site Map



Ono Island POA Letter



PROPERTY OWNERS ASSOCIATION OF ONO ISLAND, INC.

28491 ONO BOULEVARD - ORANGE BEACH, ALABAMA 36561

Phone (251) 980-5152 / Fax (251) 980-5146

April 10, 2019

RE: Ono Harbour Unit 2 Block 1 Lot 7

According to the submitted site-plan attached the proposed placement of the structure meets the Ono Harbour ACC and the Ono Island ACC Rules and Regulation requirements in accordance with the verification of wetland delineation submitted by Wetland Resources performed February 2019.

This letter is being submitted as a preliminary approval of the site-plan because a variance is not necessary from the Ono Island Property Owners Association however because the structure will be placed within 30 feet of the delineated wetland along the side yard it will require a Baldwin County Variance. This application will still require full plan review and Baldwin County Permitting. We will need the letter of approval from the Corp of Engineers for the Wetland Delineation to accompany the Building Application.

If you need any further information from Ono Island please do not hesitate to contact me.

Sincerely,

Shannon L. Harrison

Shannon L. Harrison
Ono Island POA,
Administrator



Baldwin County Planning & Zoning Department

Board of Adjustment Staff Report

Case No. AD-19001

Deppe Property

Appeal of Administrative Decision (Cease and Abate Notice Issued for the Operation of a Boat Repair Business on Property Zoned for Residential Use)

May 9, 2019

Subject Property Information

Planning District: 33
General Location: West side of Perdido Street, south of County Road 99, Lillian, AL
Physical Address: 12213 Perdido Street
Parcel Number: 05-52-08-25-1-001-020.001
Existing Zoning: RSF-2, Residential Single Family District
Existing Land Use: Residential
Square Footage: Approximately 112.9' x 167', Irregular
Appellant: Glenn Deppe
12213 Perdido Street
Lillian, AL
Owner: Same
Lead Staff: Vince Jackson, Planning Director
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-2, Residential Single Family
South	Undeveloped	RSF-2, Residential Single Family
East	Residential	RSF-1, Residential Single Family
West	Residential	RSF-2, Residential Single Family

Summary and Recommendation

The issues related to this appeal originated on an adjacent parcel (parcel #05-52-08-25-1-001-020.000) located directly north of the subject property. The initial complaint was received last year, and a Notice of Zoning Violation (Case E-18005, attached) was mailed on February 21, 2018. The property owner, O'Connor, resides in Georgia, and the tenant was Glen Deppe, the appellant. Mr. Deppe had an agreement with the owner to purchase the parcel. According to the complaint, a boat repair service was being operated on the property which is zoned RSF-2, Single Family District. This designation makes no provisions for boat repair. Joe Ryan, the Planning and Zoning Department Code Enforcement Officer, addressed this issue and found no evidence of a business being operated on the property. At the time, Mr. Deppe stated that he was simply working on boats for his friends but was not operating a business.

A second complaint was more recently received by the Solid Waste Department. According to the information provided, that the property has become junky, but this is not an issue for Planning and Zoning. However, when

Solid Waste investigated, Mr. Deppe stated that he is bringing boats to the property and removing the motors in order to sell them. This clearly indicates business activity which is prohibited under the current zoning. A new notice of violation (Case E-19011, attached) was mailed on February 15, 2019.

Following the issuance of the second notice, efforts were made to remove the boats and associated equipment and materials from the property which was the subject of the previous complaints. A subsequent site visit revealed that the boats and materials were in fact being relocated to the parcel located directly to the south (parcel #05-52-08-25-1-001-020.001). This parcel is owned by Mr. Deppe. This visit revealed that boat repair, as well as salvage activities were already taking place. Like the previous parcel, the zoning designation of RSF-2, makes no provisions for commercial activity. A Cease and Abate Notice issued for the operation of a boat repair business on property zoned for residential use was posted on the subject property on March 27, 2019. The notice stated that all boats, trailers and equipment should be removed from the property within 30 days of the notice. A copy of the Cease and Abate Notice is attached.

In accordance with Section 18.5 of the zoning ordinance, the appellant, Mr. Glenn Deppe, has appealed the issuance of the Cease and Abate Notice.

