

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

**AGENDA**

**August 11, 2022**

**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 (July 14, 2022)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

**ITEMS:**

**a.) Case No. ZVA22-52, LaGrasse Property**

*Request:* approval of a variance from the Baldwin County Zoning Ordinance as it pertains to the construction of a dune walkover

*Location:* The subject property is located at 1266 State Highway 180 in Planning District 25

*Attachments:* Within Report and Attached

**b.) Case No. ZVA22-55, Wilder Property**

*Request:* approval of a variance from the Baldwin County Zoning Ordinance as it pertains to the front, rear, and side yard setbacks to allow for the construction of a single-family dwelling.

*Location:* The subject property is located at 11919 Baudin Lane in Planning District 21

*Attachments:* Within Report and Attached

**c.) Case No. ZVA22-57, Harrison Property**

*Request:* approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the non-disturbed setback from a wetland to allow for a single-family dwelling to be moved onto the parcel. This application was tabled from the July 14, 2022, meeting.

*Location:* The subject property is located at 9931 Baecher Lane in Planning District 30

*Attachments:* Within Report and Attached

**d.) Case No. ZVA22-65, Bose/Palmer Property**

*Request:* approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the setback from a wetland to allow for the construction of a single-family dwelling.

*Location:* The subject property is located at 31236 Peninsula Drive in Planning District 24

*Attachments:* Within Report and Attached

**e.) Case No. ZVA22-66, Dickey Property**

*Request:* approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback.

*Location:* The subject property is located at 9588 Clarke Ridge Road in Planning District 30

*Attachments:* Within Report and Attached

6. Old Business
7. New Business
8. Adjournment

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

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

**Planning & Zoning Board of Adjustment Number 2**  
**July 14, 2022**  
**Regular Meeting Minutes**  
**Foley Satellite Courthouse, Large Meeting Room**

The Board of Adjustment Number 2 met in a regular session on July 14, 2022, at 3:30 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman David Brown called the meeting to order at 3:30p.m. with a prayer and the pledge of allegiance. Members present included: James Koeppen, Robert Broseus, John Slaats, Michael Swansburg, Lawrence Kern, and Harold Stephens. Staff members present were Crystal Bates, Planning Technician, Paula Bonner, Planning Technician, and Buford King, Deputy Planning Director.

**Approval of Previous Meeting Minutes**

The next order of business was approval of the minutes from the May 14, 2022, meeting. Mr. Stephens made a motion to approve the meeting minutes. The motion received a second from Mr. Slaats and carried unanimously.

**ZVA22-42 F Development, LLC Property**

In the absence of Planning Technician DJ Hart, Mr. King presented the applicant's request for approval of a variance from the required number of parking spaces, the landscaped buffer requirements, and the off-street loading/unloading space requirement. Staff recommended that the variance request be approved.

Mr. Clay Adams spoke in favor of the variance request.

Mr. Koeppen made a motion to approve the variance request. The motion received a second from Mr. Slaats and carried unanimously.

**ZVA22-46 Allison Property**

In the absence of Planning Technician Fabia Waters, Mrs. Bonner presented the applicant's request for approval of a variance from section 12.5.2(d) of the Baldwin County Zoning Ordinance as it pertains to the setback for a side street to allow for the construction of a single-family dwelling. Staff recommended that the variance request be denied.

Morgan Allison, Dan Hicks, and Aubrey Bennett spoke in favor of the variance request and answered questions from the board.

Following a short discussion, Mr. Swansburg made a motion to approve the variance request. The motion received a second from Mr. Slaats and carried unanimously.

**ZVA22-48 Faison Property**

Mr. King presented the applicant's request for approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the setback from a wetland to allow for the construction of a single-family dwelling. Staff recommended that the variance request be approved with conditions.

Ryan Baker, Richard Hayden Faison, and Samantha Faison spoke in favor of the variance request and answered questions from the board.

Following a short discussion, Mr. Koeppen made a motion to approve the variance request as recommended by staff. The motion received a second from Mr. Kern and carried unanimously.

**ZVA22-49 Klein Property**

Mrs. Bates presented the applicant's request for approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the setback from a wetland to allow for the construction of a single-family dwelling. Staff recommended that the variance request be approved.

Ernest Lee spoke in favor of the variance request and answered questions from the board.

Mr. Slaats made a motion to approve the variance request. The motion received a second from Mr. Koeppen and carried unanimously.

**ZVA22-50 Hill Property**

In the absence of Planning Technician DJ Hart, Mrs. Bonner presented the applicant's request from section 12.5.2(f) of the Baldwin County Zoning Ordinance as it pertains to the required 50' setback from the VE flood zone to allow for the construction of a single-family dwelling. Staff recommended that the variance request be denied.

Mr. Scott Colvin spoke in favor of the variance request and answered questions from the board.

Mr. Slaats made a motion to approve the variance request. The motion received a second from Mr. Stephens and carried unanimously.

**ZVA22-53 Peters Property**

Mrs. Bonner presented the applicant's request for approval of a variance from section 13.1.4 and 2.3.25.3(b) of the Baldwin County Zoning Ordinance as it pertains to the addition of a tower to a single-family dwelling. Staff recommended that the variance request be approved.

Mr. Jacky Barganier spoke in favor of the variance request and answered questions from the board.

Following a short discussion, Mr. Slaats made a motion to approve the variance request. The motion received a second from Mr. Koeppen and carried unanimously.

**ZVA22-54, Bonita Court AL, LLC Property**

In the absence of Fabia Waters, Mrs. Bonner presented the applicant's request for approval of a variance from section 12.5.2(f) of the Baldwin County Zoning Ordinance as it pertains to the setback for coastal high hazard areas (V-zones) to allow for the construction of a single-family dwelling. Staff recommended that the variance request be approved.

Ms. Gina Todia spoke in favor of the variance request and answered questions from the board.

Following a short discussion, Mr. Slaats made a motion to approve the variance request. The motion received a second from Mr. Koeppen and carried unanimously.

**ZVA22-57, Harrison Property**

Mrs. Bates presented the applicant's request for approval of a variance from section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the setback from a wetland to allow for a single-family dwelling to be moved onto the parcel. Staff recommended that the variance request be approved.

Mr. Robert Harrison spoke in favor of the variance request and answered questions from the board. Tony Sica and Tina Sica expressed concerns about flooding in the area.



Following a short discussion, Mr. Swansburg made a motion to table the variance request until the next meeting. The motion received a second from Mr. Slaats and carried unanimously.

**ZVA22-58, McInnis Property**

Mrs. Bonner presented the applicant's request for approval of a variance from section 4.3.5 and section 20.2.1 of the Baldwin County Zoning Ordinance as it pertains to the side yard setback and nonconforming structures to allow for alterations to an existing single-family dwelling. Staff recommended that the variance request be denied.

Mr. Danny Paul and Charles McInnis spoke in favor of the variance request and answered questions from the board.

Mr. Slaats made a motion to approve the variance request. The motion received a second from Mr. Kern and carried unanimously.

**Old Business**

Mr. King and Chairman Brown discussed staff reports.

**New Business**

There was no new business.

**Adjournment**

There being no further business to come before the board the meeting was adjourned at 6:06 p.m.

Respectfully Submitted,

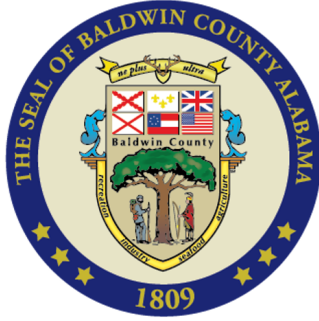
Paula S. Bonner, Planning Technician

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I hereby certify that the above minutes are true, correct and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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David P. Brown, Chairman



**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

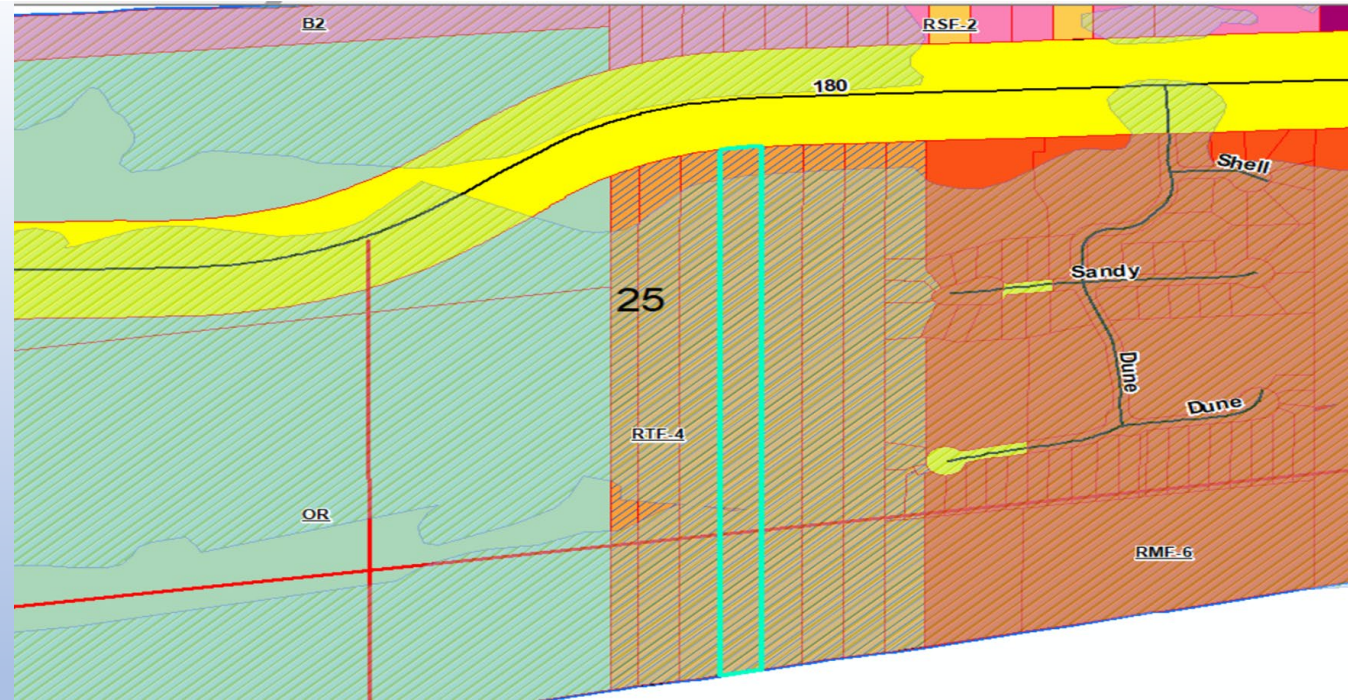
FOLEY, AL

# ZVA22-52 LAGRASSE PROPERTY

## VARIANCE REQUEST

Lead Staff: Celena Boykin, Senior Planner

- **Planning District:** 25 **Zoned:** RTF-4
- **Parcel Number:** 05-69-08-01-0-005-022.000
- **Location:** The parcel is located on the south side of St Hwy 180
- **Acreage:** 4.11+/- acres
- **Physical Address:** 1266 St Hwy 180 Gulf Shores, AL 36542
- **Applicant:** L & S Construction
- **Owner:** John and Joan LaGrasse



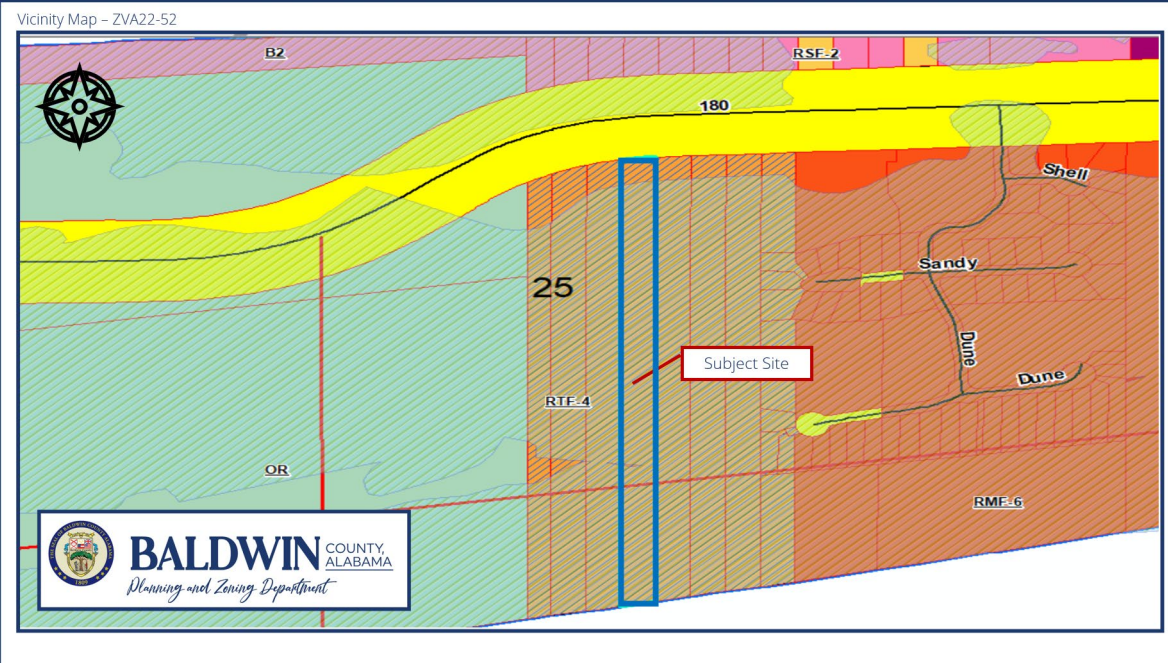
The applicant is requesting a variance from section 2.3.21.3(f), the bottom of the floor joists of the dune walkover shall be no more than 3' above the maximum elevation of the dune system being traversed.



# ZVA22-52 LAGRASSE PROPERTY

## VARIANCE REQUEST

Lead Staff: Celena Boykin, Senior Planner



### Adjacent Zoning

North	Hwy 180 & B2, Neighborhood Business District
South	NA
East	RTF-4, Two-Family District
West	RTF-4, Two-Family District

