

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

**AGENDA**

**April 8, 2021**

**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 (March 11, 2021)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

**ITEMS:**

**a.) Case No. V-210004, Crawford/Washburn Property**

*Request:* approval of a variance from the accessory structure side setback requirement (section 13.1.2a) to allow an accessory structure (garage) to remain two feet from the side property line

*Location:* The subject property is located at 12812 5<sup>th</sup> Street in Planning District 22

*Attachments:* Within Report and Attached

**b.) Case No. V-210005, Hamilton Property**

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

*Location:* The subject property is located at 647 Bonita Court in Planning District 25

*Attachments:* Within Report and Attached

**c.) Case No. V-210006, Morris Property**

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

*Location:* The subject property is located at 6791 Lake Shore Drive in Planning District 25

*Attachments:* Within Report and Attached

6. Old Business
7. New Business
8. Adjournment

**Planning & Zoning Board of Adjustment Number 2**  
**March 11, 2021**  
**Regular Meeting Minutes**  
**Foley Satellite Courthouse, Large Meeting Room**

The Board of Adjustment for Number 2 met in a regular session on March 11, 2021 at 3:30 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman, Ernie Church called the meeting to order. Members present included: Samuel Mitchell, James Koeppen, Michael Swansburg, Jack Danley, Harold Stephens, Johanna Moloney, Theron Mashburn and John Hilderbrandt. Staff members present were Linda Lee, Planner and Matthew Brown, Interim Planning & Zoning Director.

**Approval of Previous Meeting Minutes**

The first order of business was approval of the minutes from the February 11, 2021 meeting. Mr. Mitchell made a motion to approve the meeting minutes. The motion received a second from Mr. Stephens and carried unanimously.

**V-210003 Weeks Property**

Mrs. Lee presented the applicant's request for approval of a variance from Section 2.2.21.3(k) as it pertains to the minimum setback from a water body to allow for the construction of a single-family dwelling. Due to no information being submitted to support a hardship on the land, staff recommended denial of the variance request.

Mr. Sheldon Weeks spoke in favor of the variance request and answered questions from the board. Mr. Ed Lowe also spoke in favor of the request and answered questions from the board.

Mr. Mitchell made a motion to approve the variance request. The motion received a second from Mr. Koeppen and carried on a vote of eight to one.

Mr. Weeks thanked the board members for hearing his case.

**Old Business – Election of Vice-Chairman 2021**

The last order of business was election of a vice-chairman for 2021. Mr. Hilderbrandt stated he was willing to serve as vice-chairman. The board voted unanimously for Mr. Hilderbrandt to serve as vice-chairman.

**New Business**

Mr. Matthew Brown, Interim Planning & Zoning Director greeted the board members.

**Adjournment**

There being no further business to come before the board the meeting was adjourned at 4:08 p.m.

Respectfully Submitted,

Linda Lee, Planner

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I hereby certify that the above minutes are true, correct and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Ernie Church, Chairman



# Baldwin County Planning & Zoning Department

## County Commission Board of Adjustment #2

### Board of Adjustment Staff Report

Case No. V-210004  
Washburn Property  
Accessory Structure Variance  
April 8, 2021

### Subject Property Information

Planning District: 22  
General Location: Lillian  
Physical Address: 12812 5<sup>th</sup> Street  
Parcel Number: 05-52-07-26-0-001-018.000  
Zoning: RSF-1, Single Family District  
Lot Size: 0.91 +/- Acres  
Applicant: Wendye Washburn  
12812 5<sup>th</sup> Street  
Lillian, Alabama 36549  
Owner: Wendye Washburn and John Crawford  
Lead Staff: Paula Bonner, Planning Technician  
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-1, Single Family District
South	Residential	RSF-1, Single Family District
East	Perdido Bay	N/A
West	Residential	RSF-1, Single Family District

### Summary and Recommendation

The applicant is requesting approval of a variance from the accessory structure side setback requirement (13.1.2) of the Baldwin County Zoning Ordinance to allow for a garage built in late 2019 without permits to remain.

Staff could not confirm a hardship on the land therefore recommends that Case V-210004 Washburn Property be **Denied**. \*

*\*On Variance applications, the Board of Adjustment makes the final decision*

### Variance Request

The applicant is requesting a variance from Section 13.1.2(a) of the Baldwin County Zoning Ordinance to allow an accessory structure (garage) to remain two (2) feet from the side property line. A garage has been constructed on an existing slab on the north side of an existing single-family dwelling within the side yard of the lot.

## Section 4.2 RSF-1, Single Family District

**4.2.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

**4.2.2 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.

**4.2.3 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.

**4.2.4 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*).

**4.2.5 Area and dimensional ordinances.** Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35



## Section 13.1 Accessory Uses and Structures

**13.1.2 Residential districts.** In residential districts an accessory use or structure will conform to the following requirements:

(a) An accessory structure may be located in a rear or side yard but shall not be closer than 5-feet to any side or rear lot line.

(b) An accessory structure may not be located in the front yard of a lot, except that on waterfront lots accessory structures may be located between the principal building and the waterfront property line but not within the required front yard setback.

(c) An accessory structure may not exceed the height limit for the district in which it is located and may not occupy more than 30% of the rear yard.

(d) No accessory structure, other than a pier and boathouse, may be located on a lot by itself.

## Section 22 Definitions

### 22.2 Words and Terms Defined

**Accessory structure.** A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Except as provided in *Section 10.4, Wetland Protection Overlay District*, bulkheads, fences, walls, retaining walls, fountains, trellises, pergolas, air conditioner platforms, walkways and similar features which provide a decorative, security or support function shall not be considered accessory structures for purposes of these zoning ordinances.

**Yard, side.** An open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

**Lot line, side.** Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

## 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 approximately 125' wide at the street, 360' along the northern side, 149' wide on western side (waterfront), and 280' along the southern side, therefore staff does not believe the lot is exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

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

Staff perceives no exceptional topographic conditions or other extraordinary situations or conditions which require a variance.

**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 use of the property has already been established with a single-family dwelling estimated to be built in 1963 per the Revenue Commission. The garage is an accessory use to the primary use of the property. Staff perceives no necessity for preservation of a property right that would require a variance.

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

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

**5.) Other matters which may be appropriate.**

Per Revenue Commission the subject property consists part of lot 4 and all of lots 5 and 6 in block 29 of the Town of Lillian Subdivision. The Town of Lillian Subdivision was filed with the Baldwin County Judge of Probate March 14, 1911 in Miscellaneous Book 1 Page 296, prior to the enactment of zoning. Zoning became effective in Planning District 22 on November 19, 2002. Staff does not perceive other matters which may be appropriate that would require a variance.

**Staff Comments and Recommendation**

Staff could not confirm a hardship on the land therefore recommends that Case V-210004 Washburn Property be **Denied**.