Staff recommends that the issuance of the Cease and Bate Notice issued for the operation of a boat repair business on property zoned for residential use be **UPHELD** and the appeal **DENIED**, based on the comments contained herein. *

**A majority vote of the members of the Board will be necessary to reverse the administrative decision (issuance of the Cease and Abate Notice).*

Current Zoning Requirements

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

Staff Analysis and Findings

The Baldwin County Zoning Ordinance expressly provides for an appeals process when it is believed that the Zoning Administrator (Planning Director), or other administrative official, has erred in any “order, requirement, decision, or determination”.

Section 18.5 Appeals to the Board of Adjustment

18.5.1 The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning ordinances.

18.5.2 Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning ordinances. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

18.5.3 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by

the Board of Adjustment or by a Court of Record on application and notice to the officer from whom the appeal is taken and on due cause shown.

In submitting this appeal, Mr. Deppe has stated that he is not operating a business, but has many boats due to the fact that his father passed away and left him with these personal items.

Staff Comments and Recommendation

As stated previously, the issues related to this appeal originated on an adjacent parcel (parcel #05-52-08-25-1-001-020.000) located directly north of the subject property. The initial complaint was received last year, and a Notice of Zoning Violation (Case E-18005, attached) was mailed on February 21, 2018. The property owner, O'Connor, resides in Georgia, and the tenant was Glen Deppe, the appellant. Mr. Deppe had an agreement with the owner to purchase the parcel. According to the complaint, a boat repair service was being operated on the property which is zoned RSF-2, Single Family District. This designation makes no provisions for boat repair. Joe Ryan, the Planning and Zoning Department Code Enforcement Officer, addressed this issue and found no evidence of a business being operated on the property. At the time, Mr. Deppe stated that he was simply working on boats for his friends but was not operating a business.

A second complaint was more recently received by the Solid Waste Department. According to the information provided, that the property has become junky, but this is not an issue for Planning and Zoning. However, when Solid Waste investigated, Mr. Deppe stated that he is bringing boats to the property and removing the motors to sell them. This clearly indicates business activity which is prohibited under the current zoning. A new notice of violation (Case E-19011, attached) was mailed on February 15, 2019.

Following the issuance of the second notice, efforts were made to remove the boats and associated equipment and materials from the property which was the subject of the previous complaints. A subsequent site visit revealed that the boats and materials were in fact being relocated to the parcel located directly to the south (parcel #05-52-08-25-1-001-020.001). This parcel is owned by Mr. Deppe. This visit revealed that boat repair, as well as salvage activities were already taking place. Like the previous parcel, the zoning designation of RSF-2, makes no provisions for commercial activity. A Cease and Abate Notice issued for the operation of a boat repair business on property zoned for residential use was posted on the subject property on March 27, 2019. The notice stated that all boats, trailers and equipment should be removed from the property within 30 days of the notice. A copy of the Cease and Abate Notice is attached.

In accordance with Section 18.5 of the zoning ordinance, the appellant, Mr. Glenn Deppe, has appealed the issuance of the Cease and Abate Notice.

Staff believes that there was no error in the issuance of the Cease and Abate Notice and recommends that the issuance of the Cease and Abate Notice be **UPHELD** and the appeal **DENIED**, based on the comments contained herein. *