### Adjacent Land Use

Hwy 180 & Vacant
Gulf of Mexico
Vacant
Vacant



# ZVA22-52 LAGRASSE PROPERTY

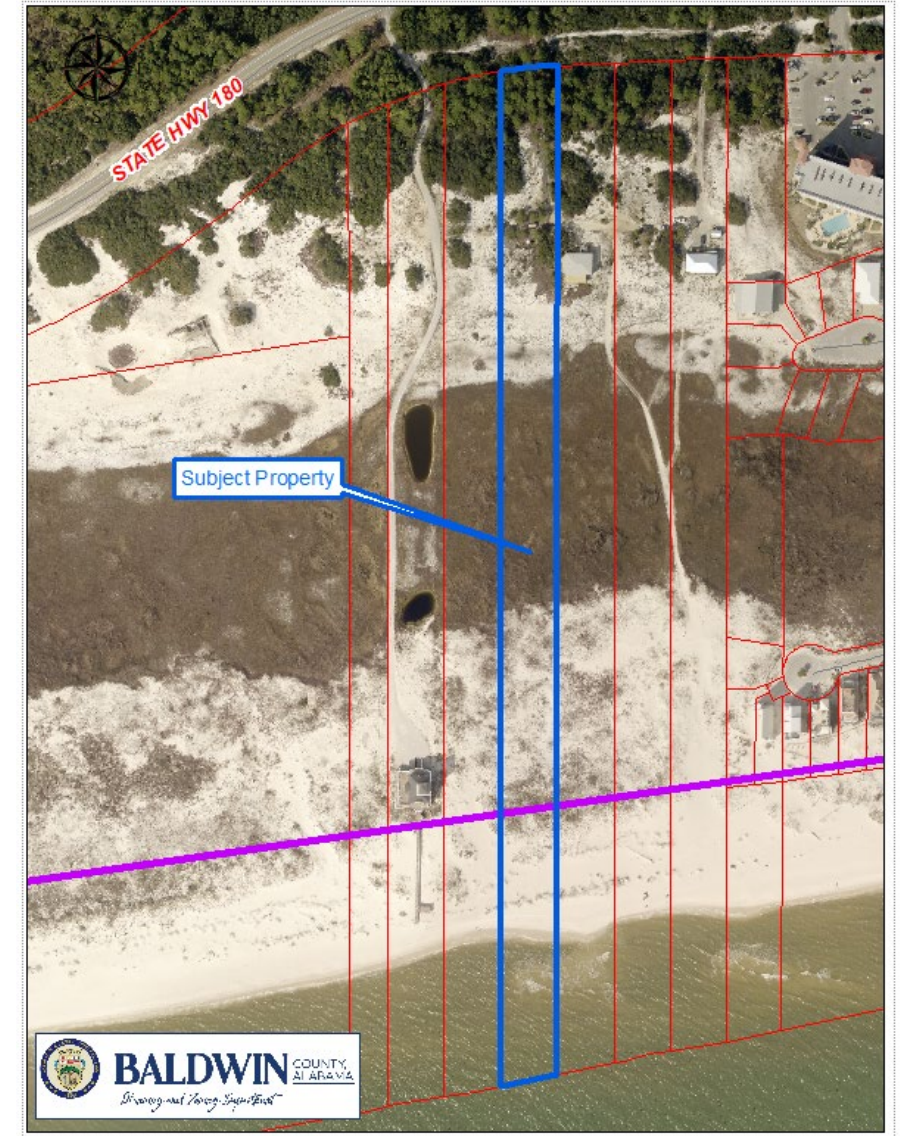
## VARIANCE REQUEST

Lead Staff: Celena Boykin, Senior Planner

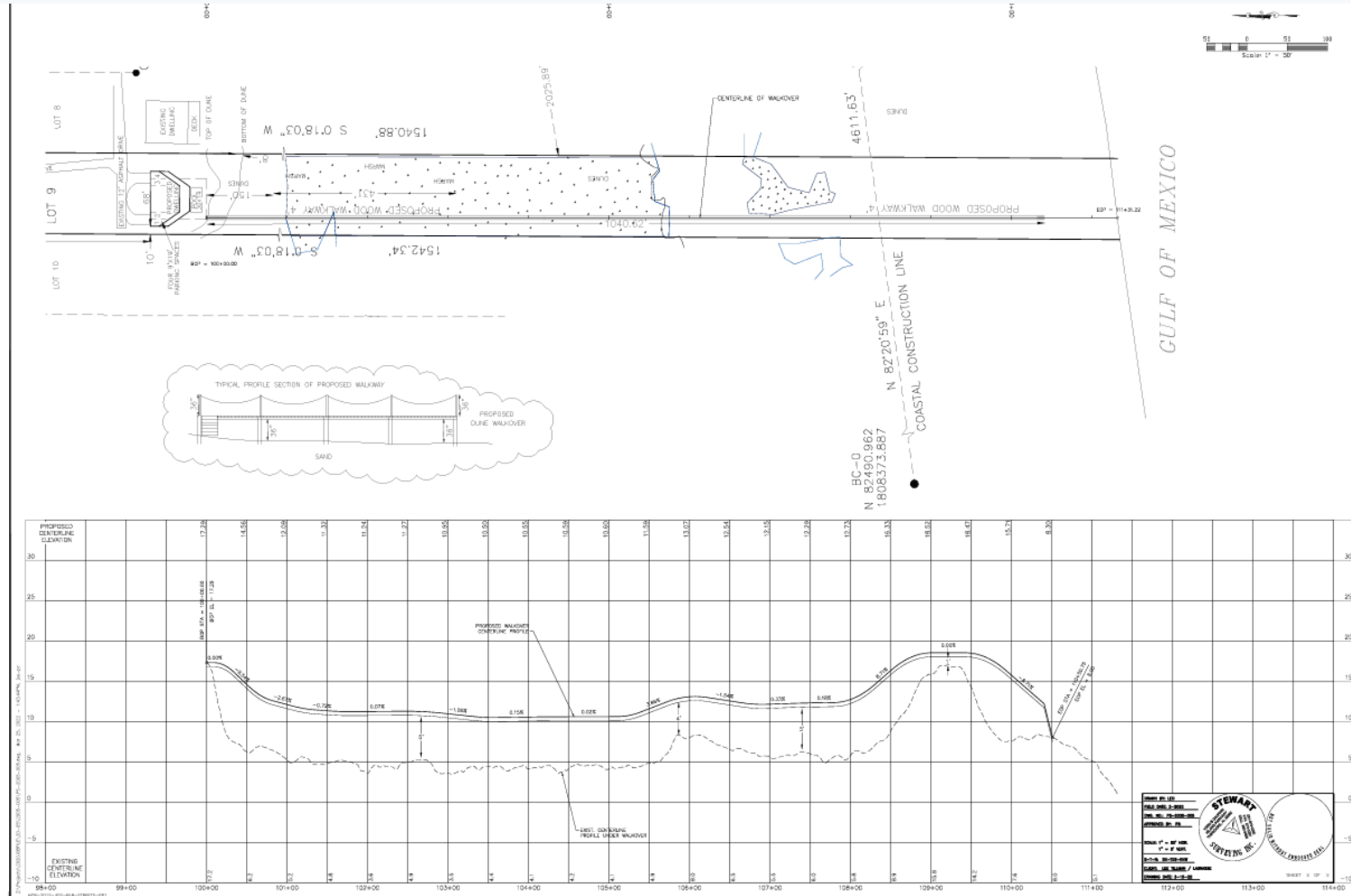
### Variance Information:

The applicant applied for a permit to build a dune walkover. After the initial review it was determined that the dune walkover didn't meet all the requirements of section 2.3.21.3(f) of the Baldwin County Zoning Ordinance.

The applicant stated that they are requesting a **variance** from the required maximum height the dune walkover can be built above the sand dune.



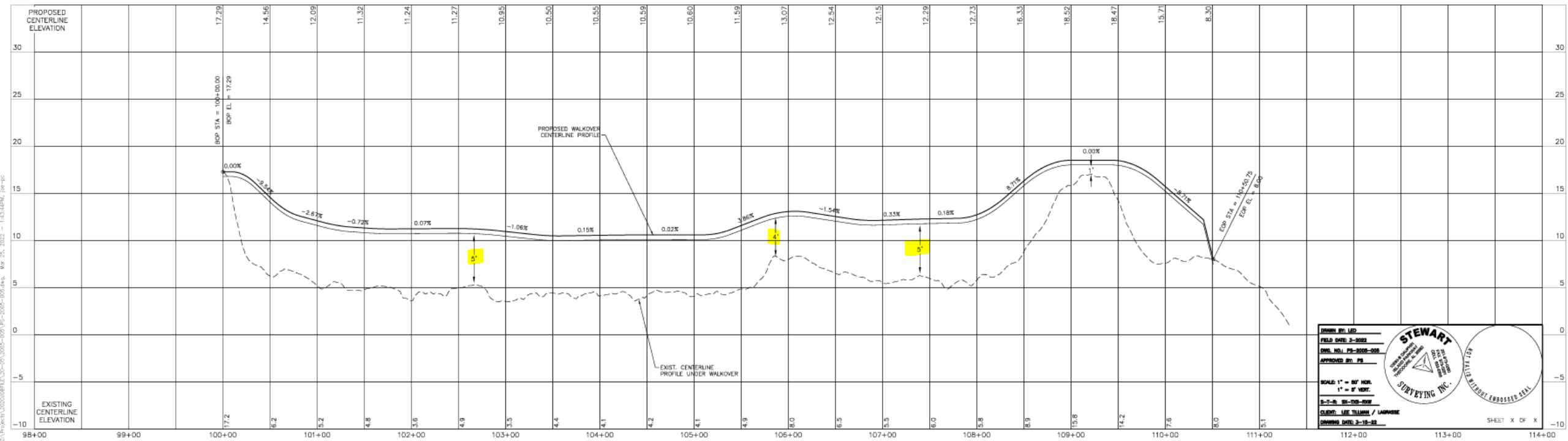
# Site Plan



The applicant is proposing to build a dune walkover more than 3' above the dune system being traversed.

The Zoning Ordinance requirement is that the elevation from the bottom of floor joists of the dune walkover shall be no less than one (1) foot and no more than three (3) feet above the maximum elevation of the dune system being traversed.

# Enlarged Centerline Elevation



DESIGNED BY: LEO  
FIELD DATE: 3-2022  
DWG. NO.: PS-2022-008  
APPROVED BY: PS

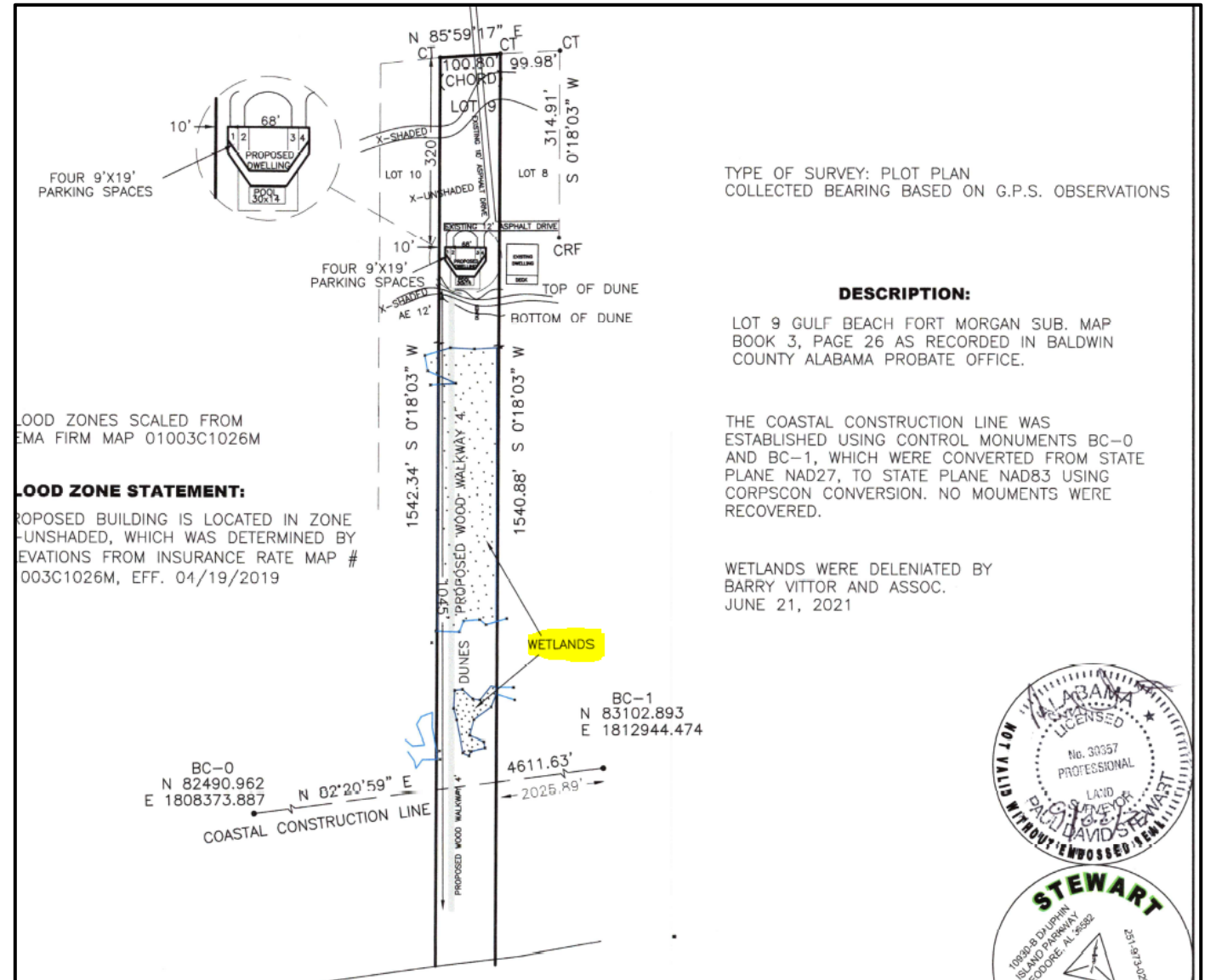
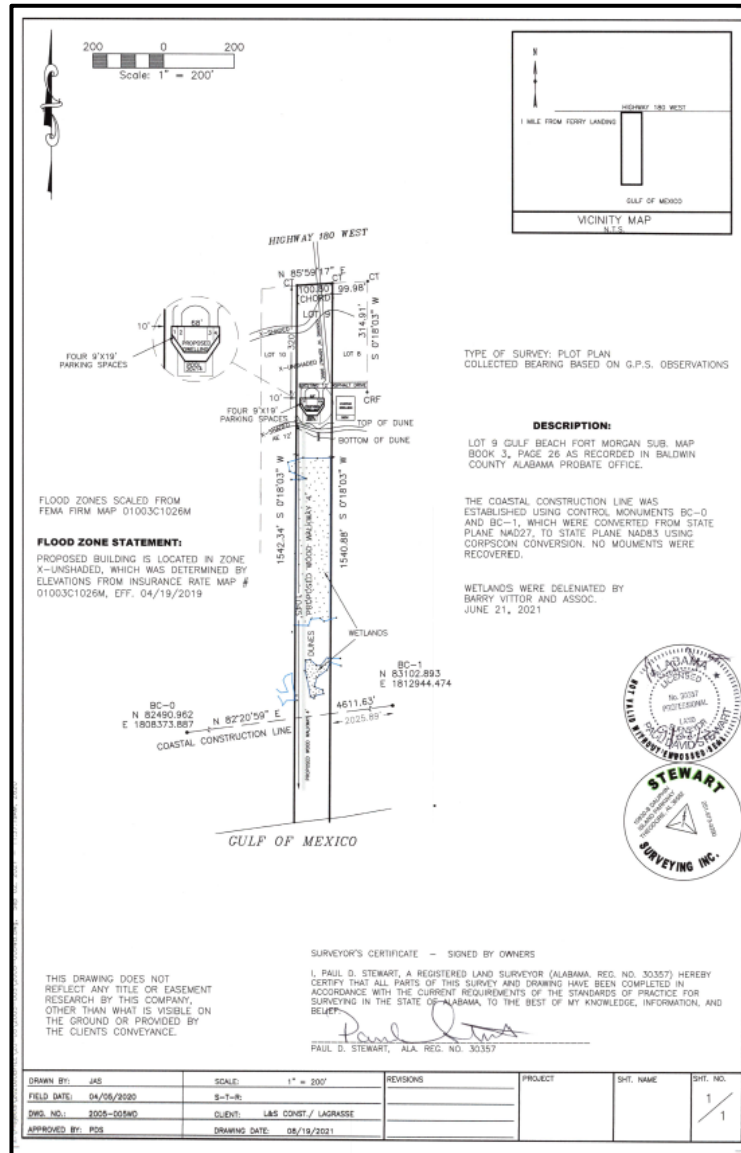
SCALE: 1" = 50' HOR.  
1" = 8' VERT.

CLIENT: LEE TILMAN / LAMARCO  
DRAWING DATE: 3-18-22

**STEWART**  
SURVEYING INC.  
REGISTERED PROFESSIONAL SURVEYOR  
STATE OF TEXAS  
NO. 123456789  
EXPIRATION DATE: 12-31-2025

SHEET X OF X

# Survey





# Property Images









# Staff Analysis and Findings

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

The subject property is rectangular in shape and contains approximately 4.11 acres. This property is developed as single family. Staff feels the property does not meet this standard.

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

Staff could not establish any exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property 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 property is already developed with a single-family dwelling. As the property is currently developed, staff believes the granting of this variance is not necessary to preserve a property right.

## Staff Analysis and Findings

**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 dune walkover requirements were adopted by the County Commission on October 15, 2019. There are numerous dune walkovers that do not meet the Zoning Ordinance because the County didn't start enforcing dune walkover until the end of 2019. In the past we have had complaints about dune walkovers being too high and coming out to far. That is why the dune walkover regulations were added to the County Zoning Ordinance.

# Staff Analysis and Findings

## 5.) Other matters which may be appropriate. **Dune Walkover Requirements:**

### 3. A dune walkover shall be constructed to the following standards:

- A. There shall be no more than one (1) dune walkover per parcel.
- B. Dune walkovers shall begin at the existing ground level elevation of the principal landward structure.
- C. The maximum width of the dune walkover structure shall be no more than four (4) feet for single family/two family structures and no more than six (6) feet for multiple family/commercial/public structures. Maximum widths shall be applicable to all sections of the dune walkover structure, including but not limited to steps, ramps, landings and decks.
- D. The elevation from the bottom of floor joists of the dune walkover shall be no less than one (1) foot and no more than three (3) feet above the maximum elevation of the dune system being traversed.
- E. No vertical or horizontal structures shall be allowed above thirty-eight (38) inches from the walking surface, i.e., roofs, walls, pergolas, etc.
- F. Handrails, if any, shall be no higher than thirty-six (36) to thirty-eight (38) inches above the walking service for Single- and Two-Family Dwellings.
- G. The dune walkover shall terminate ten (10) feet seaward of the vegetative line of the dune.
- H. The location and length of the dune walkover is to be coordinated through and approved by the delegated authority of the Alabama Department of Environmental Management (ADEM) and the U.S. Fish and Wildlife Service.
- I. No lighting shall be utilized on a dune walkover.
- J. No dune walkover construction shall occur during the sea turtle nesting season from May 1 through November 1.