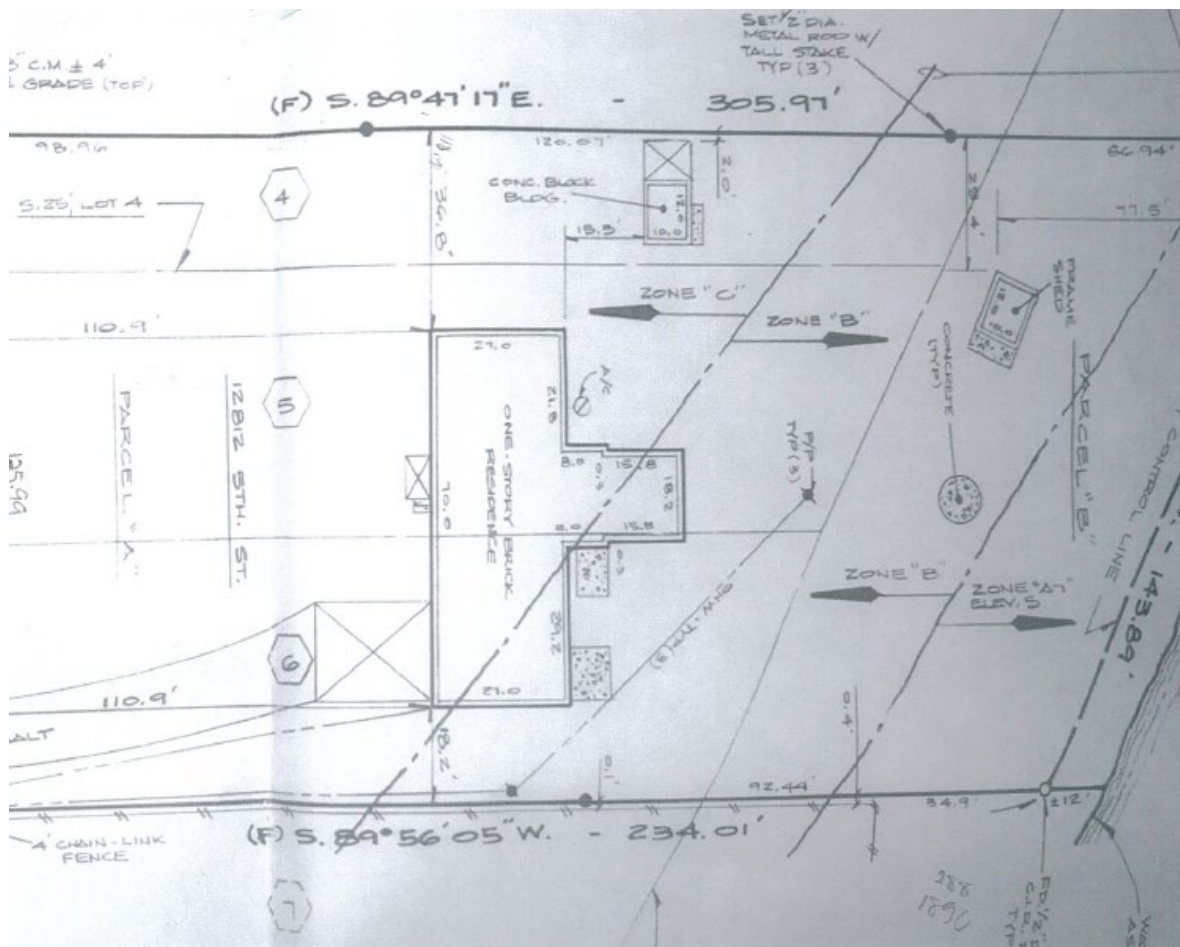
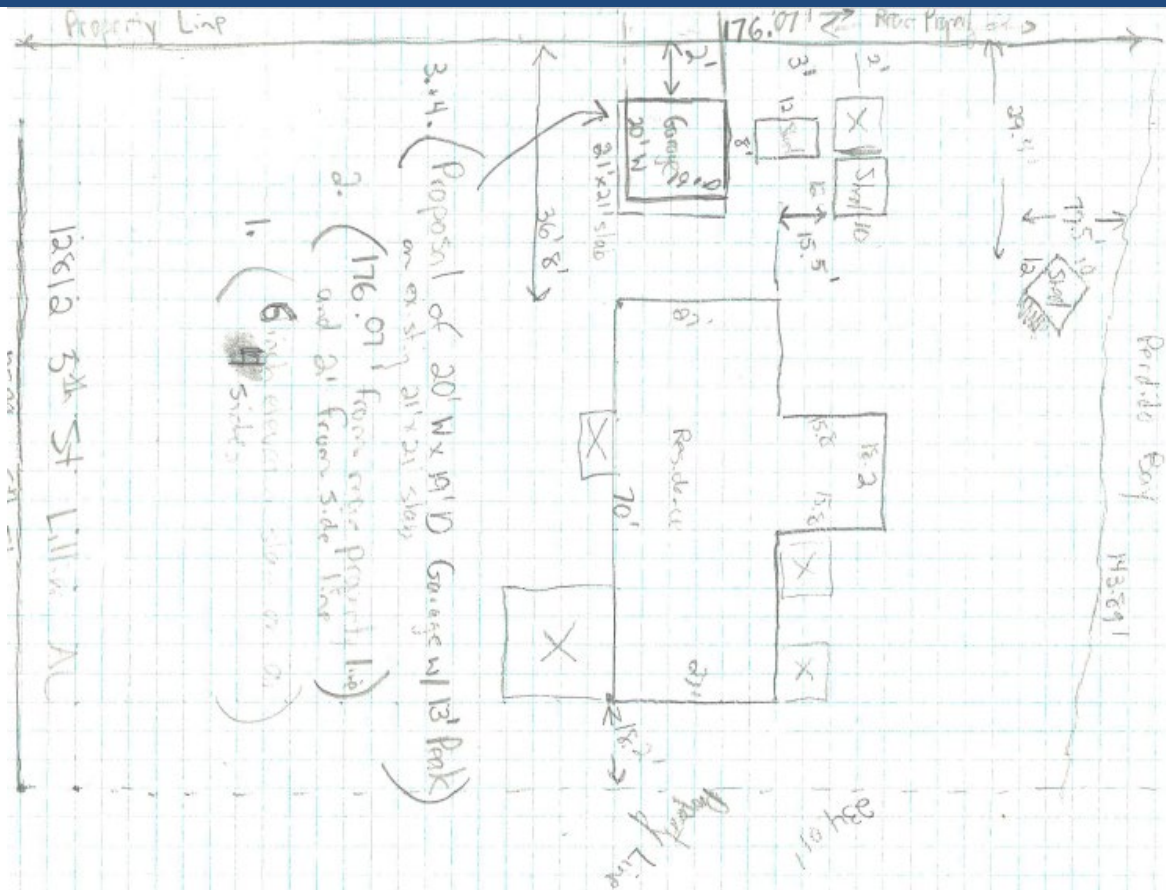
**GENERAL NOTES {By-laws}**

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.

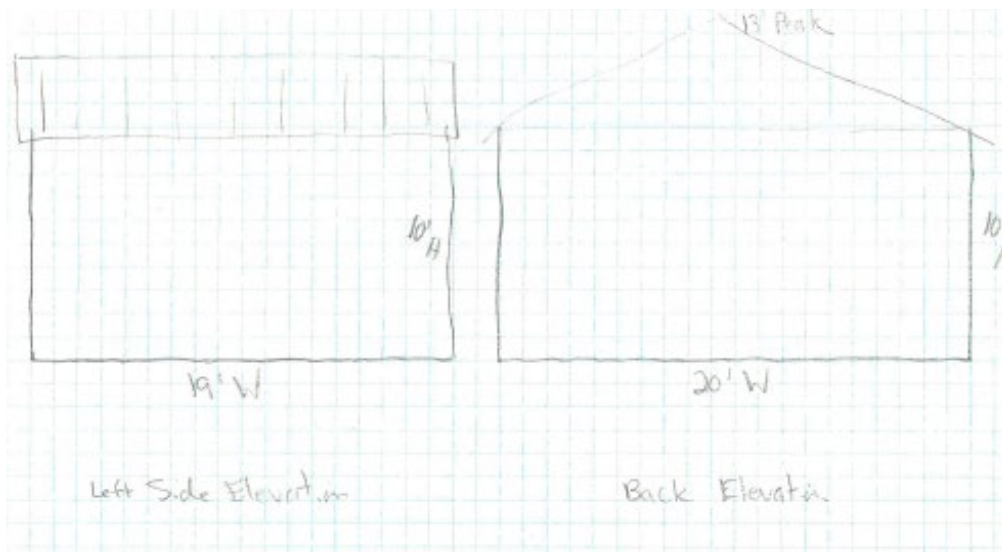
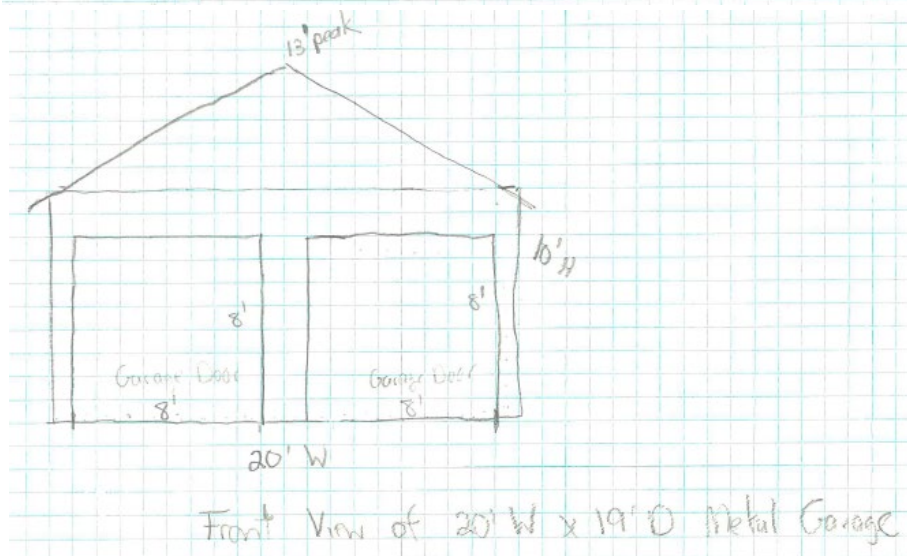
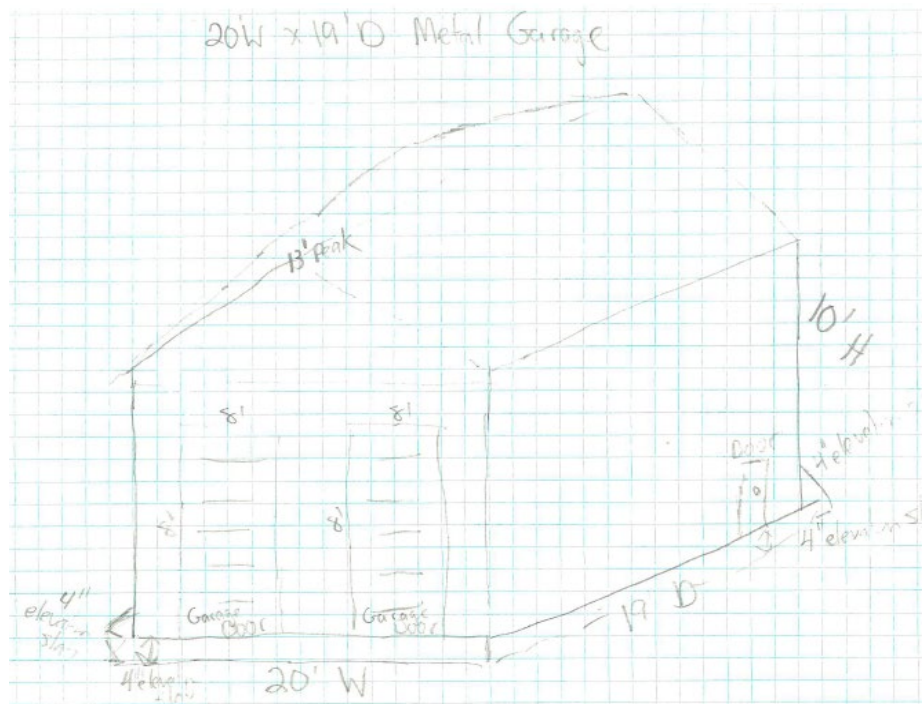
Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the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

Unless otherwise specifically stated by the Board, a variance authorized by the Board shall expire if the applicant fails to obtain appropriate permits pursuant thereto within six (6) months and construction must begin from the date of authorization of the variance.