**A majority vote of the members of the Board will be necessary to reverse the administrative decision.*



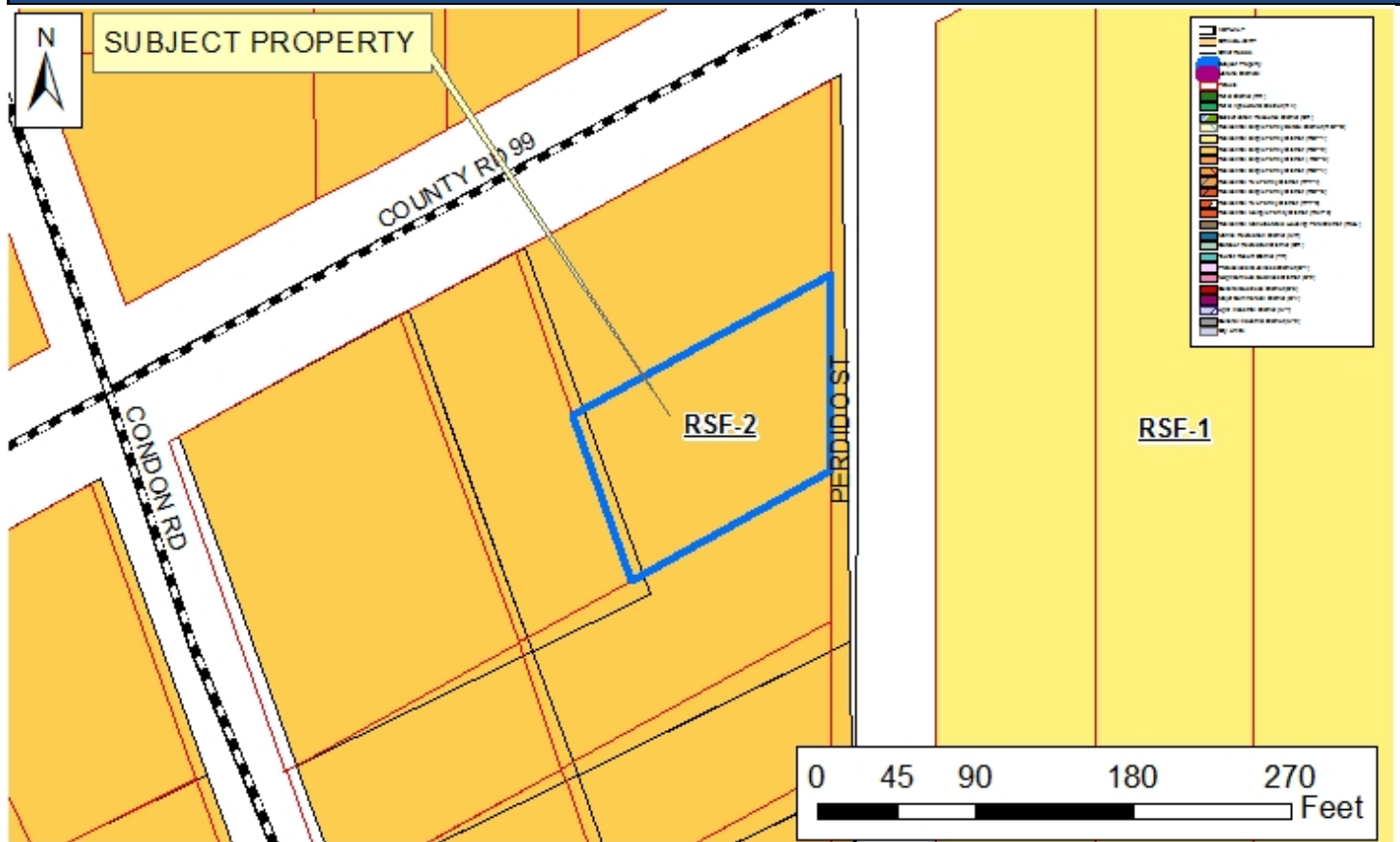








Locator Map



Site Map



Letter in Support of Boat Repair Business

Baldwin Co. Commission #4
Planning & Zoning
Board of Adjustments

Case # AD 19001
Deppe Property

Response: Carolyn Holz Bell

My family and I have owned the adjacent land for over fifty years and have had no problem with a boat repair shop. It will not and has not affected our access to the beach or beach park. Recently, I have had an offer of a sale for my property and a boat repair shop was again not a problem.

Sincerely,
Carolyn Holz Bell

NOTICE OF ZONING VIOLATION

Baldwin County Planning and Zoning Department

Certified Mail

Date of Notice February 21, 2018

Gloria Skipper
175 Asbury Way
Fayetteville, GA 30215

RE: E-18005

YOU ARE HEREBY NOTIFIED THAT:

Pursuant to the Baldwin County Zoning Ordinance, Sec. 21.3, notice is hereby given that you are in **violation** of the *Baldwin County Zoning Ordinance*.