# Staff Analysis and Findings

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

The deficiencies that was requested of the applicant to address before the application for the dune walkover permit could be approved:

I need a few issues clarified before I can approve the dune walkover.

1.) Show that the dune walkover starts at ground level.

B. Dune walkovers shall begin at the existing ground level elevation of the principal landward structure.

2.) The maximum height the dune walkover can be over sand dune is 3'.

D. The minimum elevation from the bottom of floor joists of the dune walkover shall be no less than one (1) foot and no more than three (3) feet above the maximum elevation of the dune system being traversed.

3.) Need to show the vegetative line on site plan.

G. The dune walkover shall terminate ten (10) feet seaward of the vegetative line of the dune.

## Fort Morgan Advisory Committee Action

### Paula Bonner

**From:** Chuck Scott <haymuncher@yahoo.com>  
**Sent:** Wednesday, July 27, 2022 12:28 PM  
**To:** Paula Bonner  
**Cc:** Thelma Strong; Renee Hicks; Jennifer Ishler; Randy Ulrich  
**Subject:** ZVA22-52

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Case ZVA22-52 LaGrasse

Paula,  
As per our discussion, with only one case the FMPZAC met electronically

All 5 members are in agreement on this decision without reservation

The vote is 5-0 AGAINST approval

I am very familiar with this construction and walked the construction site again today

This may be the most egregious attempt to circumvent codes in recent memory and there was very little discussion required to reach this unanimous ruling

Regards,  
Chuck

CHUCK SCOTT  
CHAIRPERSON

## Statement of Homeowners Association

Joan and John LaGrasse  
9148 Demery Court  
Nashville, TN 37027

January 11, 2022

To Whom It May Concern:

This letter is intended to formally document that we own Lot #9 at:  
1266 Highway 180 West  
Gulf Shores, AL 36542

Tax Map # 05-69-08-01-0-005-022.000

AND that there is no homeowners' association (HOA) or the like associated with this lot.

Thank you for your attention on this matter.

Sincerely,

  
Joan and John



Page 1 of 5  
NATIVE ENDANGERED SP. HABITAT  
CONSERVATION PLAN  
**Permit Number:** ESPER0002996 **Version**  
**Number:** 0  
**Effective:** 2021-03-26 **Expires:** 2071-03-26

**Issuing Office:**

**Department of the Interior**  
**U.S. FISH AND WILDLIFE SERVICE**  
Ecological Services Permit Office  
1875 Century Boulevard  
Atlanta, Georgia 30345  
permitsR4ES@fws.gov

**WILLIAM  
PEARSON**

Digitally signed by  
WILLIAM PEARSON  
Date: 2021.03.25  
12:03:57 -05'00'

*Field Supervisor, Alabama Ecological Services Field Office, Daphne, Alabama*

**Permittee:**

John LaGrasse  
505 Braylon Circle  
Franklin, Tennessee 37064

**Authority:** Statutes and Regulations: 16 U.S.C. 1539a 50 CFR 17.22, 50 CFR 13

**Location where authorized activity may be conducted:**

The 3.96 acres lot is located off Highway 180 in Gulf Shores, Alabama or Parcel ID # 05-69-08-01-0-005-022.0000 (Tax Pin 112731).

**Reporting requirements:**

Reports will be provided to the U.S. Fish and Wildlife office appearing in Condition K of this Permit.

**Authorizations and Conditions:**

A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. The validity of this permit is also conditioned upon strict observance of all applicable foreign, state, local tribal, or other federal law.

THIS PERMIT CONSISTS OF CONDITIONS A - K (5 PAGES TOTAL) AND TWO APPENDICES (2 PAGES TOTAL).

# Statement from Fish and Wildlife



**BCCAP** \_\_\_\_\_

**BALDWIN COUNTY COASTAL AREA PROGRAM**

**COASTAL AREA MANAGEMENT PROGRAM  
NON-REGULATED USE PERMIT**

USE TYPE: Residential Construction on Gulf-Front Property  
PERMITEE: John & Joan LaGrasse and L&S Construction  
PERMIT NUMBER: BCCAP 20-007  
PROJECT LOCATION: 1266 State Hwy 180, Gulf Shores  
Fort Morgan Peninsula, Baldwin County, AL  
Parcel # 69-08-01-0-005-022.000  
PPIN # 112731  
PROJECT DESCRIPTION: Construction of a Single-Family Dwelling and Dune Walkover

In accordance with and subject to the provisions of CODE of Alabama 1975, Section 9-7-10 et. Seq. and Section 22-22A-1 et. Seq. rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the permittee described in this permit is hereby authorized to conduct the above referenced activities.

CONSTRUCTION AUTHORIZED BY THIS PERMIT SHALL BE COMPLETED WITHIN 3 YEARS FROM THE DATE OF ISSUANCE.

ISSUED THIS 3<sup>rd</sup> DAY OF Aug., 2021



BALDWIN COUNTY COASTAL AREA PROGRAM

**BCCAP PERMIT**

# Pictures Submitted by Applicant





# ZVA22-52 LA GRASSE PROPERTY

## VARIANCE REQUEST

Lead Staff: Celena Boykin, Senior Planner

### Staff's Comments and Recommendation:

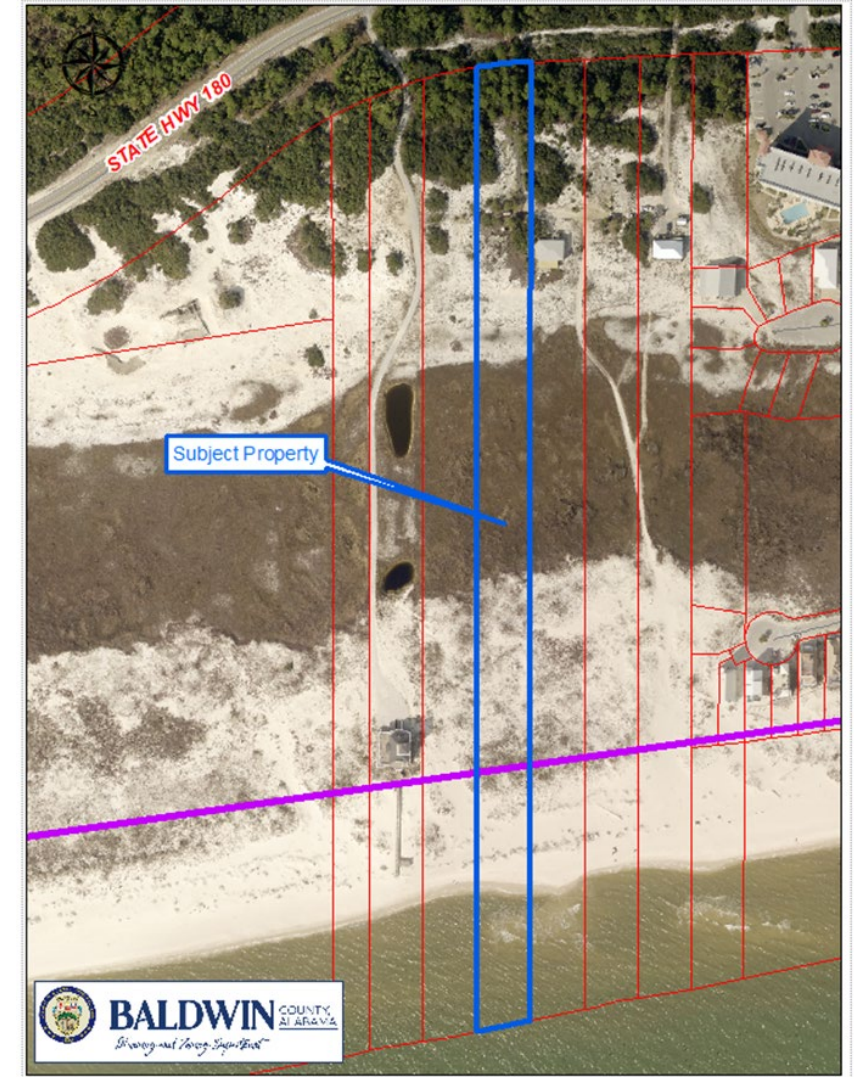
As stated previously, the applicant is requesting a **variance** from the bottom of the floor joists of the dune walkover to be more than 3' above the maximum elevation of the dune system being traversed.

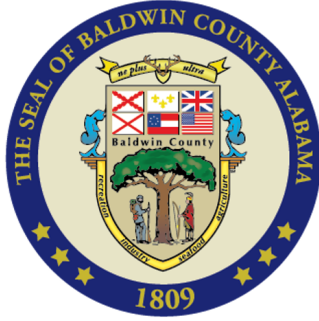
Staff could not establish a hardship on the property therefore recommends Case ZVA22-46 be **Denied** unless information otherwise is revealed at the public hearing.

#### GENERAL NOTES {By-laws}

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

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





**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL

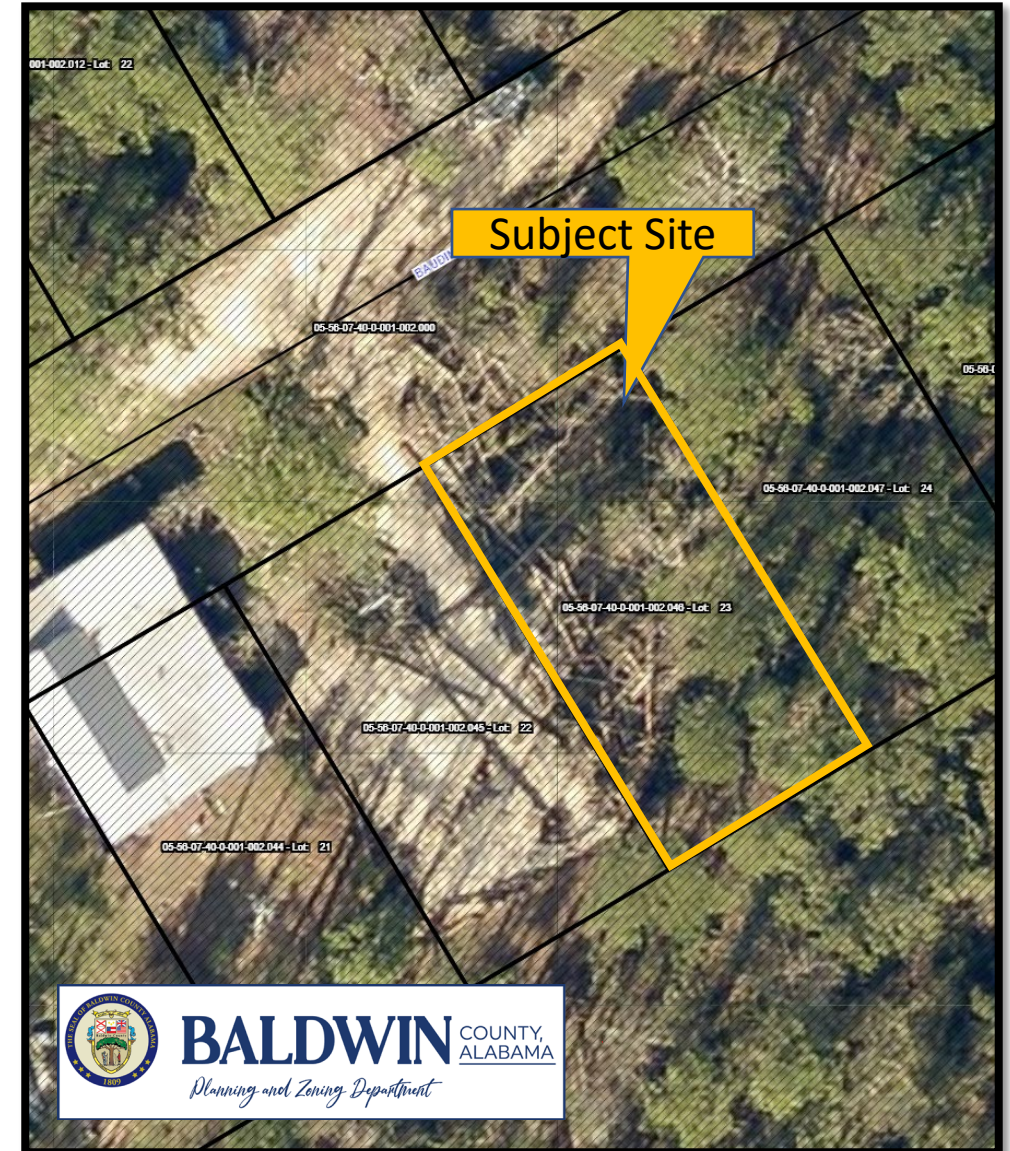


# ZVA22-55 WILDER PROPERTY

## VARIANCE REQUEST

Lead Staff: Fabia Water, Planning Tech

- **Planning District:** 21    **Zoned:** CR-Conservation Resources District
- **Location:** Magnolia Landing Subdivision, Lot 23
- **PID:** 05-56-07-40-0-001-002.046
- **PPIN:** 73974
- **Acreage:** 0.12 +/- acres
- **Physical Address:** 11919 Baudin Ln E, Foley
- **Applicant:** Lance Wilder
- **Owner:** Lance Wilder





# ZVA22-55 WILDER PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Fabia Waters, Planning Tech

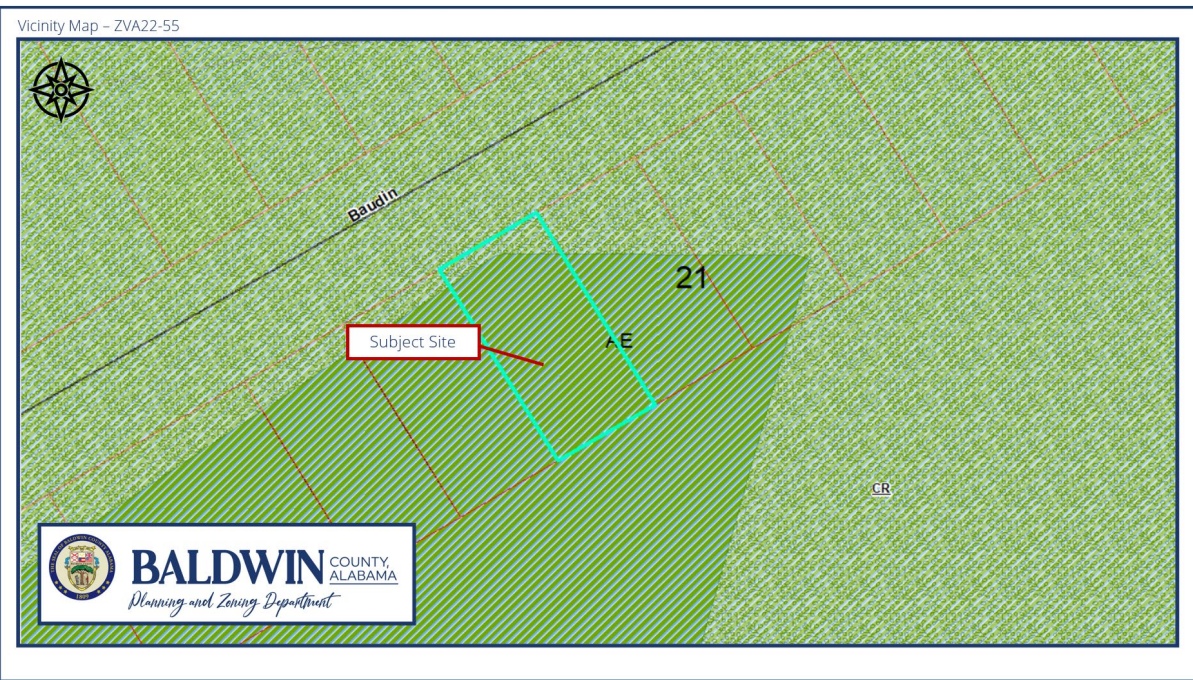
The applicant is requesting a variance from Section 3.3.5 to allow for construction of a Single Family Dwelling.

Staff established a hardship on the property therefore recommends Case ZVA22-55 to be **Approved** unless information otherwise is revealed at the public hearing.