## Site Plan







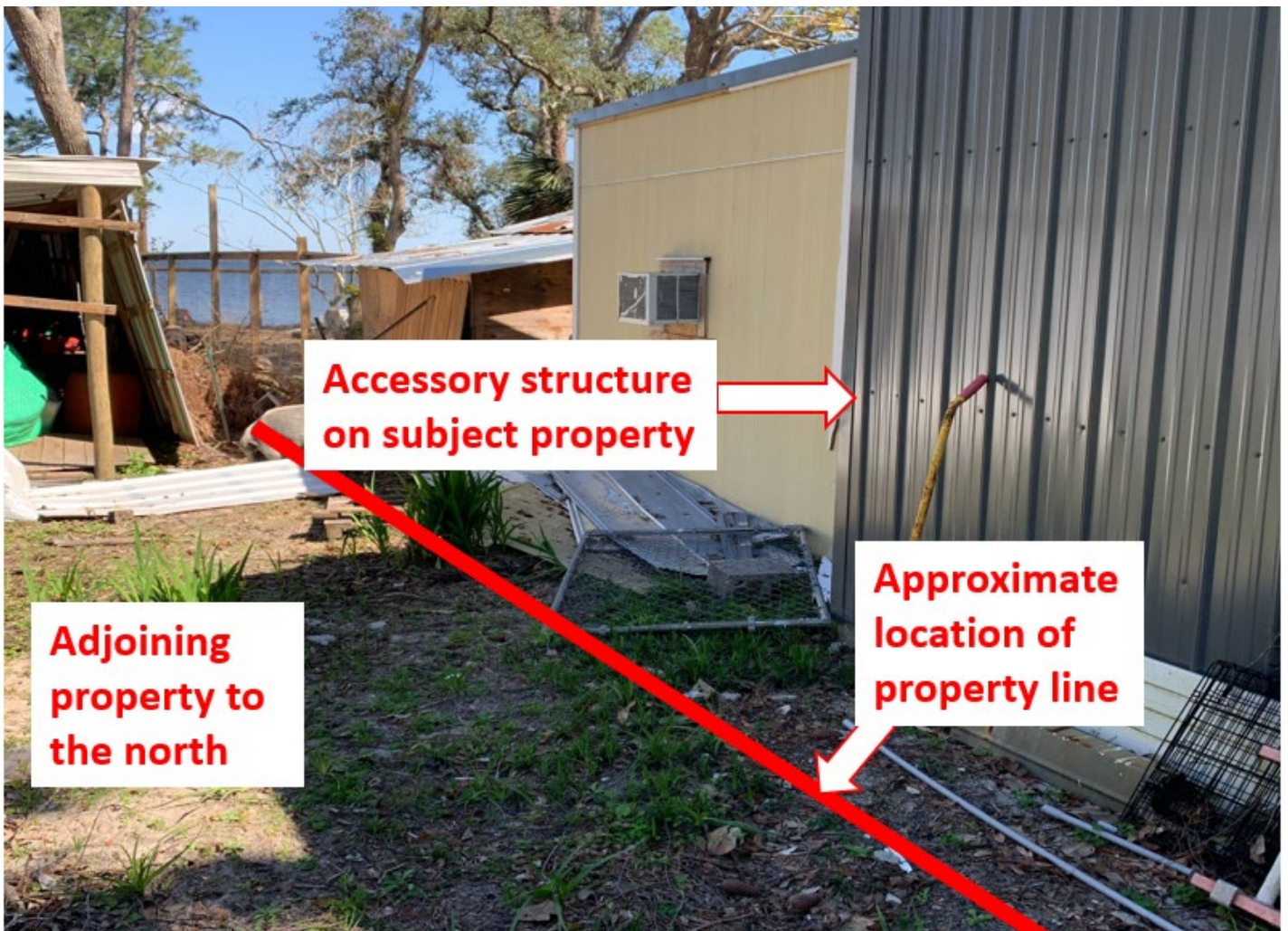






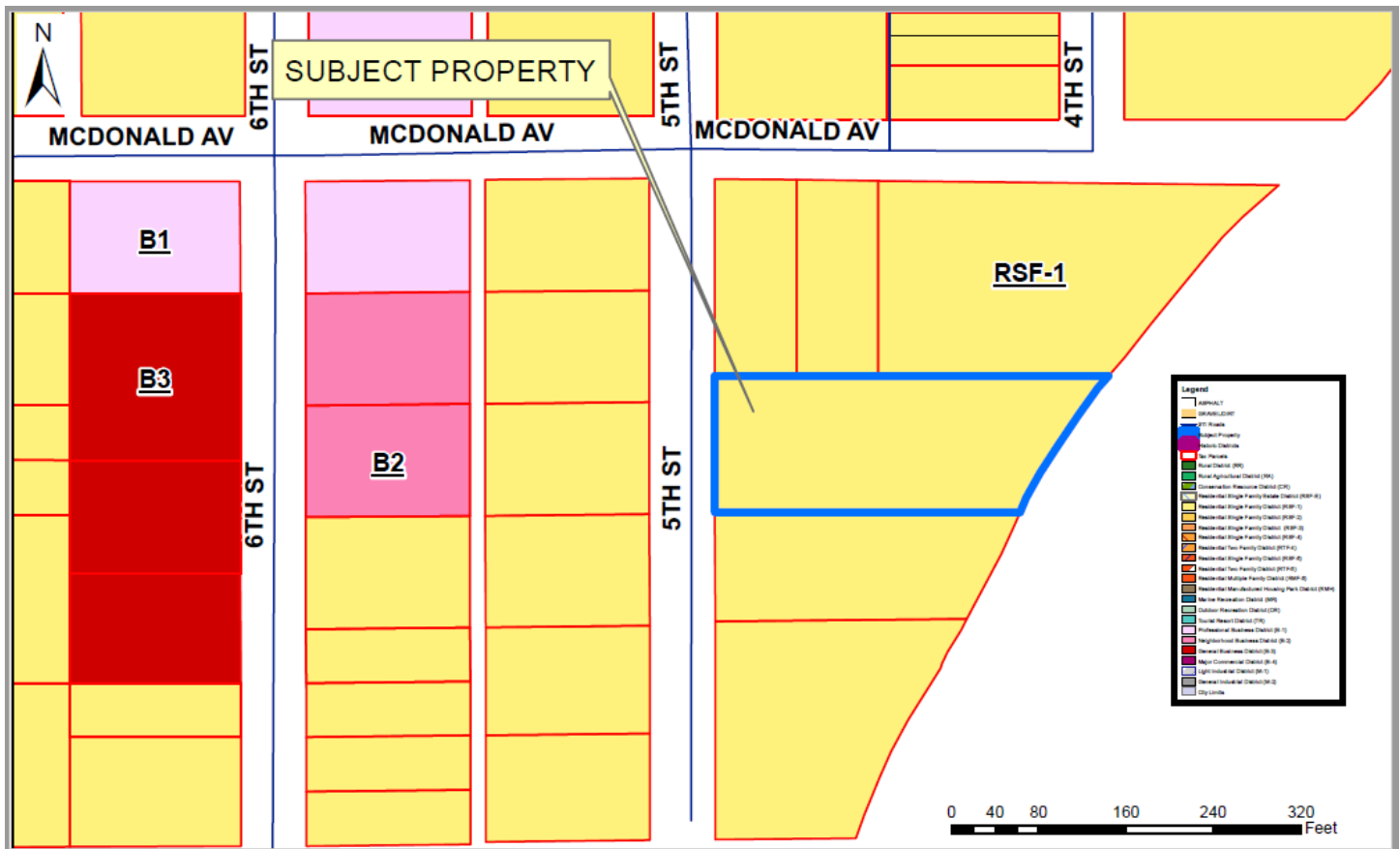








## Locator Map



## Site Map





3-16-21

There are no HOAs, board or committees for  
this existing property or area at  
12812 5<sup>th</sup> St. Lilian, AL 36549.

Nancy Nash



# Baldwin County Planning & Zoning Department

## Board of Adjustment Number 2

### Board of Adjustment Staff Report

**Case No. V-210005**

**Hamilton Property**

**Variance from Jurisdictional Wetlands Setback Requirements**

**April 8, 2021**

### Subject Property Information

**Planning District:** 25  
**General Location:** Lot 9 Block 2 Bonita Court  
**Physical Address:** 647 Bonita Court  
**PID:** 05-69-08-02-0-005-078.001  
**Zoning:** RSF-1, Residential Single Family  
**Acreage:** 0.16, more or less – 50' x 140'  
**Applicant:** David Hamilton  
307 Hospital Drive, Apt. 14  
Columbus, MS 39705  
**Owner:** David Hamilton  
**Lead Staff:** Linda Lee, Planner  
**Attachments:** *Within Report*

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

### Summary and Recommendation

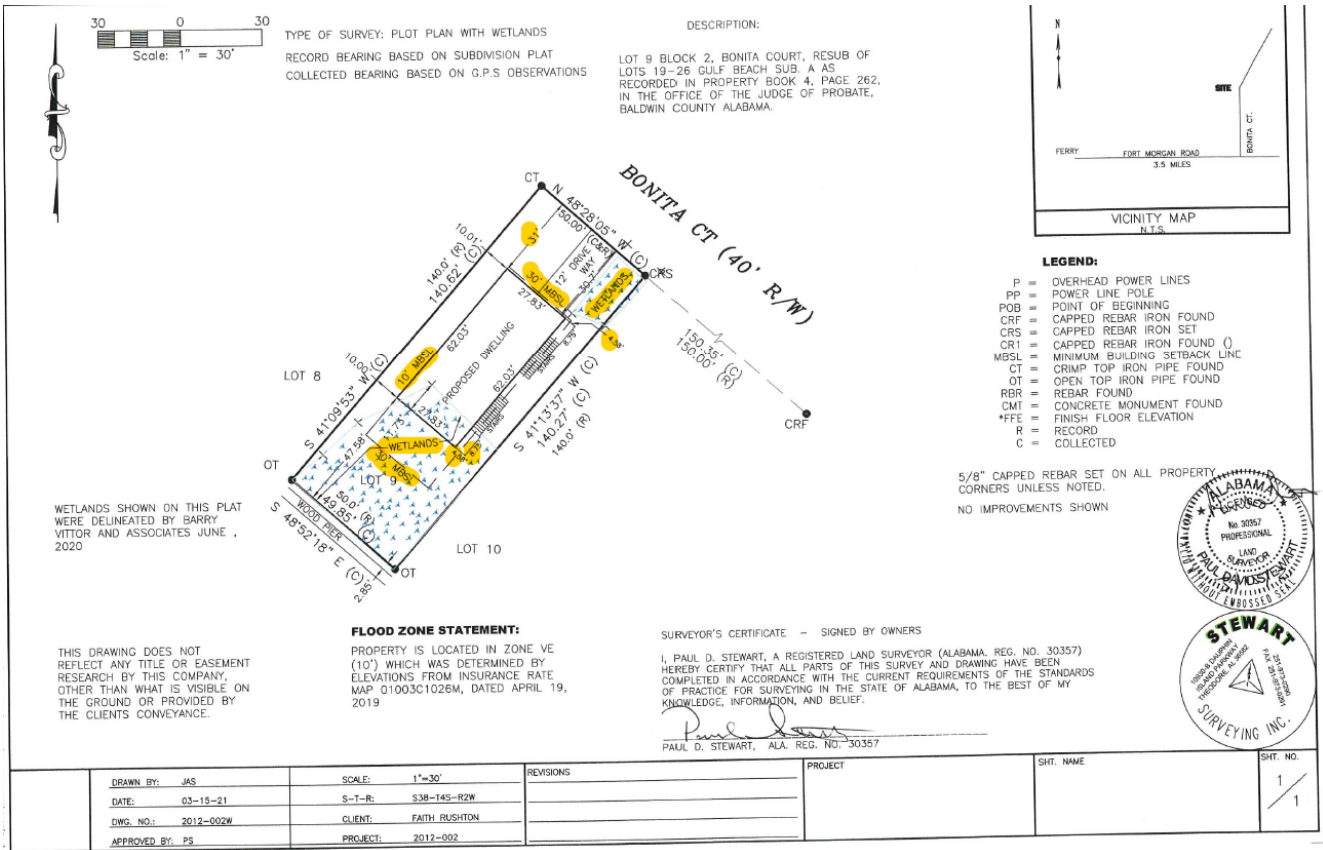
The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling.