LOCATION OF VIOLATION:

The subject property, which is situated in Planning District 33, is zoned RSF-2, Single Family District, and is located at:

Street Address: 12213 Perdido Street, Lillian AL
Tax Parcel #: 52-08-25-1-001-020.000

NATURE OF VIOLATION:

A business defined as a "Boat Service" is being operated on the subject property which is currently zoned Residential Single Family District.

CORRECTIVE ACTIONS:

- 1.) Discontinue the operation of the business and remove all of the equipment and materials associated with the business within 30 days of receipt of this notice and bring the property into compliance with the zoning ordinance and all applicable laws, rules and regulations.

Baldwin County Zoning Ordinance

Section 21.2 Violations

21.2.1 *Persons in violation.* Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who: (a) violates any provision of these ordinances, (b) permits, participates, assists, directs, creates or maintains any such violation, (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, special exception, conditional use or the like, or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

21.2.2 Any person(s) in violation of these ordinances shall be held responsible for such violation and be subject to the penalties and remedies as provided herein and as provided by law.

21.2.3 *Separate violation.* Each and every person who commits, permits, participates in, assists, directs, creates or maintains a violation may be found individually in violation of a separate offense. Each day that any violation continues to exist shall constitute an additional and separate violation.

21.2.4 *Structures and uses in violation.* Any structure or lot erected, constructed, altered, occupied or used contrary to any provision(s) of these ordinances or other applicable ordinances, stipulation, condition, approvals and variance shall be declared to be unlawful.

ENFORCEMENT PENALTIES:

Failure to comply within the time specified above will subject you to penalties in accordance with Sec. 21.3 and Sec. 21.4 of the *Baldwin County Zoning Ordinance*.

21.3.8 Fines. Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation. The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

- If you believe the activities or conditions described above are not in violation of the *Baldwin County Zoning Regulations*, you may provide supporting documentation or other materials to the Planning and Zoning Department at 22070 Highway 59, Robertsedale, Alabama, 36567 (physical address) or 22251 Palmer Street, Robertsedale, Alabama 36567 (mailing address) within 7 days of receipt of this notice.
- Please note: This determination may be appealed to the Board of Adjustment. Appeals shall be filed within (15) fifteen days of the Date of Notice above, on

forms provided the Planning and Zoning Department Appeals must be filed with the Board of Adjustment by delivery of the appeal form to the Planning and Zoning Director at his office in Robertsdale, Alabama, 22070 Highway 59, Robertsdale, Alabama, 36567 (physical address) or 22251 Palmer Street, Robertsdale, Alabama 36567 (mailing address). Appeal forms are available at the Foley Satellite Courthouse, the Planning and Zoning Department in Robertsdale or at the County website at the following address:

www.planning.co.baldwin.al.us.

Copies of the *Baldwin County Zoning Ordinance* are also available at the Robertsdale Planning and Zoning office, at the Foley Satellite Courthouse and on the above listed website.

If you should have any questions or should need additional information, please give me a call at (251) 580-1655 extension 7238. Thank you in advance for your cooperation.

Sincerely,



Joe Ryan
Code Enforcement Officer

cc: Vince Jackson, Planning Director
Blackburn & Conner, P.C., Legal Counsel

LRMSRCL Acct 285129 GLORIA SKIPPER CONNOR FAMILY TRUST OF T LRWSRC97/A2
Parcel Name O'CONNOR, GLORIA SKIPPER AS TRUSTEE OF T PPIN 63345
Address 175 ASBURY WAY *MORE OWNERS* Ac. Delete
Type R/P Abstract G ExCat
Exempt Codes 2 11 2016 MCOX
City/St/Zip FAYETTEVILLE GA 30215
Property Address 12213 PERDIDO ST
Parcel Alt Parc 52-08-25-1-001-020-000
Brief Legal..... 205-3-112-9 LOT 400 LILLIAN HEIGHTS SUB MB4 PG207 GR SEC 2
5-17S-R6E (CERT OF TRUST) IN#1492503
Mortgage Company None Acct
Improvements.... 2 UTIL, RES
Comments.....
Flags Z Fee Estimated Tax \$103.04 Special/Amount
Subd/Condo/Blk LILLIAN HEIGHTS S/T/R
Subd Lot/Block... 40
Previous Owner... O'CONNOR, EDMOND J ETAL O'CONNOR, GLORIA
Deed: tp/Bk/Pg... IN 0000 1277916 Note Date 2 14 2011 F18=Links
F1-Appraisal F6-Values F7-Notes F8-Owners F9-Hist F10-Desc F19=Acct Note
F11-Alerts F12-Prt F13-Chg Forms F14-PLink F15-Map Chgs F23-Taxhist F24-Exit