# Locator Map



# Site Map



	Adjacent Zoning	Adjacent Land Use
North	CR- Conservation Resources District	Vacant
South	CR- Conservation Resources District	Residential
East	CR- Conservation Resources District	Residential
West	CR- Conservation Resources District	Vacant



# Property Images





# Property Images

Adjoining Property to the West



Jul 26, 2022 1:24:17 PM



# Property Images

Adjoining Property to the East



Jul 26, 2022 1:24:43 PM

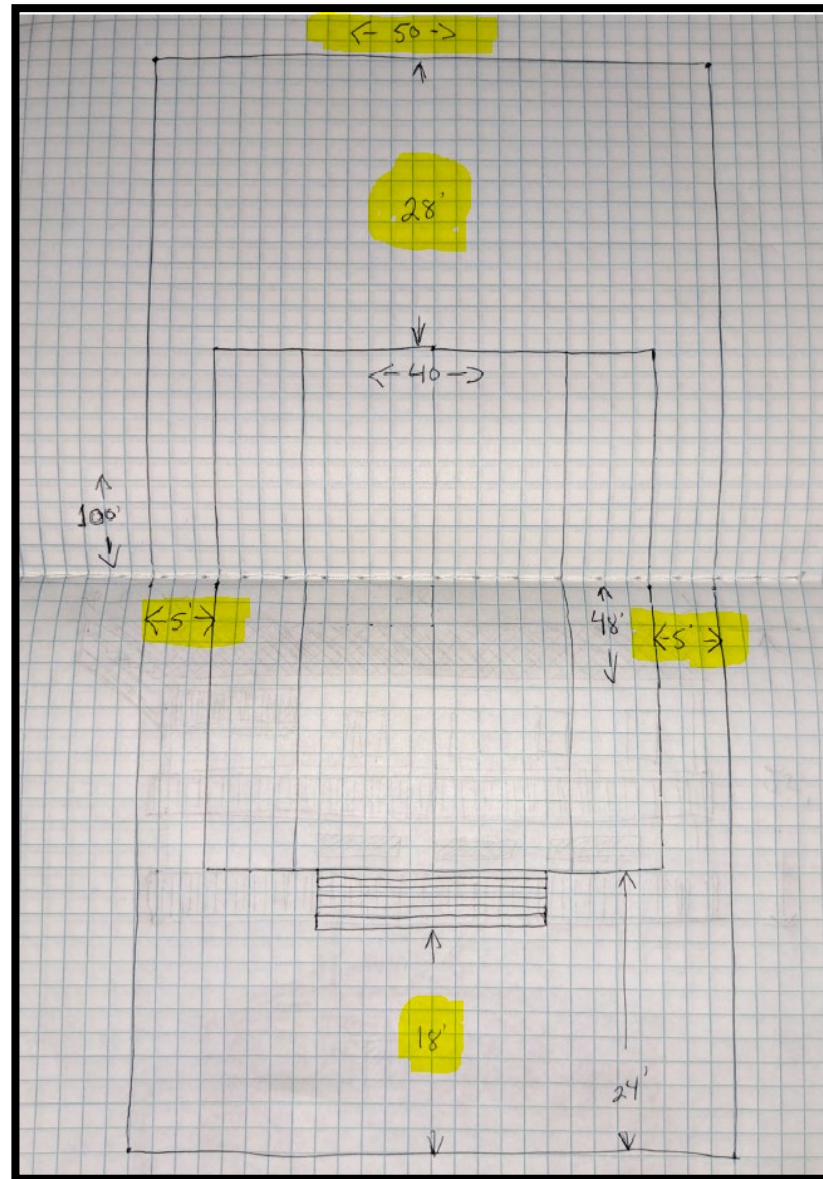


# Property Images





## Site Plan



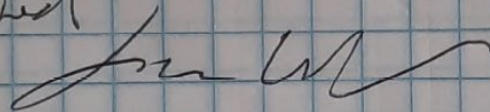
# Additional Information

June 18, 2022

I, LANCE WILDER, DO ATTEST  
THERE ARE NO HOA'S OR POA'S ASSOCIATED  
WITH MY PROPERTY LOCATED AT.

11919 BAUDIN LANE E. FOLEY AL  
36535

Signed



LANCE WILDER

# Staff Analysis and Findings

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

Maximum Height of Structure in Feet	35
Minimum Front Yard	100-Feet
Minimum Rear Yard	100-Feet
Minimum Side Yards	50-Feet
Minimum Lot Area	5 Acres
Minimum Lot Width at Building Line	250-Feet
Minimum Lot Width at Street Line	250-Feet

# Staff Analysis and Findings

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

The subject property zoned CR-Conservation Resource District and is located in Magnolia Landing Subdivision. Per Revenue the parcel consists of approximately 0.12+- acres with 50' x 100' lot 23 Block 1 . Planning District 21 came into effect on December 30, 2008. The required minimum lot size for CR is 5 acres therefore staff does perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

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

Staff could not establish exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.

# Staff Analysis and Findings

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

The subject property is zoned CR, Conservation Resource District which allows for single-family dwellings. The applicant proposes to build a single-family dwelling on the subject property therefore staff perceives necessity for preservation of a property right that would require a variance

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

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



# Staff Analysis and Findings

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

Per the applicant, there is no active Home Owner's association.

# ZVA22-55 WILDER PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

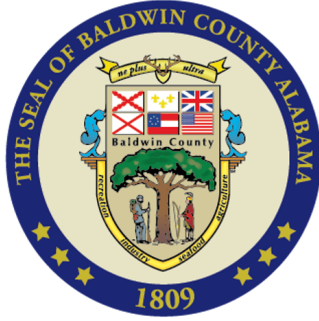
Lead Staff: Fabia Waters, Planning Tech

The applicant is requesting a variance from Section 3.3.5 to allow for construction of a Single Family Dwelling.

Staff established a hardship on the property therefore recommends Case ZVA22-55 to be **Approved** unless information otherwise is revealed at the public hearing.







**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

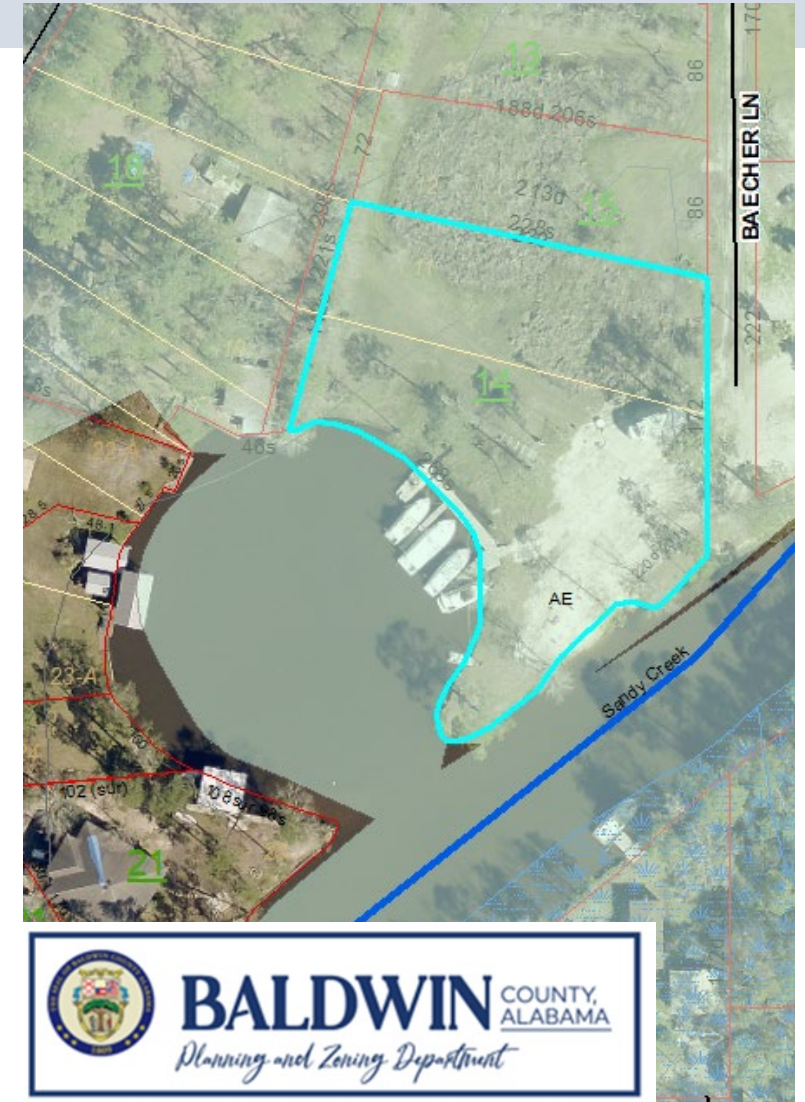
FOLEY, AL

# ZVA22-57 HARRISON PROPERTY

## VARIANCE REQUEST

Lead Staff: Crystal Bates Planning Technician

- **Planning District:** 30    **Zoned:** RSF-2
- **Location:** Subject Property is located at Burdick's repartition of Block 8-9 River Junction
- **Acreage:** 1.18
- **Physical Address:** 9931 Baecher Ln
- **Applicant:** Robert Harrison
- **Owner:** Robert Harrison





# ZVA22-57 HARRISON PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

The applicant is requesting a variance from section 10.2 as it pertains to the 30-foot wetland setback requirement to allow for construction of a single-family dwelling. The applicant will not be filling the wetlands just building up to the wetlands.

Staff recommends **APPROVAL** of the variance request.

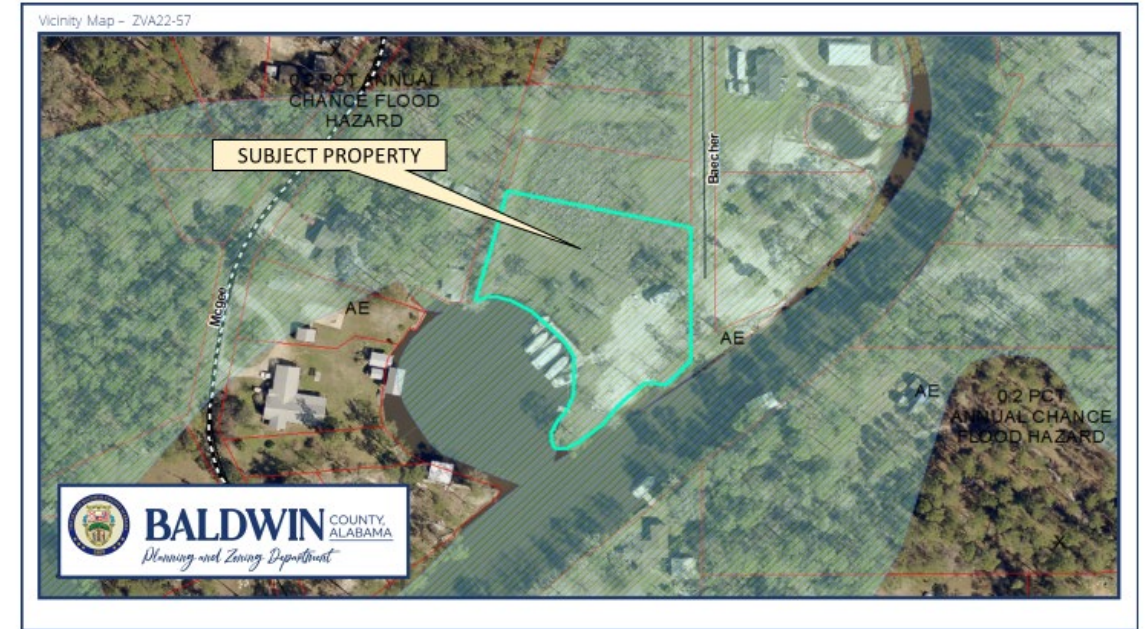
Lead Staff: Crystal Bates, Planning Technician



# Locator Map



# Site Map




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



# Property Images





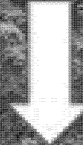


Subject Property

Jul 1, 2022 1:21:30 PM



Adjoining Property  
to The North



Jul 1, 2022 1:20:33 PM





Property to  
The North



Jul 1, 2022 1:20:45 PM





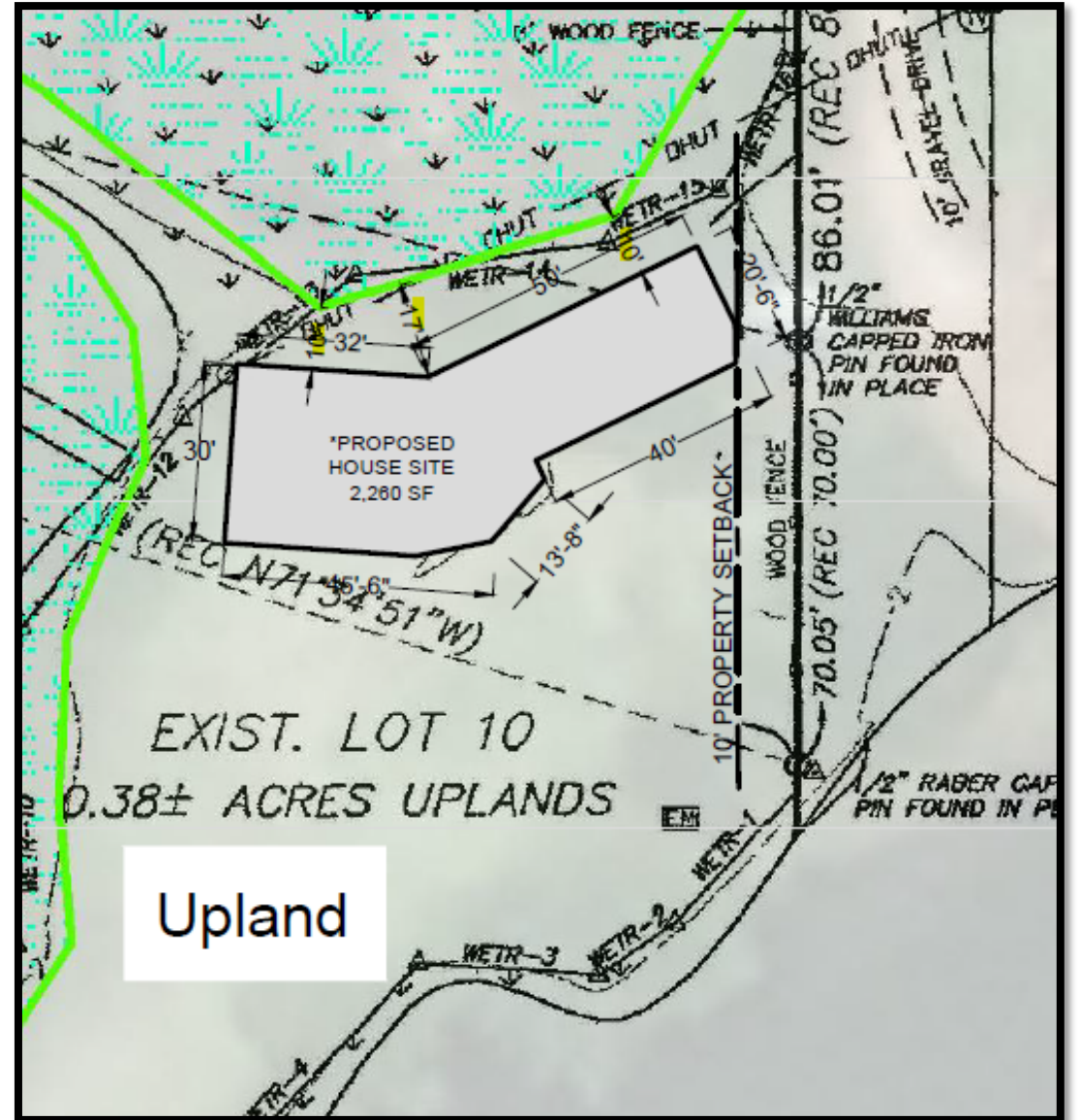
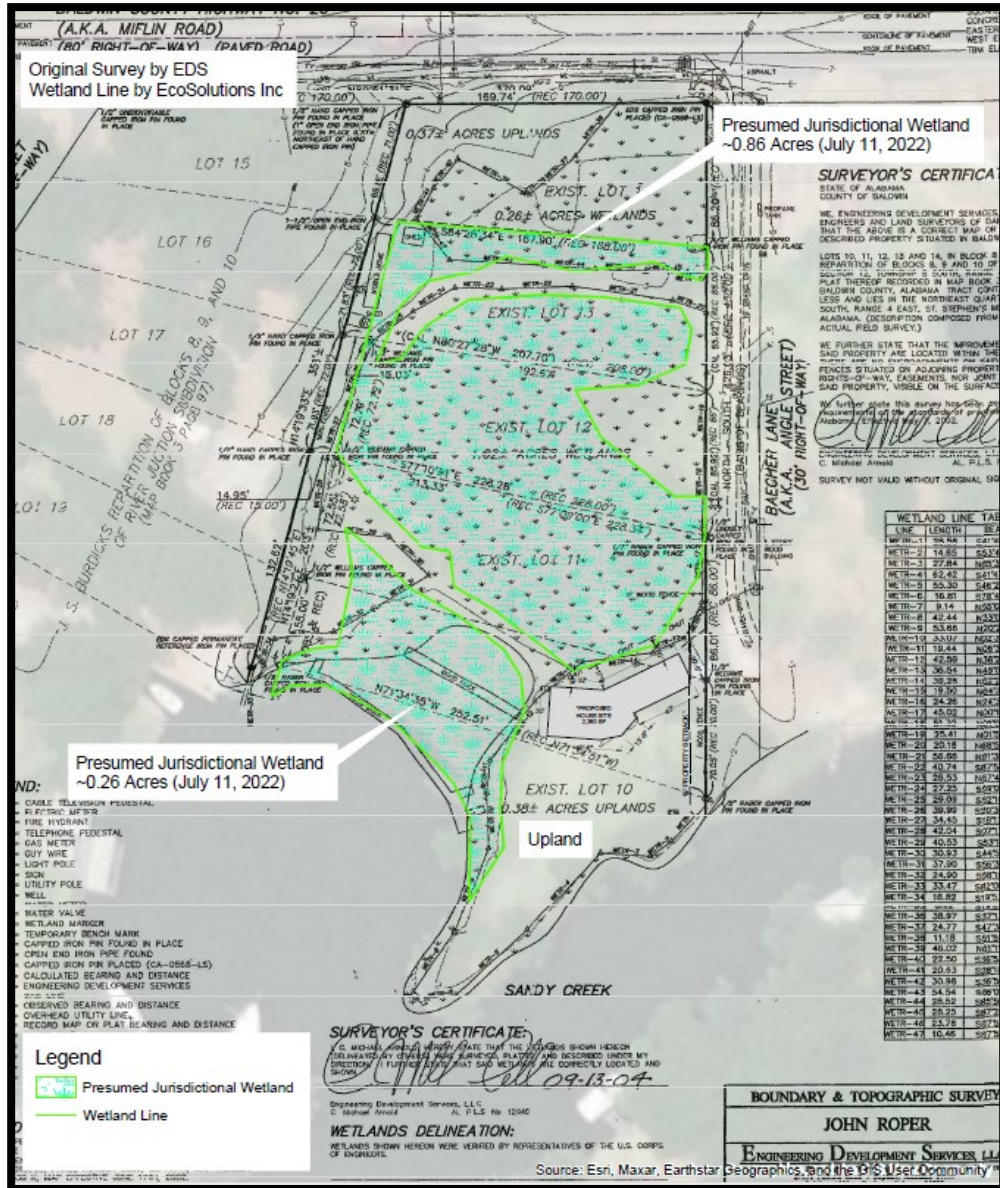
Property Across  
The Street