Staff recommends that Case No. V-210005, Hamilton Property be **APPROVED**.

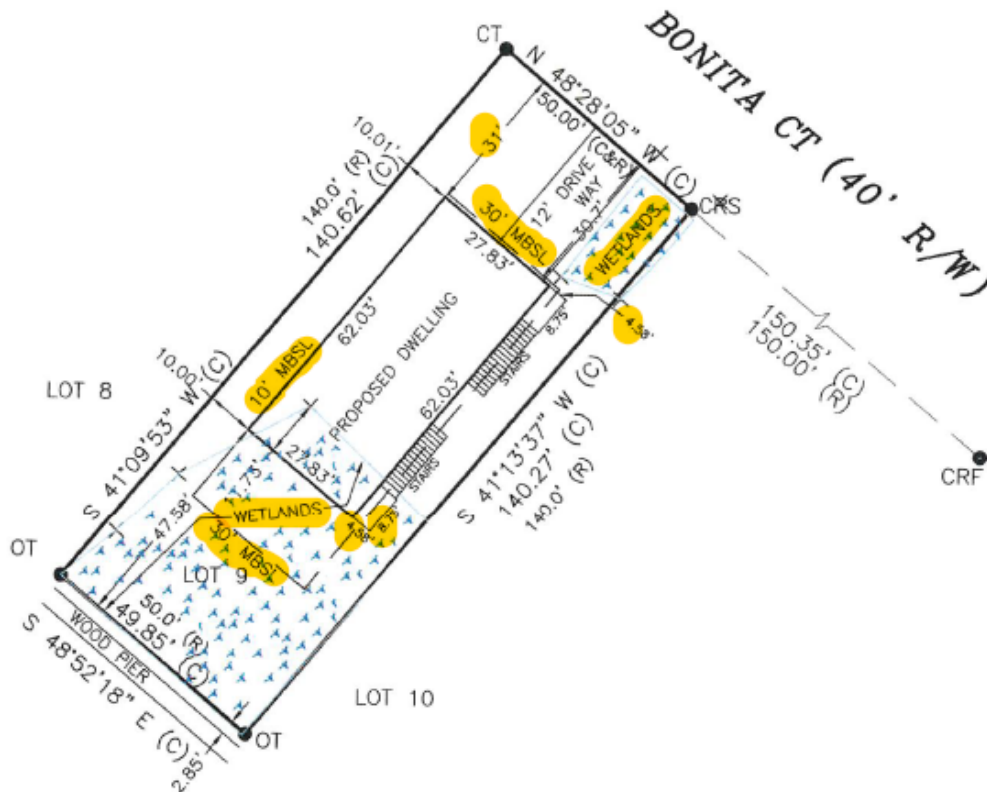
### Variance Request

The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling.

# Proposed Site Plan



IN THE OFFICE OF THE JUDGE OF PROBATE  
BALDWIN COUNTY ALABAMA.



The following sections from the *Baldwin County Zoning Ordinance* are relevant to this 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 landowner 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.

**Area and Dimensional Requirements for the RSF-1 Zoning Designation**

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
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

**2.3.25.3 Local Provisions for Planning District 25**

(a) Multiple family buildings in the “RMF-6, Multiple Family” district may be erected to a maximum height or seven (7) habitable stories. The required side yards shall be increased by 4-feet for each additional story over two (2) habitable stories. The maximum impervious surface ratio shall not exceed .50.

(b) No PRD development is allowed to exceed maximum height requirements by more than 10-feet or 1 story.

(c) Off-street Parking.

As a supplement to Section 15.2, Parking Schedule, the following off-street parking requirements shall be applicable to single family dwellings and two-family dwellings:

- 1. Up to Four (4) Bedrooms: Two (2) spaces per dwelling unit.
- 2. Up to Six (6) Bedrooms: Three (3) spaces per dwelling unit.
- 3. Seven (7) Bedrooms and more: Four (4) spaces per dwelling unit, plus one (1) additional space per dwelling unit for every bedroom over eight (8).

(d) HDR, High Density Residential District, shall not be available in Planning District 25.

(e) The maximum height of single family and two-family structures shall be limited to two (2) habitable stories.

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 Lot 9 Block 2 Bonita Court Resub. The lot has a width of 50 feet and a depth of 140 feet. This property does not meet the minimum lot width or minimum lot area for property zoned RSF-1. Therefore, staff believes it meets the exceptional narrowness and shallowness standard to warrant a variance. Setbacks shown on the plat are 31 feet from the front property line, 47'5" feet from the rear property line, 10 feet from the west side property line and 12' from the east side property line. The minimum 30-foot setback from jurisdictional wetlands applies to this property.

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

Jurisdictional wetlands are on the northeast corner in the front and in the rear of the subject property. Therefore, staff believes the lot meets the exceptional topographic conditions to warrant a variance.

**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 property is zoned for residential use. The granting of the application will allow the applicant to build a single-family dwelling. The USACOE has granted approval to fill 760 square feet of wetlands. Therefore, staff believes the granting of a variance is necessary for the preservation of a property right.

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

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

**5.) Other matters which may be appropriate.**

Two properties in this area were granted variances in recent years. Case V-160017 was granted front and rear setback variances and Case V-190015 was granted wetlands and VE flood zone setback variances.

Per the applicant, this property is not part of a Homeowner's Association.



Baldwin County Commision  
201 East Section Avenue  
Foley, AL 36535

March 16, 2021

To whom it may concern,

There is no active neighbor association on Bonita Court, Gulf Shores, AL 36542.

Thank you,

A handwritten signature in cursive script that reads "David Hamilton".

David Hamilton

**Fort Morgan Planning & Zoning Advisory Committee Recommendation**

Case V-210005 Hamilton Property

**From:** ernie church <ecaces4@gmail.com>  
**Sent:** Wednesday, March 24, 2021 3:39 PM  
**To:** Linda Lee <LLee@baldwincountyal.gov>  
**Subject:** Case V-210005 Hamilton Property

The Ft Morgan Planning and Zoning advisory committee met on 24 March 2021. The committee voted to recommend approval of case V-210005.

Ernie Church, Chair.



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

August 19, 2020

South Alabama Branch  
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit, File Number SAM-2019-00682-JCC, David Hamilton, Wetlands Adjacent to Mobile Bay

Mr. David Hamilton  
Email Address: [dhamilton@vwstores.com](mailto:dhamilton@vwstores.com)  
307 Hospital Drive, Apartment 14  
Columbus, Mississippi 39705

Dear Mr. Hamilton:

This letter is in response to your request for verification of Department of the Army Nationwide Permit (NWP) authorization for minor discharge of fill material in wetlands adjacent to Mobile Bay. The project has been assigned file number SAM-2019-00682-JCC, which should be referred to in all future correspondence with this office concerning this project. The project is located at Lot 9 Bonita Court; within Section 2, Township 9 South, Range 1 East; at Latitude 30.233026° North, Longitude -87.981365° West; in Fort Morgan, Baldwin County, Alabama.