PD 33

RSF-2

E-18005

~~GLEN~~ ~~DEPPE~~

GLEN DEPPE - TENANT - LEASE TO Buy

No business -

228-342-1658

NOTICE OF ZONING VIOLATION

Baldwin County Planning and Zoning Department

Certified Mail

Date of Notice February 15, 2019

Gloria O'Connor
175 Asbury Way
Fayetteville, GA 30215

RE: E-19011

YOU ARE HEREBY NOTIFIED THAT:

Pursuant to the Baldwin County Zoning Ordinance, Sec. 21.3, notice is hereby given that you are in **violation** of the *Baldwin County Zoning Ordinance*.

LOCATION OF VIOLATION:

The subject property, which is situated in Planning District 33, is zoned RSF-2, Single Family District, and is located at:

Street Address:	<u>12213 Perdido Street, Lillian AL</u>
Tax Parcel #:	<u>52-08-25-1-001-020.000</u>
Inspection Date:	<u>February 14, 2019</u>

NATURE OF VIOLATION:

A business defined as a "Boat Service" is being operated on the subject property which is currently zoned Residential Single Family District.

CORRECTIVE ACTIONS:

- 1.) Discontinue the operation of the business and remove all of the equipment and materials associated with the business within 30 days of receipt of this notice and bring the property into compliance with the zoning ordinance and all applicable laws, rules and regulations.

Baldwin County Zoning Ordinance

Article 21 Enforcement

Section 21.2 Violations

21.2.1 *Persons in violation.* Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who: (a) violates any provision of these ordinances, (b) permits, participates, assists, directs, creates or maintains any such violation, (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, special exception, conditional use or the like, or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

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If you should have any questions or should need additional information, please give me a call at (251) 580-1655 extension 7238. Thank you in advance for your cooperation.

Sincerely,



Joe Ryan
Code Enforcement Officer

cc: Vince Jackson, Planning Director
Blackburn & Conner, P.C., Legal Counsel

CEASE AND ABATE NOTICE

BALDWIN COUNTY PLANNING AND ZONING DEPARTMENT

This construction has been inspected and is in violation of the *Baldwin County Zoning Ordinances*. This construction is in violation of the following provisions:

OPERATING A BOAT REPAIR BUSINESS
REMOVE ALL BOATS TRAILERS & EQUIPMENT
WITHIN 30 DAYS OF NOTICE.

Pursuant to Local Act. No. 91-719 and Article 21 of the Baldwin County Zoning Regulations it is ordered that construction immediately cease, and that no further work is to be done at this site until compliance with the above stated regulation(s) is achieved.

Please contact this office at (251) 580-1655 before any further work is done or to discuss this matter further.

Location of Site: 12213 PERDIDO STREET

Property Owner: GLEN DEPPE

Planning District: 33

Date of Notice: 03-27-2019 Time: 10:10 AM

Baldwin County Planning and Director, by:

Joe Ryan
Joe Ryan, Code Enforcement Officer

* Please note: This determination may be appealed to the Board of Adjustment. Appeals shall be filed within (15) fifteen days of the Date of Notice above, on forms provided by the Planning and Zoning Department. Appeals must be filed on the Board of Adjustment by delivery of the appeal form to the Planning and Zoning Director at his/her office in Robertsdale, AL., 22251 Palmer Street, Robertsdale, AL 36576. Appeal forms are available at the Robertsdale and Foley Planning & Zoning offices, or at the County website at the following address www.planning.co.baldwin.al.us.