Jul 1, 2022 1:21:05 PM



# Site plan





# Wetland Delineation



July 12, 2022

Robert Harrison  
Via email  
[harrisonbult@gmail.com](mailto:harrisonbult@gmail.com)

RE: Wetland Delineation of parcel on west side of Baecher Ln (PPIN 36927) near Foley, AL  
Mr. Harrison,

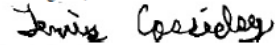
EcoSolutions Inc. was asked to conduct a wetland delineation of the parcel at south end of Baecher Ln (PPIN 36927). The field work was conducted on July 11<sup>th</sup> and 12<sup>th</sup>, 2022. Two areas of the parcel meet the definition of a wetland as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual, see attached map.

The subject area is parcel number 05-61-01-12-0-000-014.000 (PPIN 36927) located near Foley, AL. The parcel is located on the west side of Baecher Lane and has an area of 1.18 acres. Approximately 0.57 acres of the parcel have met the definition of a wetland as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual. The majority of the uplands on the site consist of mowed lawn grasses with a few trees including Slash Pine (*Pinus elliotii*) and Chinese Tallow (*Triadica sebifera*). The wetland areas of the site are dominated by Cattails (*Typha latifolia*) with a few Black Willow (*Salix nigra*) and Red Maple (*Acer rubrum*) trees around the edges. The soils on the site are Tidal marsh and Wet loamy alluvial land. During our field work on site we found grey and brown loamy sands, and black loamy sand consistent with the mapped soils.

The site was evaluated for jurisdictional wetland areas as defined by the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual and all, supplements and amendments thereto. Two areas of the parcel meet the USACE criteria for wetlands. The area where the recreational vehicles are currently parked is upland. All comments are based on the professional judgment of the inspector and the conditions that existed on the site at the time of the inspection.

Please give us a call (251-621-5006) or email [Lewis@EcoSolutionsinc.net](mailto:Lewis@EcoSolutionsinc.net) if you have any questions or need any additional information.

Best regards,

  
Lewis Cassidy  
EcoSolutions, Inc.

P.O. Box 361 MONTROSE, AL 36559 251.621.5006  
[ECOSOLUTIONSINC@BELLSOUTH.NET](mailto:ECOSOLUTIONSINC@BELLSOUTH.NET)



# Floodway Map





# Zoning Requirements

## 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 Site Plan Approval. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or

# Letter from POA

Planning and Zoning Department  
Variance Application  
Statement Concerning Neighborhood Association

June 18, 2022

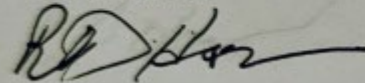
Robert Harrison  
(251) 979-3418  
harrisonbuilt@gmail.com

To Whom it may Concern:

I am the owner of the property under consideration for a setback variance on Baecher Lane and I verify that there is currently no active neighborhood associations for this property.

Parcel Number: 05-61-01-12-0-000-014.000

Respectfully,  
Robert Harrison

A handwritten signature in black ink, appearing to read 'R. Harrison', written over the printed name.



# Staff Analysis and Findings

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

The subject property is located at 9931 Baecher Ln. The property is 1.18 acre, 172' x 220' and 37, 840 square feet, Lot 10 and 11 Burdick's Repartition of Block 8-9 and 10 River Junction. The property exceeds the minimum lot dimensions for property zone RSF-2. Therefore, staff believes it does not meet this standard.

**2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.** The property has wetlands and in a floodway. Therefore, staff believes the property meets the exceptional topographic or other extraordinary conditions standard.

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.** The subject property is zone residential and will be use for that purpose. Staff believes the granting of this variance is necessary to preserve a property right.

# Staff Analysis and Findings

**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.**

Per information submitted by the applicant, there isn't an active Property Owners Association. The Baldwin County Building Department will require a flood way no rise from an engineer and engineered plans for the house.



# ZVA22-57 HARRISON PROPERTY

## VARIANCE REQUEST SUMMARY AND RECOMMENDATION

Lead Staff: Crystal Bates Planning Technician

### Staff's Comments and recommendation:

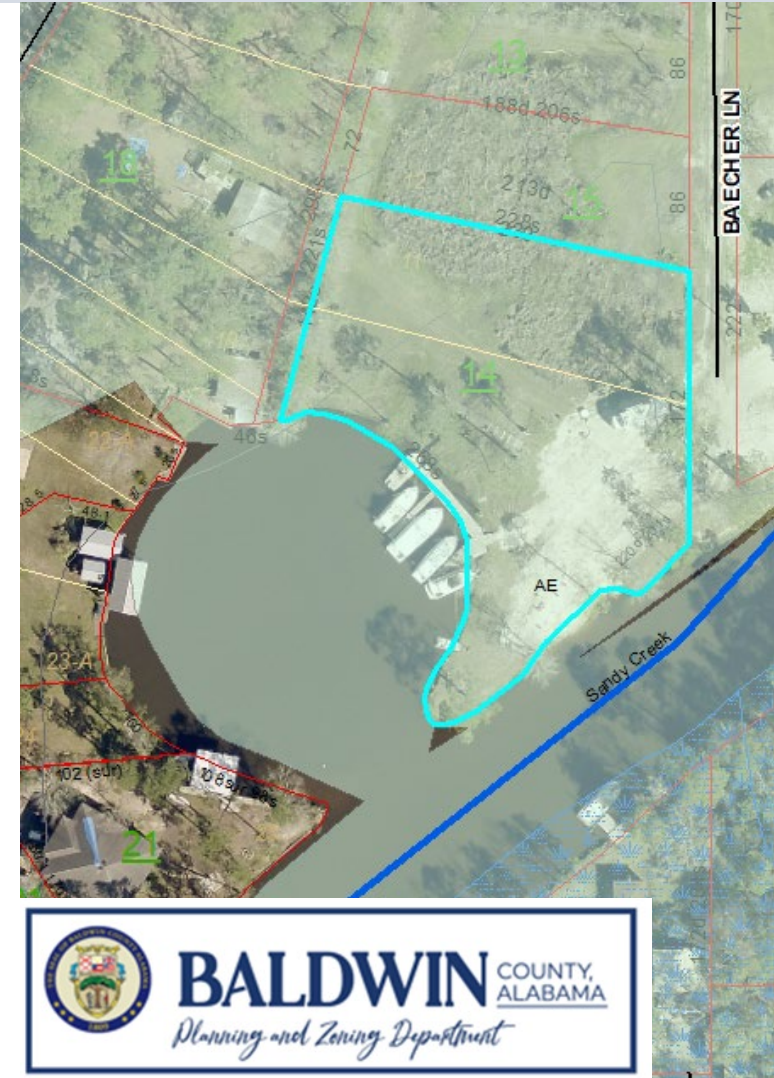
The applicant is requesting a variance from the required 30' wetland setback requirement to allow for construction of single-family dwelling. The applicant will be 10 foot to the wetlands on the nearest end.

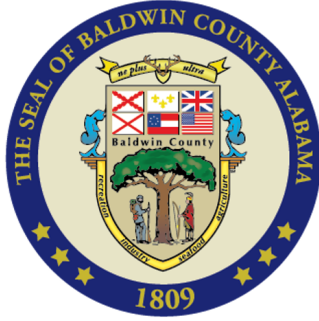
Staff recommends **APPROVAL** of the variance request.

### GENERAL NOTES {By-laws}

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

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





**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL



# ZVA22-64 BOSE-PALMER PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

- **Planning District:** 24    **Zoned:** RSF-2
- **Location:** Subject property is located on the north side of Peninsula Drive northeast of Harbour Drive on Ono Island.
- **PID:** 05-64-03-06-0-000-001.038
- **PPIN:** 102828
- **Acreage:** 0.44 +/-
- **Physical Address:** 31236 Peninsula Drive
- **Applicant:** CAC Building, LLC
- **Owner:** William Bose & Sheila Palmer



# ZVA22-65 BOSE-PALMER PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

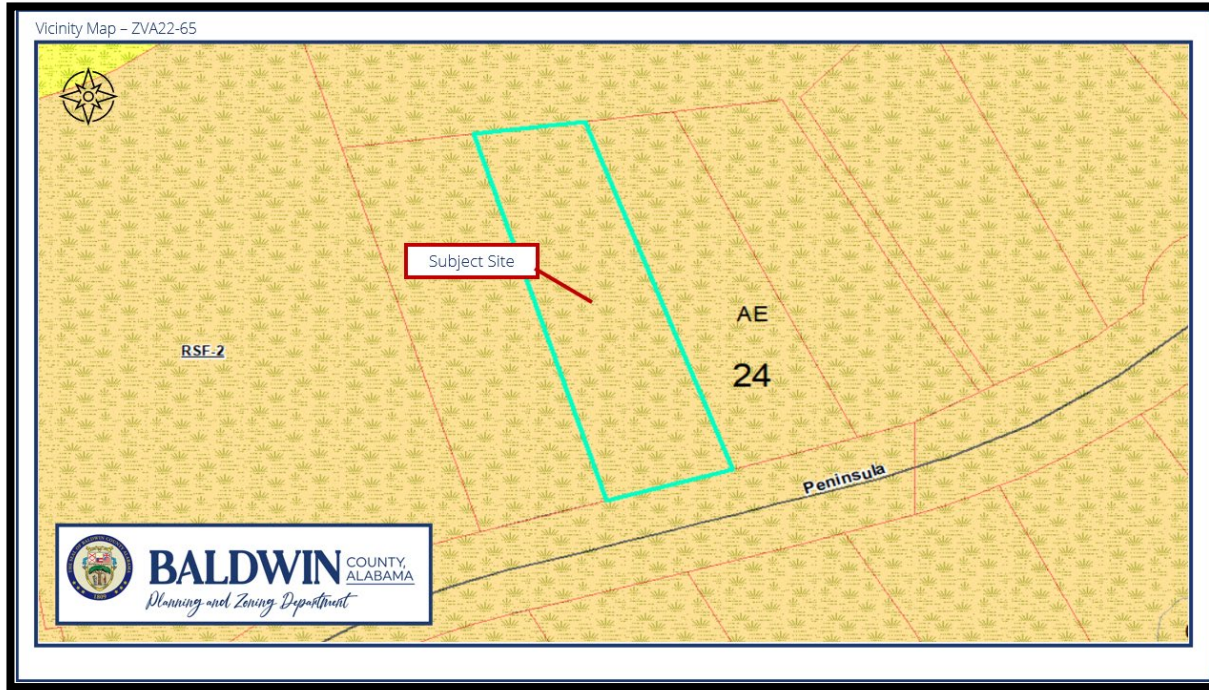
The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the setback from a wetland to allow for the construction of a single-family dwelling.

Staff perceives the wetlands as a hardship on the property therefore recommends Case ZVA22-65 be **Approved** unless information otherwise is revealed at the public hearing.