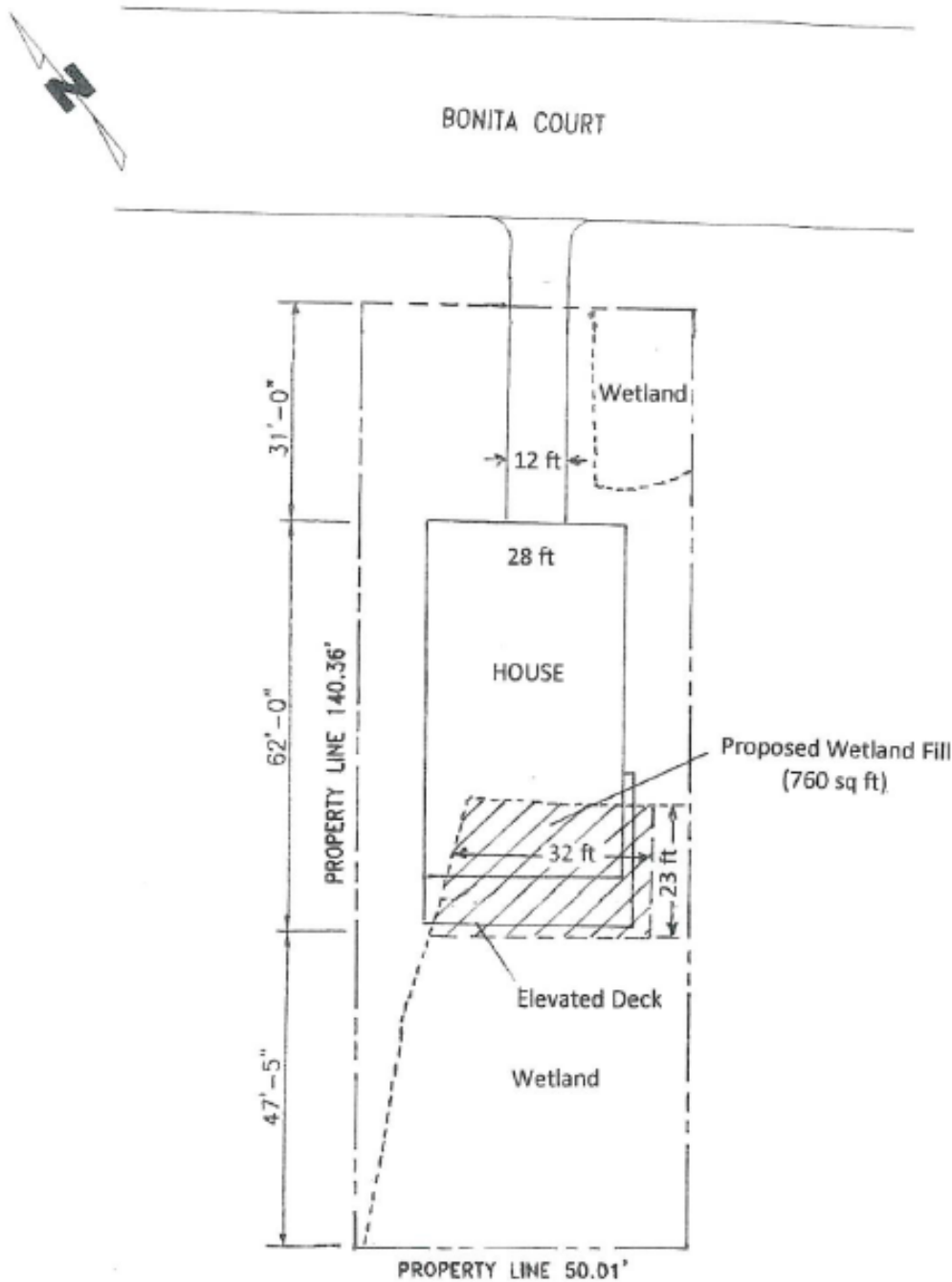
Department of the Army (DA) permit authorization is necessary because your project involves work and the placement of fill in waters of the United States, including wetlands, under our regulatory jurisdiction. Authorized activities include the placement of 60 cubic yards of commercially obtained fill within 760 square feet (0.017 acre) of wetlands for the construction of a single-family residence. Prior to the discharge of any fill material, proof-of-purchase of the appropriate number of mitigation credits from an approved mitigation bank for unavoidable impacts must be provided. No wetlands outside those specified in the attached site plan drawings may be impacted through this authorization.

Based upon the information and plans you provided, we hereby verify that the work described above, which would be performed in accordance with the attached drawings, is authorized by **NWP 18, Minor Discharges**, in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions are attached, and is also available on our website at [www.sam.usace.army.mil/Missions/Regulatory/NWP/](http://www.sam.usace.army.mil/Missions/Regulatory/NWP/), for your review and compliance.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing Nationwide Permits (NWP) are scheduled to be modified, reissued, or revoked

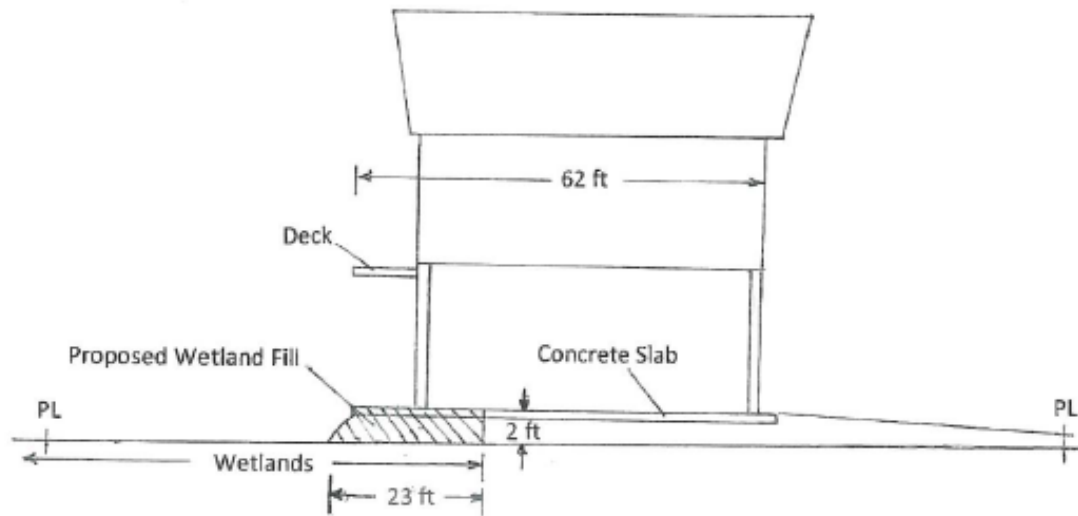


# SITE PLAN

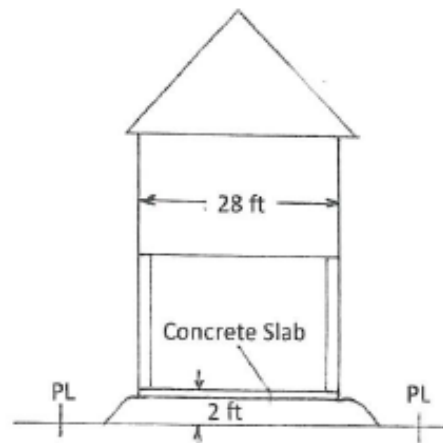


Department of the Army // SAM-2019-00682-JCC

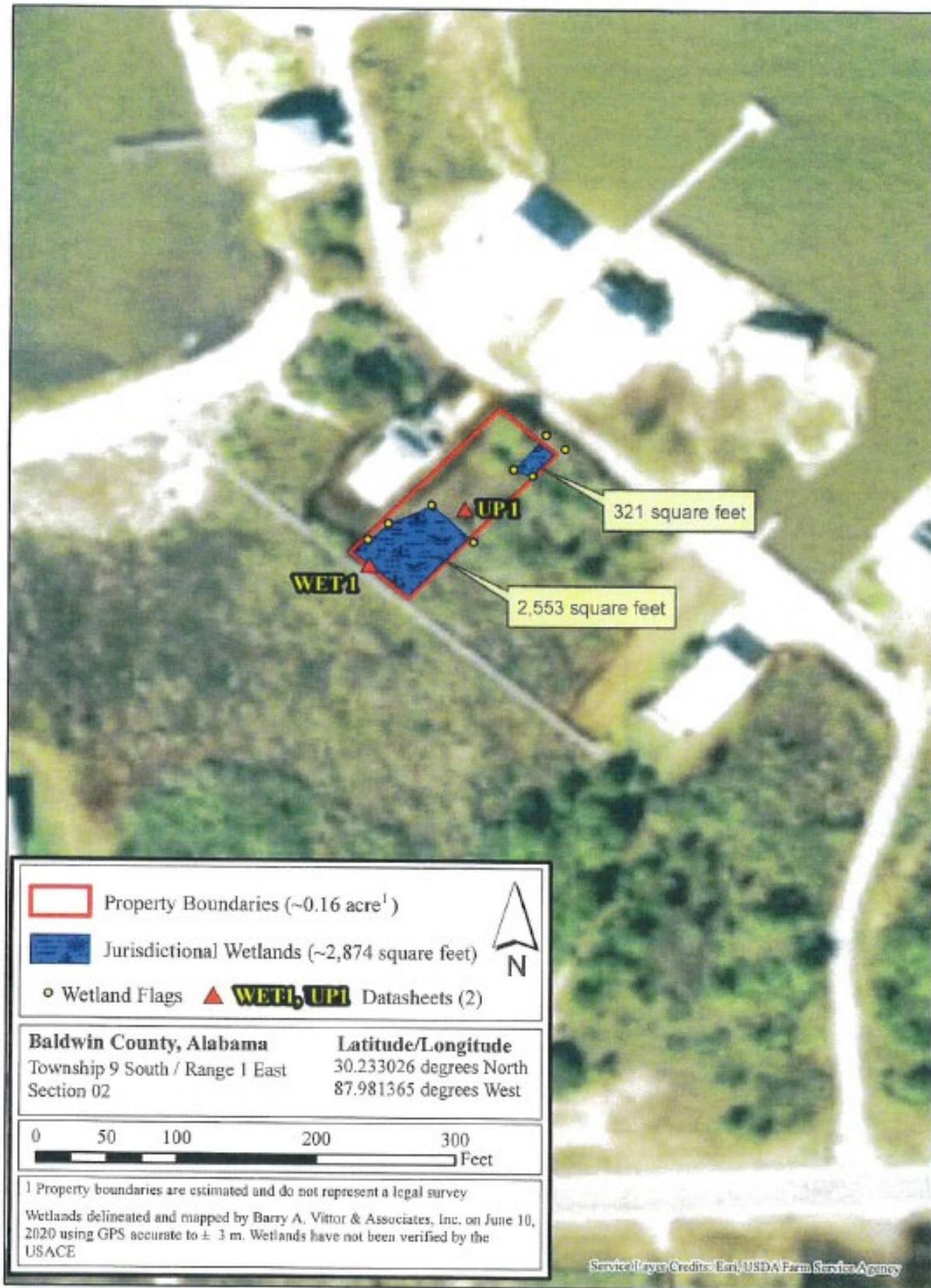
PROFILE VIEW



FRONT VIEW



Department of the Army // SAM-2019-00682-JCC



**Wetland Map (Aerial View)**

2019-TA-1297 BL

7-31-19

Prepared by:

Date

AUG 15 2019

Bill,

I spoke to you on July 31<sup>st</sup>, 2019  
about the Beach House you building a  
house on Bonita Court.