# Locator Map



# Site Map



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



# Property Images





# Property Images





# Property Images



Adjoining Property  
to The East

Jul 26, 2022 11:50:05 AM



# Property Images



Properties  
Across The  
Street



Jul 26, 2022 11:51:09 AM

# Staff Analysis and Findings

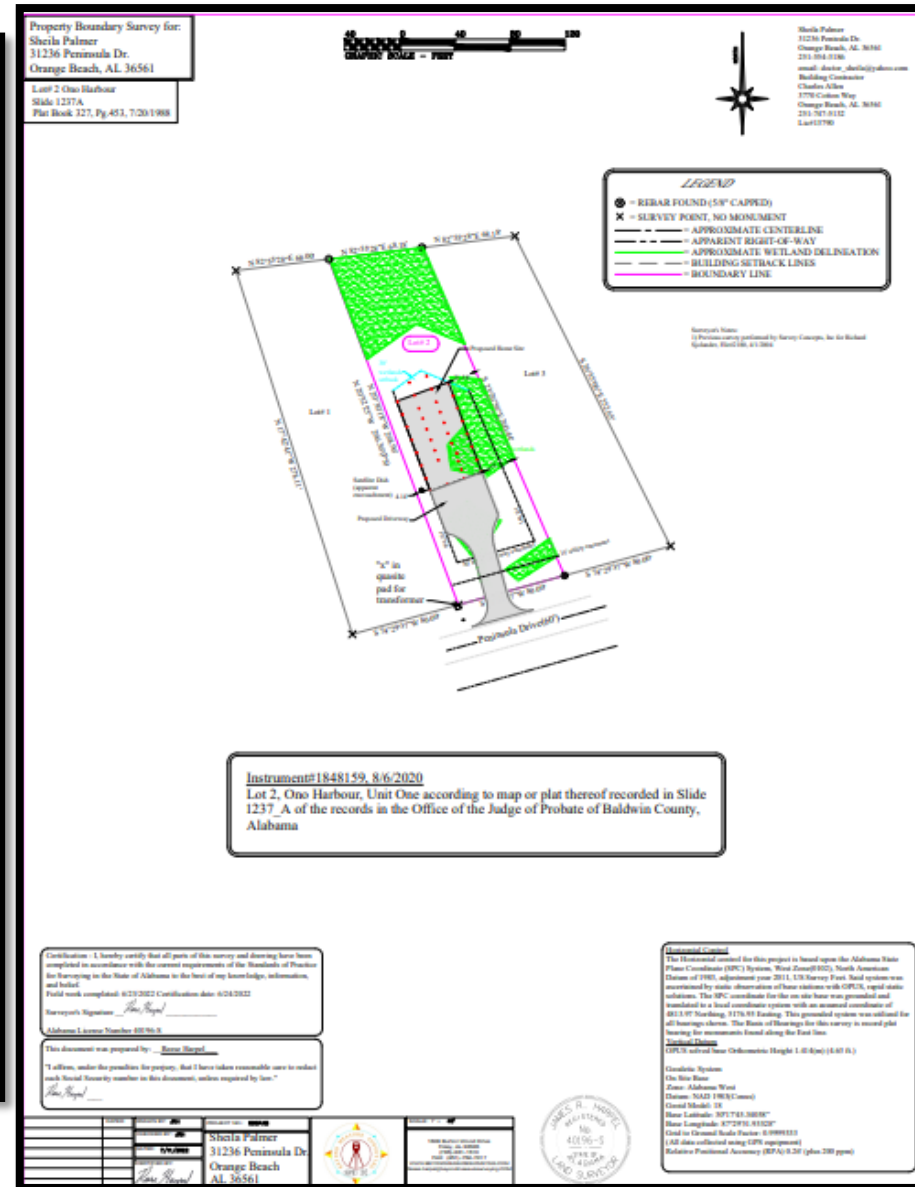
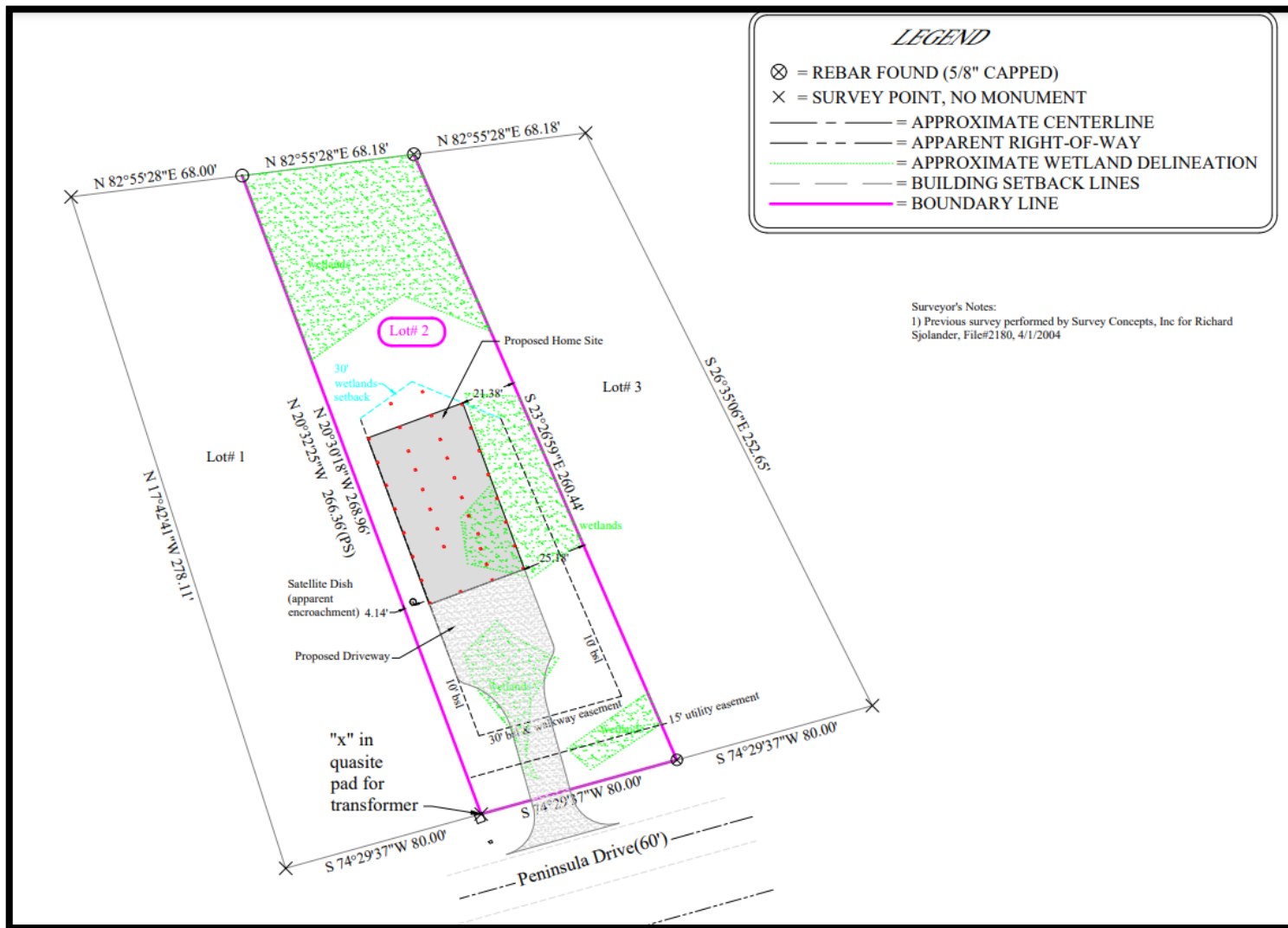
**4.3.5** Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.4 Variances, and Article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

Maximum Height of Structure 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

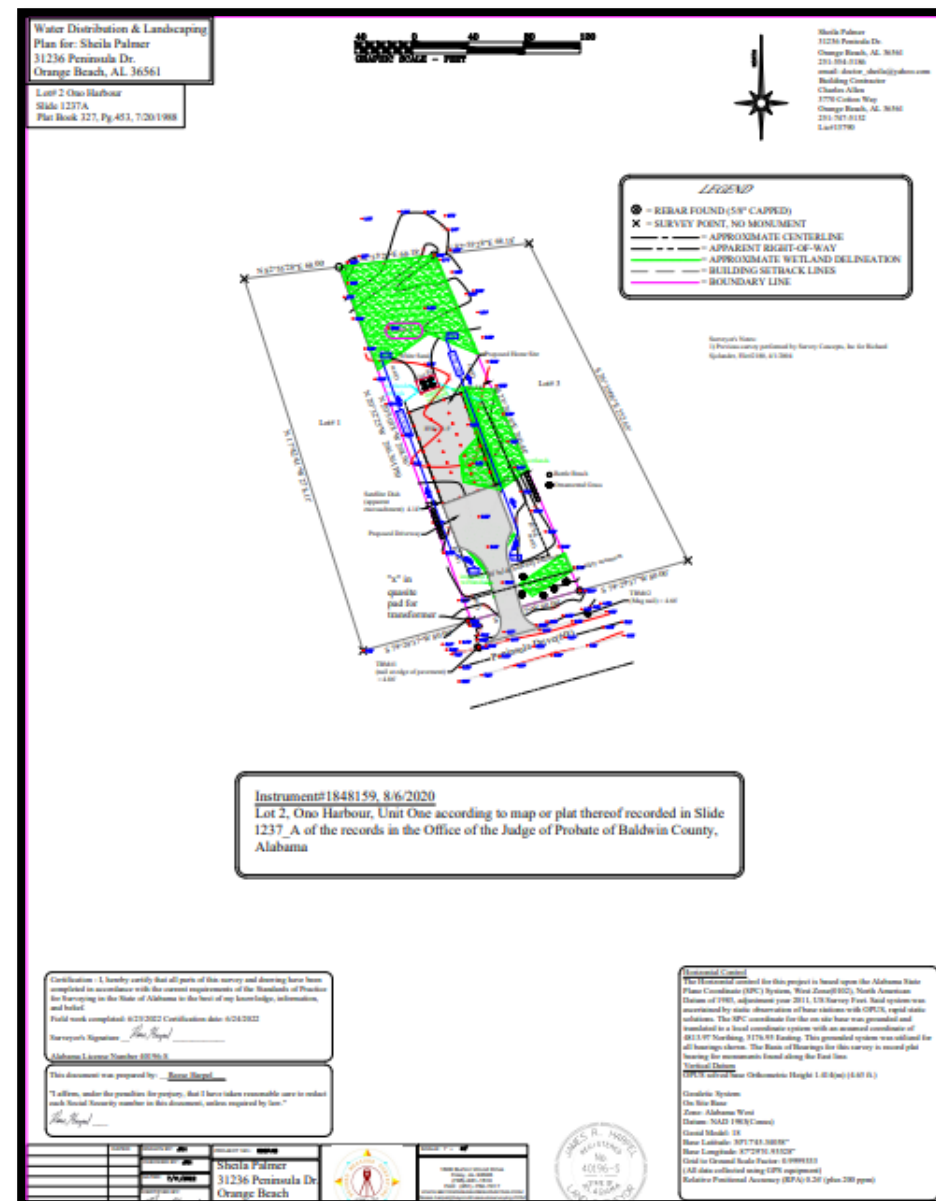
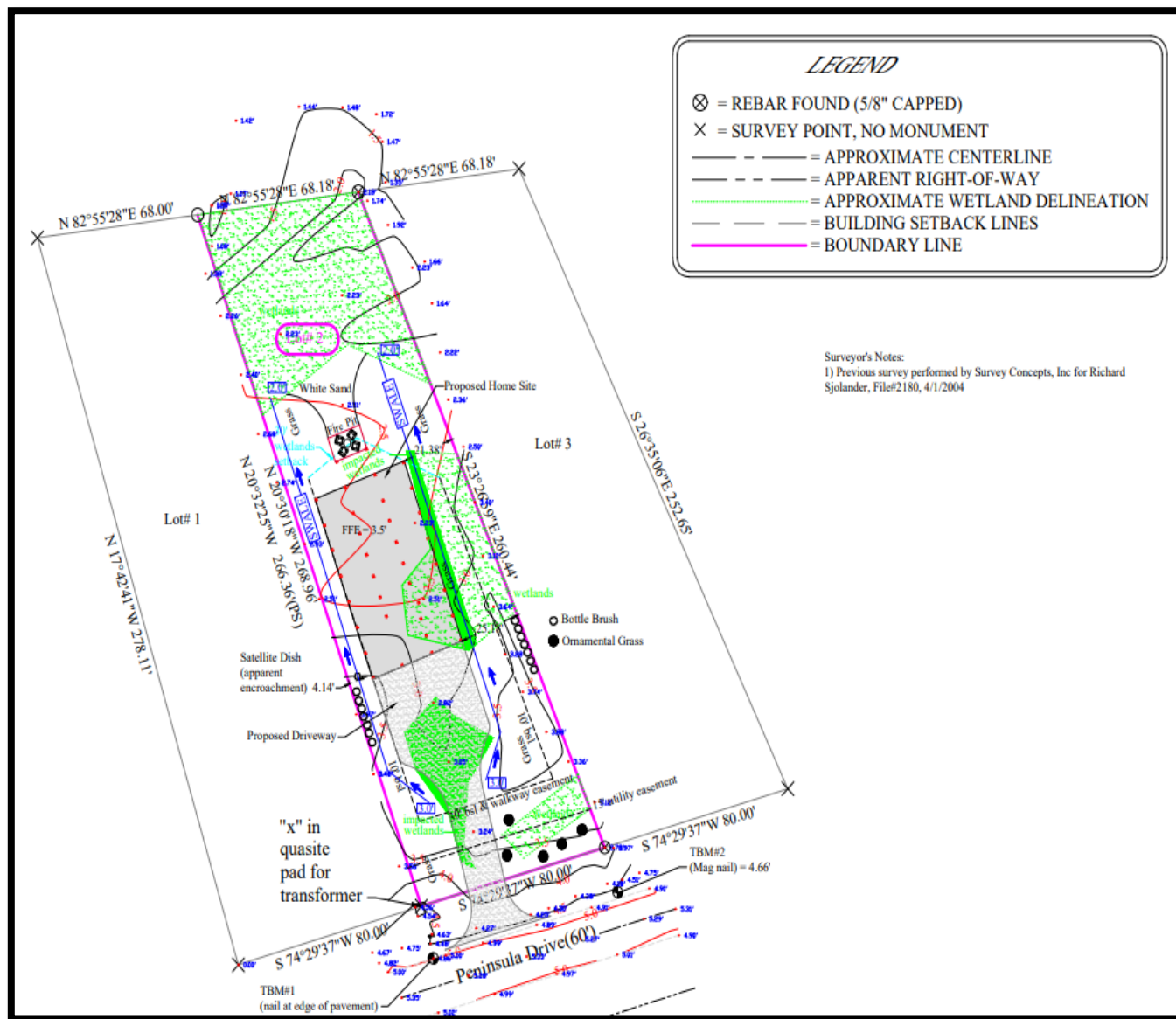
**10.4.4** Permit requirements. The non-disturbed setback for development from a jurisdictional wetland and/or stream must be a minimum of 30 feet unless exempted by Section 10.4.6 below. The stream setback shall be from the top of bank on both sides of the waterway. When a stream is located within a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



# Boundary Survey



# Water Distribution & Landscape Plan





# USACE Permit



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

May 13, 2022

South Alabama Branch  
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit, File Number SAM-2021-00875-CDJ, Shelia Palmer, Baldwin County, Alabama

Dr. Sheila Palmer  
Email Address: [doctor\\_sheila@yahoo.com](mailto:doctor_sheila@yahoo.com)  
4462 Airport Boulevard  
Mobile, Alabama 36608

Dear Dr. Palmer:

This letter is in response to your request for verification of Department of the Army Nationwide Permit (NWP) authorization to discharge fill material within wetlands at Peninsula Drive. The project has been assigned file number SAM-2021-00875-CDJ, which should be referred to in any future correspondence with this office concerning this project. The project is located at 31326 (formerly 30954) Peninsula Drive; within Section 6, Township 9 South, Range 6 East; at Latitude 30.296223 and Longitude -87.498052; in Ono Island Subdivision, Orange Beach, Baldwin County, Alabama.

Department of the Army permit authorization is necessary because your project involves the placement of fill in waters of the United States, including wetlands, under our regulatory jurisdiction. The project activities include the following:

– The placement of 60 cubic yards of clean, commercially obtained fill material, into 1,842 square feet (0.042 acre) of wetlands for the purpose of establishing a buildable area for a driveway and a portion of the residence. Standard BMP's will include the use of class A silt fence and gravel construction entrance to reduce sediment transport. Wetland impacts outside the proposed project footprint, temporary or permanent, are not authorized.

Based upon the information and plans you provided, we hereby verify 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 associated Regional and General Conditions are attached for your review and compliance.



US Army Corps  
of Engineers

This notice of authorization must be  
conspicuously displayed at the site of work.

A permit to perform work authorized by statutes and regulations of the Department of the Army at  
Peninsula Drive, Ono Island Subdivision, Baldwin County, Alabama

has been issued to Sheila Palmer on May 13, 2022

Address of Permittee: 4462 Airport Boulevard; Mobile, Alabama 36608

Digitally signed by C. Dianne  
Jordan  
Date: 2022.05.13 16:34:47 -05'00'

PERMIT NUMBER

**SAM-2021-00875-CDJ**

C. Dianne Jordan, Project Manager  
Regulatory Division, South AL Branch

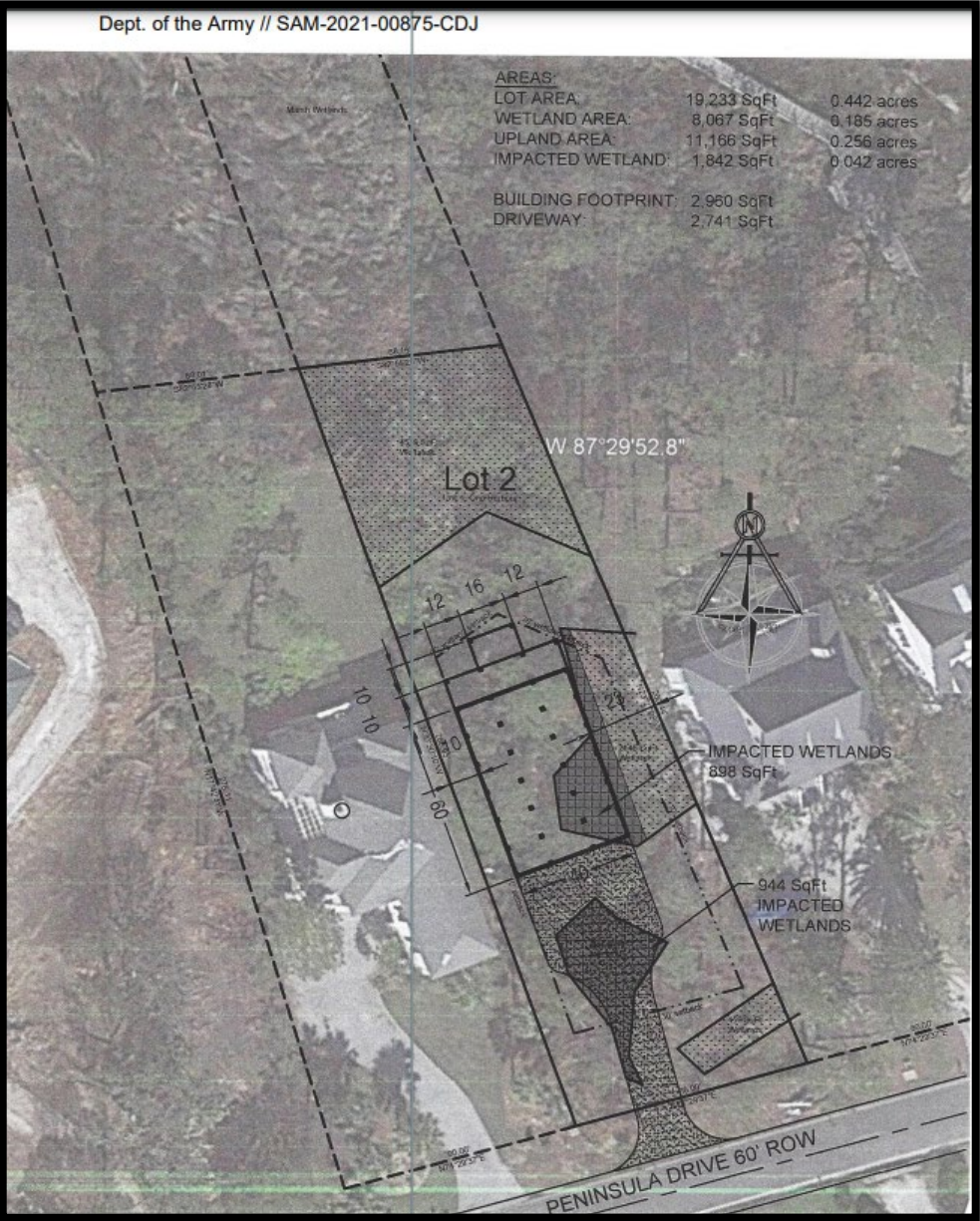
For the District Commander

ENG FORM 4336, Jul 81 (33 CFR 320-330) EDITION OF JUL 70 MAY BE USED

Proponent: CECW-O



# USACE Permit





# Miscellaneous Documents

Variance Number: 2021-424-VAR



## COASTAL AREA MANAGEMENT PROGRAM VARIANCE

USE TYPE: ADEM Admin. Code r. 335-8-2-.02  
Wetland Fill

APPLICANT: Sheila Palmer

VARIANCE NUMBER: 2021-424-VAR

U.S. ARMY CORPS OF ENGINEERS  
PROJECT FILE NUMBER: SAM-2021-00875

PROJECT LOCATION: 30954 Peninsula Drive, Orange Beach, Baldwin County,  
AL  
Parcel ID No. 05-64-03-06-0-000-001.038

PROJECT DESCRIPTION: Placement of clean fill into 1,842 ft<sup>2</sup> (0.042 acre) of  
coastal wetlands for construction of an entrance drive and  
of a part of a residential building pad

*In accordance with and subject to the provisions of Code of Alabama 1975, §§9-7-10 et. seq. and §§22-22A-1 et. seq. rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this variance, the applicant described in this variance is hereby authorized to conduct the above referenced activities.*

CONSTRUCTION/ACTIVITIES AUTHORIZED BY THIS VARIANCE IS VALID FOR A  
PERIOD OF **5 YEARS** FROM THE DATE OF ISSUANCE.

ISSUED THIS 9<sup>th</sup> DAY OF May 2022

  
Alabama Department of Environmental Management

Variance Number: 2021-424-VAR

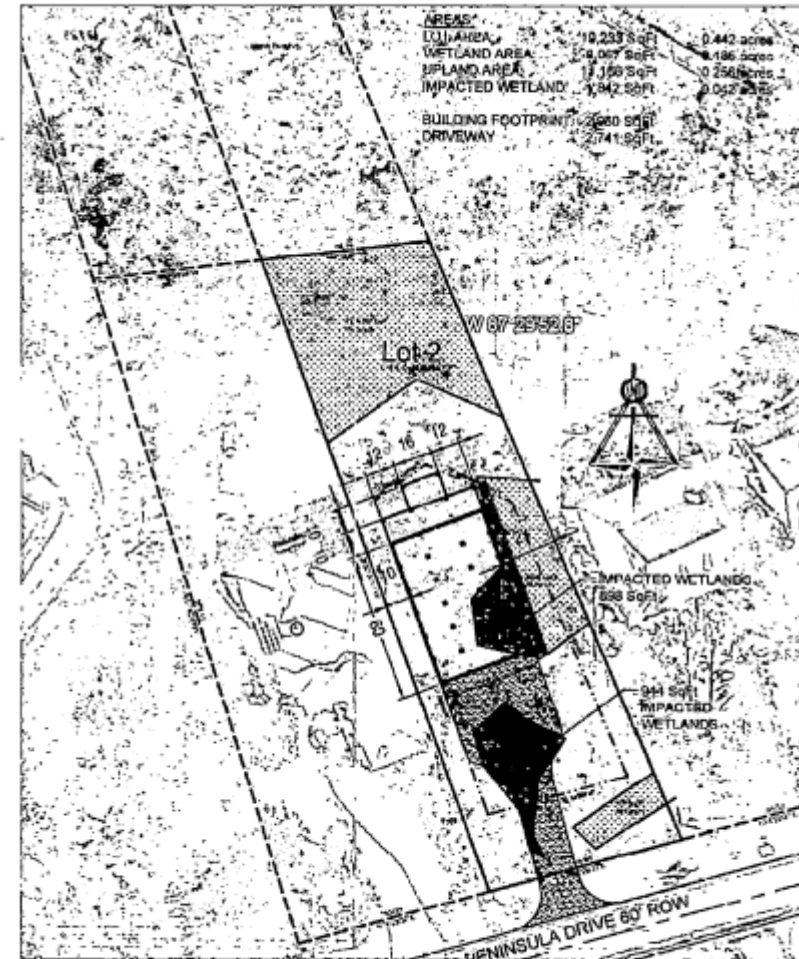


Figure 1

# Miscellaneous Documents



April 12, 2022

RE: Permit SAM-2021-00875-CDJ, Dr. Sheila Palmer

Ms. C. Dianne Jordan  
USACE, Mobile District  
Post Office Box 2288  
Mobile, Alabama 36628

Dear Ms. Jordan:

Please treat this letter as written confirmation that, in accordance with the above referenced permit, Dr. Sheila Palmer has purchased 0.21 bottomland hardwood mitigation credits from Wetlands Solutions' Lillian Swamp Mitigation Bank.

If you have any questions, please call me at 228.575.7747.

Very truly yours,  
WETLANDS SOLUTIONS ALABAMA, LLC  
LILLIAN SWAMP MITIGATION HOLDINGS, LLC

A handwritten signature in black ink, appearing to read "Brandon A Pike".

Brandon A Pike

cc: Dr. William Bose





# Miscellaneous Documents



PROPERTY OWNER'S ASSOCIATION OF ONO ISLAND, INC.

28656 Ono Boulevard - Orange Beach, AL 36561

Office: 251-980-5152 / Fax: 251-980-5146

ONO ISLAND

ARCHITECTURAL CONTROL COMMITTEE

NOTICE OF ACTION TAKEN

PRELIMINARY REVIEW

DATE OF MEETING: July 18, 2022  
HOMEOWNER: William Bose & Sheila Palmer  
MAILING ADDRESS: 31236 Peninsula Drive  
WORKSITE ADDRESS: 31236 Peninsula Drive  
UNIT / LOT: Unit OH1/Lot 2  
CONTRACTOR: CAC Builders – Hunter Allen  
REVIEW: Construct New SFR within Wetlands

ACTION TAKEN:

A discussion was held regarding the preliminary construction plans submitted by the contractor CAC Builders - Hunter Allen for the property owners William Bose and Sheila Palmer at 31236 Peninsula Drive to construct a New SFR within the wetlands. The ACC does not enforce wetlands buffer as long as there are no setback encroachments. Ono Island has no issue with Baldwin County proceeding to consider a variance from the Baldwin County regulation that requires wetland buffer. An ACC permit is still required for the Construction of the SFR once a Land Use and Building permit are received from Baldwin County. At that time the ACC will be able to review for permitting.

The ACC and its members rely exclusively on the complete accuracy of all plans, surveys, permits, reports, and other documents submitted to it in connection with the issuance of this Permit and assumes the professional competence of those persons preparing any such document. The ACC does not conduct any independent investigation of such matters and DISCLAIMS any responsibility for that accuracy or competence. This Permit is issued for the sole benefit of Property Owner's Association of Ono Island, Inc. and no third party are authorized to rely on the issuance of this Permit for any purpose.

Signature

*Theresa McMillian*

Date

*July 29, 2022*

ADDITIONAL INFORMATION: If you have any question, please feel free to contact Theresa McMillian at Ono House – [admin3@onoislandpoa.com](mailto:admin3@onoislandpoa.com)

# Staff Analysis and Findings

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

Per Revenue the subject property is Lot 2 Unit One Ono Harbour Subdivision and was recorded with the Baldwin County Judge of Probate on August 3, 1990. Planning District 24 came into effect on April 7, 1993. Per the Department of the Army Nationwide Permit sketch plan submitted by the applicant the parcel consists of approximately 19,233 square feet with approximately 80' along the front (Peninsula Drive) lot line, approximately 260.4' along the east lot line, approximately 68.16' along the north lot line, and approximately 268' along the west lot line. The required minimum lot size for RSF-2 is 15,000 square feet with an 80' minimum lot width at building line, and a 40' minimum lot width at street line therefore staff does not perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

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

Per documentation submitted by the applicant the subject property consist of approximately 8,067 square feet of wetlands out of a total lot area of 19,233 square feet. Staff perceives the wetlands on the subject property establish exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.



# Staff Analysis and Findings

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

The subject property is zoned RSF-2, Single Family District which allows for single-family dwelling and accessory uses to that. Staff perceives the wetlands located on the subject property constitute a necessity for preservation of a property right that would require a variance.

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

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

# Staff Analysis and Findings

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

The applicant has submitted permit documentation from the U S Army Corps of Engineers, Alabama Department of Environmental Management, and Wetland Sciences Inc.

The applicant has also submitted written approval from Ono Island POA.

Staff perceives the wetlands on the subject property could establish a hardship, therefore recommends Case ZVA65-65 be **Approved** unless information otherwise is revealed at the public hearing.



# ZVA22-65 BOSE-PALMER PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

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

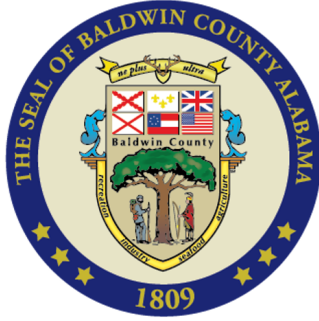
Staff perceives the wetlands as a hardship on the property therefore recommends Case ZVA22-65 be **Approved** unless information otherwise is revealed at the public hearing.

### GENERAL NOTES {By-laws}

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

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





**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL

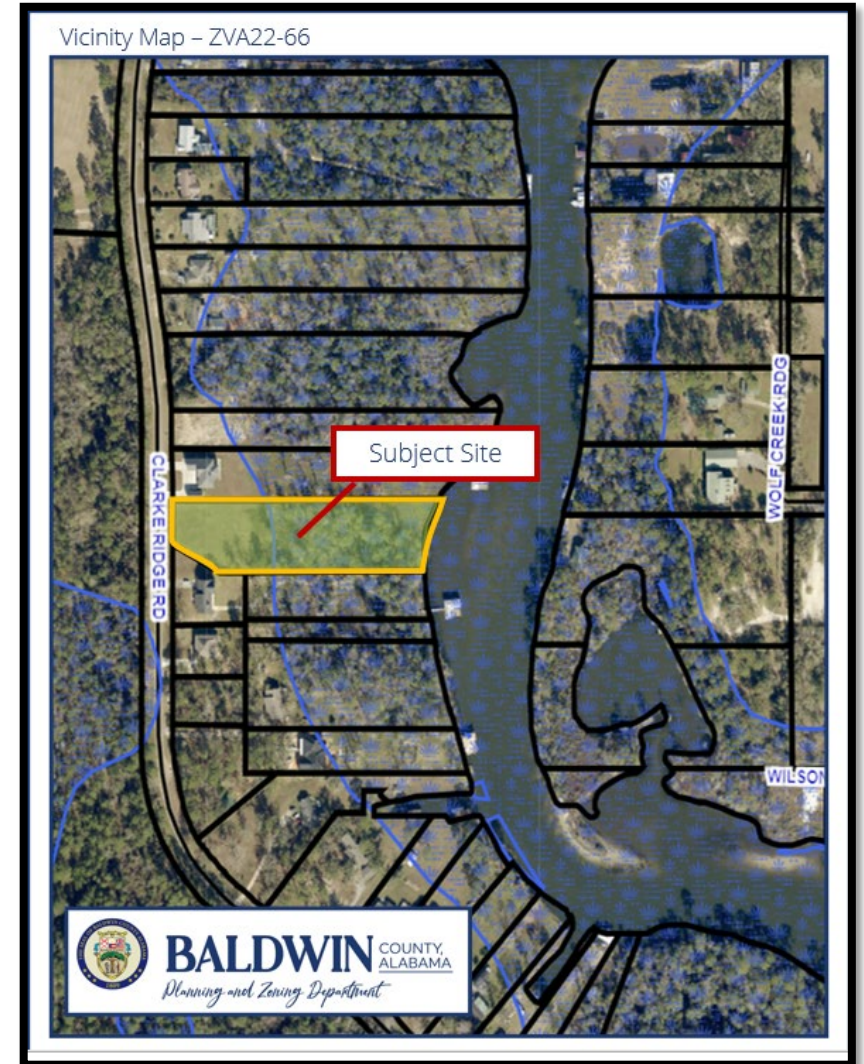


# ZVA22-65 DICKEY PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

- **Planning District:** 24    **Zoned:** RSF-2
- **Location:** Subject property is located on the east side of Clarke Ridge Road, south of Miflin Road.
- **PID:** 05-61-01-12-0-000-038.025
- **PPIN:** 291917
- **Acreage:** 2.44 +/-
- **Physical Address:** 9825 Wolf Creek Ridge
- **Applicant:** Derick Dickey
- **Owner:** Derick Dickey



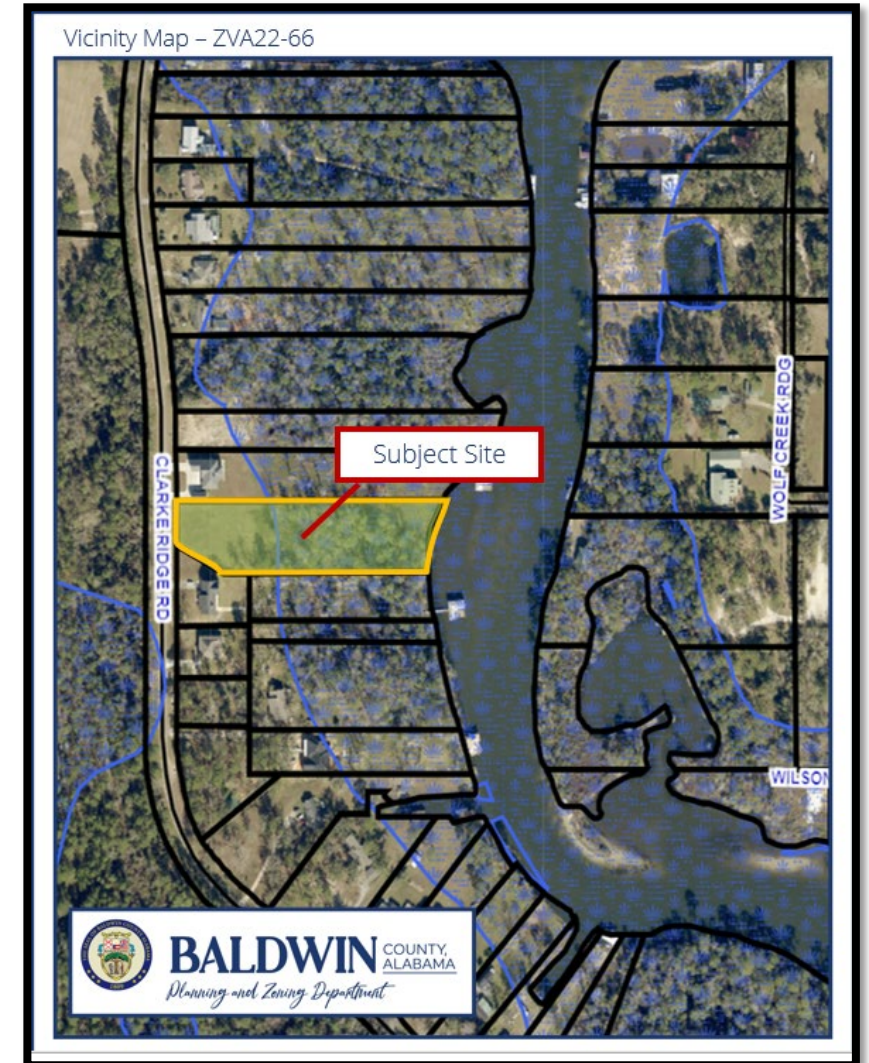
# ZVA22-66 DICKEY PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