David Hamilton  
Lot #9 Bonita Court,  
Gulf Shores, AL.  
Pin Number #78377

dmhamilton@aol.com  
dhamilton@vwstores.com

Cell - 404-428-1634  
Work - 252-820-2932

405568  
3345014



U.S. Fish and Wildlife Service  
1208-B - Daphne, Alabama 36526  
Phone: 251-441-5181 Fax: 251-441-6222

David Hamilton  
307 Hospital Dr.  
Apt. #14  
Col. ms. 39705  
Columbus M.

No federally listed species/critical habitat are known to occur in the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT NEW PLANS FOR REVIEW. SITE MAY CONTAIN WETLANDS. Contact U.S. Army Corps of Engineers for a jurisdictional wetlands determination. We recommend the use of best management practices specific to your project (See <http://www.fws.gov/daphne/section7/bmp.html>).

William J. Pearson, Field Supervisor

8/19/2019  
Date

### Staff Comments and Recommendation

Staff feels that this is a reasonable request which meets the standards for approval of variances. Unless information to the contrary is revealed at the public hearing, Case V-210005 should be **APPROVED\***.

\* A majority vote of the board members will be necessary to approve this request.



## **GENERAL NOTES {By-laws}**

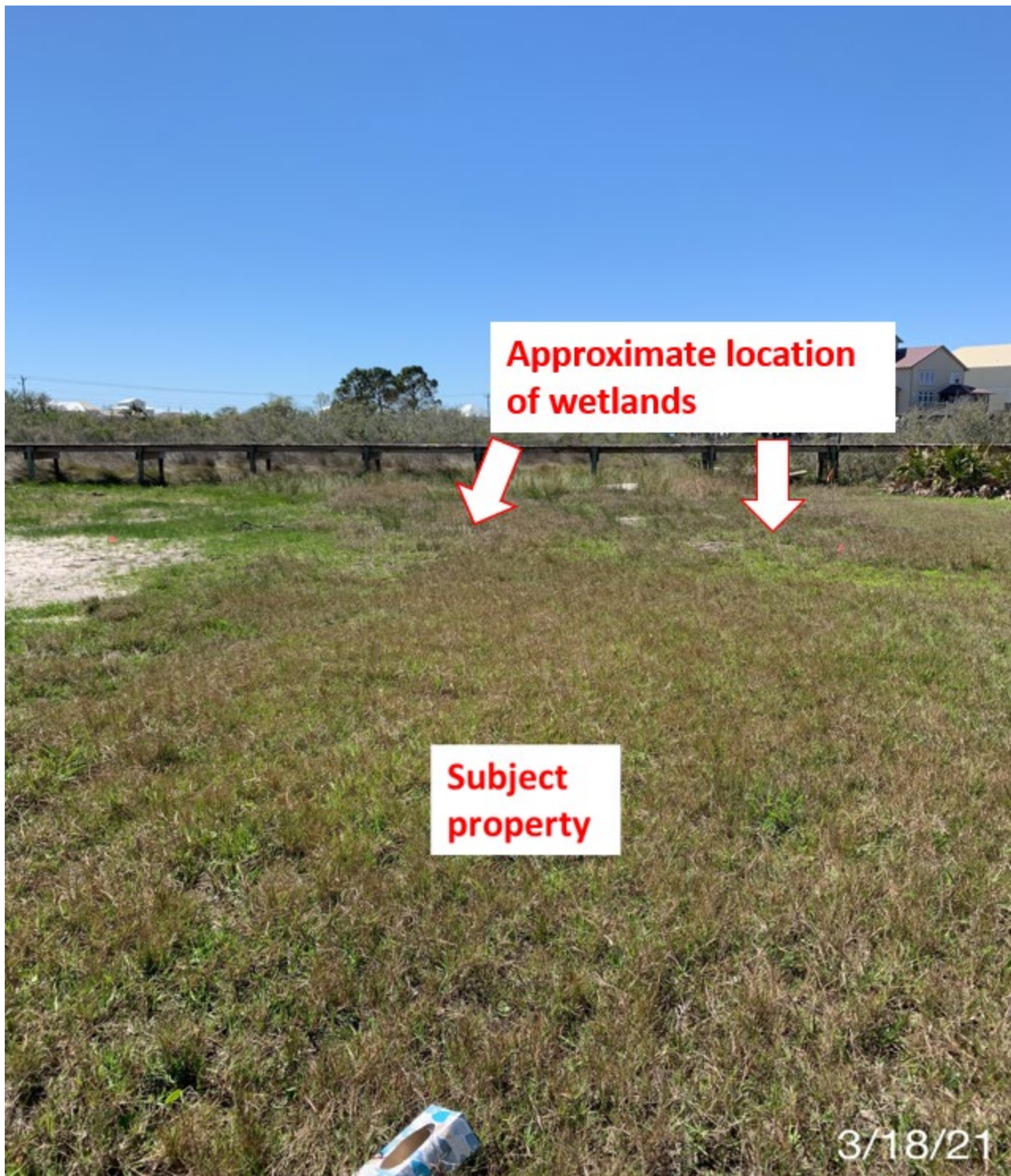
Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board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