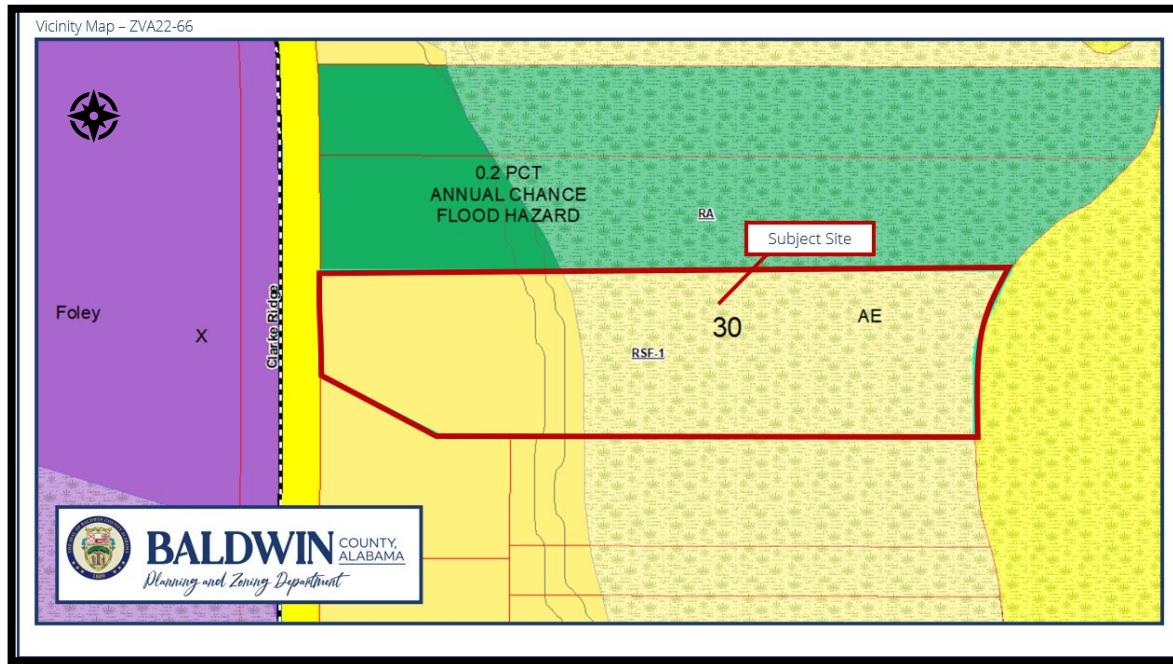
The applicant is requesting a variance from Section 10.4.4 of the Baldwin County Zoning Ordinance as it pertains to the 30' non-disturbed wetland setback to allow work within that buffer to restore filled wetlands.

Staff recommends Case ZVA22-66 be **Approved** to allow for the wetlands to be restored.





# Locator Map



# Site Map



## Adjacent Zoning

North

RA – Rural Agricultural District

South

RSF-1 Single Family District

East

RSF-1 Single Family District / City of Foley

West

City of Foley

## Adjacent Land Use

Residential

Residential

Residential

Vacant



# Property Images





# Property Images





# Property Images





# Property Images





# Staff Analysis and Findings

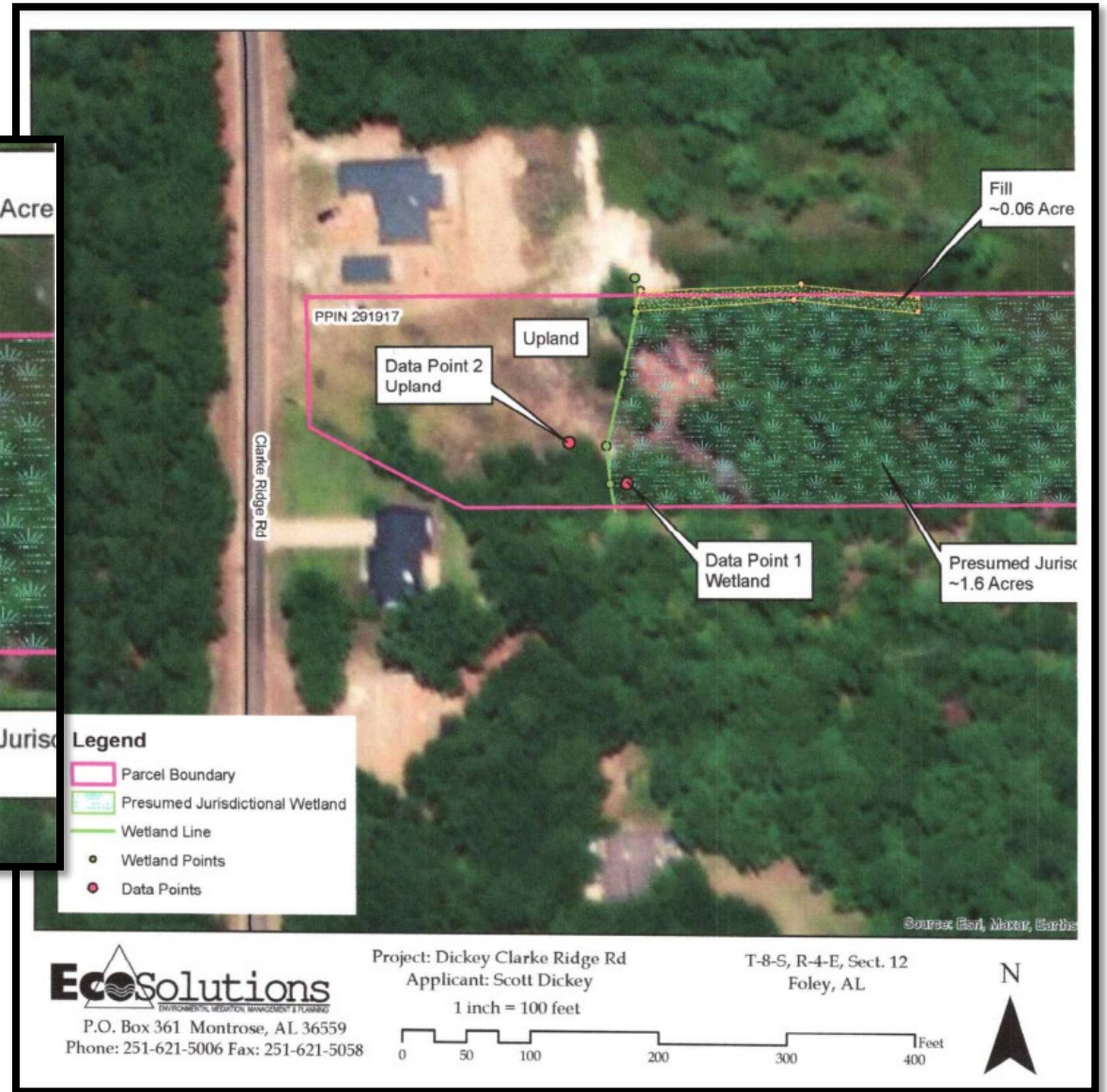
**4.3.5** Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.4 Variances, and Article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

Maximum Height of Structure 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

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



# Wetland Delineation



**EcoSolutions**  
ENVIRONMENTAL RESTORATION, MANAGEMENT & PLANNING

P.O. Box 361 Montrose, AL 36559  
Phone: 251-621-5006 Fax: 251-621-5058

# Restoration Plan



## Dickey SAM-2022-00453 Restoration Plan Draft 2022.07.08

**1) Objective:** The objective is to mitigate the impacts to hardwood wetlands due to clearing and fill of 0.06 acres of wetlands near Foley, AL. Sediment will be removed from the wetlands and then hay and native switchgrass seed (*Panicum virgatum*) will be planted in the restoration area. The switchgrass and hay will protect the wetland soils until the native plants in the area can recolonize the impacted area. The restored vegetation will have the similar ecosystem function as the vegetation that was removed.

**2) Site Selection:** The areas impacted were part of wetland areas found along Wolf Creek. The impacts are mostly on PIN291917, but there is some sediment on PIN 291916 (the parcel immediately to the north). The mitigation will consist of removing the sediment down to preconstruction grade (native wetland soils) and replanting in areas that were impacted with switchgrass seed. All the proposed mitigation areas are on the same parcels and in the same watershed as the impact areas.

**3) Baseline Information:** Aerial photos of the parcel PPIN: 291917, taken prior to the unpermitted clearing and fill shows woodlands similar to the remaining wetland area on the site. The existing plant community in the adjacent woodland area is a mix of hardwoods, including Sweet Bay (*Magnolia virginiana*), Chinese Tallow (*Triadica sebifera*) and Yellow Poplar (*Liriodendron tulipifera*). The impacted area is narrow, roughly 15 ft wide, so the nearby vegetation should be able to recolonize the area with ease.

**4) Mitigation Work Plan:** The fill dirt will be removed from the impact area by earthmoving equipment working from the fill area, on vegetation mats or the uplands. No equipment should be allowed to park or drive in existing wetlands or remediated areas. The sediment that is removed from the impact area will be placed in a stockpile in the upland area of the site, contained with silt fences and stabilized with vegetation once work is complete. Once the sediment has been removed from the impact area, switchgrass seed will be applied at a rate of 8 pounds live seed per acre in the restoration area. Straw or hay will be applied over the seed areas at a rate of 2 tons per acre to slow erosion and aid in germination. The permittee will monitor the planted area for invasive species and will remove any invasive plant species with hand tools.

### Mitigation timeline –

Year 1- Planting will occur within 90 days of final approval of the land disturbance permit. The entire restoration area will be planted with the switch grass as described above. The area will be monitored for invasive species and if found they will be removed. Site personnel will be instructed to protect the area from mowing and other destructive landscaping practices.

Year 2 to Year 5 – Additional seed will be planted if cover does not meet performance standards. The area will be monitored for exotic species and if found they will be removed.

**5) Maintenance Plan:** The native grasses are well suited to the restoration area and will require little maintenance. The native plants in the impacted area should be growing back from existing root stock and natural recruitment. The site will be visually inspected for proper coverage and invasive species. The invasive species will be removed, and new native plants will be planted as needed.

**6) Long-term management plan:** The permittee shall be responsible for long-term management of the mitigation site including preserving the mitigation area and the target vegetation, and removing the invasive species from the mitigation area.

P.O. Box 361      MONTROSE, AL 36559      251.621.5006  
MAIL@ECOSOLUTIONSINC.NET

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# Restoration Plan



# Miscellaneous Documents

Ashley,

Yes, the variance for restoration is good with us. Mats will be okay for installing pilings above Mean High Water (MHW); however, a permit needs to be obtained before any pilings are installed below the MHW line and the restoration will need to be completed before that application can be reviewed. Once the dirt fill is removed and elevations are restored to their pre-construction contours, the natural vegetation should rebound on its own pretty rapidly and should not need additional seeding or plantings, but if Mr. Dickey wants to use grass seed, that is fine.

Respectfully,

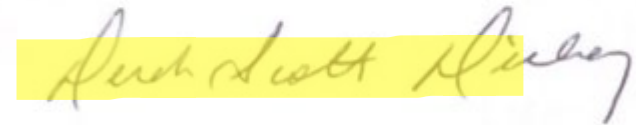
Elizabeth A. Hamilton  
Senior Project Manager  
South Alabama Branch  
Mobile District, Regulatory Division  
U.S. Army Corps of Engineers

Date: 7-20-2022

From: Derek Scott Dickey

Property PIN#: 05-61-01-12-0-000-038.025

No active neighborhood association.

A handwritten signature in black ink, reading "Derek Scott Dickey", is written over a yellow rectangular highlight.



# Staff Analysis and Findings

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

Per Revenue the subject property is Lot 49 Wolf Bay Estates Unit Three Subdivision and was recorded with the Baldwin County Judge of Probate on December 27, 2006. Planning District 30 came into effect on February 21, 1995. Per Revenue the subject parcel consists of approximately 106,286 square feet with approximately 174' along the front (Wolf Creek) lot line, approximately 523' along the south lot line, approximately 105' along the west (Clarke Ridge Road) lot line, and approximately 967' along the north lot line. The required minimum lot size for RSF-1 is 80,000 square feet with an 165' minimum lot width at building line, and a 165' minimum lot width at street line therefore staff does not perceive the subject parcel to be exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

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

Per EcoSolutions sketch plan submitted by the applicant the subject property consist of approximately 1.6 acres of wetlands. Staff perceives the wetlands on the subject property establish exceptional topographic conditions or other extraordinary situations, or conditions contained on the subject property which require a variance.

# Staff Analysis and Findings

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

The subject property is zoned RSF-1, Single Family District which allows for single-family dwelling and accessory uses to that. Staff perceives the wetlands located on the subject property could constitute a necessity for preservation of a property right that would require a variance.

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

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



# Staff Analysis and Findings

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

In April 2022, the applicant filled approximately 0.06 acres of wetlands on the subject property. Since then, the applicant has been working with staff and EcoSolutions to restore them. Work in the area of restoration will require a variance from the 30' non-disturbed wetland buffer. Staff recommends Case ZVA22-66 be **Approved** to allow for the restoration of the wetlands.

# ZVA22-66 DICKEY PROPERTY

## VARIANCE REQUEST

Lead Staff: Paula Bonner, Planning Technician

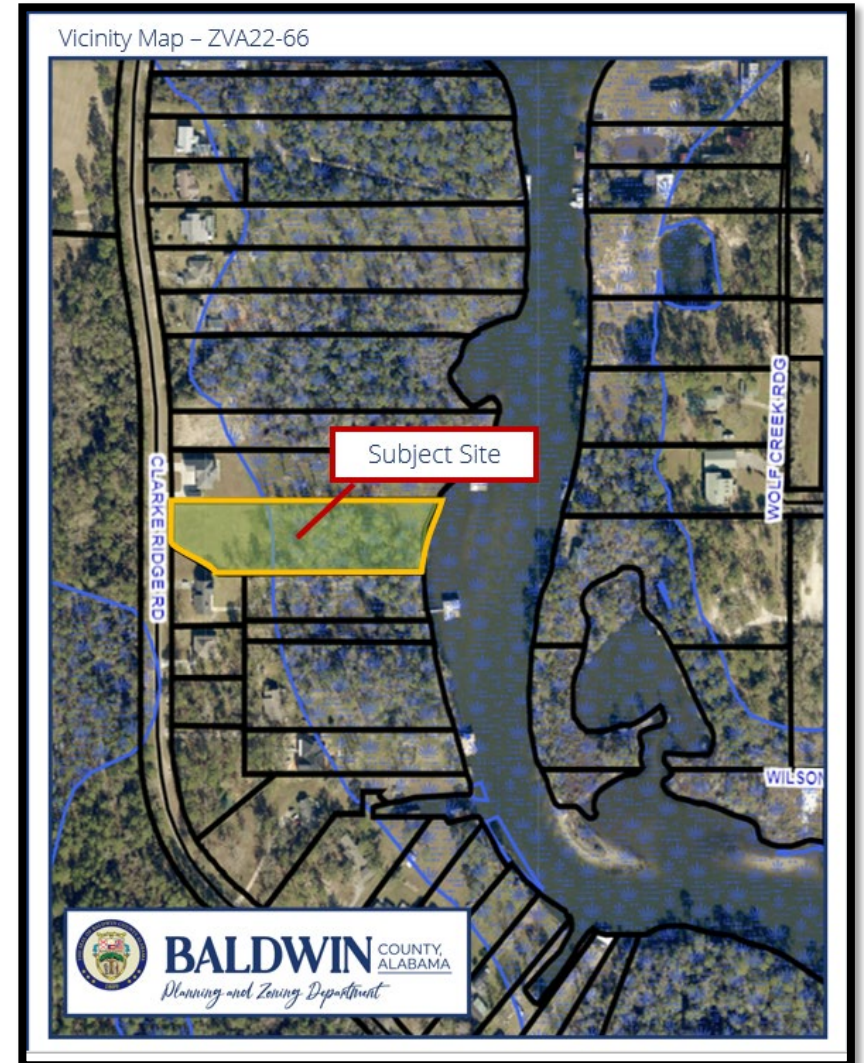
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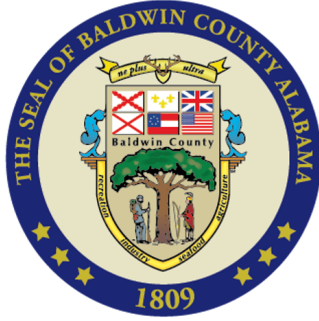
### GENERAL NOTES {By-laws}

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

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







**BALDWIN** COUNTY,  
ALABAMA

*Planning and Zoning Department*

BALDWIN COUNTY BOARD OF ADJUSTMENT #2

REGULAR MEETING

AUGUST 11, 2022

BALDWIN COUNTY SATELLITE COURTHOUSE

FOLEY, AL