Approximate location  
of wetlands

Subject  
property

3/18/21





**Subject property  
back of lot**

3/18/21





**Subject  
property**

**Adjoining  
property  
to the  
west**





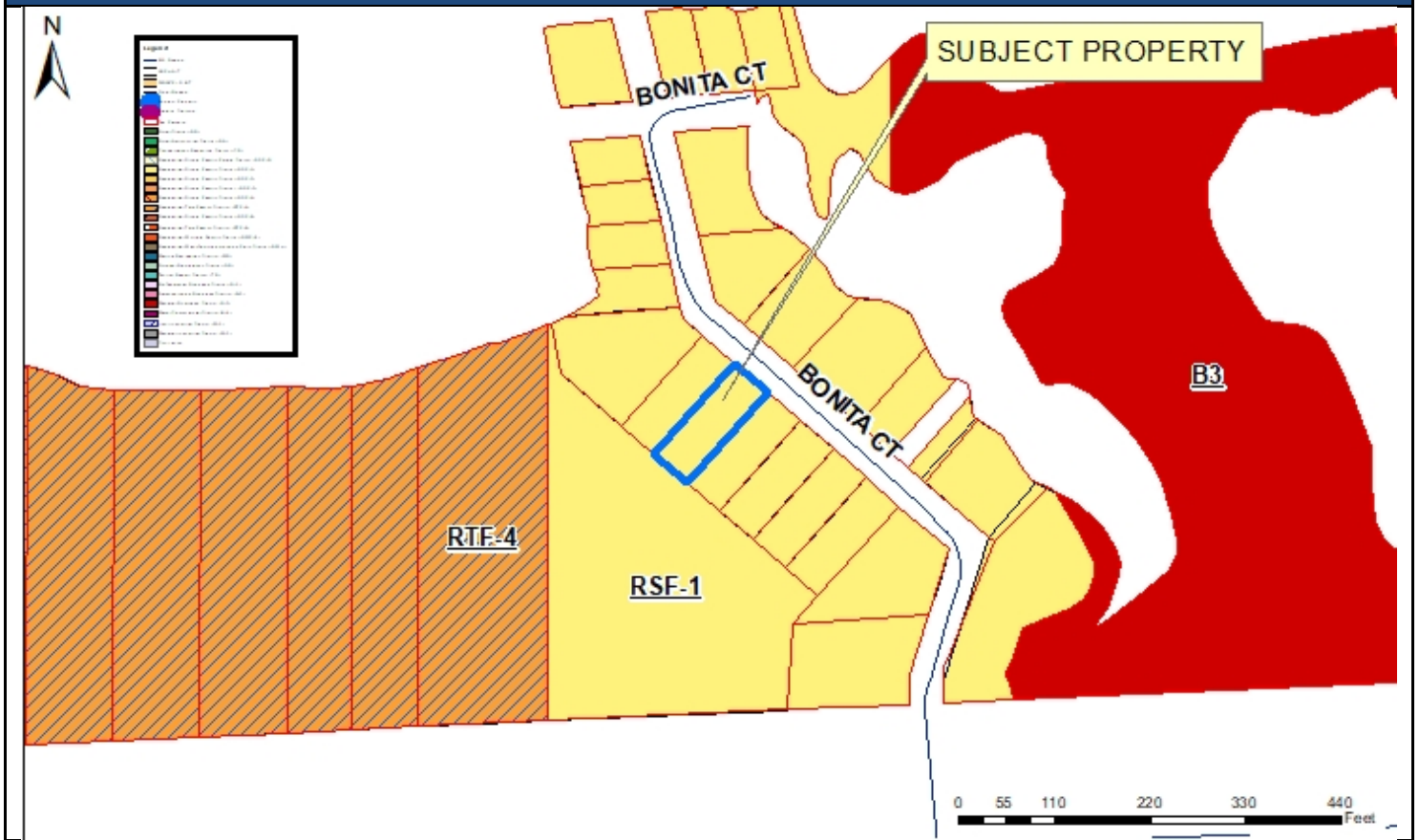




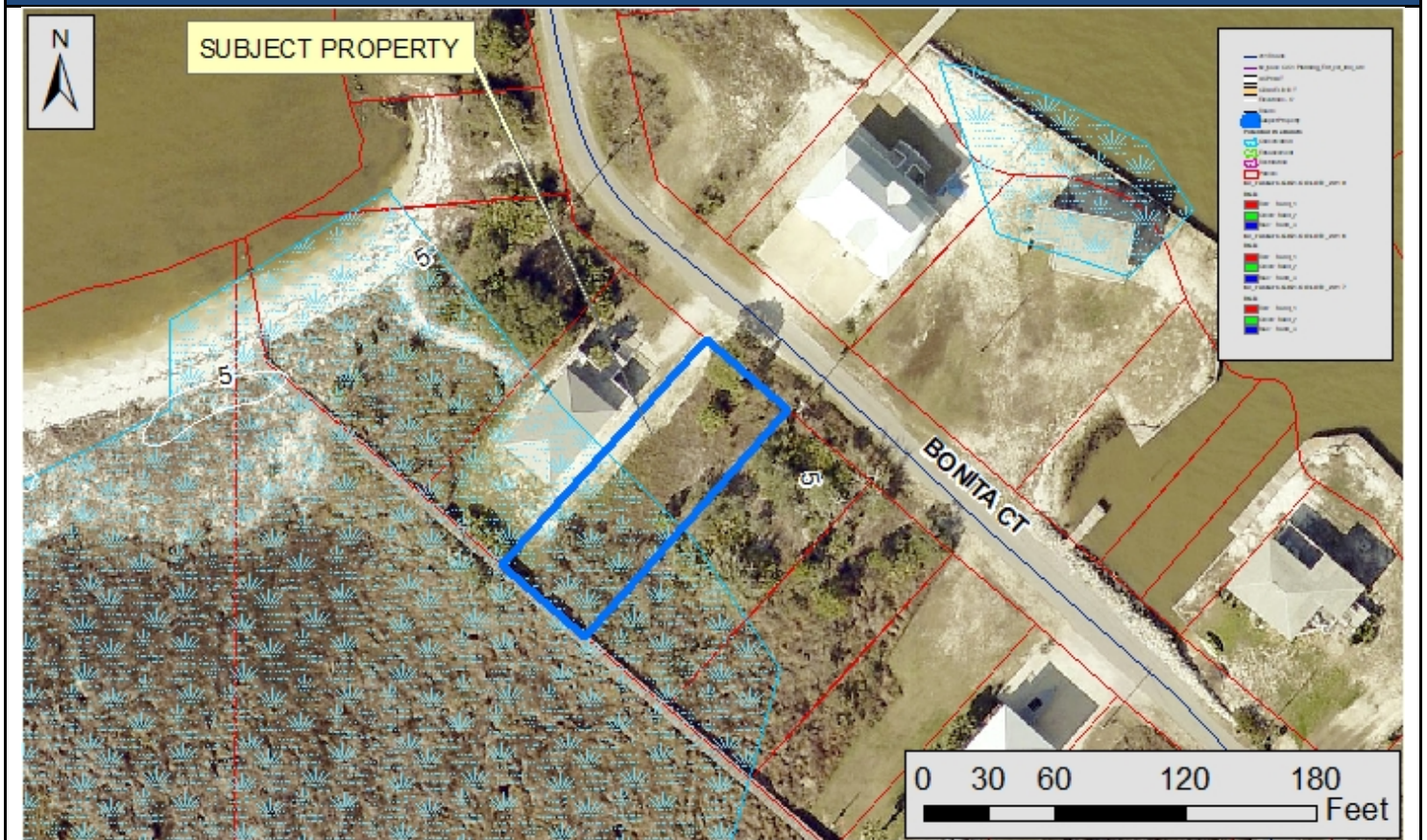




# Locator Map



# Site Map – 2017 Aerial Photography









# Baldwin County Planning & Zoning Department

## Board of Adjustment Number 2

### Board of Adjustment Staff Report

**Case No. V-210006**

**Morris Property**

**Variance from Jurisdictional Wetlands Setback Requirements**

**April 8, 2021**

### Subject Property Information

**Planning District:** 25  
**General Location:** Surfside Shores Unit 2 Block H Lot 31  
**Physical Address:** 6791 Lake Shore Drive  
**PID:** 05-68-09-30-0-001-041.000  
**Zoning:** RSF-1, Residential Single Family  
**Acreage:** 0.458, more or less – 101.3' x 200'  
**Applicant:** Trenton and Allison Morris  
4150 Finch Road SW  
Powder Springs, GA 30127  
**Owner:** Trenton and Allison Morris  
**Lead Staff:** Linda Lee, Planner  
**Attachments:** *Within Report*

	Adjacent Land Use	Adjacent Zoning
<b>North</b>	Vacant	RSF-1, Residential Single-Family
<b>South</b>	Residential	RSF-1, Residential Single-Family
<b>East</b>	Residential	RSF-1, Residential Single-Family
<b>West</b>	Vacant	RSF-1, Residential Single-Family

### Summary and Recommendation

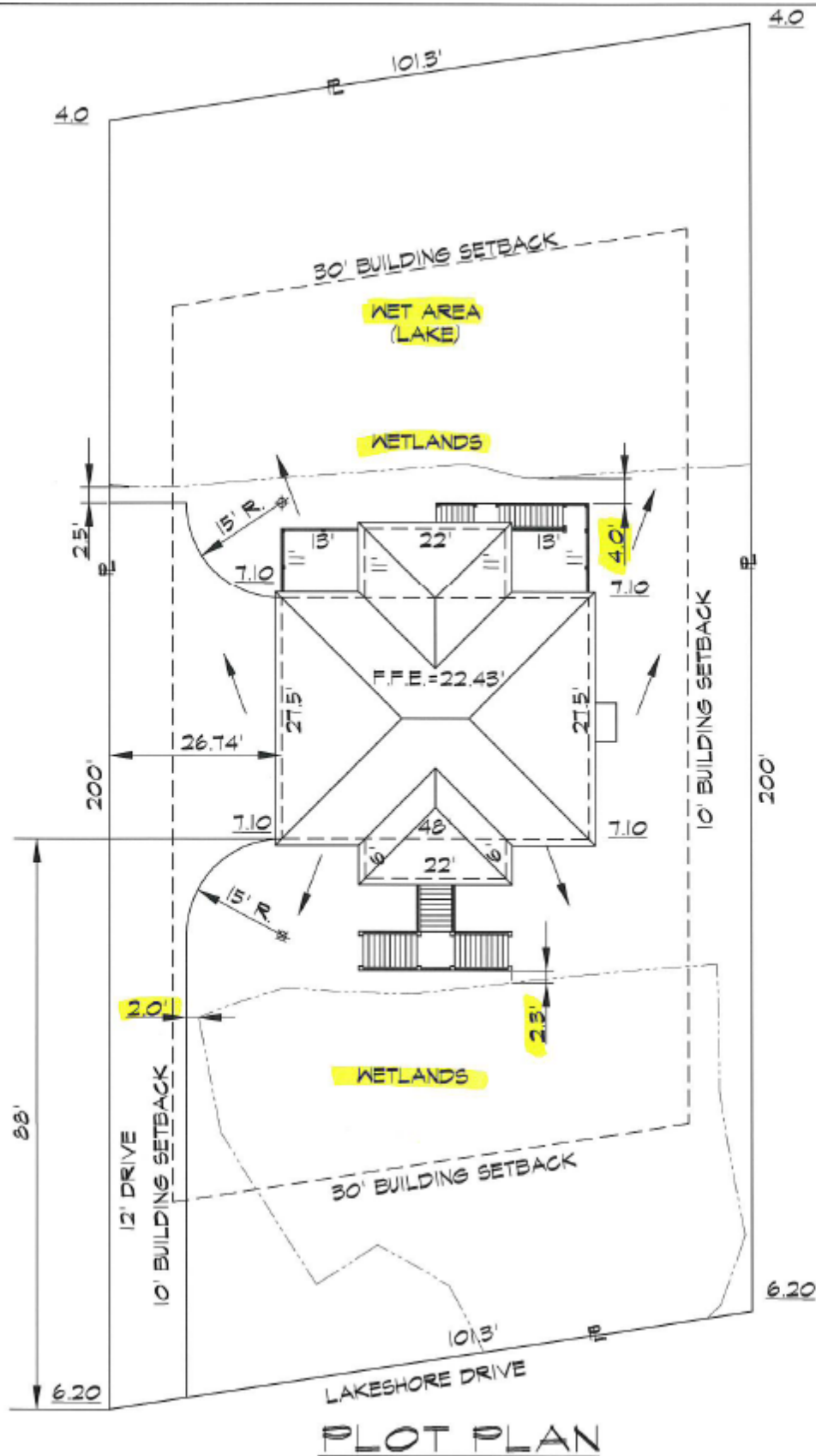
The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling.

Staff recommends that Case No. V-210006, Morris Property be **APPROVED**.

### Variance Request

The applicant is requesting a variance from the jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling.

# Proposed Site Plan



The following sections from the *Baldwin County Zoning Ordinance* are relevant to this 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 landowner 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.

**Area and Dimensional Requirements for the RSF-1 Zoning Designation**

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
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

**2.3.25.3 Local Provisions for Planning District 25**

- (a) Multiple family buildings in the “RMF-6, Multiple Family” district may be erected to a maximum height or seven (7) habitable stories. The required side yards shall be increased by 4-feet for each additional story over two (2) habitable stories. The maximum impervious surface ratio shall not exceed .50.
- (b) No PRD development is allowed to exceed maximum height requirements by more than 10-feet or 1 story.

**(c) Off-street Parking.**

As a supplement to Section 15.2, Parking Schedule, the following off-street parking requirements shall be applicable to single family dwellings and two-family dwellings:

- 1. Up to Four (4) Bedrooms: Two (2) spaces per dwelling unit.
- 2. Up to Six (6) Bedrooms: Three (3) spaces per dwelling unit.
- 3. Seven (7) Bedrooms and more: Four (4) spaces per dwelling unit, plus one (1) additional space per dwelling unit for every bedroom over eight (8).

- (d) HDR, High Density Residential District, shall not be available in Planning District 25.
- (e) The maximum height of single family and two-family structures shall be limited to two (2) habitable stories.

## 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 Lot 31 Block H Surfside Shores Subdivision Unit 2. The lot has a width of 101.3 feet and a depth of 200 feet. The total lot area is approximately 20,260 square feet. The minimum lot area for property zoned RSF-1 is 30,000 square feet. Therefore, staff believes it meets the exceptional shallowness standard to warrant a variance Per the submitted survey, the proposed structure will be approximately four (4) feet from the wetlands on the front and five (5) feet from the wetlands on the rear. The proposed driveway will be two (2) feet from the front wetlands.

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

Jurisdictional wetlands are on the front and rear of the subject property. As this variance pertains to wetlands setback requirements, staff believes the location of wetlands on the property does not leave enough buildable area to meet the 30-foot wetlands setback requirement. Therefore, staff believes the lot meets the exceptional topographic conditions to warrant a variance.



**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 property is zoned for residential use. The granting of the application will allow the applicant to build a single-family dwelling. Therefore, staff believes the granting of a variance is necessary for the preservation of a property right.

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

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

**5.) Other matters which may be appropriate.**

Approval from Property Owners Association:

Property Owners of Surfside Shores  
P.O. Box 7077  
Gulf Shores, Alabama 36547

March 6, 2021

To Whom It May Concern:

Property Owners of Surfside Shores is a Voluntary owner's association.

As President (Ron Slovensky) and Sec/Treas. (Debbie Harper) who are full time residents of Surfside approve Trent and Allison Morris building on their lot 31 Blk H Unit 2 in Surfside with the variance.

I, Debbie Harper lives directly across the street from this property and approves.

Sincerely,

  
Debbie Harper, Sec. Treas.

  
Ron Slovensky, President

### **Fort Morgan Planning & Zoning Advisory Committee Recommendation**

Case V-210006 Morris Property

**From:** ernie church <ecaces4@gmail.com>

**Sent:** Wednesday, March 24, 2021 3:41 PM

**To:** Linda Lee <LLee@baldwincountyal.gov>

**Subject:** Case V-210006 Morris Property

The Ft Morgan Planning and Zoning advisory committee met on 24 March 2021. The committee voted to recommend approval of case V-210006.

Ernie Church, Chair.

*Board of Adjustment Number 2 Regular Meeting*

*April 8, 2021*

*Page 39 of 46*

## Email from USACOE

**From:** Harris, Lebya J (Libby) CIV USARMY CESAM (USA) <Lebya.J.Harris@usace.army.mil>  
**Sent:** Friday, March 12, 2021 2:20 PM  
**To:** Barry Vittor <bvittor@bvaenviro.com>; 'Allison Morris' <allison.em.morris@gmail.com>  
**Cc:** Coastal@adem.alabama.gov  
**Subject:** Acknowledgement of Receipt – SAM-2021-00329 (Allison & Trent Morris - Residential Development on Lakeshore Drive (Lot 31))

The U.S. Army Corps of Engineers (USACE), Mobile District is in receipt of your recent request. This request has been assigned the following file number, which should be referred to in all future correspondence with this office concerning this project:

File Number: SAM-2021-00329



# BARRY A. VITTOR & ASSOCIATES, INC.

ENVIRONMENTAL RESEARCH & CONSULTING

8080 Cottage Hill Road

Mobile, Alabama 36695

Phone (251) 633-6100

Fax (251) 633-6738

March 12, 2021

Brad Crosson  
South Alabama Team Lead  
Regulatory Division  
Mobile District Corps of Engineers  
P.O. Box 2288  
Mobile, AL 36628-0001

Subject: Allison and Trent Morris, Lakeshore Drive (Fort Morgan, Baldwin Co., AL)  
Pre-JD Request

Dear Brad:

Attached is a **Pre-Jurisdictional Determination** request filed on behalf of Allison and Trent Morris. They intend to construct a single-family home on Lot 31 (6791 Lakeshore Drive) in Surfside Shores subdivision on Fort Morgan, and contracted with Barry A. Vittor & Associates, Inc. for delineation of wetlands that might occur within the 0.5-acre lot. This property is located in Section 30, Township 9 South, Range 2 East. The geographic coordinates of the approximate center of the lot are Latitude 30.236306°N, Longitude 87.905953°W. Vittor & Associates conducted a full delineation of the property on February 24, 2021 and determined that the lot contained approximately 0.23 acre of wetlands, including a 0.09-acre wetland located at the frontage on Lakeshore Drive and a 0.14-acre area located in the northern portion of the lot. A map of the delineation is attached; data forms are also provided here.

We observed that there is no surface hydrologic connection between the mapped wetlands and the nearest TNW (Gulf of Mexico). Both wetland areas consist of swales located between natural dune systems. These swales extend beyond the surveyed lot but are entirely surrounded by uplands and do not connect to tributaries or the Gulf of Mexico. Consequently, the wetlands within the Morris property should be classified as "non-adjacent wetlands" that are not regulated under Section 404 of the Clean Water Act.

We appreciate your consideration of this request and will be happy to provide any additional information that may be needed to conduct a review of this property.

Sincerely,

Barry A. Vittor, PhD  
President

Cc: Allison and Trent Morris  
allison.em.morris@gmail.com





## United States Department of the Interior

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

IN REPLY REFER TO:  
2020-TA-0997

JUL 09 2020

Mrs. Debbie Harper  
Blue Water Real Estate  
6782 Lakeshore Drive  
Gulf Shores, AL 36542

Dear Mrs. Harper:

This is the report of the U.S. Fish and Wildlife Service (Service) concerning your request for endangered species clearance letters for the following properties:

Tax Pin #75892, Lot 30, Blk H, Surfside Shores, located off Lakeshore Drive (PID# 05-68-09-30-0-001-040.000) in Gulf Shores, Alabama. The owner is John S. Kelley.

Tax Pin #75893, Lot 31, Blk H, Surfside Shores, located off Lakeshore Drive (PID# 05-68-09-30-0-001-041.000) in Gulf Shores, Alabama. The owner is John S. Kelley.

Our report is prepared in accordance with the requirements of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543).

A Service biologist conducted a site inspection of the above properties on July 19, 2017. The biologist determined Alabama beach mouse (ABM) (*Peromyscus polionotus ammobates*) habitat does not exist on the property, but does exist in the surrounding area. Our opinion has not changed to date. The property is extremely wet and may contain wetlands. If the following conservation measures are implemented, we do not believe "take" of ABM will occur. The conservation measures include:

- We recommend the owner consult with the Army Corps of Engineers (ACOE) and Alabama Department of Environmental Management (ADEM) for possible wetland impacts.
- Dispose of all refuse in containers that are rodent and scavenger-proof.
- Do not store lumber, metal, or bulk materials on the property, other than building materials used during construction. These materials will not be stored in natural habitat.
- Use only native dune plants for landscaping. We can provide a list of native plants upon request.
- Exterior lighting will fully shielded and use no greater than an incandescent 40 watts bulbs or their technological equivalent (13 CFL or 8.5 LED).
- The presence or support of free-roaming cats will not be allowed on the property.

PHONE: 251-441-5181

FAX: 251-441-6222

### Staff Comments and Recommendation

Staff feels that this is a reasonable request which meets the standards for approval of variances. Unless information to the contrary is revealed at the public hearing, Case V-210006 should be **APPROVED\***.

\* A majority vote of the board members will be necessary to approve this request.

## **GENERAL NOTES {By-laws}**

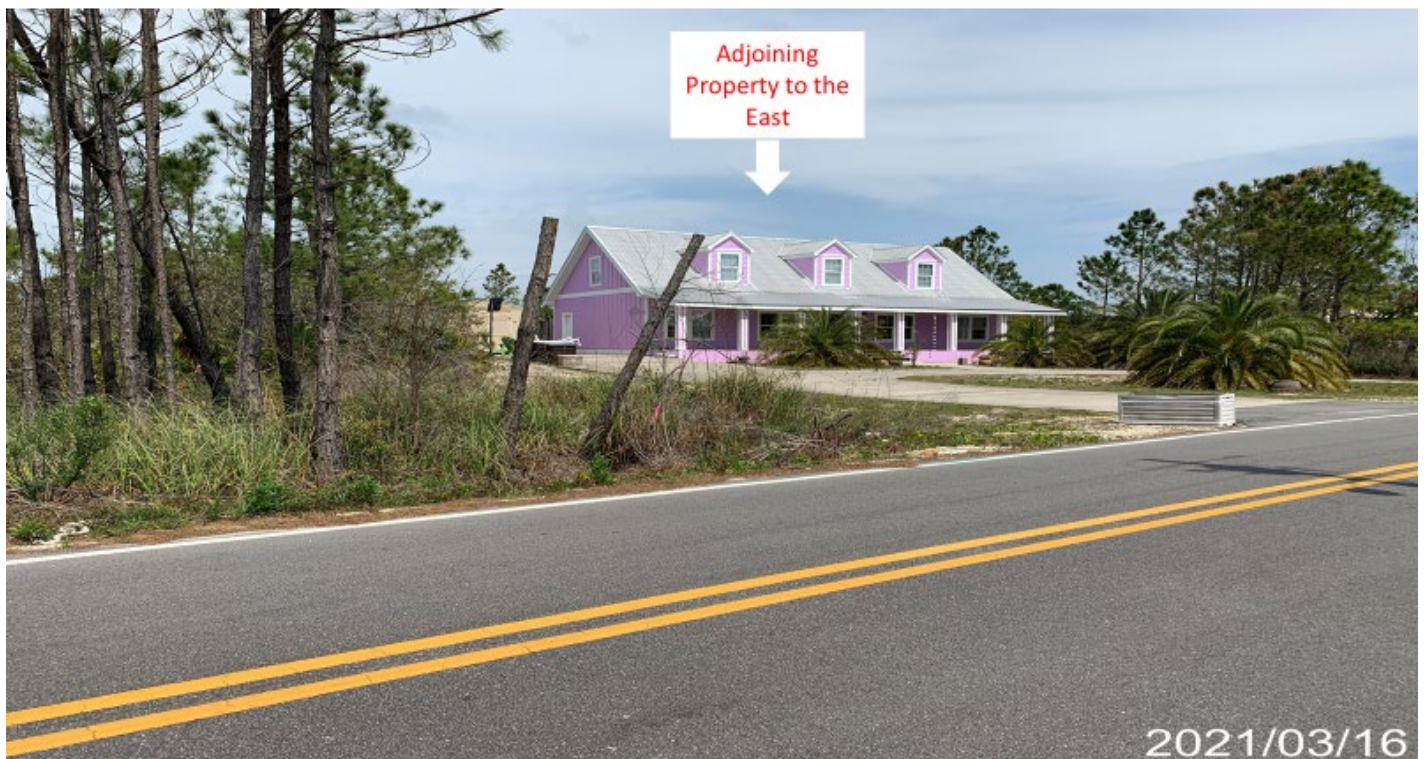
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### **Property Images**













[illegible][illegible]